

AGENDA

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

February 20, 2014 – 7:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

COMMENTS FROM THE PUBLIC

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

PRESIDING OFFICER'S REPORT

ADMINISTRATION REPORT

CONSENT AGENDA

Page 1 Item 1: AUTHORIZATION TO EXECUTE CONTRACT WITH LIFE INSURANCE OF NORTH AMERICA (CIGNA) FOR BASIC LIFE & SURVIVOR, BASIC AD&D AND LONG TERM DISABILITY BENEFITS

Motion is to authorize procurement of Basic Life & Survivor Life, Basic AD&D and Long Term Disability through Life Insurance North America (CIGNA) for the City of Des Moines employees and to authorize the City Manger to sign the Policies substantially in the form as attached.

Page 105 Item 2: 2014 JOINT HUMAN SERVICES APPLICATION AND FUNDING PROGRAM
Motion is to approve Exhibit A for 2014 Des Moines' planning, funding and implementation of a joint human services application and funding program as provided in the 2003 Memorandum of Understanding for the joint Human Services Funding Program between the Cities of Auburn, Burien, Covington, Des Moines, Federal Way, Renton, SeaTac, and Tukwila (Attachment 2), substantially in the form as submitted.

Page 125 Item 3: MEMORANDUM OF UNDERSTANDING WITH THE DES MOINES POLICE GUILD REGARDING DENTAL INSURANCE
Motion is to approve the memorandum of understanding with the Des Moines Police Guild regarding dental insurance coverage for 2014.

PUBLIC HEARING/CONTINUED PUBLIC HEARING

Page 129 Item 1: DES MOINES CREEK BUSINESS PARK AMENDED AND RESTATED SECOND DEVELOPMENT AGREEMENT AND PANATTONI MASTER PLAN FILE NUMBER LUA2013-0036

Staff Presentation: Planning, Building and Public Works Director
Dan Brewer

NEXT MEETING DATE

February 27, 2014 Regular City Council Meeting

ADJOURNMENT

A G E N D A I T E M**BUSINESS OF THE CITY COUNCIL**
City of Des Moines, WA

SUBJECT: Authorization to Execute Contract with Life Insurance of North America (CIGNA) for Basic Life & Survivor, Basic AD&D and Long Term Disability Benefits

ATTACHMENTS:

1. Basic Life & Survivor Life: FLS965873
2. Basic AD&D: OK967446
3. Long Term Disability: LK964054

FOR AGENDA OF: February 20, 2014

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: February 12, 2014

CLEARANCES:

Legal RB

Finance _____

Marina N/A

Parks, Recreation & Senior Services N/A

Planning, Building & Public Works N/A

Police N/A

Courts N/A

APPROVED BY CITY MANAGER

FOR SUBMITTAL: SA

Purpose and Recommendation

The purpose of this agenda item is to request authorization for the City Manager to contract with Life Insurance North America (CIGNA) for Basic Life & Survivor Life, Basic AD&D and Long Term Disability coverage for City Employees. These insurance policies replace the policies previously purchased through Standard Life Insurance.

Suggested Motion

First Motion: I move to authorize procurement of Basic Life & Survivor Life, Basic AD&D and Long Term Disability through Life Insurance North America (CIGNA) for City of Des Moines employees and to authorize the City Manager to sign the Policies substantially in the form as attached.

Background

During the 2014 budget process, Alliant, our primary health care broker in 2013, identified Life Insurance North America (CIGNA) as a company that could provide the same suite of life and disability benefits we were obtaining through Standard Insurance at less cost to the City.

Discussion

The Collective Bargaining Agreements and Memorandums of Understanding with our employee groups allow management to change benefit providers if the new coverage is comparable to the existing coverage. The Basic Life & Survivor Life, Basic AD&D and Long Term Disability coverage offered by Life Insurance of North America is comparable to that offered by Standard and the annual cost is less.

Financial Impact

Alliant estimated the annual cost for the policies through Standard to be \$94,738.20. The annual cost for the same policies through Life Insurance of North America (CIGNA) is \$67,746.00 for 2014 for an estimated savings of \$26,992.20 in 2014.

Recommendation or Conclusion

Staff recommends approval.

PROTECTION FOR YOU AND YOUR INSURANCE POLICY
THE WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION

PREFACE

This brochure briefly describes the coverage provided through the Washington Life & Disability Insurance Guaranty Association (“Association”).

The Association is a nonprofit unincorporated legal entity created by the Washington Life and Disability Insurance Guaranty Association Act, Chapter 48.32A RCW (“Act”). Every life and disability insurance company authorized to do business in Washington is a member of the Association. A Board of Directors (“Board”), composed of representatives from member insurers, and the Insurance Commissioner, ex officio, oversee the operation of the Association.

The expenses of the Association are paid by assessments made against each member insurer. Persons covered by the Act are not charged for the expenses of the Association or the protection provided under the Act.

Coverage is provided for certain life and disability insurance. However, the Association does not cover all such insurance. Coverage that is provided is subject to the limitations and exclusions provided by the Act.

The purpose of this brochure is to help you understand the general nature and the conditions of the protection provided under the Act. It is only a summary, however, and if you have specific questions that are not discussed here you may contact either the Association or the Office of the Insurance Commissioner.

Washington Life and Disability
Insurance Guaranty Association
P.O. Box 2292
Shelton, WA 98584
360-426-6744

Company Supervision Division
Office of the Insurance Commissioner
P.O. Box 40259
Olympia, WA 98504-0259
360-725-7214

QUESTIONS AND ANSWERS

1. WHAT INSURANCE POLICIES ARE COVERED UNDER THE ACT?

The Act applies to life insurance policies, disability insurance policies, and annuity contracts issued by an insurance company authorized to do business in Washington. The term “disability insurance,” as used in the Act, includes not only disability income insurance, but also policies commonly referred to as “health insurance” (which includes long term care policies). Together, all of these policies and contracts are sometimes referred to as “covered policies,” a term used in this brochure.

2. ARE THERE POLICIES OR INSURERS NOT COVERED BY THE ACT?

The Act specifically excludes certain types of policies or portions of policies, including, but not limited to: The portion of a policy not guaranteed by the insurer; the portion of a policy to the extent the interest rate or crediting rate exceeds the limits in the Act; policies of reinsurance, unless assumption certificates have been issued; policies issued in Washington by an insurer at a time when the insurer was not licensed or did not have a certificate of authority; policies issued to a self-insured plan or program; certain unallocated employee benefit plan annuities protected by federal law; and unallocated annuity contracts not issued to or in connection with a benefit plan or a government lottery.

The Act also does not apply to policies or contracts issued by health care service contractors, health maintenance organizations, fraternal benefit societies, self funded multiple employer welfare

arrangements, mandatory state pooling plans, mutual assessment companies, insurance exchanges, or an organization that has a certificate or license limited to issuance of certain charitable gift annuities.

3. WHO IS PROTECTED UNDER THE ACT?

You are covered by the Act if you are an owner of or certificate holder under a policy or contract (other than an unallocated annuity contract or structured settlement annuity), and:

- You are a Washington resident; or
- You are not a Washington resident, but only if: the insurer is domiciled in Washington; there is an association similar to the Washington Association in your state of residency; and you are not covered in your state of residency, because the insurer was not licensed in that state; or
- You are a beneficiary, assignee, or payee of one of the above, regardless of where you reside (except for nonresident certificate holders under group policies).

Owners of unallocated annuity contracts are covered if the contract was issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in Washington, or the contract was issued to or in connection with a government lottery and the owner is a Washington resident.

A payee under a structured settlement annuity (or beneficiary of a deceased payee) is also covered, if the payee is a Washington resident, or the payee is not a Washington resident, but the contract owner is a resident; or the insurer that issued the annuity is domiciled in Washington and coverage is not available in the state in which the payee resides.

Residency is generally determined at the time of entry of an order of liquidation against the insurer. If you move to another state and reside there when such an order is entered, you may still have protection under the law of that state. You should contact the insurance department in your new state of residence to find out about guaranty act protection there.

4. HOW DOES THE ASSOCIATION PROTECT COVERED PERSONS AGAINST LOSS?

After an order of liquidation is entered against a company, the Association begins its work of carrying out the purpose of the Act, which is to assure the performance of insurance obligations of that company. The Association is authorized to carry out its duties by working with insurance companies in good standing to assume or take over the covered policies. The association may also directly provide benefits and coverage as authorized by the Act. The Association has the authority to collect the funds necessary to provide protection to covered persons against losses on their covered policies.

PROTECTION FOR YOU AND YOUR INSURANCE POLICY
THE WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION

5. WHERE DOES THE ASSOCIATION GET THE MONEY TO PROVIDE THIS PROTECTION?

The Association is authorized to collect money from all life and disability insurance companies doing business in Washington. The funds collected from an assessment are used to pay claims to covered persons and/or to fund the assumption of covered policies by another insurer.

6. DOES THE ASSOCIATION PAY OUT THE MONEY IT COLLECTS RIGHT AWAY OR DO COVERED PERSONS HAVE TO WAIT?

The Association generally cannot make an assessment for covered policies issued by a company until after an order of liquidation has been entered against the company, and a reasonable estimate can be made of the amount of money needed. Insurance companies receiving an assessment notice must make their payments within thirty days.

Because it takes time for an action to be commenced against a financially impaired insurer, for a Court to issue an order, and for funds to be collected to satisfy the obligations of that insurer, some delay, hopefully short, is unavoidable before payments can be made. Although it is impossible to predict how long this process will take in any given case, an average time period of twelve to eighteen months is not unusual.

When necessary, the Association may borrow money to make payments more promptly, particularly in cases that will take an unusual amount of time to be resolved.

7. WHAT IS THE AMOUNT OF PROTECTION PROVIDED BY THE ACT?

The Act provides the following maximum amounts of protection:

Life Insurance Death Benefits.....	\$500,000
Disability Benefits and Health Benefits (including Long Term Care Benefits)	\$500,000
Present Value of Individual Annuities	\$500,000
Unallocated Annuity Contracts, other than certain government retirement plans (limit is per contract owner or plan sponsor).....	\$5,000,000
Government Retirement Plans in Unallocated Annuities established under Internal Revenue Code § § 401, 403(b), or 457 (limit is per participant)	\$100,000

This protection becomes effective at the time of entry of a Court order of liquidation against the insurer. Of course, if the amount owed under the contract or policy is less than the maximum benefit under the Act, the covered person will be entitled to protection only up to the actual amount owed.

Furthermore, the maximum protection available to each covered person remains the same, regardless of the number of contracts through which he or she has a claim.

8. IF A HUSBAND AND WIFE EACH INDIVIDUALLY OWN A COVERED POLICY, IS THE PROTECTION UNDER THE ACT PROVIDED TO EACH OF THEM?

Yes. As long as the residency requirements are met, both would be entitled to the protection provided by the Act, up to the maximum amount.

9. WHY DOESN'T MY INSURANCE COMPANY ADVERTISE THE FACT THAT ITS POLICIES AND CONTRACTS ARE PROTECTED UNDER THE ACT?

Under Washington law, insurance companies are prohibited from advertising that their policies or contracts may be covered under the Act.

You should not rely on coverage under the Act when selecting an insurance company.

10. WHY HASN'T MY AGENT TOLD ME ABOUT THE GUARANTY ACT?

Your insurance agent is subject to the same prohibitions as your insurance company. As a representative of the company, an agent must exercise great care when soliciting business and consequently, will generally not discuss the subject of a guaranty act with clients.

11. WHO SHOULD I CONTACT IF I BELIEVE THERE HAS BEEN A VIOLATION OF THE ACT?

You should contact the Association if you believe your rights have been violated under the Act. If you are dissatisfied with the actions of the Association, you may also contact the Office of the Insurance Commissioner.

CONCLUSION

This brochure has been prepared by the Washington Life and Disability Insurance Guaranty Association. Its purpose is to inform the public in a general way of the protections that are available in this state on insurance policies and annuity contracts issued by companies authorized to do business in Washington. The Association does not, by this brochure, endorse any company or its products, but rather seeks to address some of the concerns that you may have regarding the security of insurance policies and annuity contracts.

For more information or answers to specific questions you may contact the Washington Life and Disability Insurance Guaranty Association or the Office of the Insurance Commissioner, whose addresses and telephone numbers are shown in the Preface.

This brochure is prepared by and made available through the Washington Life and Disability Insurance Guaranty Association, which has granted member insurance companies permission to reproduce and distribute the brochure. It is the responsibility of the company, or any representative of a company, reproducing this brochure, to ensure that the use thereof does not violate applicable laws or regulations.

NOTICE

Benefits paid under the Accelerated Benefits provision will reduce the Death Benefit payable for life insurance.

Benefits payable under the Accelerated Benefits provision may be taxable. If so, the Employee or the Employee's beneficiary may incur a tax obligation. As with all tax matters, an Employee should consult with a personal tax advisor to assess the impact of this benefit. Accelerated Benefits are not payable if life insurance coverage under the Policy is not in force.

Any accidental death benefits that you may have under the policy will not be affected by the acceleration of life insurance benefits.

TL-004788

LIFE INSURANCE COMPANY OF NORTH AMERICA
1601 CHESTNUT STREET
PHILADELPHIA, PA 19192-2235
(800) 732-1603 TDD (800) 552-5744
A STOCK INSURANCE COMPANY

GROUP POLICY
(NON-PARTICIPATING)

POLICYHOLDER: City of Des Moines
POLICY NUMBER: FLX-965873
POLICY EFFECTIVE DATE: January 1, 2014
POLICY ANNIVERSARY DATE: January 1

This Policy describes the terms and conditions of coverage. It is issued in Washington and shall be governed by its laws. The Policy goes into effect on the Policy Effective Date, 12:01 a.m. at the Policyholder's address.

In return for the required premium, the Insurance Company and the Policyholder have agreed to all the terms of this Policy.



Scott Kern, Corporate Secretary



Matthew G. Manders, President

TL-004700

TABLE OF CONTENTS

SCHEDULE OF BENEFITS	1
SCHEDULE OF BENEFITS FOR CLASS 1	2
SCHEDULE OF BENEFITS FOR CLASS 2	3
ELIGIBILITY FOR INSURANCE	5
EFFECTIVE DATE OF INSURANCE	5
TERMINATION OF INSURANCE	6
CONTINUATION OF INSURANCE	6
LIFE INSURANCE BENEFITS	9
CLAIM PROVISIONS	11
ADMINISTRATIVE PROVISIONS	13
SCHEDULE OF RATES	15
GENERAL PROVISIONS	16
DEFINITIONS	17
SURVIVOR INCOME BENEFIT COVERAGE	19
DOMESTIC PARTNER/CIVIL UNION PARTNER RIDER	27

SCHEDULE OF BENEFITS

Premium Due Date: The last day of each month

Classes of Eligible Employees

On the pages following the definition of eligible employees there is a Schedule of Benefits for each Class of Eligible Employees listed below. For an explanation of these benefits, please see the Description of Benefits provision.

If an Employee is eligible under one Class of Eligible Employees and later becomes eligible under a different Class of Eligible Employees, changes in the Employee's insurance due to the class change will be effective on the first date the Employee is in Active Service on or after the date of the change in class.

- | | |
|---------|---|
| Class 1 | All active, Full-time Employees of the Employer regularly working a minimum of 32 hours per week, whose primary location is in the United States and who are classified as a Teamster. |
| Class 2 | All active, Full-time Employees of the Employer regularly working a minimum of 32 hours per week, whose primary location is in the United States, excluding Employees who are classified as a Teamster. |

SCHEDULE OF BENEFITS FOR CLASS 1

Eligibility Waiting Period

The Eligibility Waiting Period is the period of time the Employee must be in Active Service to be eligible for coverage. It will be extended by the number of days the Employee is not in Active Service.

For Employees hired on or before the Policy Effective Date: The first of the month coinciding with or next following date of hire

For Employees hired after the Policy Effective Date: The first of the month coinciding with or next following date of hire

LIFE INSURANCE BENEFITS

Employee Benefits

Amount of Insurance	\$5,000
Minimum Benefit:	\$5,000
Guaranteed Issue Amount:	\$5,000
Maximum Benefit:	\$5,000

Continuation Options

For Leave of Absence
Maximum Benefit Period: 60 days

For Family Medical Leave
Maximum Benefit Period: the later of the period of the approved FMLA leave or the leave period required by the laws of the state in which the Employee is employed

For Disability for Employees over Age 60
Maximum Benefit Period: 12 months
Applicable Coverages: Life Insurance Benefits for the Employee

Extended Death Benefit with Waiver of Premium

Extended Death Benefit
Applicable Coverages Life Insurance Benefits for the Employee

Waiver of Premium
Waiver Waiting Period 9 months from the date the Employee's Active Service ends
Maximum Benefit Period To Age 65
Applicable Coverages Life Insurance Benefits for the Employee

Terminal Illness Benefit The insured can elect up to 75% of Life Insurance Benefits in force on the date the Insured is determined by the Insurance Company to be Terminally Ill, subject to a Maximum Benefit of \$3,750.

SCHEDULE OF BENEFITS FOR CLASS 2

Eligibility Waiting Period

The Eligibility Waiting Period is the period of time the Employee must be in Active Service to be eligible for coverage. It will be extended by the number of days the Employee is not in Active Service.

For Employees hired on or before the Policy Effective Date: The first of the month coinciding with or next following date of hire

For Employees hired after the Policy Effective Date: The first of the month coinciding with or next following date of hire

LIFE INSURANCE BENEFITS

Employee Benefits

Amount of Insurance 1.5 times Annual Compensation
 Guaranteed Issue Amount: the lesser of 1.5 times Annual Compensation or \$250,000
 Maximum Benefit: the lesser of 1.5 times Annual Compensation or \$250,000

The Benefit Amount, Guaranteed Issue Amount and Maximum Benefit will be rounded to the next higher \$1,000, if not already a multiple thereof.

Age Based Reductions Life Insurance Benefit for an Employee age 65 and over will reduce to the percentage shown below:
 65% of the Life Insurance Benefit at age 65
 50% of the Life Insurance Benefit at age 70
 35% of the Life Insurance Benefit at age 75

Continuation Options

For Leave of Absence
 Maximum Benefit Period: 60 days

For Family Medical Leave
 Maximum Benefit Period: the later of the period of the approved FMLA leave or the leave period required by the laws of the state in which the Employee is employed

For Disability for Employees over Age 60
 Maximum Benefit Period: 12 months
 Applicable Coverages: Life Insurance Benefits for the Employee

Extended Death Benefit with Waiver of Premium

Extended Death Benefit
 Applicable Coverages Life Insurance Benefits for the Employee
 Waiver of Premium
 Waiver Waiting Period 9 months from the date the Employee's Active Service ends
 Maximum Benefit Period To Age 65
 Applicable Coverages Life Insurance Benefits for the Employee

Terminal Illness Benefit

The insured can elect up to 75% of Life Insurance Benefits in force on the date the Insured is determined by the Insurance Company to be Terminally Ill, subject to a Maximum Benefit of \$187,500.

TL-004774 (WA)

ELIGIBILITY FOR INSURANCE

Classes of Eligible Persons

A person may be insured only once under the Policy as an Employee, even though he or she may be eligible under more than one class.

Employee

An Employee in one of the Classes of Eligible Employees shown in the Schedule of Benefits is eligible to be insured on the Policy Effective Date or the day after he or she completes the applicable Eligibility Waiting Period, if later. The Eligibility Waiting Period will not apply to an Employee, in Active Service on the Policy Effective Date, who was covered under the Prior Plan and satisfied the Eligibility Waiting Period, if any, of that plan. Credit will be given for any time that was satisfied.

If a person has previously converted his or her insurance under the Policy, he or she will not become eligible until the converted policy is surrendered. This does not apply to any amount of insurance that was previously converted under the Policy due to a reduction in the Employee's Life Insurance Benefits based on age or a change in class unless those conditions no longer affect the amount of coverage available to the Employee.

Except as noted in the Reinstatement Provision, if an Employee terminates coverage and later wishes to reapply, or if a former Employee is rehired, a new Eligibility Waiting Period must be satisfied. An Employee is not required to satisfy a new Eligibility Waiting Period if insurance ends because he or she is no longer in a Class of Eligible Employees, but continues to be employed by the Employer, and within one year becomes a member of an eligible class.

TL-004710

EFFECTIVE DATE OF INSURANCE

An Employee will be insured for an amount not to exceed the Guaranteed Issue Amount on the date he or she becomes eligible, if the Employee is not required to contribute to the cost of this insurance.

If an eligible Employee is not in Active Service on the date insurance would otherwise be effective, it will be effective on the date he or she returns to Active Service.

TL-004712

Takeover Provision

Special Terms Applicable to Previously Insured Employees Not in Active Service

Employees not in Active Service on the Policy Effective Date are not covered under the Policy. However, the Insurance Company agrees to provide a death benefit equal to the lesser of:

1. the amount due under this Policy (without regard to the Active Service provision), or
2. the amount that would have been due under the Prior Plan had it remained in force.

The benefit amount will be reduced by any amount paid by the Prior Plan, or that would have been paid had this Policy not been issued and had timely filing of the claim been made under the Prior Plan.

These special terms will end on the earliest of the following dates:

1. the date the Employee meets the Active Service requirements;
2. the date insurance terminates for one of the reasons stated in the Termination of Insurance provision;
3. 12 months after the Policy Effective Date; or
4. the last day the Employee would have been covered under the Prior Plan if that plan was still in force.

TL-009020

TERMINATION OF INSURANCE

An Insured's coverage will end on the earliest of the following dates:

1. the date the Employee is eligible for coverage under a plan intended to replace this coverage;
2. the date the Policy is terminated by the Insurance Company;
3. the date the Insured is no longer in an eligible class;
4. the date coinciding with the end of the last period for which premiums are paid;
5. the date an Employee is no longer in Active Service; and
6. for an Employee, the date the Employer cancels participation under the Policy.

TL-004714

CONTINUATION OF INSURANCE

If an Employee is no longer in Active Service, he or she may be eligible to continue insurance. The following provisions explain the continuation options available under the Policy. Please see the Schedule of Benefits to determine the applicability of these benefits on a class level.

Continuation for Temporary Leave of Absence or Family Medical Leave

If an Employee's Active Service ends due to an Employer approved unpaid leave of absence or family medical leave of absence, insurance will continue for up to the Maximum Benefit Period shown in the Schedule of Benefits, if the required premium is paid.

Continuation of Life Coverage During Labor Disputes

If an Employee's Active Service ends because of a Labor Dispute and his or her premium for Life Insurance Benefits under the Policy is paid either by the Employer, in whole or in part, or by the Employee through payroll deductions, then the Employee may continue his or her Life Insurance Benefits. The Employer will send written notice of the right to continue coverage to each insured Employee at his or her most recent address as on file with the Employer.

To continue coverage, the Employee must pay premiums directly to the Employer, who will remit the premiums to the Insurance Company. Premiums must be paid by the date they are due, subject to the 31 day grace period. Policy coverages and premiums will stay the same during a Labor Dispute; however, the Insurance Company may make normal changes in premium rates when the Policy is renewed, under the terms set forth in the Policy.

Coverage continued in this manner will end on the earliest of the following dates.

1. The date the Labor Dispute has ended.
2. The date coverage has been continued for 6 months.

If the Labor Dispute continues beyond 6 months, the Employee may apply for an individual insurance policy, as set forth in detail under "Conversion Privilege for Life Insurance."

"Labor Dispute," as used here, means a strike, lockout, or other labor dispute between the Employer and its Employees, during which time the Employee is not paid by the Employer.

Continuation for Disability for Employees over Age 60

If an Employee becomes Disabled and is age 60 or over, the Life Insurance Benefits shown in the Schedule of Benefits will be continued, provided premiums are paid, until the earlier of the following dates:

1. The date the Employee is no longer Disabled.
2. The date following the Maximum Benefit Period shown in the Schedule of Benefits.
3. The date coinciding with the end of the last period for which premiums are paid.
4. The date the Policy is terminated by the Insurance Company.

Amount of Insurance

If an Employee dies while he or she is Disabled and coverage is continued under this provision, the Insurance Company will pay a Death Benefit equal to the amount in effect on the date the Employee became Disabled. However, the Life Insurance Benefit will be subject to the provisions of the Policy that reduce the coverage amount because of age, retirement, payment of an Accelerated Benefit or a change in class. Automatic increases in Life Insurance Benefits will end while coverage is continued under this provision. The Insurance Company will pay benefits only if due proof of the Employee's continuous Disability is received within one year of the date of the loss.

"Disability"/"Disabled" means because of Injury or Sickness the Employee is unable to perform all the material duties of his or her Regular Occupation; or is receiving disability benefits under the Employer's plan.

"Regular Occupation" means the occupation the Employee routinely performs at the time the Disability begins. The Insurance Company will consider the duties of the occupation as it is normally performed in the general labor market in the national economy.

Extended Death Benefit with Waiver of Premium

Extended Death Benefit

If an Employee becomes Disabled and is less than age 60, the Life Insurance Benefits shown in the Schedule of Benefits will be extended without premium payment until the earlier of the following dates:

1. The date the Employee is no longer Disabled; or
2. 12 months after the end of Active Service.

Amount of Insurance

If an Employee dies while he or she is Disabled and coverage is extended under this provision, the Insurance Company will pay a Death Benefit equal to the amount in effect on the date the Employee became Disabled. However, the Life Insurance Benefit will be subject to the provisions of the Policy that reduce the coverage amount because of age, retirement, payment of an Accelerated Benefit or a change in class. Automatic increases in Life Insurance Benefits will end while premiums are waived. The Insurance Company will pay benefits only if due proof of the Employee's continuous Disability is received within one year of the date of the loss.

"Disability"/"Disabled" means because of Injury or Sickness the Employee is unable to perform the material duties of his or her Regular Occupation; or is receiving disability benefits under the Employer's plan.

"Regular Occupation" means the occupation the Employee routinely performs at the time the Disability begins. The Insurance Company will consider the duties of the occupation as it is normally performed in the general labor market in the national economy.

Waiver of Premium

If such an Employee submits satisfactory proof that he or she has been continuously Disabled for the Waiver Waiting Period shown in the Schedule of Benefits, coverage will be extended up to the Maximum Benefit Period shown in the Schedule of Benefits.

Such proof must be submitted to the Insurance Company no later than 3 months after the date the Waiver Waiting Period ends. Premiums will be waived from the date the Insurance Company agrees in writing to waive premiums for that Employee.

After premiums have been waived for 12 months, they will be waived for future periods of 12 months, if the Employee remains Disabled and submits satisfactory proof that Disability continues. Satisfactory proof must be submitted to the Insurance Company 3 months before the end of the 12-month period.

Amount of Insurance

If an Employee dies while he or she is Disabled and coverage is continued under this provision, the Insurance Company will pay a Death Benefit equal to the amount in effect on the date the Employee became Disabled. However, the Life Insurance Benefit will be subject to the provisions of the Policy that reduce the coverage amount because of age, retirement, payment of an Accelerated Benefit or a change in class. Automatic increases in Life Insurance Benefits will end while premiums are waived. The Insurance Company will pay benefits only if due proof of the Employee's continuous Disability is received within one year of the date of the loss.

Termination of Waiver

Insurance will end for any Employee whose premiums are waived on the earliest of the following dates.

1. The date he or she is no longer Disabled;
2. The date he or she refuses to submit to any physical examination required by the Insurance Company;
3. The date he or she refuses to participate in a Rehabilitation Plan for which the Insurance Company determines him or her to be eligible;
4. The last day of the 12-month period of Disability during which he or she fails to submit satisfactory proof of continued Disability;
5. The date following the end of the Maximum Benefit Period shown in the Schedule of Benefits.

"Disability/Disabled" means because of Injury or Sickness an Employee is unable to perform the material duties of his or her Regular Occupation, or is receiving disability benefits under the Employer's plan, during the initial 9 months of Disability. Thereafter, the Employee must be unable to perform all of the material duties of any occupation which he or she may reasonably become qualified based on education, training or experience, or is subject to the terms of a Rehabilitation Plan approved by the Insurance Company.

"Regular Occupation" means the occupation the Employee routinely performs at the time the Disability begins. The Insurance Company will consider the duties of the occupation as it is normally performed in the general labor market in the national economy.

Rehabilitation During a Period of Disability

If the Insurance Company determines that a Disabled Employee is a suitable candidate for rehabilitation, the Insurance Company may require the Employee to participate in an assessment and Rehabilitation Plan, not to exceed 18 months, at our expense. The Insurance Company has the sole discretion to approve the Employee's participation in a Rehabilitation Plan and to approve a program as a Rehabilitation Plan. If an Employee fails to fully cooperate in all required phases of the Rehabilitation Plan and assessment without Good Cause, insurance under the Policy will end.

"Good Cause" means a medical reason preventing participation, in whole or in part, in the Rehabilitation Plan. Satisfactory proof of Good Cause must be provided to the Insurance Company.

“Rehabilitation Plan” means a written plan designed to enable the Employee to return to work. The Rehabilitation Plan will consist of one or more of the following phases:

1. Rehabilitation, under which the Insurance Company may provide, arrange or authorize educational, vocational or physical rehabilitation or other appropriate services;
2. Work, which may include modified work and work on a Part-time basis.

“Part-time” means regularly working less than the number of full time hours set by the Employer as a regular work day for Employees in an Eligible Class of Employees in the Policy.

TL-009745 as modified by TL-009745-1

TL-004716

DESCRIPTION OF BENEFITS

The following provisions explain the benefits available under the Policy. Please see the Schedule of Benefits for the applicability of these benefits on a class level.

LIFE INSURANCE BENEFITS

Death Benefit

If an Insured dies, the Insurance Company will pay the Life Insurance Benefit in force for that Insured on the date of his or her death.

TL-004730

Accelerated Benefits

Any benefits payable under this Accelerated Benefits provision will reduce the Death Benefit payable for Life Insurance. Any automatic increases in Life Insurance Benefits will end when benefits are payable under this provision.

Terminal Illness Benefit

The Insurance Company will pay a Terminal Illness Benefit to an Insured who has been determined by the Insurance Company to be Terminally Ill.

The Terminal Illness Benefit is payable only once in an Insured's lifetime.

Determination of Terminal Illness

For the purpose of determining the existence of a Terminal Illness, the Insurance Company will require the Insured submit the following proof.

1. A written diagnosis and prognosis by two Physicians licensed to practice in the United States.
2. Supportive evidence satisfactory to the Insurance Company, including but not limited to radiological, histological or laboratory reports documenting the Terminal Illness.

The Insurance Company may require, at its expense, an examination of the Insured and a review of the documented evidence by a Physician of its choice. In the event the Physician representing the Insurance Company disputes the existence of a Terminal Illness, as defined below, and the dispute cannot be resolved, the Insured has the right to mediation and binding arbitration in accordance with WAC 284-23-730.

"Terminal Illness" means a person has a prognosis of 24 months or less to live, as diagnosed by a Physician.

TL-004748 (WA)

Conversion Privilege for Life Insurance

Each Insured may convert all or any portion of his or her Life Insurance that would end under the Policy due to:

1. termination of employment;
2. termination of membership in an eligible class under the Policy;
3. termination of the Policy.

The Insured may apply for any type of life insurance the Insurance Company offers to persons of the same age in the amount applied for, except the Insured may not:

1. choose term insurance;
2. apply for an amount of insurance greater than the coverage amount terminating under the Policy (also, the conversion policy will not provide accident, disability or other benefits); or
3. apply for more than \$10,000 of insurance if the Policy is terminated or amended to terminate the insurance for any class of Insureds, or the Employer cancels participation under the Policy.

Conversion in these cases is only permitted if the Insured has been covered by the Policy or, any group life insurance policy issued to the Employer which the Policy replaced, for at least 3 years.

If the Insured becomes eligible for coverage under any group life policy within 31 days of termination of coverage under this Policy, the Insured may not convert an amount of insurance greater than the amount of coverage terminating under the Policy less the amount for which he or she may be covered under the other policy.

To apply for conversion insurance, the Insured must, within 31 days after coverage under the Policy ends:

1. submit an application to the Insurance Company; and
2. pay the required premium.

Evidence of insurability is not required.

Premium for the conversion insurance will be based on the age and class of risk of the Insured and the type and amount of coverage issued.

If the Insured has assigned ownership of his group coverage, the owner/assignee must apply for the individual policy.

Conversion insurance will become effective on the 31st day after the date coverage under the Policy ends provided the application is received by the Insurance Company and the required premium has been paid.

If the Insured dies during the 31-day conversion period, the Life Insurance benefits will be paid under the Policy regardless of whether he or she applied for conversion insurance. If a conversion policy is issued, it will be in exchange for any further benefits for that type and amount of insurance from this Policy.

Extension of Conversion Period

If an Insured is eligible for conversion insurance and is not notified of this right at least 15 days prior to the end of the 31-day conversion period, the conversion period will be extended. The Insured will have 15 days from the date notice is given to apply for conversion insurance. In no event will the conversion period be extended beyond 90 days. Notice, for the purpose of this section, means written notice presented to the Insured by the Employer or mailed to the Insured's last known address as reported by the Employer.

If the Insured dies during the extended conversion period, but more than 31 days after his or her coverage under the Policy terminates, Life Insurance benefits:

1. will not be paid under the Policy; and
2. will be payable under the conversion insurance; provided:
 - a. the Insured's application for conversion insurance has been received by the Insurance Company; and
 - b. the required premium has been paid.

Prior Conversion Limitation

If an Insured is covered under a life insurance conversion policy previously issued by the Insurance Company, he or she will not be eligible for this Conversion Privilege unless the prior coverage has ended.

TL-009740

CLAIM PROVISIONS

Notice of Claim

Written notice, or notice by any other electronic/telephonic means authorized by the Insurance Company, must be given to the Insurance Company within 31 days after a covered loss occurs or begins or as soon as reasonably possible. If written notice, or notice by any other electronic/telephonic means authorized by the Insurance Company, is not given in that time, the claim will not be invalidated or reduced if it is shown that notice was given as soon as was reasonably possible. Notice can be given at our home office in Philadelphia, Pennsylvania or to our agent. Notice should include the Employer's Name, the Policy Number and the claimant's name and address.

Written notice or any other electronic/telephonic means authorized by the Insurance Company of a diagnosis of a Terminal Illness on which claim is based must be given to us within 60 days after the diagnosis. If notice is not given in that time, the claim will not be invalidated or reduced if it is shown that written notice or any other electronic/telephonic means authorized by the Insurance Company was given as soon as reasonably possible.

Claim Forms

When the Insurance Company receives notice of claim, the Insurance Company will send claim forms for filing proof of loss. If claim forms are not sent within 15 days after notice is received by the Insurance Company, the proof requirements will be met by submitting, within the time required under the "Proof of Loss" section, written proof, or proof by any other electronic/telephonic means authorized by the Insurance Company, of the nature and extent of the loss.

Claimant Cooperation Provision

Failure of a claimant to cooperate with the Insurance Company in the administration of the claim may result in termination of the claim. Such cooperation includes, but is not limited to, providing any information or documents needed to determine whether benefits are payable or the actual benefit amount due.

Insurance Data

The Employer is required to cooperate with the Insurance Company in the review of claims and applications for coverage. Any information the Insurance Company provides in these areas is confidential and may not be used or released by the Employer if not permitted by applicable privacy laws.

Proof of Loss

Written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, must be given to the Insurance Company within 90 days after the date of the loss for which a claim is made. If written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, is not given in that 90 day period, the claim will not be invalidated nor reduced if it is shown that it was given as soon as was reasonably possible. In any case, written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, must be given not more than one year after that 90 day period. If written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, is provided outside of these time limits, the claim will be denied. These time limits will not apply while the person making the claim lacks legal capacity.

Written proof, or any other electronic/telephonic means authorized by the Insurance Company, of loss for Accelerated Benefits must be furnished 90 days after the date of diagnosis. This proof must describe the occurrence, character and diagnosis for which claim is made.

In case of claim for any other loss, proof must be furnished within 90 days after the date of such loss.

If it is not reasonably possible to submit proof of loss within these time periods, the Insurance Company will not deny or reduce any claim if proof is furnished as soon as reasonably possible. Proof must, in any case, be furnished not more than a year later, except for lack of legal capacity.

Time of Payment

Benefits due under the Policy for a loss, other than a loss for which the Policy provides installment payments, will be paid immediately upon receipt of due written proof of such loss.

Subject to the receipt of satisfactory written proof of loss, all accrued benefits for loss for which the Policy provides installments will be paid monthly; any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof, unless otherwise stated in the Description of Benefits.

To Whom Payable

Death Benefits will be paid to the Insured's named beneficiary, if any, on file at the time of payment. If there is no named beneficiary or surviving beneficiary, Death Benefits will be paid to the first surviving class of the following living relatives: spouse or Registered Domestic Partner; child or children; mother or father; brothers or sisters; or to the executors or administrators of the Insured's estate. The Insurance Company may reduce the amount payable by any indebtedness due.

("Registered Domestic Partner" means a person who has entered into a Domestic Partnership with the Employee registered under any state which legally recognizes Domestic Partnerships or Civil Unions, and which confers on the Employee and Domestic Partner legal rights and obligations substantially similar to lawful marriage. Such person will continue to be recognized as a Registered Domestic Partner unless and until: (1) the Domestic Partnership is dissolved under applicable law; or (2) either the Employee or the Domestic Partner marries another person.)

All benefits payable under the Accelerated Benefits section are payable to the Insured, if living. If the Insured dies prior to the payment of an eligible claim for an Accelerated Benefit, benefits will be paid in accordance with the provisions applicable to the payment of Life Insurance proceeds, unless the Insured has directed us otherwise in writing. However, any payment made by us prior to notice of the Insured's death shall discharge us of any benefit that was paid.

All other benefits, unless otherwise stated in the Policy, will be payable to the Insured or the certificate owner if other than the Insured.

Any other accrued benefits which are unpaid at the Insured's death may, at the Insurance Company's option, be paid either to the Insured's beneficiary or to the executor or administrator of the Insured's estate.

If the Insurance Company pays benefits to the executor or administrator of the Insured's estate or to a person who is incapable of giving a valid release, the Insurance Company may pay up to \$1,000 to a relative by blood or marriage whom it believes is equitably entitled. This good faith payment satisfies the Insurance Company's legal duty to the extent of that payment.

Change of Beneficiary

The Insured may change the beneficiary at any time by giving written notice to the Employer or the Insurance Company. The beneficiary's consent is not required for this or any other change which the Insured may make unless the designation of beneficiary is irrevocable.

No change in beneficiary will take effect until the form is received by the Employer or the Insurance Company. When this form is received, it will take effect as of the date of the form. If the Insured dies before the form is received, the Insurance Company will not be liable for any payment that was made before receipt of the form.

Physical Examination and Autopsy

The Insurance Company, at its expense, will have the right to examine any person for whom a claim is pending as often as it may reasonably require. The Insurance Company may, at its expense, require an autopsy unless prohibited by law.

Legal Actions

No action at law or in equity may be brought to recover benefits under the Policy less than 60 days after written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, has been furnished as required by the Policy. No such action shall be brought more than 3 years after the time satisfactory proof of loss is required to be furnished.

Time Limitations

If any time limit stated in the Policy for giving notice of claim or proof of loss, or for bringing any action at law or in equity, is less than that permitted by the law of the state in which the Employee lives when the Policy is issued, then the time limit provided in the Policy is extended to agree with the minimum permitted by the law of that state.

Physician/Patient Relationship

The Insured will have the right to choose any Physician who is practicing legally. The Insurance Company will in no way disturb the Physician/patient relationship.

TL-004724

ADMINISTRATIVE PROVISIONS

Premiums

The premiums for this Policy will be based on the rates currently in force, the plan and the amount of insurance in effect.

If the Insured's coverage amount is reduced due to acceleration of his or her Death Benefit, his or her premium will be based on the amount of coverage he or she has in force on the day before the reduction took place. If the Insured's coverage amount is reduced due to his or her attained age, premium will be based on the amount of coverage in force on the day after the reduction took place.

Changes in Premium Rates

The premium rates may be changed by the Insurance Company from time to time with at least 31 days advance written notice. No change in rates will be made until 24 months after the Policy Effective Date. An increase in rates will not be made more often than once in a 12 month period. However, the Insurance Company reserves the right to change the rates even during a period for which the rate is guaranteed if any of the following events take place.

1. The terms of the Policy change.
2. A division, subsidiary, affiliated company or eligible class is added or deleted from the Policy.
3. There is a change in the factors bearing on the risk assumed.
4. Any federal or state law or regulation is amended to the extent it affects the Insurance Company's benefit obligation.
5. The Insurance Company determines that the Employer has failed to promptly furnish any necessary information requested by the Insurance Company, or has failed to perform any other obligations in relation to the Policy.

If an increase or decrease in rates takes place on a date that is not a Premium Due Date, a pro rata adjustment will apply from the date of the change to the next Premium Due Date.

Reporting Requirements

The Employer must, upon request, give the Insurance Company any information required to determine who is insured, the amount of insurance in force and any other information needed to administer the plan of insurance.

Payment of Premium

The first premium is due on the Policy Effective Date. After that, premiums will be due monthly unless the Employer and the Insurance Company agree on some other method of premium payment.

If any premium is not paid when due, the plan will be canceled as of the Premium Due Date, except as provided in the Policy Grace Period section.

Notice of Cancellation

The Employer or the Insurance Company may cancel the Policy as of any Premium Due Date by giving 31 days advance written notice. If a premium is not paid when due, the Policy will automatically be canceled as of the Premium Due Date, except as provided in the Policy Grace Period section.

Policy Grace Period

A Policy Grace Period of 31 days will be granted for the payment of the required premiums under this Policy. This Policy will be in force during the Policy Grace Period. The Employer is liable to the Insurance Company for any unpaid premium for the time this Policy was in force.

Reinstatement of Insurance

Coverage may be reinstated without satisfying the Insurability Requirement, if an Employee's insurance ends because he or she is on an unpaid leave of absence and he or she applies for Reinstatement within 31 days of his return to Active Service.

After an Insured's coverage has ceased, it may be reinstated at any date prior to five years after the date of termination if the following conditions are met:

1. The Policy is still in force.
2. The Insured is eligible under the Policy.
3. A written request for reinstatement and a new enrollment form are sent to the Insurance Company.
4. The required premium is paid.
5. The Insurability Requirement, if any, is satisfied.

SCHEDULE OF RATES

The following monthly rates apply to all Classes of Eligible Persons unless otherwise indicated.

FOR EMPLOYEE BENEFITS

Basic Life Insurance \$.135 Per \$1,000

Survivor Benefit \$.171 Per \$100

TL-004718

GENERAL PROVISIONS

Entire Contract

The entire contract will be made up of the Policy, the application of the Employer, a copy of which is attached to the Policy, and the applications, if any, of the Insureds.

Incontestability

All statements made by the Employer or by an Insured are representations not warranties. No statement will be used to deny or reduce benefits or as a defense to a claim, unless a copy of the instrument containing the statement has been furnished to the claimant. In the event of death or legal incapacity, the beneficiary or representative must receive the copy.

After two years from an Insured's effective date of insurance, or from the effective date of any added or increased benefits, no such statement will cause insurance to be contested.

Misstatement of Age

If an Insured's age has been misstated, the Insurance Company will adjust all benefits to the amounts that would have been purchased for the correct age.

Policy Changes

No change in the Policy will be valid until approved by an executive officer of the Insurance Company. This approval must be endorsed on, or attached to, the Policy. No agent may change the Policy or waive any of its provisions.

Workers' Compensation Insurance

The Policy is not in lieu of and does not affect any requirements for insurance under any Workers' Compensation Insurance Law.

Certificates

A certificate of insurance will be delivered to the Employer for delivery to Insureds. Each certificate will list the benefits, conditions and limits of the Policy. It will state to whom benefits will be paid.

Assignment of Benefits

The Insurance Company will not be affected by the assignment of an Insured's certificate until the original assignment or a certified copy of the assignment is filed with the Insurance Company. The Insurance Company will not be responsible for the validity or sufficiency of an assignment. An assignment of benefits will operate so long as the assignment remains in force provided insurance under the Policy is in effect. This insurance may not be levied on, attached, garnisheed, or otherwise taken for a person's debts. This prohibition does not apply where contrary to law.

Clerical Error

A person's insurance will not be affected by error or delay in keeping records of insurance under the Policy. If such an error is found, the premium will be adjusted fairly.

Agency

The Employer and Plan Administrator are agents of the Employee for transactions relating to insurance under the Policy. The Insurance Company is not liable for any of their acts or omissions.

Ownership of Records

All records maintained by the Insurance Company are, and shall remain, the property of the Insurance Company.

DEFINITIONS

Please note, certain words used in this document have specific meanings. These terms will be capitalized throughout this document. The definition of any word, if not defined in the text where it is used, may be found either in this Definitions section or in the Schedule of Benefits.

Accident

An Accident is a sudden, unforeseeable event that causes bodily Injury to an Insured while coverage is in force under the Policy.

Active Service

An Employee will be considered in Active Service with the Employer on a day which is one of the Employer's scheduled work days if either of the following conditions are met.

1. He or she is actively at work. This means the Employee is performing his or her regular occupation for the Employer on a Full-time basis, either at one of the Employer's usual places of business or at some location to which the Employer's business requires the Employee to travel.
2. The day is a scheduled holiday, vacation day or period of Employer approved paid leave of absence, other than disability or sick leave after 7 days.

An Employee is considered in Active Service on a day which is not one of the Employer's scheduled work days only if he or she was in Active Service on the preceding scheduled work day.

Annual Compensation

An Employee's annual wage or salary as reported by the Employer for work performed for the Employer as of the date the covered loss occurs. It does not include amounts received as bonuses, commissions, overtime pay or other extra compensation.

Employee

For eligibility purposes, an Employee is an employee of the Employer in one of the "Classes of Eligible Employees." Otherwise, Employee means an employee of the Employer who is insured under the Policy.

Employer

The Policyholder and any affiliates or subsidiaries covered under the Policy. The Employer is acting as an agent of the Insured for transactions relating to this insurance. The actions of the Employer shall not be considered the actions of the Insurance Company.

Full-time

Full-time means the number of hours set by the Employer as a regular work day for Employees in the Employee's eligibility class.

Injury

Any accidental loss or bodily harm which results directly and independently of all other causes from an Accident.

Insurability Requirement

An eligible person will satisfy the Insurability Requirement for an amount of coverage on the day the Insurance Company agrees in writing to accept him or her as insured for that amount. To determine a person's acceptability for coverage, the Insurance Company will require evidence of good health and may require it be provided at the Employee's expense.

Insurance Company

The Insurance Company underwriting the Policy is named on the Policy cover page.

Insured

A person who is eligible for insurance under the Policy, for whom insurance is elected, the required premium is paid and coverage is in force under the Policy.

Physician

Physician means a licensed doctor practicing within the scope of his or her license and rendering care and treatment to an Insured that is appropriate for the condition and locality. The term does not include an Employee, an Employee's spouse, the immediate family (including parents, children, siblings or spouses of any of the foregoing, whether the relationship derives from blood or marriage), of an Employee or spouse, or a person living in an Employee's household.

Prior Plan

The Prior Plan refers to the plan of insurance providing similar benefits sponsored by the Employer in effect directly prior to the Policy Effective Date.

Sickness

Any physical or mental illness.

TL-004708 (WA)

LIFE INSURANCE COMPANY OF NORTH AMERICA

This Rider is subject to every term, condition, exclusion, limitation, and provision of the Policy unless otherwise expressly provided for herein.

Effective Date of Rider: January 1, 2014, or if later the date the Employee's Coverage begins, as determined by the When Coverage Begins section of this Rider.

Class of Eligible Employees to which this Rider applies:

Class 1: All active, full-time Employees of the Employer regularly working a minimum of 32 hours per weeks, whose primary location is in the United States and who are classified as a Teamster.

Class 2: All active, full-time Employees of the Employer regularly working a minimum of 32 hours per weeks, whose primary location is in the United States, excluding Employees who are classified as a Teamster.

SURVIVOR INCOME BENEFIT COVERAGE

DEFINITIONS FOR USE WITH THIS RIDER/COVERAGE DESCRIPTION

Eligible Employee

An Employee is an Eligible Employee for Survivor Income Benefit coverage under the Policy/Rider/Certificate if the Employee is in the Class of Eligible Employees to which this Rider applies and has an Eligible Spouse-or an Eligible Child.

Eligible Survivor Spouse.

The Employee's Eligible Spouse who survives the Employee.

Eligible Survivor Child

The Employee's Eligible Child who survives the Employee.

The Employee's natural child, born to his or her Eligible Survivor Spouse within ten months after the Employee's death, will be treated as the Employee's Eligible Child for purposes of payment of Survivor Income Benefits.

Eligible Spouse.

The Employee's lawful spouse who is under age 65, subject to the following restrictions.

1. If the Employee is Totally Disabled on the date the spouse would otherwise qualify as an Eligible Spouse, such spouse, will not qualify as an Eligible Spouse until the first day the Employee complete one full day of Active Service following the date the Total Disability ends.
2. No spouse will become an Eligible Spouse after the Employee die.

The Employee's spouse will cease to be an Eligible Spouse on the earlier of the following dates:

1. The date the Employee and the spouse become divorced.
2. The spouse's 65th birthday.

Eligible Child.

The Employee's unmarried child who (1) is less than 21 years old and dependent upon the Employee for support, or (2) is 19 or more years old but less than 24 years old, enrolled in a school as a full-time student, and dependent upon the Employee for support.

The term "child" means a child born to the Employee or a child that has been legally adopted by the Employee.

In any event the following restrictions apply.

1. If the Employee is Totally Disabled on the date the child would otherwise qualify as an Eligible Child, such Child, will not qualify as an Eligible Child until the first day the Employee complete one full day of Active Service following the date the Total Disability ends.
2. No child will become an Eligible Child after the Employee die.

The Employee's child will cease to be an Eligible Child on the earliest of the following dates:

1. The date the Employee's child attains the age of 21 years, unless such child is in a school as a full-time student on that date.
 2. The earlier of (a) the date the Employee's child who has attained the age of 21 years ceases to be enrolled in a school as a full-time student and (b) the date the child attains the age of 24 years.
 3. The date the child marries.
 4. The date the child ceases to be dependent upon the Employee for support.
 5. The date the child ceases to be the Employee's child due to termination of the parent-child relationship by court order.
- a) not to exceed \$500,00 (combined Life insurance and survivor benefit). Benefits are reduced by amounts received from Social Security Benefits payable on behalf of the Employees Eligible Children.
 - b) not to exceed \$500,00 (combined Life insurance and survivor benefit). Benefits are reduced by amounts received from Social Security Benefits payable on behalf of the Employees Eligible Children.

Totally Disabled/Total Disability

The Employee is unable to perform all the material duties of any occupation for which he or she is or become reasonably qualified based on education, training or experience due to disability that results from sickness, accidental bodily injury, or pregnancy.

ELIGIBILITY FOR INSURANCE

The Employee is eligible to be insured on the Rider Effective Date or the day after the Employee complete the applicable Eligibility Waiting Period, if later. The Eligibility Waiting Period will not apply to the Employee, if he or she is in Active Service on the Rider Effective Date, and was covered under the Prior Plan and satisfied the Eligibility Waiting Period, if any, of that plan. Credit will be given for any time that was satisfied.

If the Employee previously converted your Survivor Income Benefit Insurance under the Policy, he or she will not become eligible until the converted policy is surrendered. This does not apply to any amount of insurance that was previously converted under the Policy due to a reduction in the Survivor Income Benefit Insurance based on age or a change in class unless those conditions no longer affect the amount of coverage available to the Employee.

Except as noted in the Reinstatement Provision, if the Employee terminate coverage and later wish to reapply, or if the Employee is rehired, a new Eligibility Waiting Period must be satisfied. the Employee is not required to satisfy a new Eligibility Waiting Period if insurance ends because the Employee is no longer in a Class of Eligible Employees, but continue to be employed by the Employer, and within one year become a member of the eligible class.

When Coverage Begins

An Employee will be insured for the Survivor Income Benefit Coverage on the later of the following dates.

1. The Effective Date of the Rider.
2. The date the Employee becomes eligible.

If the Employee is not in Active Service on the date the Survivor Income Benefit Coverage would otherwise be effective, it will be effective on the date he or she returns to Active Service.

When Coverage Ends

The Survivor Income Benefit Coverage will end on the earliest of the following dates.

1. The date the Employee cease to be an Eligible Employee.
2. The date on which the Employee become a full-time member of the armed forces of any country.
3. The date the coverage under this Rider is terminated.
4. The date the Policy terminates.
5. The date on which the Employee cease to have an Eligible Spouse or Eligible Child.
6. The date the Employee cease to be in Active Service on a full-time basis. However, the Employee's/ coverage may be continued (unless it ends as a result of items 1 through 4 above) during the following periods while the Employee is absent from Active Service
 - a) while the Employee is receiving full salary from the Employer;
 - b) while the Employee is covered under the disability benefit as described under the section entitled "Continued Survivor Income Benefit During Total Disability";
 - c) during the first 60 days of a leave of absence approved by the Employer.

Reinstatement of Coverage

The Employee may become covered for the Survivor Income Benefit coverage after it ends because he or she cease to have an Eligible Spouse or an Eligible Child if the following conditions are met:

1. The Policy is still in force.
2. The Employee is eligible under the Policy/Rider/Certificate
3. The required premium is paid.

The same requirements apply as under the section entitled "Eligibility," with the following modification:

If coverage ends because the Employee cease to have an Eligible Spouse or any Eligible Children, the Employee will be immediately eligible for coverage on the next date on which he or she acquire either an Eligible Spouse or an Eligible Child.

If a person has previously converted his or her Survivor Income Benefit Insurance under the Policy/Rider, he or she will not become eligible until the converted policy is surrendered. This does not apply to any amount of insurance that was previously converted under the Policy/Rider due to a reduction in the Survivor Income Benefit Insurance based on age or a change in class unless those conditions no longer affect the amount of coverage available to the Employee.

When the Survivor Income Benefit is Paid

A monthly survivor income benefit, which becomes payable after the Employee's death, is paid at the end of each monthly period (measured from the date of the Employee's death), provided that he or she is survived by an Eligible Spouse or at least one Eligible Child.

Amount Payable

The Monthly Survivor Income Benefit payable for an Eligible Employee's Eligible Survivor is a percentage of the Employee's Insured Earnings (defined below) as follows:

- a) Eligible Survivor Spouse only: 30%. not to exceed \$500,00 (combined Life insurance and survivor benefit). Benefits are reduced by amounts received from Social Security Benefits payable on behalf of the Employees Eligible Children.
- b) Eligible Survivor Spouse and Eligible Survivor Children: 40% divided equally among the eligible spouse and eligible children, not to exceed \$500,000 (combined Life insurance and survivor benefit). Benefits are reduced by amounts received from Social Security Benefits payable on behalf of the Employees Eligible Children.
- c) Eligible Survivor Children only: 20% divided equally among the Eligible Survivor Children, not to exceed \$500,00 (combined Life insurance and survivor benefit). Benefits are reduced by amounts received from Social Security Benefits payable on behalf of the Employees Eligible Children.

Insured Earnings are the first \$10,000 of the Employee's monthly rate of earnings from the Employer including commissions and deferred compensation, but excluding bonuses, overtime pay and any other extra compensation. The following rules apply to the computation of the Employee's monthly rate of earnings:

1. **Commissions:** The Employee's monthly rate of earnings on any date includes the average monthly commission paid to him or her by the Employer during the preceding 12 calendar months (or during the Employee's period of employment if less than 12 months).
2. **Weekly Pay:** Weekly earnings are multiplied by 4.333 to find the Employee's monthly rate of earnings.
3. **Hourly Pay:** An hourly pay rate is multiplied by the number of hours the Employee is regularly scheduled to work per month (but not more than 173) to find his or her/your monthly rate of earnings.
4. If the Employee does not have regular work hours, his or her monthly rate of earnings on any date will be based on the average number of hours he or she worked during the preceding 12 calendar months (or during his or her period of employment if less than 12 months), but not more than 173.
5. The monthly Survivor Income Benefit amount that is payable after the Employee's death will be based on his or her Insured Earnings in effect on his or her last full day of Active Service before his or her death. Any change in the amount of the Employee's monthly rate of earnings which is approved or becomes effective after that last full day of his or her Active Service will have no effect on the amount of the survivor income benefits payable after his or her death.

When Benefits End

Survivor Income Benefit payments for an Eligible Survivor Spouse will continue until the earliest of the following dates:

1. the date of the death of the Eligible Survivor Spouse; or
2. the date of the remarriage of the Eligible Survivor Spouse; or
3. the date the Eligible Survivor Spouse becomes 65 years of age.

An Eligible Survivor Spouse whose Survivor Income Benefit payments end due to remarriage may be eligible for a Remarriage Benefit. See the Remarriage Benefits section below.

Survivor Income Benefit payments for an Eligible Survivor Child will continue until the earliest of the following dates

1. the date of the death of the Eligible Survivor Child; or
2. the date the Eligible Survivor Child is married; or
3. the date the Eligible Survivor Child becomes 21 years of age, unless the child is a registered student in full-time attendance at an accredited educational institution on that date; or
4. the earlier of (a) the date the Eligible Survivor Child who is age 19 or older ceases to be a registered student in full-time attendance at an accredited educational institution and (b) the date the eligible child attains the age of 24 years.

Conversion Provision for Survivor Income Benefit

If an Eligible Employee's Survivor Benefit Income Benefit coverage terminates for any reason, other than failure to make the required premium contribution, an amount not in excess of the present value of the benefit may be converted to a policy of individual insurance with Life Insurance Company of North America. The present value of his or her Survivor Benefits as of the date of the termination is the amount determined in good faith by the Insurer's group actuary, based on appropriate assumption as to discount rate, mortality and remarriage. All conditions and provisions of the Conversion Privilege section of the Policy to which this Rider applies will apply to the amount with the following exception.

If the Employee die within the 31-day period during which he or she has the right to obtain an individual policy, the Insurer will pay a lump sum benefit equal to the maximum amount the Employee's had a right to convert under this Policy/Rider whether or not application was made for an individual policy. The lump sum benefit will be divided among the Employee's Eligible Survivor Spouse and Eligible Survivor Children in proportion to the present value of the future Survivor Income Benefits calculated with respect to each Eligible Spouse and Eligible Child. Payment will be made to the estate of any Eligible Survivor Spouse or Eligible Survivor Child who dies after the date the 31 day period begins and before the lump sum benefit is paid. No benefit is payable with respect to any child born after the date the 31 day period begins.

Continued Survivor Income Benefit During Total Disability If the Eligible Employee become Totally Disabled while covered for Survivor Income Benefit Coverage of this Rider and before his or her 60th birthday and he or she remain Totally Disabled for at least nine months, such coverage will be continued for as long as he or she remain continuously Totally Disabled, but not beyond the end of the calendar month in which he or she attain the age of 65 years. The Employee must be under the regular care of a Physician. The Physician cannot be the Employee or a member of his or her immediate family. Immediate family consists of the Employee's your spouse, children, parents, grandparents, grandchildren, brothers and sisters, and their spouses. No premiums will be charged for the continued Survivor Income Benefit while the Employee is Totally Disabled. This Continued Survivor Income Benefit is subject to the following provisions:

1. Changes During Total Disability.

For the purposes of this Continued Survivor Income Benefit, Insured Earnings equal the Employee's Insured Earnings as of the date his or her Total Disability commenced, and will not change while he or she remain Totally Disabled. The Survivor Income Benefit payable in the event of his or her death will not be affected by the termination nor by amendment of this Policy/Rider after the date he or she become Totally Disabled.

2. Time Limits on Providing Proof of Total Disability to Claim Continued Survivor Income Benefits.

The Employee (or in the event of his or her death, the Employee's Eligible Survivor) must provide the Insurer with satisfactory written proof of the Employee's continuous Total Disability within 12 months after the end of the last period for which premiums were paid for his or her Survivor Income Benefit. If the claim for Continued Survivor Income Benefit is approved, the Insurer will require satisfactory written proof of continuing Total Disability at intervals determined by the Insurer. All proof of Total Disability must be provided to the Insurer at the Employee's expense.

3. Refund of Premiums:

Upon receipt of satisfactory written proof that the Employee qualifies for Continued Survivor Income Benefits and that he or she has been continuously Totally Disabled for nine or more months, the Insurer will refund to the Policyholder all premiums paid for the Employee's Survivor Income Benefit while he or she qualified for Continued Survivor Income Benefits. However, no premiums will be refunded for any period more than one year before the Insurer receives proof of loss in support of the claim for Continued Survivor Income Benefits. If the Employee dies during the first nine months of continuous Total Disability, all premiums paid for that period will be refunded and the eligible Survivor Income Benefits will be paid.

4. Independent Examination:

The Insurer has the right to have the Employee examined at its expense at reasonable intervals while the Employee is claiming coverage under the Continued Survivor Income Benefits provision. Any such examination will be conducted by one or more Physicians or vocational specialists chosen by the Insurer

5. When Continued Survivor Income Benefits end.

Continued Survivor Income Benefits will end automatically on the earliest of the following dates: (a) the date the Employee cease to be Totally Disabled; or (b) 90 days after the date the Insurer mails the Employee a request for proof of his or her continued Total Disability unless he or she provide the Insurer with the required proof within that 90-day period, or (c) the date the Employee fail to provide the Insurer with a reasonable opportunity to have the Employee independently examined at its expense; or (d) the effective date of any individual policy of insurance issued to the Employee in accordance with the Conversion Privilege section of the Rider; or (e) the date the Employee ceases to have an Eligible Spouse or any Eligible Children; or (f) the last day of the calendar month in which the Employee attain the age of 70 years.

Remarriage Benefits

Survivor Income Benefits payable to an Eligible Survivor Spouse will end upon his or her remarriage. However, if the Insurer is notified in writing within 60 days of the remarriage, the remarried spouse whose Survivor Income Benefits ended due to remarriage will be entitled to receive remarriage benefits. Remarriage benefits means a single lump-sum payment to the Eligible Survivor Spouse equal to twelve times the monthly Survivor Income Benefit payable for an Eligible Survivor Spouse only. If, however, the remarried spouse fails to notify us of the remarriage as set out above, and an over payment of Survivor Income Benefits results, the Insurer will notify the remarried spouse of the amount of the overpayment. The remarried spouse must immediately reimburse the Insurer for the amount of the over payment.

PAYMENT OF SURVIVOR INCOME BENEFIT CLAIMS

All Survivor Income Benefits for an Eligible Survivor Spouse will be paid to the Eligible Survivor Spouse. All Survivor Income Benefits for an Eligible Survivor Child will be paid to him or her. However, if the Eligible Survivor Child is under the age of 18, then the monthly Survivor Income Benefits will be paid to the guardian or conservator of the Eligible Survivor Child's estate after the Insurer receives certified letters of guardianship or conservatorship of the estate of the eligible child. If no guardian or conservator of the estate of the eligible child is appointed by a court having jurisdiction over the Eligible Survivor Child's estate, then the Insurer shall retain the Eligible Survivor Child's monthly Survivor Income Benefits, in a separate account, which shall accrue interest at a rate establish by the Insurer. The entire balance of the account shall be paid to the, Eligible Survivor Child upon receiving confirmation, satisfactory to the Insurer that Eligible Survivor Child has reached 18 years of age. If no person is able to give the Insurer a valid release for payment of Survivor Income Benefits payable to an Eligible Survivor, the Insurer shall retain the benefits in a separate account. Such benefits shall accrue interest at a rate established by the Insurer.

The Insurer will pay the benefits plus accrued interest, at such time as claim is made by a person who is able to give a valid release. In determining whether any person can give a valid release, the laws of the state in which the Eligible Survivor resides will be applied. If the monthly Survivor Income Benefit payable to or on behalf of any person is less than \$20.00, the Insurer may pay the Survivor Income Benefit for that person on an annual basis. If the Survivor Income Benefit is paid annually, the first annual payment (equal to twelve times the monthly Survivor Income Benefit) will be made on the date which is eleven months after the date on which the first monthly payment would have been made. Subsequent payments will be made at the end of each year, as established by the date of the first payment.

PROOF OF LOSS

Satisfactory written proof of loss in connection with a claim for benefits must be provided to the Insurer at the expense of the claimant. No benefits will be paid until the Insurer has received such proof of loss. Before making any payment of Survivor Income Benefits, the Insurer may require proof satisfactory to it of the age and family status of any Eligible Survivor Spouse or Eligible Survivor Child. The Insurer may rely on an affidavit or other written evidence deemed satisfactory to it to determine the eligibility of any person claiming Survivor Income Benefits. All benefits must be claimed within 90 days after the date of loss or as soon thereafter as reasonably possible and, in any case, within one year after the end of that 90-day period. Claims not filed within these time limits will be denied and no benefits will be paid. These time limits will not apply during any period when the person filing the claim lacked the legal capacity to file a claim.

LIFE INSURANCE COMPANY OF NORTH AMERICAA handwritten signature in black ink that reads "Matthew G. Manders". The signature is written in a cursive style with a large initial "M".

Matthew G. Manders, President

TL-010155

AMENDATORY RIDER
DOMESTIC PARTNER/CIVIL UNION PARTNER COVERAGE

Policyholder: City of Des Moines
 Policy No. FLX - 965873

Effective Date: January 1, 2014

This rider amends the Policy and Certificate to which it is attached. It is effective on the Effective Date shown above, and expires when the Policy expires.

Domestic Partner/Civil Union Partner means any of the following:

1. A person with whom the Employee has a registered civil union or domestic partnership under state law which imposes legal obligations on the parties substantially similar to marriage. Such person will continue to be recognized as a Domestic Partner or Civil Union Partner unless and until: (1) the civil union or domestic partnership is dissolved under applicable law; or (2) either the Employee or the Domestic Partner/Civil Union Partner marries another person.
2. A person who was legally married to the Employee under the laws of a state permitting marriage of partners of the same sex, where the Employee and Domestic Partner/Civil Union Partner currently reside in a state that does not recognize a valid marriage. This shall not apply if:
 - a. the marriage has been terminated by legal process, or;
 - b. either the Employee or the Domestic Partner/Civil Union Partner has entered into a valid marriage, civil union or domestic partnership under state law.

All references in the policy to "Spouse" shall be changed to read "Spouse, Domestic Partner, and Civil Union Partner" except as follows:

1. The definition of "Spouse" remains unchanged.
2. A Domestic Partner/Civil Union Partner shall be deemed eligible to be enrolled for insurance on the latest of:
 - a. the date of registration under Item 1 of the definition of Domestic Partner/Civil Union Partner;
 - b. the date that the Employee is eligible for insurance under the Policy; or;
 - c. the effective date of this Amendment to the Policy.
3. A child of a Domestic Partner/Civil Union Partner may only be eligible to be insured if:
 - a. the child is primarily dependent on the Employee for financial support;
 - b. the Employee has a legal obligation of support of the child; or
 - c. the Employee is the child's legal guardian.

TL-007153

Any provision of the Policy that otherwise excludes any person who is not legally able to marry the Employee is changed by the following:

In the case of any person of the same sex as the Employee, the exclusion of persons legally able to marry will not apply for the first 12 months that the Employee's state of residence allows same-sex couples to marry.

Except for the above this rider does not change the Policy or Certificate to which it is attached.

LIFE INSURANCE COMPANY OF NORTH AMERICA

A handwritten signature in black ink that reads "Matthew G. Manders". The signature is written in a cursive style with a large initial "M".

Matthew G. Manders, President

TL-007153

IMPORTANT CHANGES FOR STATE REQUIREMENTS

If an Employee resides in one of the following states, the provisions of the certificate are modified for residents of the following states. The modifications listed apply only to residents of that state.

California Residents:

Conversion Privilege for Life Insurance

Insured Employees and Insured Spouses may convert to an individual policy of life insurance for an amount not greater than the Conversion Amount shown below when the Policy ends, without regard to any requirement that the person be insured under the policy for a specified period of time, if all of the following apply.

- a. The Insured became Totally Disabled while covered for the Life Benefit of the Policy. Totally Disabled means the person is unable to perform all the material duties of any occupation for which he or she may reasonably be qualified based on training, education and experience.
- b. The Insured remained Totally Disabled until the Policy ended while covered for the Life Benefit of this Policy.
- c. The Policy does not provide a Waiver of Premium, Extended Death Benefit Provision or monthly payments to Totally Disabled Insureds for the Life Benefit.
- d. The person meets all other conditions for converting the insurance.

Conversion Amount - Insured's life insurance amount under the Policy on the date the Policy ends minus the amount for which the Insured is insured under a group policy that provides life coverage to employees of the Insured Employee's Employer covered under this Policy. The dollar limit that applies to the amount for conversion at Policy termination does not apply.

The requirement that the Insured be covered under the Policy for the stated number of years in order to convert life insurance does not apply.

Minnesota residents:

The following "Continuation of Life Insurance" provision is applicable to Minnesota residents if the Employer has a minimum of 25 Employees who reside in Minnesota, the Minnesota Employees represent at least 25% of all covered Employees under the Policy, and the Policy does not offer Portability.

Continuation Of Life Insurance – This provision shall not apply to the extent that the Policy provides for the right of Employees to continue insurance on a direct billed basis following termination of employment (Portability).

This provision shall apply with respect to Employees whose coverage under the Policy is terminated due to: (i) voluntary or involuntary termination or layoff from employment, for any reason other than gross misconduct; or (ii) reduction in hours such that the Employee is not eligible for insurance under the Policy. This provision shall only apply to Employees who, on such date, are Minnesota residents.

For those Employees subject to this provision, life insurance coverage may be continued under the Policy for 18 months or until the date that the Employee becomes covered under another group policy, whichever is shorter. Coverage provided under this provision will also end if the Policy is terminated.

The premium required for continued coverage shall be the premium under the Policy applicable to the Employee's class and amount of coverage. The Employer may charge an additional amount, not to exceed 2% of such premium, for collecting premium contributions from former Employees. The Employer shall notify the Employee of the right to continue and the required premium contribution. The Employee may elect to continue within 60 days of termination by paying the required premium, and may continue coverage in force by paying the required premium, without demand, on a monthly basis, as of the first of each month, to the Employer. Coverage will end at the end of any month in which the Employee has failed to pay premium to the Employer.

If continued coverage remains in force at the end of the 18 month period, or on termination of the Policy, the Employee may choose any conversion right then available under the Policy.

In the event the Employee dies during the 60 day right to elect period without having become insured under another group policy, or dies while continued coverage is in force, the death benefit will be paid to the beneficiary chosen by the Employee under the terms of the Policy.

Continued coverage will include eligible dependents who were covered on the Employee's date of termination, provided the dependent remains eligible as a dependent of the Employee. In the event that the dependent ceases to be eligible, the dependent may choose any conversion right then available under the Policy.

**LIFE INSURANCE COMPANY OF NORTH AMERICA
PHILADELPHIA, PA 19192-2235**

We, City of Des Moines, whose main office address is Des Moines, WA, hereby approve and accept the terms of Group Policy Number FLX-965873 issued by the LIFE INSURANCE COMPANY OF NORTH AMERICA. We acknowledge that benefits will be provided in accordance with the terms and provisions of the policy, which will be the sole contract under which benefits are paid.

This form is to be signed in duplicate. One part is to be retained by City of Des Moines; the other part is to be returned to the LIFE INSURANCE COMPANY OF NORTH AMERICA.

City of Des Moines

Signature and Title: _____ Date: _____

(This Copy Is To Be Returned To LIFE INSURANCE COMPANY OF NORTH AMERICA)

**LIFE INSURANCE COMPANY OF NORTH AMERICA
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City of Des Moines

Signature and Title: _____ Date: _____

(This Copy Is To Be Retained By City of Des Moines)

PROTECTION FOR YOU AND YOUR INSURANCE POLICY

THE WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION

PREFACE

This brochure briefly describes the coverage provided through the Washington Life & Disability Insurance Guaranty Association (“Association”).

The Association is a nonprofit unincorporated legal entity created by the Washington Life and Disability Insurance Guaranty Association Act, Chapter 48.32A RCW (“Act”). Every life and disability insurance company authorized to do business in Washington is a member of the Association. A Board of Directors (“Board”), composed of representatives from member insurers, and the Insurance Commissioner, ex officio, oversee the operation of the Association.

The expenses of the Association are paid by assessments made against each member insurer. Persons covered by the Act are not charged for the expenses of the Association or the protection provided under the Act.

Coverage is provided for certain life and disability insurance. However, the Association does not cover all such insurance. Coverage that is provided is subject to the limitations and exclusions provided by the Act.

The purpose of this brochure is to help you understand the general nature and the conditions of the protection provided under the Act. It is only a summary, however, and if you have specific questions that are not discussed here you may contact either the Association or the Office of the Insurance Commissioner.

Washington Life and Disability Insurance Guaranty
Association
P.O. Box 2292
Shelton, WA 98584
360-426-6744

Company Supervision Division
Office of the Insurance Commissioner
P.O. Box 40259
Olympia, WA 98504-0259
360-725-7214

QUESTIONS AND ANSWERS

1. WHAT INSURANCE POLICIES ARE COVERED UNDER THE ACT?

The Act applies to life insurance policies, disability insurance policies, and annuity contracts issued by an insurance company authorized to do business in Washington. The term “disability insurance,” as used in the Act, includes not only disability income insurance, but also policies commonly referred to as “health insurance” (which includes long term care policies). Together, all of these policies and contracts are sometimes referred to as “covered policies,” a term used in this brochure.

2. ARE THERE POLICIES OR INSURERS NOT COVERED BY THE ACT?

The Act specifically excludes certain types of policies or portions of policies, including, but not limited to: The portion of a policy not guaranteed by the insurer; the portion of a policy to the extent the interest rate or crediting rate exceeds the limits in the Act; policies of reinsurance, unless assumption certificates have been issued; policies issued in Washington by an insurer at a time when the insurer was not licensed or did not have a certificate of authority; policies issued to a self-insured plan or program; certain unallocated employee benefit plan annuities protected by federal law; and unallocated annuity contracts not issued to or in connection with a benefit plan or a government lottery.

The Act also does not apply to policies or contracts issued by health care service contractors, health maintenance organizations, fraternal benefit societies, self funded multiple employer welfare arrangements, mandatory state pooling plans, mutual assessment companies, insurance exchanges, or an organization that has a certificate or license limited to issuance of certain charitable gift annuities.

3. WHO IS PROTECTED UNDER THE ACT?

You are covered by the Act if you are an owner of or certificate holder under a policy or contract (other than an unallocated annuity contract or structured settlement annuity), and:

- You are a Washington resident; or
- You are not a Washington resident, but only if: the insurer is domiciled in Washington; there is an association similar to the Washington Association in your state of residency; and you are not covered in your state of residency, because the insurer was not licensed in that state; or
- You are a beneficiary, assignee, or payee of one of the above, regardless of where you reside (except for nonresident certificate holders under group policies).

Owners of unallocated annuity contracts are covered if the contract was issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in Washington, or the contract was issued to or in connection with a government lottery and the owner is a Washington resident.

A payee under a structured settlement annuity (or beneficiary of a deceased payee) is also covered, if the payee is a Washington resident, or the payee is not a Washington resident, but the contract owner is a resident; or the insurer that issued the annuity is domiciled in Washington and coverage is not available in the state in which the payee resides.

Residency is generally determined at the time of entry of an order of liquidation against the insurer. If you move to another state and reside there when such an order is entered, you may still have protection under the law of that state. You should contact the insurance department in your new state of residence to find out about guaranty act protection there.

4. HOW DOES THE ASSOCIATION PROTECT COVERED PERSONS AGAINST LOSS?

After an order of liquidation is entered against a company, the Association begins its work of carrying out the purpose of the Act, which is to assure the performance of insurance obligations of that company. The Association is authorized to carry out its duties by working with insurance companies in good standing to assume or take over the covered policies. The association may also directly provide benefits and coverage as authorized by the Act. The Association has the authority to collect the funds necessary to provide protection to covered persons against losses on their covered policies.

PROTECTION FOR YOU AND YOUR INSURANCE POLICY
THE WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION

5. WHERE DOES THE ASSOCIATION GET THE MONEY TO PROVIDE THIS PROTECTION?

The Association is authorized to collect money from all life and disability insurance companies doing business in Washington. The funds collected from an assessment are used to pay claims to covered persons and/or to fund the assumption of covered policies by another insurer.

6. DOES THE ASSOCIATION PAY OUT THE MONEY IT COLLECTS RIGHT AWAY OR DO COVERED PERSONS HAVE TO WAIT?

The Association generally cannot make an assessment for covered policies issued by a company until after an order of liquidation has been entered against the company, and a reasonable estimate can be made of the amount of money needed. Insurance companies receiving an assessment notice must make their payments within thirty days.

Because it takes time for an action to be commenced against a financially impaired insurer, for a Court to issue an order, and for funds to be collected to satisfy the obligations of that insurer, some delay, hopefully short, is unavoidable before payments can be made. Although it is impossible to predict how long this process will take in any given case, an average time period of twelve to eighteen months is not unusual.

When necessary, the Association may borrow money to make payments more promptly, particularly in cases that will take an unusual amount of time to be resolved.

7. WHAT IS THE AMOUNT OF PROTECTION PROVIDED BY THE ACT?

The Act provides the following maximum amounts of protection:

Life Insurance Death Benefits.....	\$500,000
Disability Benefits and Health Benefits (including Long Term Care Benefits).....	\$500,000
Present Value of Individual Annuities	\$500,000
Unallocated Annuity Contracts, other than certain government retirement plans (limit is per contract owner or plan sponsor)	\$5,000,000
Government Retirement Plans in Unallocated Annuities established under Internal Revenue Code § § 401, 403(b), or 457 (limit is per participant)	\$100,000

This protection becomes effective at the time of entry of a Court order of liquidation against the insurer. Of course, if the amount owed under the contract or policy is less than the maximum benefit under the Act, the covered person will be entitled to protection only up to the actual amount owed.

Furthermore, the maximum protection available to each covered person remains the same, regardless of the number of contracts through which he or she has a claim.

8. IF A HUSBAND AND WIFE EACH INDIVIDUALLY OWN A COVERED POLICY, IS THE PROTECTION UNDER THE ACT PROVIDED TO EACH OF THEM?

Yes. As long as the residency requirements are met, both would be entitled to the protection provided by the Act, up to the maximum amount.

9. WHY DOESN'T MY INSURANCE COMPANY ADVERTISE THE FACT THAT ITS POLICIES AND CONTRACTS ARE PROTECTED UNDER THE ACT?

Under Washington law, insurance companies are prohibited from advertising that their policies or contracts may be covered under the Act.

You should not rely on coverage under the Act when selecting an insurance company.

10. WHY HASN'T MY AGENT TOLD ME ABOUT THE GUARANTY ACT?

Your insurance agent is subject to the same prohibitions as your insurance company. As a representative of the company, an agent must exercise great care when soliciting business and consequently, will generally not discuss the subject of a guaranty act with clients.

11. WHO SHOULD I CONTACT IF I BELIEVE THERE HAS BEEN A VIOLATION OF THE ACT?

You should contact the Association if you believe your rights have been violated under the Act. If you are dissatisfied with the actions of the Association, you may also contact the Office of the Insurance Commissioner.

CONCLUSION

This brochure has been prepared by the Washington Life and Disability Insurance Guaranty Association. Its purpose is to inform the public in a general way of the protections that are available in this state on insurance policies and annuity contracts issued by companies authorized to do business in Washington. The Association does not, by this brochure, endorse any company or its products, but rather seeks to address some of the concerns that you may have regarding the security of insurance policies and annuity contracts.

For more information or answers to specific questions you may contact the Washington Life and Disability Insurance Guaranty Association or the Office of the Insurance Commissioner, whose addresses and telephone numbers are shown in the Preface.

This brochure is prepared by and made available through the Washington Life and Disability Insurance Guaranty Association, which has granted member insurance companies permission to reproduce and distribute the brochure. It is the responsibility of the company, or any representative of a company, reproducing this brochure, to ensure that the use thereof does not violate applicable laws or regulations.

Life Insurance Company of North America
1601 Chestnut Street, Philadelphia, Pennsylvania 19192-2235
A Stock Insurance Company

GROUP ACCIDENT POLICY

POLICYHOLDER: City of Des Moines
POLICY NUMBER: OK 967446
POLICY EFFECTIVE DATE: January 1, 2014
POLICY ANNIVERSARY DATE: January 1
STATE OF ISSUE: Washington

This Policy describes the terms and conditions of insurance. This Policy goes into effect subject to its applicable terms and conditions at 12:01 AM on the Policy Effective Date shown above at the Policyholder's address. The laws of the State of Issue shown above govern this Policy.

We and the Policyholder agree to all of the terms of this Policy.

**THIS IS A GROUP ACCIDENT ONLY INSURANCE POLICY.
 IT DOES NOT PAY BENEFITS FOR LOSS CAUSED BY SICKNESS.**

**THIS IS A LIMITED POLICY.
 PLEASE READ IT CAREFULLY.**



Scott Kern, Corporate Secretary



Matthew G. Manders, President

Countersigned _____

Where Required By Law

GA-00-1000.00

TABLE OF CONTENTS

SECTION	PAGE NUMBER
SCHEDULE OF AFFILIATES	1
SCHEDULE OF BENEFITS	2
GENERAL DEFINITIONS	8
ELIGIBILITY AND EFFECTIVE DATE PROVISIONS	10
COMMON EXCLUSIONS	11
CONVERSION PRIVILEGE	12
CLAIM PROVISIONS	14
ADMINISTRATIVE PROVISIONS	16
GENERAL PROVISIONS	17
ACCIDENTAL DEATH AND DISMEMBERMENT COVERAGE	19
EXPOSURE AND DISAPPEARANCE COVERAGE	20
CHILD CARE CENTER BENEFIT	20
SEATBELT AND AIRBAG BENEFIT	21
SPECIAL EDUCATION BENEFIT	21
SPOUSE RETRAINING BENEFIT	22
DOMESTIC PARTNER/CIVIL UNION PARTNER RIDER	23

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SCHEDULE OF AFFILIATES

The following affiliates are covered under this Policy on the effective dates listed below.

<u>AFFILIATE NAME</u>	<u>LOCATION</u>	<u>EFFECTIVE DATE</u>
None		
GA-00-1000.00		

SCHEDULE OF BENEFITS

This Policy is intended to be read in its entirety. In order to understand all the conditions, exclusions and limitations applicable to its benefits, please read all the policy provisions carefully.

The *Schedule of Benefits* provides a brief outline of the coverage and benefits provided by this Policy. Please read the *Description of Coverages and Benefits* Section for full details.

Policyholder: City of Des Moines

Effective Date of Policyholder Participation: January 1, 2014

Covered Classes:

Class 1 All active, full-time Employees of the Employer regularly working a minimum of 32 hours per week, whose primary location is in the United States and who are classified as a Teamster.

Class 2 All active, full-time Employees of the Employer regularly working a minimum of 32 hours per week, whose primary location is in the United States, excluding Employees who are classified as a Teamster.

SCHEDULE OF BENEFITS FOR CLASS 1

This *Schedule of Benefits* shows maximums, benefit periods and any limitations applicable to benefits provided in this Policy for each Covered Person unless otherwise indicated. **Principal Sum**, when referred to in this Schedule, means the Employee's Principal Sum in effect on the date of the Covered Accident causing the Covered Injury or Covered Loss unless otherwise specified.

Eligibility Waiting Period

The Eligibility Waiting Period is the period of time the Employee must be in a Covered Class to be eligible for coverage.

For Employees hired on or before the Policy Effective Date: The first of the month coinciding with or next following date of hire

For Employees hired after the Policy Effective Date: The first of the month coinciding with or next following date of hire

Time Period for Loss:

Any Covered Loss must occur within: 365 days of the Covered Accident

Maximum Age for Insurance:

None

BASIC ACCIDENTAL DEATH AND DISMEMBERMENT BENEFITS

Employee Principal Sum: \$5,000

SCHEDULE OF COVERED LOSSES

Covered Loss	Benefit
Loss of Life	100% of the Principal Sum
Loss of Two or More Hands or Feet	100% of the Principal Sum
Loss of Sight of Both Eyes	100% of the Principal Sum
Loss of One Hand or One Foot and Sight in One Eye	100% of the Principal Sum
Loss of Speech and Hearing (in both ears)	100% of the Principal Sum
Quadriplegia	100% of the Principal Sum
Paraplegia	75% of the Principal Sum
Hemiplegia	50% of the Principal Sum
Uniplegia	25% of the Principal Sum
Coma	
Monthly Benefit	1% of the Principal Sum
Number of Monthly Benefits	11
When Payable	At the end of each month during which the Covered Person remains comatose
Lump Sum Benefit	100% of the Principal Sum
When Payable	Beginning of the 12 th month
Loss of One Hand or Foot	50% of the Principal Sum
Loss of Sight in One Eye	50% of the Principal Sum
Severance and Reattachment of One Hand or Foot	50% of the Principal Sum
Loss of Speech	50% of the Principal Sum
Loss of Hearing (in both ears)	50% of the Principal Sum
Loss of all Four Fingers of the Same Hand	25% of the Principal Sum
Loss of Thumb and Index Finger of the Same Hand	25% of the Principal Sum
Loss of all the Toes of the Same Foot	20% of the Principal Sum

ADDITIONAL ACCIDENTAL DEATH AND DISMEMBERMENT COVERAGES

Accidental Death and Dismemberment benefits are provided under the following coverages. Any benefits payable under them are as shown in the *Schedule of Covered Losses* and are not paid in addition to any other Accidental Death and Dismemberment benefits.

EXPOSURE AND DISAPPEARANCE COVERAGE

Principal Sum multiplied by the percentage applicable to the Covered Loss, as shown in the *Schedule of Covered Losses*.

ADDITIONAL ACCIDENT BENEFITS

Any benefits payable under these *Additional Accident Benefits* shown below are paid in addition to any other Accidental Death and Dismemberment benefits payable.

CHILD CARE CENTER BENEFIT

Benefit Amount	25% of the Employee's Principal Sum subject to a maximum of \$1,250 per year
Maximum Benefit Period	the earlier of 4 years or until the child turns 13 for each surviving Dependent Child

SEATBELT AND AIRBAG BENEFIT

Seatbelt Benefit	10% of the Principal Sum subject to a Maximum Benefit of \$500
Airbag Benefit	5% of the Principal Sum subject to a Maximum Benefit of \$250
Default Benefit	\$500

SPECIAL EDUCATION BENEFIT

Surviving Dependent Child Benefit	25% of the Principal Sum subject to a Maximum Benefit of \$1,250
Maximum Number of Annual Payments For Each Surviving Dependent Child	4
Default Benefit	\$1,000

SPOUSE RETRAINING BENEFIT

Benefit	25% of the Principal Sum subject to a Maximum Benefit of \$1,250
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INITIAL PREMIUM RATES

Premium Rate:	<u>Basic Insurance</u> Employee Rate: \$0.036 per \$1,000
Mode of Premium Payment:	Monthly
Contributions:	The cost of the coverage is paid by the Policyholder
Premium Due Dates:	The Policy Effective Date and the first day of each succeeding modal period

Premium rates are subject to change in accordance with the *Changes in Premium Rates* section contained in the *Administrative Provisions* section of this Policy.

GA-00-1100.48

SCHEDULE OF BENEFITS FOR CLASS 2

This *Schedule of Benefits* shows maximums, benefit periods and any limitations applicable to benefits provided in this Policy for each Covered Person unless otherwise indicated. Principal Sum, when referred to in this Schedule, means the Employee's Principal Sum in effect on the date of the Covered Accident causing the Covered Injury or Covered Loss unless otherwise specified.

Eligibility Waiting Period

The Eligibility Waiting Period is the period of time the Employee must be in a Covered Class to be eligible for coverage

For Employees hired on or before the Policy Effective Date: The first of the month coinciding with or next following date of hire

For Employees hired after the Policy Effective Date: The first of the month coinciding with or next following date of hire

Time Period for Loss:

Any Covered Loss must occur within: 365 days of the Covered Accident

Maximum Age for Insurance:

None

BASIC ACCIDENTAL DEATH AND DISMEMBERMENT BENEFITS

Employee Principal Sum: 1.5 times Annual Compensation rounded to the higher \$1,000, if not already a multiple thereof, not to exceed \$250,000

Annual Compensation means an Employee's annual earnings for normal work established by the Policyholder for his job classification, excluding commissions, bonuses, overtime or other extra compensation.

Changes in the Covered Person's amount of insurance resulting from a change in the Employee's amount of Annual Compensation take effect, subject to any Active Service requirement, on the date of the change in Annual Compensation.

SCHEDULE OF COVERED LOSSES

Covered Loss	Benefit
Loss of Life	100% of the Principal Sum
Loss of Two or More Hands or Feet	100% of the Principal Sum
Loss of Sight of Both Eyes	100% of the Principal Sum
Loss of One Hand or One Foot and Sight in One Eye	100% of the Principal Sum
Loss of Speech and Hearing (in both ears)	100% of the Principal Sum
Quadriplegia	100% of the Principal Sum
Paraplegia	75% of the Principal Sum
Hemiplegia	50% of the Principal Sum
Uniplegia	25% of the Principal Sum
Coma	
Monthly Benefit	1% of the Principal Sum
Number of Monthly Benefits	11
When Payable	At the end of each month during which the Covered Person remains comatose
Lump Sum Benefit	100% of the Principal Sum
When Payable	Beginning of the 12 th month
Loss of One Hand or Foot	50% of the Principal Sum
Loss of Sight in One Eye	50% of the Principal Sum

Covered Loss	Benefit
Severance and Reattachment of One Hand or Foot	50% of the Principal Sum
Loss of Speech	50% of the Principal Sum
Loss of Hearing (in both ears)	50% of the Principal Sum
Loss of all Four Fingers of the Same Hand	25% of the Principal Sum
Loss of Thumb and Index Finger of the Same Hand	25% of the Principal Sum
Loss of all the Toes of the Same Foot	20% of the Principal Sum

Age Reductions

A Covered Person's Principal Sum will be reduced to the percentage of his Principal Sum in effect on the date preceding the first reduction, as shown below.

Age	Percentage of Benefit Amount
65 but less than 70	65%
70 but less than 75	50%
75 or over	35%

Benefits reductions will be effective on the date of change coinciding with or next following the Covered Person's attainment of age as specified in schedule above.

ADDITIONAL ACCIDENTAL DEATH AND DISMEMBERMENT COVERAGES

Accidental Death and Dismemberment benefits are provided under the following coverages. Any benefits payable under them are as shown in the *Schedule of Covered Losses* and are not paid in addition to any other Accidental Death and Dismemberment benefits.

EXPOSURE AND DISAPPEARANCE COVERAGE Principal Sum multiplied by the percentage applicable to the Covered Loss, as shown in the *Schedule of Covered Losses*.

ADDITIONAL ACCIDENT BENEFITS

Any benefits payable under these *Additional Accident Benefits* shown below are paid in addition to any other Accidental Death and Dismemberment benefits payable.

CHILD CARE CENTER BENEFIT

Benefit Amount	25% of the Employee's Principal Sum subject to a maximum of \$5,000 per year
Maximum Benefit Period	the earlier of 4 years or until the child turns 13 for each surviving Dependent Child

SEATBELT AND AIRBAG BENEFIT

Seatbelt Benefit	10% of the Principal Sum subject to a Maximum Benefit of \$25,000
Airbag Benefit	5% of the Principal Sum subject to a Maximum Benefit of \$10,000
Default Benefit	\$1,000

SPECIAL EDUCATION BENEFIT

Surviving Dependent Child Benefit	25% of the Principal Sum subject to a Maximum Benefit of \$5,000
Maximum Number of Annual Payments For Each Surviving Dependent Child	4
Default Benefit	\$1,000

SPOUSE RETRAINING BENEFIT

Benefit	25% of the Principal Sum subject to a Maximum Benefit of \$5,000
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INITIAL PREMIUM RATES

Premium Rate:	<u>Basic Insurance</u> Employee Rate: \$0.036 per \$1,000
Mode of Premium Payment:	Monthly
Contributions:	The cost of the coverage is paid by the Policyholder
Premium Due Dates:	The Policy Effective Date and the first day of each succeeding modal period

Premium rates are subject to change in accordance with the *Changes in Premium Rates* section contained in the *Administrative Provisions* section of this Policy.

GA-00-1100.48

GENERAL DEFINITIONS

Please note that certain words used in this Policy have specific meanings. The words defined below and capitalized within the text of this Policy have the meanings set forth below.

Active Service	An Employee will be considered in Active Service with his employer on any day that is either of the following: <ol style="list-style-type: none"> one of the Employer's scheduled work days on which the Employee is performing his regular duties on a full-time basis, either at one of the Employer's usual places of business or at some other location to which the Employer's business requires the Employee to travel; a scheduled holiday, vacation day or period of Employer-approved paid leave of absence, other than sick leave, only if the Employee was in Active Service on the preceding scheduled workday.
Age	A Covered Person's Age, for purposes of initial premium calculations, is his Age attained on the date coverage becomes effective for him under this Policy. Thereafter, it is his Age attained on his last birthday.
Aircraft	A vehicle which: <ol style="list-style-type: none"> has a valid certificate of airworthiness; and is being flown by a pilot with a valid license to operate the Aircraft.
Covered Accident	A sudden, unforeseeable event that results, directly and independently of all other causes, in a Covered Injury or Covered Loss and meets all of the following conditions: <ol style="list-style-type: none"> occurs while the Covered Person is insured under this Policy; is not contributed to by disease, Sickness, mental or bodily infirmity; is not otherwise excluded under the terms of this Policy.
Covered Injury	Any bodily harm that results directly and independently of all other causes from a Covered Accident.
Covered Loss	A loss that is all of the following: <ol style="list-style-type: none"> the result, directly and independently of all other causes, of a Covered Accident; one of the Covered Losses specified in the <i>Schedule of Covered Losses</i>; suffered by the Covered Person within the applicable time period specified in the <i>Schedule of Benefits</i>.
Covered Person	An eligible person, as defined in the <i>Schedule of Benefits</i> , for whom an enrollment form has been accepted by Us and required premium has been paid when due and for whom coverage under this Policy remains in force.
Employee	For eligibility purposes, an Employee of the Employer who is in one of the Covered Classes.
Employer	The Policyholder and any affiliates, subsidiaries or divisions shown in the <i>Schedule of Covered Affiliates</i> and which are covered under this Policy on the date of issue or subsequently agreed to by Us.
He, His, Him	Refers to any individual, male or female.

Hospital	<p>An institution that meets all of the following:</p> <ol style="list-style-type: none"> 1. it is licensed as a Hospital pursuant to applicable law; 2. it is primarily and continuously engaged in providing medical care and treatment to sick and injured persons; 3. it is managed under the supervision of a staff of medical doctors; 4. it provides 24-hour nursing services by or under the supervision of a graduate registered nurse (R.N.); 5. it has medical, diagnostic and treatment facilities, with major surgical facilities on its premises, or available on a prearranged basis; 6. it charges for its services. <p>The term Hospital does not include a clinic, facility, or unit of a Hospital for:</p> <ol style="list-style-type: none"> 1. rehabilitation, convalescent, custodial, educational or nursing care; 2. the aged, drug addicts or alcoholics; 3. a Veteran's Administration Hospital or Federal Government Hospital unless the Covered Person incurs an expense.
Inpatient	<p>A Covered Person who is confined for at least one full day's Hospital room and board. The requirement that a person be charged for room and board does not apply to confinement in a Veteran's Administration Hospital or Federal Government Hospital and in such case, the term 'Inpatient' shall mean a Covered Person who is required to be confined for a period of at least a full day as determined by the Hospital.</p>
Nurse	<p>A licensed graduate Registered Nurse (R.N.), a licensed practical Nurse (L.P.N.) or a licensed vocational Nurse (L.V.N.) and who is not:</p> <ol style="list-style-type: none"> 1. employed or retained by the Policyholder; 2. living in the Covered Person's household; or 3. a parent, sibling, spouse or child of the Covered Person.
Outpatient	<p>A Covered Person who receives treatment, services and supplies while not an Inpatient in a Hospital.</p>
Physician	<p>A licensed health care provider practicing within the scope of his license and rendering care and treatment to a Covered Person that is appropriate for the condition and locality and who is not:</p> <ol style="list-style-type: none"> 1. employed or retained by the Policyholder; 2. living in the Covered Person's household; 3. a parent, sibling, spouse or child of the Covered Person.
Prior Plan	<p>The plan of insurance providing similar benefits, sponsored by the Employer in effect immediately prior to this Policy's Effective Date.</p>
Sickness	<p>A physical or mental illness.</p>
Totally Disabled or Total Disability	<p>Totally Disabled or Total Disability means either:</p> <ol style="list-style-type: none"> 1. inability of the Covered Person who is currently employed to do any type of work for which he is or may become qualified by reason of education, training or experience; or 2. inability of the Covered Person who is not currently employed to perform all of the activities of daily living including eating, transferring, dressing, toileting, bathing, and continence, without human supervision or assistance.
We, Us, Our	<p>Life Insurance Company of North America.</p>

GA-00-1200.48

ELIGIBILITY AND EFFECTIVE DATE PROVISIONS

Policy Effective Date

The Insurance Company agrees to provide Accident Insurance Benefits described in this Policy in consideration of the Policyholder's application and payment of the initial premium when due. Insurance coverage begins on the Policy Effective Date shown on this Policy's first page.

Eligibility

An Employee becomes eligible for insurance under this Policy on the date he meets all of the requirements of one of the Covered Classes and completes any Eligibility Waiting Period, as shown in the *Schedule of Benefits*.

Effective Date for Individuals

Insurance becomes effective for an eligible Employee, subject to the *Deferred Effective Date* provision below, on the latest of the following dates:

1. the effective date of this Policy;
2. the date the Employee becomes eligible.

DEFERRED EFFECTIVE DATE

Active Service

The effective date of insurance will be deferred for any Employee who is not in Active Service on the date coverage would otherwise become effective. Coverage will become effective on the later of the date he returns to Active Service and the date coverage would otherwise have become effective.

Effective Date of Changes

Any increase or decrease in the amount of insurance for the Covered Person resulting from:

1. a change in benefits provided by this Policy; or
2. a change in the Employee's Covered Class will take effect on the date of such change.

Increases will take effect subject to any Active Service requirement.

TERMINATION OF INSURANCE

The insurance on a Covered Person will end on the earliest date below:

1. the date this Policy or insurance for a Covered Class is terminated;
2. the next premium due date after the date the Covered Person is no longer in a Covered Class or satisfies eligibility requirements under this Policy;
3. the last day of the last period for which premium is paid;
4. the next premium due date after the Covered Person attains the maximum Age for insurance under this Policy.

Termination will not affect a claim for a Covered Loss or Covered Injury that is the result, directly and independently of all other causes, of a Covered Accident that occurs while coverage was in effect.

CONTINUATION OF INSURANCE

Continuation for Leave of Absence or Family Medical Leave

Insurance for an Employee may be continued until the earliest of the following dates if: (a) an Employee is on an Employer-approved leave of absence or an Employer-approved family medical leave; and (b) required premium contributions are paid when due.

1. for an Employer-approved leave of absence: 60 days.
2. for an Employer-approved family medical leave: up to the later of the period of the approved FMLA leave or the leave period required by law in the state in which the Employee is employed.

GA-00-1300.00

COMMON EXCLUSIONS

In addition to any benefit-specific exclusions, benefits will not be paid for any Covered Injury or Covered Loss which, directly or indirectly, in whole or in part, is caused by or results from any of the following unless coverage is specifically provided for by name in the *Description of Benefits* Section:

1. intentionally self-inflicted injury, suicide or any attempt thereat while sane or insane;
2. commission or attempt to commit a felony or an assault;
3. commission of or active participation in a riot or insurrection;
4. bungee jumping; parachuting; skydiving; parasailing; hang-gliding;
5. declared or undeclared war or act of war;
6. flight in, boarding or alighting from an Aircraft or any craft designed to fly above the Earth's surface:
 - a. except as a passenger on a regularly scheduled commercial airline;
 - b. being flown by the Covered Person or in which the Covered Person is a member of the crew;
 - c. being used for:
 - i. crop dusting, spraying or seeding, giving and receiving flying instruction, fire fighting, sky writing, sky diving or hang-gliding, pipeline or power line inspection, aerial photography or exploration, racing, endurance tests, stunt or acrobatic flying; or
 - ii. any operation that requires a special permit from the FAA, even if it is granted (this does not apply if the permit is required only because of the territory flown over or landed on);
 - d. designed for flight above or beyond the earth's atmosphere;
 - e. an ultra-light or glider;
 - f. being used for the purpose of parachuting or skydiving;
 - g. being used by any military authority, except an Aircraft used by the Air Mobility Command or its foreign equivalent;
7. Sickness, disease, bodily or mental infirmity, bacterial or viral infection or medical or surgical treatment thereof, except for any bacterial infection resulting from an accidental cut or wound or accidental ingestion of contaminated food;
8. travel in any Aircraft owned, leased or controlled by the Policyholder, or any of its subsidiaries or affiliates. An Aircraft will be deemed to be "controlled" by the Policyholder if the Aircraft may be used as the Policyholder wishes for more than 10 straight days, or more than 15 days in any year;
9. a Covered Accident that occurs while engaged in the activities of active duty service in the military, navy or air force of any country or international organization. Covered Accidents that occur while engaged in Reserve or National Guard training are not excluded until training extends beyond 31 days;
10. operating any type of vehicle while under the influence of alcohol or any drug, narcotic or other intoxicant including any prescribed drug for which the Covered Person has been provided a written warning against operating a vehicle while taking it. Under the influence of alcohol, for purposes of this exclusion, means intoxicated, as defined by the law of the state in which the Covered Accident occurred;
11. voluntary ingestion of any narcotic, drug, poison, gas or fumes, unless prescribed or taken under the direction of a Physician and taken in accordance with the prescribed dosage;
12. in addition, benefits will not be paid for services or treatment rendered by a Physician, Nurse or any other person who is:
 - a. employed or retained by the Policyholder;
 - b. providing homeopathic, aroma-therapeutic or herbal therapeutic services;
 - c. living in the Covered Person's household;
 - d. a parent, sibling, spouse or child of the Covered Person.

GA-00-1403.00

CONVERSION PRIVILEGE

1. If the Covered Person's insurance or any portion of it ends for any of the following reasons:
 - a. employment or membership ends;
 - b. eligibility ends (except for age for the Employee);
 the Covered Person may have Us issue converted accident insurance on an individual policy or an individual certificate under a designated group policy. The Covered Person may apply for an amount of coverage that is:
 - a. in \$1,000 increments;
 - b. not less than \$25,000, regardless of the amount of insurance under the group policy; and
 - c. not more than the amount of insurance he had under the group policy, except as provided above, up to a maximum amount of \$250,000.

The Covered Person must be under age 70 to get a converted policy.

If the Covered Person's insurance or any portion of it ends for non-payment of premium, he may not convert. If the Covered Person's insurance ends for a reason described in 2. below, conversion is subject to that section.

The converted policy or certificate will cover accidental death and dismemberment. The policy or certificate will not contain disability or other additional benefits. The Covered Person need not show Us that he is insurable.

If the Covered Person has converted his group coverage and later becomes insured under the same group plan as before, he may not convert a second time unless he provides, at his own expense, proof of insurability or proof the prior converted policy is no longer in force.

The Covered Person must apply for the individual policy within 31 days after his coverage under this Group Policy ends and pay the required premium, based on Our table of rates for such policies, his Age and class of risk. If the Covered Person has assigned ownership of his group coverage, the owner/assignee must apply for the individual policy.

If the Covered Person suffers a Covered Loss or dies during this 31-day period as the result of an accident that would have been covered under this Group Policy, We will pay as a claim under this Group Policy the amount of insurance that the Covered Person was entitled to convert. It does not matter whether the Covered Person applied for the individual policy or certificate. If such policy or certificate is issued, it will be in exchange for any other benefits under this Group Policy.

The individual policy or certificate will take effect on the day following the date coverage under the Group Policy ended; or, if later, the date application is made.

Exclusions

The converted policy may exclude the hazards or conditions that apply to the Covered Person's group coverage at the time it ends. We will reduce payment under the converted policy by the amount of any benefits paid under the group policy if both cover the same loss.

2. If the Covered Person's insurance ends because this Group Policy is terminated or is amended to terminate insurance for the Covered Person's class, and he has been covered under this Group Policy or, any group accident insurance issued to the Employer which the Group Policy replaced, for at least five years, the Covered Person may have Us issue an individual policy or certificate of accident insurance subject to the same terms, conditions and limitations listed above. However, the amount he may apply for will be limited to the lesser of the following:
 - a. coverage under this Group Policy less any amount of group accident insurance for which he is eligible on the date this Group Policy is terminated or for which he became eligible within 31 days of such termination, or
 - b. \$10,000.

Extension of Conversion Period

If the Covered Person is eligible to convert and is not notified of this right at least 15 days prior to the end of the 31 day conversion period, the conversion period will be extended. The Covered Person will have 15 days from the date notice is given to apply for a converted policy or certificate. In no event will the conversion period be extended beyond 90 days. Notice, for the purpose of this section, means written notice presented to the Covered Person by the Policyholder or mailed to the Covered Person's last known address as reported by the Policyholder.

If the Covered Person sustains a Covered Loss or dies during the extended conversion period, but more than 31 days after his coverage under the Group Policy terminates, benefits will not be paid under the Group Policy. If the Covered Person's application for a converted policy or certificate is received by Us and the required premium is paid, benefits may be payable under the converted policy or certificate.

GA-01-1505.00

CLAIM PROVISIONS

Notice of Claim

Written or authorized electronic/telephonic notice of claim must be given to Us within 31 days after a Covered Loss occurs or begins or as soon as reasonably possible. If written or authorized electronic/telephonic notice is not given in that time, the claim will not be invalidated or reduced if it is shown that written or authorized electronic/telephonic notice was given as soon as was reasonably possible. Notice can be given to Us at Our Home Office in Philadelphia, Pennsylvania, such other place as We may designate for the purpose, or to Our authorized agent. Notice should include the Policyholder's name and policy number and the Covered Person's name, address, policy and certificate number.

Claim Forms

We will send claim forms for filing proof of loss when We receive notice of a claim. If such forms are not sent within 15 days after We receive notice, the proof requirements will be met by submitting, within the time fixed in this Policy for filing proof of loss, written or authorized electronic proof of the nature and extent of the loss for which the claim is made.

Claimant Cooperation Provision

Failure of a claimant to cooperate with Us in the administration of the claim may result in termination of the claim. Such cooperation includes, but is not limited to, providing any information or documents needed to determine whether benefits are payable or the actual benefit amount due.

Proof of Loss

Written or authorized electronic proof of loss satisfactory to Us must be given to Us at Our office, within 90 days of the loss for which claim is made. If (a) benefits are payable as periodic payments and (b) each payment is contingent upon continuing loss, then proof of loss must be submitted within 90 days after the termination of each period for which We are liable. If written or authorized electronic notice is not given within that time, no claim will be invalidated or reduced if it is shown that such notice was given as soon as reasonably possible. In any case, written or authorized electronic proof must be given not more than one year after the time it is otherwise required, except if proof is not given solely due to the lack of legal capacity.

Time of Payment of Claims

We will pay benefits due under this Policy for any loss other than a loss for which this Policy provides any periodic payment immediately upon receipt of due written or authorized electronic proof of such loss. Subject to due written or authorized electronic proof of loss, all accrued benefits for loss for which this Policy provides periodic payment will be paid monthly unless otherwise specified in the benefits descriptions and any balance remaining unpaid at the termination of liability will be paid immediately upon receipt of proof satisfactory to Us.

Payment of Claims

All benefits will be paid in United States currency. Benefits for loss of life will be payable in accordance with the Beneficiary provision and these Claim Provisions. All other proceeds payable under this Policy, unless otherwise stated, will be payable to the covered Employee or to his estate.

If We are to pay benefits to the estate or to a person who is incapable of giving a valid release, We may pay \$1,000 to a relative by blood or marriage whom We believe is equitably entitled. Any payment made by Us in good faith pursuant to this provision will fully discharge Us to the extent of such payment and release Us from all liability.

Payment of Claims to Foreign Employees

The Policyholder may, in a fiduciary capacity, receive and hold any benefits payable to covered Employees whose place of employment is other than the United States of America.

We will not be responsible for the application or disposition by the Policyholder of any such benefits paid. Our payments to the Policyholder will constitute a full discharge of Our liability for those payments under this Policy.

Physical Examination and Autopsy

We, at Our own expense, have the right and opportunity to examine the Covered Person when and as often as We may reasonably require while a claim is pending and to make an autopsy in case of death where it is not forbidden by law.

Legal Actions

No action at law or in equity may be brought to recover under this Policy less than 60 days after written or authorized electronic proof of loss has been furnished as required by this Policy. No such action will be brought more than three years after the time such written proof of loss must be furnished.

Beneficiary

The beneficiary is the person or persons the Employee names or changes on a form executed by him and satisfactory to Us. This form may be in writing or by any electronic means agreed upon between Us and the Policyholder. Consent of the beneficiary is not required to affect any changes, unless the beneficiary has been designated as an irrevocable beneficiary, or to make any assignment of rights or benefits permitted by this Policy.

A beneficiary designation or change will become effective on the date the Employee executes it. However, We will not be liable for any action taken or payment made before We record notice of the change at our Home Office.

If more than one person is named as beneficiary, the interests of each will be equal unless the Employee has specified otherwise. The share of any beneficiary who does not survive the Covered Person will pass equally to any surviving beneficiaries unless otherwise specified.

If there is no named beneficiary or surviving beneficiary, or if the Employee dies while benefits are payable to him, We may make direct payment to the first surviving class of the following classes of persons:

1. spouse;
2. child or children;
3. mother or father;
4. sisters or brothers;
5. estate of the Covered Person.

Recovery of Overpayment

If benefits are overpaid, We have the right to recover the amount overpaid by either of the following methods.

1. A request for lump sum payment of the overpaid amount.
2. A reduction of any amounts payable under this Policy.

If there is an overpayment due when the Covered Person dies, We may recover the overpayment from the Covered Person's estate.

GA-00-1600.00

ADMINISTRATIVE PROVISIONS

Premiums

All premium rates are expressed in, and all premiums are payable in, United States currency. The premiums for this Policy will be based on the rates set forth in the *Schedule of Benefits*, the plan and amounts of insurance in effect. If a Covered Person's insurance amounts are reduced due to age, premium will be based on the amounts of insurance in force on the day after the reduction took place.

Changes in Premium Rates

We may change the premium rates from time to time with at least 31 days advance written notice to the Policyholder. No change in rates will be made until 24 months after the Policy Effective Date. An increase in rates will not be made more often than once in a 12-month period. However, We reserve the right to change rates at any time if any of the following events take place:

1. the terms of this Policy change;
2. the terms of the Policyholder's participation change;
3. a division, subsidiary, affiliated company or eligible class is added or deleted from this Policy;
4. there is a change in the factors bearing on the risk assumed;
5. any federal or state law or regulation is amended to the extent it affects Our benefit obligation.

Payment of Premium

The first premium is due on the Policyholder's effective date of participation under this Policy. Thereafter, premiums are due on the Premium Due Dates agreed upon between Us and the Policyholder. If any premium is not paid when due, the Policyholder's participation under this Policy will be terminated as of the Premium Due Date on which premium was not paid.

Grace Period

A Grace Period of 31 days will be granted for payment of required premiums under this Policy. This Policy will be in force during the Policy Grace Period. The Policyholder is liable to Us for any unpaid premium for the time its participation under this Policy was in force.

GA-00-1701.00

GENERAL PROVISIONS

Entire Contract; Changes

This Policy, including the endorsements, amendments and any attached papers constitutes the entire contract of insurance. No change in this Policy will be valid until approved by one of Our executive officers and endorsed on or attached to this Policy. No agent has authority to change this Policy or to waive any of its provisions.

Misstatement of Fact

If the Covered Person has misstated any fact, all amounts payable under this Policy will be such as the premium paid would have purchased had such fact been correctly stated.

Certificates

Where required by law, We will provide a certificate of insurance for delivery to the Covered Person. Each certificate will list the benefits, conditions and limits of this Policy. It will state to whom benefits will be paid.

30 Day Right To Examine Certificate

If a Covered Person does not like the Certificate for any reason, it may be returned to Us within 30 days after receipt. We will return any premium that has been paid and the Certificate will be void as if it had never been issued.

Multiple Certificates

The Covered Person may have in force only one certificate at a time under this Policy. If at any time the Covered Person has been issued more than one certificate, then only the largest shall be in effect. We will refund premiums paid for the others for any period of time that more than one certificate was issued.

Assignment

We will be bound by an assignment of a Covered Person's insurance under this Policy only when the original assignment or a certified copy of the assignment, signed by the Covered Person and any irrevocable beneficiary, is filed with Us. The assignee may exercise all rights and receive all benefits assigned only while the assignment remains in effect and insurance under this Policy and the Covered Person's certificate remains in force.

Incontestability

1. Of This Policy or Participation Under This Policy

All statements made by the Policyholder to obtain this Policy or to participate under this Policy are considered representations and not warranties. No statement will be used to deny or reduce benefits or be used as a defense to a claim, or to deny the validity of this Policy or of participation under this Policy unless a copy of the instrument containing the statement is, or has been, furnished to the Policyholder.

After two years from the Policy Effective Date, no such statement will cause this Policy to be contested except for fraud.

2. Of A Covered Person's Insurance

All statements made by a Covered Person are considered representations and not warranties. No statement will be used to deny or reduce benefits or be used as a defense to a claim, unless a copy of the instrument containing the statement is, or has been, furnished to the claimant.

After two years from the Covered Person's effective date of insurance, or from the effective date of increased benefits, no such statement will cause insurance or the increased benefits to be contested except for fraud or lack of eligibility for insurance.

In the event of death or incapacity, the beneficiary or representative shall be given a copy.

Policy Termination

We may terminate coverage on or after the first anniversary of the policy effective date. The Policyholder may terminate coverage on any premium due date. Written or authorized electronic notice must be given at least 31 days prior to such premium due date.

Termination will not affect a claim for a Covered Loss that is the result, directly and independently of all other causes, of a Covered Accident that occurs while coverage was in effect.

Reinstatement

This Policy may be reinstated if it lapsed for nonpayment of premium. Requirements for reinstatement are written application of the Policyholder satisfactory to Us and payment of all overdue premiums. Any premium accepted in connection with a reinstatement will be applied to a period for which premium was not previously paid.

Clerical Error

A Covered Person's insurance will not be affected by error or delay in keeping records of insurance under this Policy. If such error or delay is found, We will adjust the premium fairly.

Conformity with Statutes

Any provisions in conflict with the requirements of any state or federal law that apply to this Policy are automatically changed to satisfy the minimum requirements of such laws.

Policy Changes

We may agree with the Policyholder to modify a plan of benefits without the Covered Person's consent.

Workers' Compensation Insurance

This Policy is not in place of and does not affect any requirements for coverage under any Workers' Compensation law.

Examination of the Policy

This Group Policy will be available for inspection at the Policyholder's office during regular business hours.

Examination of Records

We will be permitted to examine all of the Policyholder's records relating to this Group Policy. Examination may occur at any reasonable time while the Group Policy is in force; or it may occur:

1. at any time for two years after the expiration of this Group Policy; or, if later,
2. upon the final adjustment and settlement of all Group Policy claims.

The Policyholder is acting as an agent of the Covered Person for transactions relating to this insurance. The actions of the Policyholder will not be considered Our actions.

Ownership of Records

All records maintained by the Insurance Company are, and shall remain, the property of the Insurance Company.

GA-00-1800.00

DESCRIPTION OF COVERAGES AND BENEFITS

This *Description of Coverages and Benefits* Section describes the Accident Coverages and Benefits provided by this Policy. Benefit amounts, benefit periods and any applicable aggregate and benefit maximums are shown in the *Schedule of Benefits*. Certain words capitalized in the text of these descriptions have special meanings within this Policy and are defined in the *General Definitions* section. Please read these and the *Common Exclusions* sections in order to understand all of the terms, conditions and limitations applicable to these coverages and benefits.

ACCIDENTAL DEATH AND DISMEMBERMENT BENEFITS

Covered Loss We will pay the benefit for any one of the Covered Losses listed in the *Schedule of Benefits*, if the Covered Person suffers a Covered Loss resulting directly and independently of all other causes from a Covered Accident within the applicable time period specified in the *Schedule of Benefits*.

If the Covered Person sustains more than one Covered Loss as a result of the same Covered Accident, benefits will be paid for the Covered Loss for which the largest available benefit is payable. If the loss results in death, benefits will only be paid under the Loss of Life benefit provision. Any Loss of Life benefit will be reduced by any paid or payable Accidental Dismemberment benefit. However, if such Accidental Dismemberment benefit equals or exceeds the Loss of Life benefit, no additional benefit will be paid.

Definitions

Loss of a Hand or Foot means complete Severance through or above the wrist or ankle joint.

Loss of Sight means the total, permanent loss of all vision in one eye which is irrecoverable by natural, surgical or artificial means.

Loss of Speech means total and permanent loss of audible communication which is irrecoverable by natural, surgical or artificial means.

Loss of Hearing means total and permanent loss of ability to hear any sound in both ears which is irrecoverable by natural, surgical or artificial means.

Loss of a Thumb and Index Finger of the Same Hand or Four Fingers of the Same Hand means complete Severance through or above the metacarpophalangeal joints of the same hand (the joints between the fingers and the hand).

Loss of Toes means complete Severance through the metatarsalphalangeal joint.

Paralysis or Paralyzed means total loss of use of a limb. A Physician must determine the loss of use to be complete and irreversible.

Quadriplegia means total Paralysis of both upper and both lower limbs.

Hemiplegia means total Paralysis of the upper and lower limbs on one side of the body.

Paraplegia means total Paralysis of both lower limbs or both upper limbs.

Uniplegia means total Paralysis of one upper or one lower limb.

Coma means a profound state of unconsciousness which resulted directly and independently from all other causes from a Covered Accident, and from which the Covered Person is not likely to be aroused through powerful stimulation. This condition must be diagnosed and treated regularly by a Physician. Coma does not mean any state of unconsciousness intentionally induced during the course of treatment of a Covered Injury unless the state of unconsciousness results from the administration of anesthesia in preparation for surgical treatment of that Covered Accident.

Severance means the complete and permanent separation and dismemberment of the part from the body.

Exclusions The exclusions that apply to this benefit are in the *Common Exclusions* section.
GA-00-2100.00

ADDITIONAL ACCIDENTAL DEATH AND DISMEMBERMENT COVERAGES

Accidental Death and Dismemberment benefits are provided under the following coverages. Any benefits payable under them are shown in the *Schedule of Covered Losses* and will not be paid in addition to any other Accidental Death and Dismemberment benefits payable.

EXPOSURE AND DISAPPEARANCE COVERAGE

Benefits for Accidental Death and Dismemberment, as shown in the *Schedule of Covered Losses*, will be payable if a Covered Person suffers a Covered Loss which results directly and independently of all other causes from unavoidable exposure to the elements following a Covered Accident.

If the Covered Person disappears and is not found within one year from the date of the wrecking, sinking or disappearance of the conveyance in which the Covered Person was riding in the course of a trip which would otherwise be covered under this Policy, it will be presumed that the Covered Person's death resulted directly and independently of all other causes from a Covered Accident.

Exclusions The exclusions that apply to this coverage are in the *Common Exclusions* Section.
GA-00-2202.00

ADDITIONAL ACCIDENT BENEFITS

Accidental Death and Dismemberment benefits are provided under the following Additional Benefits. Any benefits payable under them will be paid in addition to any other Accidental Death and Dismemberment benefit payable.

CHILD CARE CENTER BENEFIT

We will pay benefits shown in the *Schedule of Benefits* for the care of each surviving Dependent Child in a Child Care Center if death of the covered Employee results directly and independently of all other causes from a Covered Accident and all of the following conditions are met:

1. one or more surviving Dependent Children is under Age 13 and:
 - a. was enrolled in a Child Care Center on the date of the Covered Accident; or
 - b. enrolls in a Child Care Center within 90 days from the date of the Covered Accident.

This benefit will be payable to the Surviving Spouse if the Spouse has custody of the child. If the Surviving Spouse does not have custody of the child, benefits will be paid to the child's legally appointed guardian. Payments will be made at the end of each 12 month period that begins after the date of the covered Employee's death. A claim must be submitted to Us at the end of each 12 month period. A 12 month period begins:

1. when the Dependent Child enters a Child Care Center for the first time, within the period specified in (1b) above, after the covered Employee's death; or
2. on the first of the month following the covered Employee's death, if the Dependent Child was enrolled in a Child Care Center before the covered Employee's death.

Each succeeding 12 month period begins on the day immediately following the last day of the preceding period. Pro rata payments will be made for periods of enrollment in a Child Care Center of less than 12 months.

If there is no surviving Dependent Child at the time of the covered Employee Covered Accidental Death, the Default Benefit shown in the *Schedule of Benefits* will be paid to the covered Employee's beneficiary.

Definitions For purposes of this benefit:

Child Care Center is a facility which:

1. is licensed and run according to laws and regulations applicable to child care facilities; and
2. provides care and supervision for children in a group setting on a regular, daily basis.

A Child Care Center does not include any of the following:

1. a Hospital;
2. the child's home;
3. care provided during normal school hours while a child is attending grades one through twelve.

Spouse will include the Employee's lawful spouse under age 70.

Exclusions The exclusions that apply to this benefit are in the *Common Exclusions* Section.

GA-00-2222a.00

SEATBELT AND AIRBAG BENEFIT

We will pay the benefit shown in the *Schedule of Benefits*, subject to the conditions and exclusions described below, when the Covered Person dies directly and independently of all other causes from a Covered Accident while wearing a seatbelt and operating or riding as a passenger in an Automobile. An additional benefit is provided if the Covered Person was also positioned in a seat protected by a properly-functioning and properly deployed Supplemental Restraint System (Airbag).

Verification of proper use of the seatbelt at the time of the Covered Accident and that the Supplemental Restraint System properly inflated upon impact must be a part of an official police report of the Covered Accident or be certified, in writing, by the investigating officer(s) and submitted with the Covered Person's claim to Us.

If such certification or police report is not available or it is unclear whether the Covered Person was wearing a seatbelt or positioned in a seat protected by a properly functioning and properly deployed Supplemental Restraint System, We will pay a default benefit shown in the *Schedule of Benefits* to the Covered Person's beneficiary.

Definitions For purposes of this benefit:

Supplemental Restraint System means an airbag that inflates upon impact for added protection to the head and chest areas.

Automobile means a self-propelled, private passenger motor vehicle with four or more wheels which is a type both designed and required to be licensed for use on the highway of any state or country.

Automobile includes, but is not limited to, a sedan, station wagon, sport utility vehicle, or a motor vehicle of the pickup, van, camper, or motor-home type. Automobile does not include a mobile home or any motor vehicle which is used in mass or public transit.

Exclusions The exclusions that apply to this benefit are in the *Common Exclusions* Section.

GA-00-2251.00

SPECIAL EDUCATION BENEFIT

We will pay the benefit, up to the Maximum Benefit shown in the *Schedule of Benefits*, for each qualifying Dependent Child. The Covered Person's death must result, directly and independently of all other causes from a Covered Accident for which an Accidental Death Benefit is payable under this Policy. This benefit is subject to the conditions and exclusions described below.

A qualifying Dependent Child must:

1.
 - a. be enrolled as a full-time student in an accredited school of higher learning beyond the 12th grade level on the date of the covered Employee's Covered Accident; *or*
 - b. be at the 12th grade level on the date of the covered Employee's Covered Accident and then enroll as a full-time student at an accredited school of higher learning within 365 days from the date of the Covered Accident and continue his education as a full-time student.

2. continue his education as a full-time student in such accredited school of higher learning; and
3. incur expenses for tuition, fees, books, room and board, transportation and any other costs payable directly to, or approved and certified by, such school.

Payments will be made to each qualifying Dependent Child or to the child's legal guardian, if the child is a minor at the end of each year for the number of years shown in the *Schedule of Benefits*. We must receive proof satisfactory to Us of the Dependent Child's enrollment and attendance within 31 days of the end of each year. The first year for which a Special Education Benefit is payable will begin on the first of the month following the date the covered Employee died, if the surviving Dependent Child was enrolled on that date in an accredited school of higher learning beyond the 12th grade; otherwise on the date he enrolls in such school. Each succeeding year for which benefits are payable will begin on the date following the end of the preceding year.

If no Dependent Child qualifies for Special Education Benefits within 365 days of the covered Employee's death, We will pay the default benefit shown in the *Schedule of Benefits* to the covered Employee's beneficiary.

Exclusions The exclusions that apply to this benefit are in the *Common Exclusions* Section.

GA-00-2252a.00

SPOUSE RETRAINING BENEFIT

We will pay expenses incurred, as described below, up to the Maximum Benefit shown in the *Schedule of Benefits*, to enable the covered Employee's Spouse to obtain occupational or educational training needed for employment if the covered Employee dies directly and independently of all other causes from a Covered Accident. This benefit is subject to the conditions and exclusions described below.

This benefit will be payable if the covered Employee dies within one year of a Covered Accident and is survived by his Spouse who:

1. enrolls, within three years after the covered Employee's death in any accredited school for the purpose of retraining or refreshing skills needed for employment; and
2. incurs expenses payable directly to, or approved and certified by, such school.

If there is no surviving Spouse at the time of the covered Employee's Covered Accidental Death, the Default Benefit shown in the *Schedule of Benefits* will be paid to the covered Employee's beneficiary.

Definitions For the purposes of this benefit:

Spouse will include the Employee's lawful spouse under age 70.

Exclusions The exclusions that apply to this benefit are in the *Common Exclusions* Section.

GA-00-2254a.00

**AMENDATORY RIDER
DOMESTIC PARTNER/CIVIL UNION PARTNER**

Policyholder: City of Des Moines
Policy No.: OK 967446

Effective Date: January 1, 2014

This rider amends the Policy and Certificate to which it is attached. It is effective on the Effective Date shown above, and expires when the Policy expires.

Domestic Partner/Civil Union Partner means any of the following:

1. A person with whom the Employee has a registered civil union or domestic partnership under state law which imposes legal obligations on the parties substantially similar to marriage. Such person will continue to be recognized as a Domestic Partner or Civil Union Partner unless and until: (1) the civil union or domestic partnership is dissolved under applicable law; or (2) either the Employee or the Domestic Partner/Civil Union Partner marries another person.
2. A person who was legally married to the Employee under the laws of a state permitting marriage of partners of the same sex, where the Employee and Domestic Partner/Civil Union Partner currently reside in a state that does not recognize a valid marriage. This shall not apply if:
 - a. the marriage has been terminated by legal process, or;
 - b. either the Employee or the Domestic Partner/Civil Union Partner has entered into a valid marriage, civil union or domestic partnership under state law.

All references in the policy to "Spouse" shall be changed to read "Spouse, Domestic Partner, and Civil Union Partner" except as follows:

1. The definition of "Spouse" remains unchanged.
2. A Domestic Partner/Civil Union Partner shall be deemed eligible to be enrolled for insurance or eligible for Additional Benefits on the latest of:
 - a. the date of registration under Item 1 of the definition of Domestic Partner/Civil Union Partner;
 - b. the date that the Employee is eligible for insurance under the Policy; or;
 - c. the effective date of this Amendment to the Policy.
3. A child of a Domestic Partner/Civil Union Partner may only be eligible to be insured or eligible for Additional Benefits if:
 - a. the child is primarily dependent on the Employee for financial support;
 - b. the Employee has a legal obligation of support of the child; or
 - c. the Employee is the child's legal guardian.

TL-007153

Any provision of the Policy that otherwise excludes any person who is not legally able to marry the Employee is changed by the following:

In the case of any person of the same sex as the Employee, the exclusion of persons legally able to marry will not apply for the first 12 months that the Employee's state of residence allows same-sex couples to marry.

Except for the above this rider does not change the Policy or Certificate to which it is attached.

LIFE INSURANCE COMPANY OF NORTH AMERICA

A handwritten signature in black ink that reads "Matthew G. Manders". The signature is written in a cursive style with a large initial "M".

Matthew G. Manders, President

TL-007153

**LIFE INSURANCE COMPANY OF NORTH AMERICA
Philadelphia, PA 19192-2235**

We, City of Des Moines, whose main office address is Des Moines, WA, hereby approve and accept the terms of Group Policy Number OK 967446 issued by the LIFE INSURANCE COMPANY OF NORTH AMERICA. We acknowledge that benefits will be provided in accordance with the terms and provisions of the policy, which will be the sole contract under which benefits are paid.

This form is to be signed in duplicate. One part is to be retained by City of Des Moines; the other part is to be returned to the LIFE INSURANCE COMPANY OF NORTH AMERICA.

City of Des Moines

Signature and Title: _____ Date: _____

(This Copy Is To Be Returned To Life Insurance Company of North America)

**LIFE INSURANCE COMPANY OF NORTH AMERICA
Philadelphia, PA 19192-2235**

We, City of Des Moines, whose main office address is Des Moines, WA, hereby approve and accept the terms of Group Policy Number OK 967446 issued by the LIFE INSURANCE COMPANY OF NORTH AMERICA. We acknowledge that benefits will be provided in accordance with the terms and provisions of the policy, which will be the sole contract under which benefits are paid.

This form is to be signed in duplicate. One part is to be retained by City of Des Moines; the other part is to be returned to the LIFE INSURANCE COMPANY OF NORTH AMERICA.

City of Des Moines

Signature and Title: _____ Date: _____

(This Copy Is To Be Retained By City of Des Moines)

PROTECTION FOR YOU AND YOUR INSURANCE POLICY
THE WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION

PREFACE

This brochure briefly describes the coverage provided through the Washington Life & Disability Insurance Guaranty Association (“Association”).

The Association is a nonprofit unincorporated legal entity created by the Washington Life and Disability Insurance Guaranty Association Act, Chapter 48.32A RCW (“Act”). Every life and disability insurance company authorized to do business in Washington is a member of the Association. A Board of Directors (“Board”), composed of representatives from member insurers, and the Insurance Commissioner, ex officio, oversee the operation of the Association.

The expenses of the Association are paid by assessments made against each member insurer. Persons covered by the Act are not charged for the expenses of the Association or the protection provided under the Act.

Coverage is provided for certain life and disability insurance. However, the Association does not cover all such insurance. Coverage that is provided is subject to the limitations and exclusions provided by the Act.

The purpose of this brochure is to help you understand the general nature and the conditions of the protection provided under the Act. It is only a summary, however, and if you have specific questions that are not discussed here you may contact either the Association or the Office of the Insurance Commissioner.

Washington Life and Disability
Insurance Guaranty Association
P.O. Box 2292
Shelton, WA 98584
360-426-6744

Company Supervision Division
Office of the Insurance Commissioner
P.O. Box 40259
Olympia, WA 98504-0259
360-725-7214

QUESTIONS AND ANSWERS

1. WHAT INSURANCE POLICIES ARE COVERED UNDER THE ACT?

The Act applies to life insurance policies, disability insurance policies, and annuity contracts issued by an insurance company authorized to do business in Washington. The term “disability insurance,” as used in the Act, includes not only disability income insurance, but also policies commonly referred to as “health insurance” (which includes long term care policies). Together, all of these policies and contracts are sometimes referred to as “covered policies,” a term used in this brochure.

2. ARE THERE POLICIES OR INSURERS NOT COVERED BY THE ACT?

The Act specifically excludes certain types of policies or portions of policies, including, but not limited to: The portion of a policy not guaranteed by the insurer; the portion of a policy to the extent the interest rate or crediting rate exceeds the limits in the Act; policies of reinsurance, unless assumption certificates have been issued; policies issued in Washington by an insurer at a time when the insurer was not licensed or did not have a certificate of authority; policies issued to a self-insured plan or program; certain unallocated employee benefit plan annuities protected by federal law; and unallocated annuity contracts not issued to or in connection with a benefit plan or a government lottery.

The Act also does not apply to policies or contracts issued by health care service contractors, health maintenance organizations, fraternal benefit societies, self funded multiple employer welfare arrangements, mandatory state pooling plans, mutual assessment companies, insurance exchanges, or an organization that has a certificate or license limited to issuance of certain charitable gift annuities.

3. WHO IS PROTECTED UNDER THE ACT?

You are covered by the Act if you are an owner of or certificate holder under a policy or contract (other than an unallocated annuity contract or structured settlement annuity), and:

- You are a Washington resident; or
- You are not a Washington resident, but only if: the insurer is domiciled in Washington; there is an association similar to the Washington Association in your state of residency; and you are not covered in your state of residency, because the insurer was not licensed in that state; or
- You are a beneficiary, assignee, or payee of one of the above, regardless of where you reside (except for nonresident certificate holders under group policies).

Owners of unallocated annuity contracts are covered if the contract was issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in Washington, or the contract was issued to or in connection with a government lottery and the owner is a Washington resident.

A payee under a structured settlement annuity (or beneficiary of a deceased payee) is also covered, if the payee is a Washington resident, or the payee is not a Washington resident, but the contract owner is a resident; or the insurer that issued the annuity is domiciled in Washington and coverage is not available in the state in which the payee resides.

Residency is generally determined at the time of entry of an order of liquidation against the insurer. If you move to another state and reside there when such an order is entered, you may still have protection under the law of that state. You should contact the insurance department in your new state of residence to find out about guaranty act protection there.

4. HOW DOES THE ASSOCIATION PROTECT COVERED PERSONS AGAINST LOSS?

After an order of liquidation is entered against a company, the Association begins its work of carrying out the purpose of the Act, which is to assure the performance of insurance obligations of that company. The Association is authorized to carry out its duties by working with insurance companies in good standing to assume or take over the covered policies. The association may also directly provide benefits and coverage as authorized by the Act. The Association has the authority to collect the funds necessary to provide protection to covered persons against losses on their covered policies.

PROTECTION FOR YOU AND YOUR INSURANCE POLICY
THE WASHINGTON LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION

5. WHERE DOES THE ASSOCIATION GET THE MONEY TO PROVIDE THIS PROTECTION?

The Association is authorized to collect money from all life and disability insurance companies doing business in Washington. The funds collected from an assessment are used to pay claims to covered persons and/or to fund the assumption of covered policies by another insurer.

6. DOES THE ASSOCIATION PAY OUT THE MONEY IT COLLECTS RIGHT AWAY OR DO COVERED PERSONS HAVE TO WAIT?

The Association generally cannot make an assessment for covered policies issued by a company until after an order of liquidation has been entered against the company, and a reasonable estimate can be made of the amount of money needed. Insurance companies receiving an assessment notice must make their payments within thirty days.

Because it takes time for an action to be commenced against a financially impaired insurer, for a Court to issue an order, and for funds to be collected to satisfy the obligations of that insurer, some delay, hopefully short, is unavoidable before payments can be made. Although it is impossible to predict how long this process will take in any given case, an average time period of twelve to eighteen months is not unusual.

When necessary, the Association may borrow money to make payments more promptly, particularly in cases that will take an unusual amount of time to be resolved.

7. WHAT IS THE AMOUNT OF PROTECTION PROVIDED BY THE ACT?

The Act provides the following maximum amounts of protection:

Life Insurance Death Benefits.....	\$500,000
Disability Benefits and Health Benefits (including Long Term Care Benefits)	\$500,000
Present Value of Individual Annuities	\$500,000
Unallocated Annuity Contracts, other than certain government retirement plans (limit is per contract owner or plan sponsor).....	\$5,000,000
Government Retirement Plans in Unallocated Annuities established under Internal Revenue Code § § 401, 403(b), or 457 (limit is per participant)	\$100,000

This protection becomes effective at the time of entry of a Court order of liquidation against the insurer. Of course, if the amount owed under the contract or policy is less than the maximum benefit under the Act, the covered person will be entitled to protection only up to the actual amount owed.

Furthermore, the maximum protection available to each covered person remains the same, regardless of the number of contracts through which he or she has a claim.

8. IF A HUSBAND AND WIFE EACH INDIVIDUALLY OWN A COVERED POLICY, IS THE PROTECTION UNDER THE ACT PROVIDED TO EACH OF THEM?

Yes. As long as the residency requirements are met, both would be entitled to the protection provided by the Act, up to the maximum amount.

9. WHY DOESN'T MY INSURANCE COMPANY ADVERTISE THE FACT THAT ITS POLICIES AND CONTRACTS ARE PROTECTED UNDER THE ACT?

Under Washington law, insurance companies are prohibited from advertising that their policies or contracts may be covered under the Act.

You should not rely on coverage under the Act when selecting an insurance company.

10. WHY HASN'T MY AGENT TOLD ME ABOUT THE GUARANTY ACT?

Your insurance agent is subject to the same prohibitions as your insurance company. As a representative of the company, an agent must exercise great care when soliciting business and consequently, will generally not discuss the subject of a guaranty act with clients.

11. WHO SHOULD I CONTACT IF I BELIEVE THERE HAS BEEN A VIOLATION OF THE ACT?

You should contact the Association if you believe your rights have been violated under the Act. If you are dissatisfied with the actions of the Association, you may also contact the Office of the Insurance Commissioner.

CONCLUSION

This brochure has been prepared by the Washington Life and Disability Insurance Guaranty Association. Its purpose is to inform the public in a general way of the protections that are available in this state on insurance policies and annuity contracts issued by companies authorized to do business in Washington. The Association does not, by this brochure, endorse any company or its products, but rather seeks to address some of the concerns that you may have regarding the security of insurance policies and annuity contracts.

For more information or answers to specific questions you may contact the Washington Life and Disability Insurance Guaranty Association or the Office of the Insurance Commissioner, whose addresses and telephone numbers are shown in the Preface.

This brochure is prepared by and made available through the Washington Life and Disability Insurance Guaranty Association, which has granted member insurance companies permission to reproduce and distribute the brochure. It is the responsibility of the company, or any representative of a company, reproducing this brochure, to ensure that the use thereof does not violate applicable laws or regulations.

LIFE INSURANCE COMPANY OF NORTH AMERICA
1601 CHESTNUT STREET
PHILADELPHIA, PA 19192-2235
(800) 732-1603 TDD (800) 552-5744
A STOCK INSURANCE COMPANY

GROUP POLICY

POLICYHOLDER: City of Des Moines
POLICY NUMBER: LK-964056
POLICY EFFECTIVE DATE: January 1, 2014
POLICY ANNIVERSARY DATE: January 1

This Policy describes the terms and conditions of coverage. It is issued in Washington and shall be governed by its laws. The Policy goes into effect on the Policy Effective Date, 12:01 a.m. at the Policyholder's address.

In return for the required premium, the Insurance Company and the Policyholder have agreed to all the terms of this Policy.



Scott Kern, Corporate Secretary



Matthew G. Manders, President

TABLE OF CONTENTS

SCHEDULE OF BENEFITS	1
SCHEDULE OF BENEFITS FOR CLASS 1.....	2
SCHEDULE OF BENEFITS FOR CLASS 2.....	5
ELIGIBILITY FOR INSURANCE	8
EFFECTIVE DATE OF INSURANCE.....	8
TERMINATION OF INSURANCE.....	8
CONTINUATION OF INSURANCE	9
DESCRIPTION OF BENEFITS.....	10
EXCLUSIONS.....	15
CLAIM PROVISIONS	16
ADMINISTRATIVE PROVISIONS.....	18
GENERAL PROVISIONS	19
DEFINITIONS.....	20
DOMESTIC PARTNER/CIVIL UNION PARTNER RIDER	23

SCHEDULE OF BENEFITS

Premium Due Date: The last day of each month

Classes of Eligible Employees

On the pages following the definition of eligible employees there is a Schedule of Benefits for each Class of Eligible Employees listed below. For an explanation of these benefits, please see the Description of Benefits provision.

If an Employee is eligible under one Class of Eligible Employees and later becomes eligible under a different Class of Eligible Employees, changes in the Employee's insurance due to the class change will be effective on the first date the Employee is in Active Service on or after the date of the change in class.

- Class 1 All active, Full-time Employees of the Employer regularly working a minimum of 32 hours per week who are classified as a Non-safety Employee and whose primary work location is in the United States.
- Class 2 All active, Full-time Employees of the Employer regularly working a minimum of 32 hours per week, excluding Employees who are classified as a Non-safety Employee and whose primary work location is in the United States.

SCHEDULE OF BENEFITS FOR CLASS 1

Eligibility Waiting Period

For Employees hired on or before the Policy Effective Date:	The first of the month coinciding with or next following date of hire
For Employees hired after the Policy Effective Date:	The first of the month coinciding with or next following date of hire

Definition of Disability/Disabled

The Employee is considered Disabled if, solely because of Injury or Sickness, he or she is:

1. unable to perform the material duties of his or her Regular Occupation; and
2. unable to earn 80% or more of his or her Indexed Earnings from working in his or her Regular Occupation.

After Disability Benefits have been payable for 36 months, the Employee is considered Disabled if, solely due to Injury or Sickness, he or she is:

1. unable to perform the material duties of any occupation for which he or she is, or may reasonably become, qualified based on education, training or experience; and
2. unable to earn 60% or more of his or her Indexed Earnings.

The Insurance Company will require proof of earnings and continued Disability.

Definition of Covered Earnings

Covered Earnings means an Employee's wage or salary as reported by the Employer for work performed for the Employer as in effect just prior to the date Disability begins. Covered Earnings are determined initially on the date an Employee applies for coverage. A change in the amount of Covered Earnings is effective on the date of the change, if the Employer gives us written notice of the change and the required premium is paid.

It does not include amounts received as bonus, commissions, overtime pay or other extra compensation.

Any increase in an Employee's Covered Earnings will not be effective during a period of continuous Disability.

Elimination Period	90 days
Gross Disability Benefit	The lesser of 60% of an Employee's monthly Covered Earnings rounded to the nearest dollar or the Maximum Disability Benefit.
Maximum Disability Benefit	\$8,000 per month
Minimum Disability Benefit	\$100 per month

Disability Benefit Calculation

The Disability Benefit payable to the Employee is figured using the Gross Disability Benefit, Other Income Benefits and the Return to Work Incentive. Monthly Benefits are based on a 30-day month. The Disability Benefit will be prorated if payable for any period less than a month.

During any month the Employee has no Disability Earnings, the monthly benefit payable is the Gross Disability Benefit less Other Income Benefits. During any month the Employee has Disability Earnings, benefits are determined under the Return to Work Incentive. Benefits will not be less than the minimum benefit shown in the Schedule of Benefits except as provided under the section Minimum Benefit.

"Other Income Benefits" means any benefits listed in the Other Income Benefits provision that an Employee receives on his or her own behalf or for dependents, or which the Employee's dependents receive because of the Employee's entitlement to Other Income Benefits.

Return to Work Incentive

During any month the Employee has Disability Earnings, his or her benefits will be calculated as follows.

The Employee's monthly benefit payable will be calculated as follows during the first 24 months disability benefits are payable and the Employee has Disability Earnings:

1. Add the Employee's Gross Disability Benefit and Disability Earnings.
2. Compare the sum from 1. to the Employee's Indexed Earnings.
3. If the sum from 1. exceeds 100% of the Employee's Indexed Earnings, then subtract the Indexed Earnings from the sum in 1.
4. The Employee's Gross Disability Benefit will be reduced by the difference from 3., as well as by Other Income Benefits.
5. If the sum from 1. does not exceed 100% of the Employee's Indexed Earnings, the Employee's Gross Disability Benefit will be reduced by Other Income Benefits.

After disability benefits are payable for 24 months, the monthly benefit payable is the Gross Disability Benefit reduced by Other Income Benefits and 50% of Disability Earnings.

No Disability Benefits will be paid, and insurance will end if the Insurance Company determines the Employee is able to work under a modified work arrangement and he or she refuses to do so without Good Cause.

Additional Benefits

Survivor Benefit

Benefit Waiting Period: After 3 Monthly Benefits are payable.
 Amount of Benefit: 100% of the sum of the last full Disability Benefit plus the amount of any Disability Earnings by which the benefit had been reduced for that month.

Maximum Benefit Period: A single lump sum payment equal to 3 monthly Survivor Benefits.

Maximum Benefit Period

The later of the Employee's SSNRA* or the Maximum Benefit Period listed below.

<u>Age When Disability Begins</u>	<u>Maximum Benefit Period</u>
Age 62 or under	The Employee's 65th birthday or the date the 42nd Monthly Benefit is payable, if later.
Age 63	The date the 36th Monthly Benefit is payable.
Age 64	The date the 30th Monthly Benefit is payable.
Age 65	The date the 24th Monthly Benefit is payable.
Age 66	The date the 21st Monthly Benefit is payable.
Age 67	The date the 18th Monthly Benefit is payable.
Age 68	The date the 15th Monthly Benefit is payable.
Age 69 or older	The date the 12th Monthly Benefit is payable.

*SSNRA means the Social Security Normal Retirement Age in effect under the Social Security Act on the Policy Effective Date.

Initial Premium Rates

\$.364 per \$100 of Covered Payroll

Covered Payroll for an Employee will mean his or her Covered Earnings for the insurance month prior to the date the determination is made. However, an Employee's Covered Payroll will not include any part of his or her monthly Covered Earnings which exceed \$13,333.

TL-004774

SCHEDULE OF BENEFITS FOR CLASS 2

Eligibility Waiting Period

For Employees hired on or before the Policy Effective Date:	The first of the month coinciding with or next following date of hire
For Employees hired after the Policy Effective Date:	The first of the month coinciding with or next following date of hire

Definition of Disability/Disabled

The Employee is considered Disabled if, solely because of Injury or Sickness, he or she is:

1. unable to perform the material duties of his or her Regular Occupation; and
2. unable to earn 80% or more of his or her Indexed Earnings from working in his or her Regular Occupation.

After Disability Benefits have been payable for 12 months, the Employee is considered Disabled if, solely due to Injury or Sickness, he or she is:

1. unable to perform the material duties of any occupation for which he or she is, or may reasonably become, qualified based on education, training or experience; and
2. unable to earn 60% or more of his or her Indexed Earnings.

The Insurance Company will require proof of earnings and continued Disability.

Definition of Covered Earnings

Covered Earnings means an Employee's wage or salary as reported by the Employer for work performed for the Employer as in effect just prior to the date Disability begins. Covered Earnings are determined initially on the date an Employee applies for coverage. A change in the amount of Covered Earnings is effective on the date of the change, if the Employer gives us written notice of the change and the required premium is paid.

It does not include amounts received as bonus, commissions, overtime pay or other extra compensation.

Any increase in an Employee's Covered Earnings will not be effective during a period of continuous Disability.

Elimination Period	90 days
Gross Disability Benefit	The lesser of 60% of an Employee's monthly Covered Earnings rounded to the nearest dollar or the Maximum Disability Benefit.
Maximum Disability Benefit	\$8,000 per month
Minimum Disability Benefit	\$100 per month

Disability Benefit Calculation

The Disability Benefit payable to the Employee is figured using the Gross Disability Benefit, Other Income Benefits and the Return to Work Incentive. Monthly Benefits are based on a 30-day month. The Disability Benefit will be prorated if payable for any period less than a month.

During any month the Employee has no Disability Earnings, the monthly benefit payable is the Gross Disability Benefit less Other Income Benefits. During any month the Employee has Disability Earnings, benefits are determined under the Return to Work Incentive. Benefits will not be less than the minimum benefit shown in the Schedule of Benefits except as provided under the section Minimum Benefit.

"Other Income Benefits" means any benefits listed in the Other Income Benefits provision that an Employee receives on his or her own behalf or for dependents, or which the Employee's dependents receive because of the Employee's entitlement to Other Income Benefits.

Return to Work Incentive

During any month the Employee has Disability Earnings, his or her benefits will be calculated as follows.

The Employee's monthly benefit payable will be calculated as follows during the first 24 months disability benefits are payable and the Employee has Disability Earnings:

1. Add the Employee's Gross Disability Benefit and Disability Earnings.
2. Compare the sum from 1. to the Employee's Indexed Earnings.
3. If the sum from 1. exceeds 100% of the Employee's Indexed Earnings, then subtract the Indexed Earnings from the sum in 1.
4. The Employee's Gross Disability Benefit will be reduced by the difference from 3., as well as by Other Income Benefits.
5. If the sum from 1. does not exceed 100% of the Employee's Indexed Earnings, the Employee's Gross Disability Benefit will be reduced by Other Income Benefits.

After disability benefits are payable for 24 months, the monthly benefit payable is the Gross Disability Benefit reduced by Other Income Benefits and 50% of Disability Earnings.

No Disability Benefits will be paid, and insurance will end if the Insurance Company determines the Employee is able to work under a modified work arrangement and he or she refuses to do so without Good Cause.

Additional Benefits

Survivor Benefit

Benefit Waiting Period: After 3 Monthly Benefits are payable.
 Amount of Benefit: 100% of the sum of the last full Disability Benefit plus the amount of any Disability Earnings by which the benefit had been reduced for that month.

Maximum Benefit Period: A single lump sum payment equal to 3 monthly Survivor Benefits.

Maximum Benefit Period

The later of the Employee's SSNRA* or the Maximum Benefit Period listed below.

<u>Age When Disability Begins</u>	<u>Maximum Benefit Period</u>
Age 62 or under	The Employee's 65th birthday or the date the 42nd Monthly Benefit is payable, if later.
Age 63	The date the 36th Monthly Benefit is payable.
Age 64	The date the 30th Monthly Benefit is payable.
Age 65	The date the 24th Monthly Benefit is payable.
Age 66	The date the 21st Monthly Benefit is payable.
Age 67	The date the 18th Monthly Benefit is payable.
Age 68	The date the 15th Monthly Benefit is payable.
Age 69 or older	The date the 12th Monthly Benefit is payable.

*SSNRA means the Social Security Normal Retirement Age in effect under the Social Security Act on the Policy Effective Date.

Initial Premium Rates

\$.364 per \$100 of Covered Payroll

Covered Payroll for an Employee will mean his or her Covered Earnings for the insurance month prior to the date the determination is made. However, an Employee's Covered Payroll will not include any part of his or her monthly Covered Earnings which exceed \$13,333.

TL-004774

ELIGIBILITY FOR INSURANCE

An Employee in one of the Classes of Eligible Employees shown in the Schedule of Benefits is eligible to be insured on the Policy Effective Date, or the day after he or she completes the Eligibility Waiting Period, if later. The Eligibility Waiting Period is the period of time the Employee must be in Active Service to be eligible for coverage. It will be extended by the number of days the Employee is not in Active Service.

Except as noted in the Reinstatement Provision, if an Employee terminates coverage and later wishes to reapply, or if a former Employee is rehired, a new Eligibility Waiting Period must be satisfied. An Employee is not required to satisfy a new Eligibility Waiting Period if insurance ends because he or she is no longer in a Class of Eligible Employees, but continues to be employed and within one year becomes a member of an eligible class.

TL-004710

EFFECTIVE DATE OF INSURANCE

An Employee will be insured on the date he or she becomes eligible, if the Employee is not required to contribute to the cost of this insurance.

If an Employee is not in Active Service on the date insurance would otherwise be effective, it will be effective on the date he or she returns to any occupation for the Employer on a Full-time basis.

TL-004712

TERMINATION OF INSURANCE

An Employee's coverage will end on the earliest of the following dates:

1. the date the Employee is eligible for coverage under a plan intended to replace this coverage;
2. the date the Policy is terminated;
3. the date the Employee is no longer in an eligible class;
4. the day after the end of the period for which premiums are paid;
5. the date the Employee is no longer in Active Service;
6. the date benefits end for failure to comply with the terms and conditions of the Policy.

Disability Benefits will be payable to an Employee who is entitled to receive Disability Benefits when the Policy terminates, if he or she remains disabled and meets the requirements of the Policy. Any period of Disability, regardless of cause, that begins when the Employee is eligible under another group disability coverage provided by any employer, will not be covered.

TL-007505.00

CONTINUATION OF INSURANCE

This Continuation of Insurance provision modifies the Termination of Insurance provision to allow insurance to continue under certain circumstances if the Insured Employee is no longer in Active Service. Insurance that is continued under this provision is subject to all other terms of the Termination of Insurance provisions.

Disability Insurance continues if an Employee's Active Service ends due to a Disability for which benefits under the Policy are or may become payable. Premiums for the Employee will be waived while Disability Benefits are payable. If the Employee does not return to Active Service, this insurance ends when the Disability ends or when benefits are no longer payable, whichever occurs first.

If an Employee's Active Service ends due to an approved leave pursuant to the Family and Medical Leave Act (FMLA), insurance will continue up to the later of the period of his or her approved FMLA leave or the leave period required by law in the state in which he or she is employed. Premiums are required for this coverage.

If an Employee's Active Service ends due to any other leave of absence approved in writing by the Employer prior to the date the Employee ceases work, insurance will continue for an Employee for up to 60 days. Premiums are required for this coverage. An approved leave of absence does not include Furlough, Temporary Layoff or termination of employment.

If an Employee's Active Service ends due to any other excused short term absence from work that is reported to the Employer timely in accordance with the Employer's reporting requirements for such short term absence, insurance for an Employee will continue until the earlier of:

- a. the date the Employee's employment relationship with the Employer terminates;
- b. the date premiums are not paid when due;
- c. the end of the 30 day period that begins with the first day of such excused absence;
- d. the end of the period for which such short term absence is excused by the Employer.

Notwithstanding any other provision of this policy, if an Employee's Active Service ends due to layoff, termination of employment or any other termination of the employment relationship, insurance will terminate and Continuation of Insurance under this provision will not apply.

If an Employee's insurance is continued pursuant to this Continuation of Insurance provision, and he or she becomes Disabled during such period of continuation, Disability Benefits will not begin until the later of the date the Elimination Period is satisfied or the date he or she is scheduled to return to Active Service.

TL-009970.00

TAKEOVER PROVISION

This provision applies only to Employees eligible under this Policy who were covered for long term disability coverage on the day prior to the effective date of this Policy under the Prior Plan provided by the Policyholder or by an entity that has been acquired by the Policyholder.

- A. This section A applies to Employees who are not in Active Service on the day prior to the effective date of this Policy due to a reason for which the Prior Plan and this Policy both provide for continuation of insurance. If required premium is paid when due, the Insurance Company will insure an Employee to which this section applies against a disability that occurs after the effective date of this Policy for the affected employee group. This coverage will be provided until the earlier of the date: (a) the employee returns to Active Service, (b) continuation of insurance under the Prior Plan would end but for termination of that plan; or (c) the date continuation of insurance under this Policy

would end if computed from the first day the employee was not in Active Service. The Policy will provide this coverage as follows:

1. If benefits for a disability are covered under the Prior Plan, no benefits are payable under this Plan.
 2. If the disability is not a covered disability under the Prior Plan solely because the plan terminated, benefits payable under this Policy for that disability will be the lesser of: (a) the disability benefits that would have been payable under the Prior Plan; and (b) those provided by this Policy. Credit will be given for partial completion under the Prior Plan of Elimination Periods and partial satisfaction of pre-existing condition limitations.
- B. The Elimination Period under this Policy will be waived for a Disability which begins while the Employee is insured under this Policy if all of the following conditions are met:
1. The Disability results from the same or related causes as a Disability for which monthly benefits were payable under the Prior Plan;
 2. Benefits are not payable for the Disability under the Prior Plan solely because it is not in effect;
 3. An Elimination Period would not apply to the Disability if the Prior Plan had not ended;
 4. The Disability begins within 6 months of the Employee's return to Active Service and the Employee's insurance under this Policy is continuous from this Policy's Effective Date.
- C. Except for any amount of benefit in excess of a Prior Plan's benefits, the Pre-existing Condition Limitation will not apply to an Employee covered under a Prior Plan who satisfied the pre-existing condition limitation, if any, under that plan. If an Employee, covered under a Prior Plan, did not fully satisfy the pre-existing condition limitation of that plan, credit will be given for any time that was satisfied under the Prior Plan's pre-existing condition limitation.

Benefits will be determined based on the lesser of: (1) the amount of the gross disability benefit under the Prior Plan and any applicable maximums; and (2) those provided by this Policy.

If benefits are payable under the Prior Plan for the Disability, no benefits are payable under this Policy.

TL-005108

DESCRIPTION OF BENEFITS

The following provisions explain the benefits available under the Policy. Please see the Schedule of Benefits for the applicability of these benefits to each class of Insureds.

Disability Benefits

The Insurance Company will pay Disability Benefits if an Employee becomes Disabled while covered under this Policy. The Employee must satisfy the Elimination Period, be under the Appropriate Care of a Physician, and meet all the other terms and conditions of the Policy. He or she must provide the Insurance Company, at his or her own expense, satisfactory proof of Disability before benefits will be paid. The Disability Benefit is shown in the Schedule of Benefits.

The Insurance Company will require continued proof of the Employee's Disability for benefits to continue.

Elimination Period

The Elimination Period is the period of time an Employee must be continuously Disabled before Disability Benefits are payable. The Elimination Period is shown in the Schedule of Benefits.

A period of Disability is not continuous if separate periods of Disability result from unrelated causes.

Disability Benefit Calculation

The Disability Benefit Calculation is shown in the Schedule of Benefits. Monthly Disability Benefits are based on a 30 day period. They will be prorated if payable for any period less than a month. If an Employee is working while Disabled, the Disability Benefit Calculation will be the Return to Work Incentive.

Return to Work Incentive

The Return to Work Incentive is shown in the Schedule of Benefits. An Employee may work for wage or profit while Disabled. In any month in which the Employee works and a Disability Benefit is payable, the Return to Work Incentive applies.

The Insurance Company will, from time to time, review the Employee's status and will require satisfactory proof of earnings and continued Disability.

Minimum Benefit

The Insurance Company will pay the Minimum Benefit shown in the Schedule of Benefits despite any reductions made for Other Income Benefits. The Minimum Benefit will not apply if benefits are being withheld to recover an overpayment of benefits.

Other Income Benefits

An Employee for whom Disability Benefits are payable under this Policy may be eligible for benefits from Other Income Benefits. If so, the Insurance Company may reduce the Disability Benefits by the amount of such Other Income Benefits.

Other Income Benefits include:

1. any amounts received (or assumed to be received*) by the Employee or his or her dependents under:
 - the Canada and Quebec Pension Plans;
 - the Railroad Retirement Act;
 - any local, state, provincial or federal government disability or retirement plan or law payable for Injury or Sickness provided as a result of employment with the Employer;
 - any sick leave or salary continuation plan of the Employer;
 - any work loss provision in mandatory "No-Fault" auto insurance.
2. any Social Security disability or retirement benefits the Employee or any third party receives (or is assumed to receive*) on his or her own behalf or for his or her dependents; or which his or her dependents receive (or are assumed to receive*) because of his or her entitlement to such benefits.
3. any Retirement Plan benefits funded by the Employer. "Retirement Plan" means any defined benefit or defined contribution plan sponsored or funded by the Employer. It does not include an individual deferred compensation agreement; a profit sharing or any other retirement or savings plan maintained in addition to a defined benefit or other defined contribution pension plan, or any employee savings plan including a thrift, stock option or stock bonus plan, individual retirement account or 401(k) plan.
4. any proceeds payable under any franchise or group insurance or similar plan. If other insurance applies to the same claim for Disability, and contains the same or similar provision for reduction because of other insurance, the Insurance Company will pay for its pro rata share of the total claim. "Pro rata share" means the proportion of the total benefit that the amount payable under one policy, without other insurance, bears to the total benefits under all such policies.

5. any amounts received (or assumed to be received*) by the Employee or his or her dependents under any workers' compensation, occupational disease, unemployment compensation law or similar state or federal law payable for Injury or Sickness arising out of work with the Employer, including all permanent and temporary disability benefits. This includes any damages, compromises or settlement paid in place of such benefits, whether or not liability is admitted.
6. any amounts paid because of loss of earnings or earning capacity through settlement, judgment, arbitration or otherwise, where a third party may be liable, regardless of whether liability is determined.

Dependents include any person who receives (or is assumed to receive*) benefits under any applicable law because of an Employee's entitlement to benefits.

*See the Assumed Receipt of Benefits provision.

Increases in Other Income Benefits

Any increase in Other Income Benefits during a period of Disability due to a cost of living adjustment will not be considered in calculating the Employee's Disability Benefits after the first reduction is made for any Other Income Benefits. This section does not apply to any cost of living adjustment for Disability Earnings.

Lump Sum Payments

Other Income Benefits or earnings paid in a lump sum will be prorated over the period for which the sum is given. If no time is stated, the lump sum will be prorated over five years.

If no specific allocation of a lump sum payment is made, then the total payment will be an Other Income Benefit.

Assumed Receipt of Benefits

The Insurance Company will assume the Employee (and his or her dependents, if applicable) are receiving benefits for which they are eligible from Other Income Benefits. The Insurance Company will reduce the Employee's Disability Benefits by the amount from Other Income Benefits it estimates are payable to the Employee and his or her dependents.

The Insurance Company will waive Assumed Receipt of Benefits, except for Disability Earnings for work the Employee performs while Disability Benefits are payable, if the Employee:

1. provides satisfactory proof of application for Other Income Benefits;
2. signs a Reimbursement Agreement;
3. provides satisfactory proof that all appeals for Other Income Benefits have been made unless the Insurance Company determines that further appeals are not likely to succeed; and
4. submits satisfactory proof that Other Income Benefits were denied.

The Insurance Company will not assume receipt of any pension or retirement benefits that are actuarially reduced according to applicable law, until the Employee actually receives them.

Social Security Assistance

The Insurance Company may help the Employee in applying for Social Security Disability Income (SSDI) Benefits, and may require the Employee to file an appeal if it believes a reversal of a prior decision is possible.

The Insurance Company will reduce Disability Benefits by the amount it estimates the Employee will receive, if the Employee refuses to cooperate with or participate in the Social Security Assistance Program.

Recovery of Overpayment

The Insurance Company has the right to recover any benefits it has overpaid. The Insurance Company may use any or all of the following to recover an overpayment:

1. request a lump sum payment of the overpaid amount;
2. reduce any amounts payable under this Policy; and/or
3. take any appropriate collection activity available to it.

The Minimum Benefit amount will not apply when Disability Benefits are reduced in order to recover any overpayment.

If an overpayment is due when the Employee dies, any benefits payable under the Policy will be reduced to recover the overpayment.

Successive Periods of Disability

A separate period of Disability will be considered continuous:

1. if it results from the same or related causes as a prior Disability for which benefits were payable; and
2. if, after receiving Disability Benefits, the Employee returns to work in his or her Regular Occupation for less than 6 consecutive months; and
3. if the Employee earns less than the percentage of Indexed Earnings that would still qualify him or her to meet the definition of Disability/Disabled during at least one month.

Any later period of Disability, regardless of cause, that begins when the Employee is eligible for coverage under another group disability plan provided by any employer will not be considered a continuous period of Disability.

For any separate period of disability which is not considered continuous, the Employee must satisfy a new Elimination Period.

LIMITATIONS**Limited Benefit Periods for Mental or Nervous Disorders**

The Insurance Company will pay Disability Benefits on a limited basis during an Employee's lifetime for a Disability caused by, or contributed to by, any one or more of the following conditions. Once 24 monthly Disability Benefits have been paid, no further benefits will be payable for any of the following conditions.

- 1) Anxiety disorders
- 2) Delusional (paranoid) disorders
- 3) Depressive disorders
- 4) Eating disorders
- 5) Mental illness
- 6) Somatoform disorders (psychosomatic illness)

If, before reaching his or her lifetime maximum benefit, an Employee is confined in a hospital for more than 14 consecutive days, that period of confinement will not count against his or her lifetime limit. The confinement must be for the Appropriate Care of any of the conditions listed above.

Limited Benefit Periods for Alcoholism and Drug Addiction or Abuse

The Insurance Company will pay Disability Benefits on a limited basis during an Employee's lifetime for a Disability caused by, or contributed to by, any one or more of the following conditions. Once 24 monthly Disability Benefits have been paid, no further benefits will be payable for any of the following conditions.

- 1) Alcoholism
- 2) Drug addiction or abuse

If, before reaching his or her lifetime maximum benefit, an Employee is confined in a hospital for more than 14 consecutive days, that period of confinement will not count against his or her lifetime limit. The confinement must be for the Appropriate Care of any of the conditions listed above.

Pre-Existing Condition Limitation

The Insurance Company will not pay benefits for any period of Disability caused or contributed to by, or resulting from, a Pre-existing Condition. A "Pre-existing Condition" means any Injury or Sickness for which the Employee incurred expenses, received medical treatment, care or services including diagnostic measures, took prescribed drugs or medicines, or for which a reasonable person would have consulted a Physician within 3 months before his or her most recent effective date of insurance.

The Pre-existing Condition Limitation will apply to any added benefits or increases in benefits. This limitation will not apply to a period of Disability that begins after an Employee is covered for at least 12 months after his or her most recent effective date of insurance, or the effective date of any added or increased benefits.

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ADDITIONAL BENEFITS

Rehabilitation During a Period of Disability

If the Insurance Company determines that a Disabled Employee is a suitable candidate for rehabilitation, the Insurance Company may require the Employee to participate in a Rehabilitation Plan and assessment at our expense. The Insurance Company has the sole discretion to approve the Employee's participation in a Rehabilitation Plan and to approve a program as a Rehabilitation Plan. The Insurance Company will work with the Employee, the Employer and the Employee's Physician and others, as appropriate, to perform the assessment, develop a Rehabilitation Plan, and discuss return to work opportunities.

The Rehabilitation Plan may, at the Insurance Company's discretion, allow for payment of the Employee's medical expense, education expense, moving expense, accommodation expense or family care expense while he or she participates in the program.

If an Employee fails to fully cooperate in all required phases of the Rehabilitation Plan and assessment without Good Cause, no Disability Benefits will be paid, and insurance will end.

TL-007501.00

Survivor Benefit

The Insurance Company will pay a Survivor Benefit if an Employee dies while Monthly Benefits are payable. The Employee must have been continuously Disabled for the Survivor Benefit Waiting Period before the first benefit is payable. These benefits will be payable for the Maximum Benefit Period for Survivor Benefits.

Benefits will be paid to the Employee's Spouse. If there is no Spouse, benefits will be paid in equal shares to the Employee's surviving Children. If there are no Spouse and no Children, benefits will be paid to the Employee's estate.

"Spouse" means an Employee's lawful spouse. "Children" means an Employee's children under age 26 who are chiefly dependent upon the Employee for support and maintenance. The term includes a stepchild living with the Employee at the time of his or her death.

TL-005107

TERMINATION OF DISABILITY BENEFITS

Benefits will end on the earliest of the following dates:

1. the date the Employee earns from any occupation, more than the percentage of Indexed Earnings set forth in the definition of Disability applicable to him or her at that time;
2. the date the Insurance Company determines he or she is not Disabled;
3. the end of the Maximum Benefit Period;
4. the date the Employee dies;
5. the date the Employee refuses, without Good Cause, to fully cooperate in all required phases of the Rehabilitation Plan and assessment;
6. the date the Employee is no longer receiving Appropriate Care;
7. the date the Employee fails to cooperate with the Insurance Company in the administration of the claim. Such cooperation includes, but is not limited to, providing any information or documents needed to determine whether benefits are payable or the actual benefit amount due.

Benefits may be resumed if the Employee begins to cooperate fully in the Rehabilitation Plan within 30 days of the date benefits terminated.

TL-007502.00

EXCLUSIONS

The Insurance Company will not pay any Disability Benefits for a Disability that results, directly or indirectly, from:

1. suicide, attempted suicide, or self-inflicted injury while sane or insane.
2. war or any act of war, whether or not declared.
3. active participation in a riot.
4. commission of a felony.
5. the revocation, restriction or non-renewal of an Employee's license, permit or certification necessary to perform the duties of his or her occupation unless due solely to Injury or Sickness otherwise covered by the Policy.

In addition, the Insurance Company will not pay Disability Benefits for any period of Disability during which the Employee is incarcerated in a penal or correctional institution.

TL-007503.00

CLAIM PROVISIONS

Notice of Claim

Written notice, or notice by any other electronic/telephonic means authorized by the Insurance Company, must be given to the Insurance Company within 31 days after a covered loss occurs or begins or as soon as reasonably possible. If written notice, or notice by any other electronic/telephonic means authorized by the Insurance Company, is not given in that time, the claim will not be invalidated or reduced if it is shown that notice was given as soon as was reasonably possible. Notice can be given at our home office in Philadelphia, Pennsylvania or to our agent. Notice should include the Employer's Name, the Policy Number and the claimant's name and address.

Claim Forms

When the Insurance Company receives notice of claim, the Insurance Company will send claim forms for filing proof of loss. If claim forms are not sent within 15 days after notice is received by the Insurance Company, the proof requirements will be met by submitting, within the time required under the "Proof of Loss" section, written proof, or proof by any other electronic/telephonic means authorized by the Insurance Company, of the nature and extent of the loss.

Claimant Cooperation Provision

Failure of a claimant to cooperate with the Insurance Company in the administration of the claim may result in termination of the claim. Such cooperation includes, but is not limited to, providing any information or documents needed to determine whether benefits are payable or the actual benefit amount due.

Insurance Data

The Employer is required to cooperate with the Insurance Company in the review of claims and applications for coverage. Any information the Insurance Company provides in these areas is confidential and may not be used or released by the Employer if not permitted by applicable privacy laws.

Proof of Loss

Written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, must be given to the Insurance Company within 90 days after the date of the loss for which a claim is made. If written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, is not given in that 90 day period, the claim will not be invalidated nor reduced if it is shown that it was given as soon as was reasonably possible. In any case, written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, must be given not more than one year after that 90 day period. If written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, is provided outside of these time limits, the claim will be denied. These time limits will not apply while the person making the claim lacks legal capacity.

Written proof, or proof by any other electronic/telephonic means authorized by the Insurance Company, that the loss continues must be furnished to the Insurance Company at intervals required by us. Within 30 days of a request, written proof of continued Disability and Appropriate Care by a Physician must be given to the Insurance Company.

Time of Payment

Disability Benefits will be paid at regular intervals of not less frequently than once a month. Any balance, unpaid at the end of any period for which the Insurance Company is liable, will be paid at that time.

To Whom Payable

Disability Benefits will be paid to the Employee. If any person to whom benefits are payable is a minor or, in the opinion of the Insurance Company, is not able to give a valid receipt, such payment will be made to his or her legal guardian. However, if no request for payment has been made by the legal guardian, the Insurance Company may, at its option, make payment to the person or institution appearing to have assumed custody and support.

If an Employee dies while any Disability Benefits remain unpaid, the Insurance Company may, at its option, make direct payment to any of the following living relatives of the Employee: spouse, mother, father, children, brothers or sisters; or to the executors or administrators of the Employee's estate. The Insurance Company may reduce the amount payable by any indebtedness due.

Payment in the manner described above will release the Insurance Company from all liability for any payment made.

Physical Examination and Autopsy

The Insurance Company, at its expense, will have the right to examine any person for whom a claim is pending as often as it may reasonably require. The Insurance Company may, at its expense, require an autopsy unless prohibited by law.

Legal Actions

No action at law or in equity may be brought to recover benefits under the Policy less than 60 days after written proof of loss, or proof by any other electronic/telephonic means authorized by the Insurance Company, has been furnished as required by the Policy. No such action shall be brought more than 3 years after the time satisfactory proof of loss is required to be furnished.

Time Limitations

If any time limit stated in the Policy for giving notice of claim or proof of loss, or for bringing any action at law or in equity, is less than that permitted by the law of the state in which the Employee lives when the Policy is issued, then the time limit provided in the Policy is extended to agree with the minimum permitted by the law of that state.

Physician/Patient Relationship

The Insured will have the right to choose any Physician who is practicing legally. The Insurance Company will in no way disturb the Physician/patient relationship.

TL-004724

ADMINISTRATIVE PROVISIONS

Premiums

The premiums for this Policy will be based on the rates currently in force, the plan and the amount of insurance in effect.

Changes in Premium Rates

The premium rates may be changed by the Insurance Company from time to time with at least 31 days advance written notice. No change in rates will be made until 24 months after the Effective Date. An increase in rates will not be made more often than once in a 12 month period. However, the Insurance Company reserves the right to change the rates even during a period for which the rate is guaranteed, if any of the following events take place.

1. The Policy terms change.
2. A division, subsidiary, eligible company, or class is added or deleted.
3. There is a change of more than 10% in the number of Insureds.
4. Federal or state laws or regulation affecting benefit obligations change.
5. Other changes occur in the nature of the risk that would affect the Insurance Company's original risk assessment.
6. The Insurance Company determines the Employer fails to furnish necessary information.

If an increase or decrease in rates takes place on a date that is not a Premium Due Date, a pro rata adjustment will apply from the date of the change to the next Premium Due Date.

Reporting Requirements

The Employer must, upon request, give the Insurance Company any information required to determine who is insured, the amount of insurance in force and any other information needed to administer the plan of insurance.

Payment of Premium

The first premium is due on the Policy Effective Date. After that, premiums will be due monthly unless the Employer and the Insurance Company agree on some other method of premium payment.

If any premium is not paid when due, the plan will be canceled as of the Premium Due Date, except as provided in the Policy Grace Period section.

Notice Of Cancellation

The Employer or the Insurance Company may cancel the policy as of any Premium Due Date by giving 31 days advance written notice. If a premium is not paid when due, the Policy will automatically be canceled as of the Premium Due Date, except as provided in the Policy Grace Period section.

Policy Grace Period

A Policy Grace Period of 31 days will be granted for the payment of the required premiums under this Policy. This Policy will be in force during the Policy Grace Period. The Employer is liable to the Insurance Company for any unpaid premium for the time this Policy was in force.

Reinstatement of Insurance

An Employee's insurance may be reinstated if it ends because he or she is on an unpaid leave of absence. If an Employee's Active Service ended due to an approved leave pursuant to the Family and Medical Leave Act (FMLA) and Continuation of Insurance is not applicable, an Employee's insurance may be reinstated at the conclusion of the FMLA leave.

If an Employee's Active Service ends due to an Employer approved unpaid leave of absence, other than an approved FMLA leave, insurance may be reinstated only:

1. If the reinstatement occurs within 12 weeks from the date insurance ends, or
2. When returning from military service pursuant to the Uniformed Services Employment Act of 1994 (USERRA).

For insurance to be reinstated the following conditions must be met:

1. An Employee must be in a Class of Eligible Employees.
2. The required premium must be paid.
3. The Insurance Company must receive a written request for reinstatement within 31 days from the date an Employee returns to Active Service.

Reinstated insurance will be effective on the date the Employee returns to Active Service. If an Employee did not fully satisfy the Eligibility Waiting Period or the Pre-Existing Condition Limitation (if any) before insurance ended due to an unpaid leave of absence, credit will be given for any time that was satisfied.

TL-009960.00

GENERAL PROVISIONS**Entire Contract**

The entire contract will be made up of the Policy, the application of the Employer, a copy of which is attached to the Policy, and the applications, if any, of the Insureds.

Incontestability

All statements made by the Employer or by an Insured are representations not warranties. No statement will be used to deny or reduce benefits or as a defense to a claim, unless a copy of the instrument containing the statement has been furnished to the claimant. In the event of death or legal incapacity, the beneficiary or representative must receive the copy.

After two years from an Insured's effective date of insurance, or from the effective date of any added or increased benefits, no such statement will cause insurance to be contested.

Misstatement of Age

If an Insured's age has been misstated, the Insurance Company will adjust all benefits to the amounts that would have been purchased for the correct age.

Policy Changes

No change in the Policy will be valid until approved by an executive officer of the Insurance Company. This approval must be endorsed on, or attached to, the Policy. No agent may change the Policy or waive any of its provisions.

Workers' Compensation Insurance

The Policy is not in lieu of and does not affect any requirements for insurance under any Workers' Compensation Insurance Law.

Certificates

A certificate of insurance will be delivered to the Employer for delivery to Insureds. Each certificate will list the benefits, conditions and limits of the Policy. It will state to whom benefits will be paid.

Assignment of Benefits

The Insurance Company will not be affected by the assignment of an Insured's certificate until the original assignment or a certified copy of the assignment is filed with the Insurance Company. The Insurance Company will not be responsible for the validity or sufficiency of an assignment. An assignment of benefits will operate so long as the assignment remains in force provided insurance under the Policy is in effect. This insurance may not be levied on, attached, garnisheed, or otherwise taken for a person's debts. This prohibition does not apply where contrary to law.

Clerical Error

A person's insurance will not be affected by error or delay in keeping records of insurance under the Policy. If such an error is found, the premium will be adjusted fairly.

Agency

The Employer and Plan Administrator are agents of the Employee for transactions relating to insurance under the Policy. The Insurance Company is not liable for any of their acts or omissions.

Ownership of Records

All records maintained by the Insurance Company are, and shall remain, the property of the Insurance Company.

TL-004726 (WA)

Certain Internal Revenue Code (IRC) & Internal Revenue Service (IRS) Functions

The Insurer may agree with the Policyholder to perform certain functions required by the Internal Revenue Code and IRS regulations. Such functions may include the preparation and filing of wage and tax statements (Form W-2) for disability benefit payments made under this Policy. In consideration of the payment of premiums by the Policyholder, the Insurer waives the right to transfer liability with respect to the employer taxes imposed on the Insurer by IRS Regulation 32.1(e)(1) for monthly Disability payments made under this Policy. Employee money may not be used to fund the Premium for the services and payments of this section.

TL-009230.00

DEFINITIONS

Please note, certain words used in this document have specific meanings. These terms will be capitalized throughout this document. The definition of any word, if not defined in the text where it is used, may be found either in this Definitions section or in the Schedule of Benefits.

Active Service

An Employee is in Active Service on a day which is one of the Employer's scheduled work days if either of the following conditions are met.

1. The Employee is performing his or her regular occupation for the Employer on a full-time basis. He or she must be working at one of the Employer's usual places of business or at some location to which the employer's business requires an Employee to travel.
2. The day is a scheduled holiday or vacation day and the Employee was performing his or her regular occupation on the preceding scheduled work day.

An Employee is in Active Service on a day which is not one of the Employer's scheduled work days only if he or she was in Active Service on the preceding scheduled work day.

Appropriate Care

Appropriate Care means the Employee:

1. Has received treatment, care and advice from a Physician who is qualified and experienced in the diagnosis and treatment of the conditions causing Disability. If the condition is of a nature or severity that it is customarily treated by a recognized medical specialty, the Physician is a practitioner in that specialty.
2. Continues to receive such treatment, care or advice as often as is required for treatment of the conditions causing Disability.
3. Adheres to the treatment plan prescribed by the Physician, including the taking of medications.

Consumer Price Index (CPI-W)

The Consumer Price Index for Urban Wage Earners and Clerical Workers published by the U.S. Department of Labor. If the index is discontinued or changed, another nationally published index that is comparable to the CPI-W will be used.

Disability Earnings

Any wage or salary for any work performed for any employer during the Employee's Disability, including commissions, bonus, overtime pay or other extra compensation.

Employee

For eligibility purposes, an Employee is an employee of the Employer in one of the "Classes of Eligible Employees." Otherwise, Employee means an employee of the Employer who is insured under the Policy.

Employer

The Policyholder and any affiliates or subsidiaries covered under the Policy. The Employer is acting as an agent of the Insured for transactions relating to this insurance. The actions of the Employer shall not be considered the actions of the Insurance Company.

Full-time

Full-time means the number of hours set by the Employer as a regular work day for Employees in the Employee's eligibility class.

Furlough

Furlough means a temporary suspension or alteration of Active Service initiated by the Employer, for a period of time specified in advance not to exceed 30 days at a time.

Good Cause

A medical reason preventing participation in the Rehabilitation Plan. Satisfactory proof of Good Cause must be provided to the Insurance Company.

Indexed Earnings

For the first 12 months Monthly Benefits are payable, Indexed Earnings will be equal to Covered Earnings. After 12 Monthly Benefits are payable, Indexed Earnings will be an Employee's Covered Earnings plus an increase applied on each anniversary of the date Monthly Benefits became payable. The amount of each increase will be the lesser of:

1. 10% of the Employee's Indexed Earnings during the preceding year of Disability; or
2. the rate of increase in the Consumer Price Index (CPI-W) during the preceding calendar year.

Injury

Any accidental loss or bodily harm which results directly and independently of all other causes from an Accident.

Insurability Requirement

An eligible person will satisfy the Insurability Requirement for an amount of coverage on the day the Insurance Company agrees in writing to accept him or her as insured for that amount. To determine a person's acceptability for coverage, the Insurance Company will require evidence of good health and may require it be provided at the Employee's expense.

Insurance Company

The Insurance Company underwriting the Policy is named on the Policy cover page.

Insured

A person who is eligible for insurance under the Policy, for whom insurance is elected, the required premium is paid and coverage is in force under the Policy.

Physician

Physician means a licensed doctor practicing within the scope of his or her license and rendering care and treatment to an Insured that is appropriate for the condition and locality. The term does not include an Employee, an Employee's spouse, the immediate family (including parents, children, siblings or spouses of any of the foregoing, whether the relationship derives from blood or marriage), of an Employee or spouse, or a person living in an Employee's household.

Prior Plan

The Prior Plan refers to the plan of insurance providing similar benefits sponsored by the Employer in effect directly prior to the Policy Effective Date. A Prior Plan will include the plan of a company in effect on the day prior to that company's addition to this Policy after the Policy Effective Date.

Regular Occupation

The occupation the Employee routinely performs at the time the Disability begins. In evaluating the Disability, the Insurance Company will consider the duties of the occupation as it is normally performed in the general labor market in the national economy. It is not work tasks that are performed for a specific employer or at a specific location.

Rehabilitation Plan

A written plan designed to enable the Employee to return to work. The Rehabilitation Plan will consist of one or more of the following phases:

1. rehabilitation, under which the Insurance Company may provide, arrange or authorize educational, vocational or physical rehabilitation or other appropriate services;
2. work, which may include modified work and work on a part-time basis.

Sickness

Any physical or mental illness.

Temporary Layoff

Temporary Layoff means a temporary suspension of Active Service for a period of time determined in advance by the Employer, other than a Furlough as defined. Temporary Layoff does not include the permanent termination of Active Service (including but not limited to a job elimination), which shall be treated as termination of employment.

TL-007500.00 as modified by TL-009980

**AMENDATORY RIDER
DOMESTIC PARTNER/CIVIL UNION PARTNER COVERAGE**

Policyholder: City of Des Moines
Policy No. LK - 964056

Effective Date: January 1, 2014

This rider amends the Policy and Certificate to which it is attached. It is effective on the Effective Date shown above, and expires when the Policy expires.

- A. Domestic Partner/Civil Union Partner means any of the following:
1. A person with whom the Employee has a registered civil union or domestic partnership under state law which imposes legal obligations on the parties substantially similar to marriage. Such person will continue to be recognized as a Domestic Partner or Civil Union Partner unless and until: (1) the civil union or domestic partnership is dissolved under applicable law; or (2) either the Employee or the Domestic Partner/Civil Union Partner marries another person.
 2. A person who was legally married to the Employee under the laws of a state permitting marriage of partners of the same sex, where the Employee and Domestic Partner/Civil Union Partner currently reside in a state that does not recognize a valid marriage. This shall not apply if:
 - a. the marriage has been terminated by legal process, or;
 - b. either the Employee or the Domestic Partner/Civil Union Partner has entered into a valid marriage, civil union or domestic partnership under state law.
- B. The Survivor Benefit is modified in the Policy and Certificate as follows:
1. All references to the term "Spouse" are replaced by "Spouse or Domestic Partner/Civil Union Partner" except for the following references:
 - a. The first reference to "Spouse" in the Survivor Benefit text is changed to "Spouse, or Domestic Partner/Civil Union Partner" if there is no Spouse".
 - b. The text pertaining to the definition of "Spouse" remains unchanged.
- C. Survivor benefits will be payable as follows: (1) to the Employee's spouse or Domestic Partner/Civil Union Partner; (2) if there is none, in equal shares to the Employee's surviving Children; or (3) if there is none, to the Employee's estate.
- D. A child of a Domestic Partner/Civil Union Partner may only be eligible for benefits if:
- a. the child is primarily dependent on the Employee for financial support;
 - b. the Employee has a legal obligation of support of the child; or
 - c. the Employee is the child's legal guardian.

Except for the above this rider does not change the Policy or Certificate to which it is attached.

LIFE INSURANCE COMPANY OF NORTH AMERICA



Matthew G. Manders, President

TL-007153

IMPORTANT CHANGES FOR STATE REQUIREMENTS

If an Employee resides in one of the following states, the provisions of the certificate are modified for residents of the following states. The modifications listed apply only to residents of that state.

Louisiana residents:

The percentage of Indexed Earnings, if any, that qualifies an insured to meet the definition of Disability/Disabled may not be less than 80%.

Massachusetts residents:

Continuation of Insurance after leaving the group

If an Employee leaves the group covered under the Policy, insurance for such Employee will be continued until the earliest of the following dates:

1. 31 days from the date the Employee leaves the group;
2. The date the Employee becomes eligible for similar benefits.

Continuation of Insurance due to a Plant Closing or Partial Closing

If an Employee leaves the group due to termination of employment resulting from a Plant Closing or Partial Closing, insurance for such Employee will be continued until the earliest of the following dates:

1. 90 days from the date of the Plant Closing or Partial Closing;
2. The date the Employee becomes eligible for similar benefits.

Definitions: For purposes of this provision:

Plant Closing means a permanent cessation or reduction of business at a facility which results or will result as determined by the director in the permanent separation of at least 90% of the employees of said facility within a period of six months prior to the date of certification or with such other period as the director shall prescribe, provided that such period shall fall within the six month period prior to the date of certification.

Partial Closing means a permanent cessation of a major discrete portion of the business conducted at a facility which results in the termination of a significant number of the employees of said facility and which affects workers and communities in a manner similar to that of Plant Closings.

Minnesota residents:

The Pre-existing Condition Limitation, if any, may not be longer than 24 months from the insured's most recent effective date of insurance.

Texas residents:

Any provision offsetting or otherwise reducing any benefit by an amount payable under an individual or franchise policy will not apply.

**LIFE INSURANCE COMPANY OF NORTH AMERICA
PHILADELPHIA, PA 19192-2235**

We, City of Des Moines, whose main office address is Des Moines, WA, hereby approve and accept the terms of Group Policy Number LK-964056 issued by the LIFE INSURANCE COMPANY OF NORTH AMERICA. We acknowledge that benefits will be provided in accordance with the terms and provisions of the policy, which will be the sole contract under which benefits are paid.

This form is to be signed in duplicate. One part is to be retained by City of Des Moines; the other part is to be returned to the LIFE INSURANCE COMPANY OF NORTH AMERICA.

City of Des Moines

Signature and Title: _____ Date: _____

(This Copy Is To Be Returned To LIFE INSURANCE COMPANY OF NORTH AMERICA)

**LIFE INSURANCE COMPANY OF NORTH AMERICA
PHILADELPHIA, PA 19192-2235**

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City of Des Moines

Signature and Title: _____ Date: _____

(This Copy Is To Be Retained By City of Des Moines)

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT:
2014 Joint Human Services Application and Funding Program

FOR AGENDA OF: February 20th, 2014

DEPT. OF ORIGIN: Parks, Recreation, & Seniors
Senior Services

DATE SUBMITTED: January 27, 2013

ATTACHMENTS:

1. Exhibit A to Memorandum of Understanding between the Cities- Calendar Year 2014
2. 2003 Memorandum of Understanding

CLEARANCES:

- [X] Parks, Recreation & Senior Services 
- [X] Legal 
- [NA] Marina _____
- [NA] Planning, Building & Public Works _____
- [NA] Police _____
- [NA] Courts _____

APPROVED BY THE CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to seek City Council authorization of the 2014 Joint Human Services Funding Program Agreement between the Cities of Auburn, Burien, Covington, Des Moines, Federal Way, Renton, SeaTac, and Tukwila for planning, funding and continuation of a Joint Human Services Application and Funding Program.

Suggested Motion

“I move to approve Exhibit A for 2014 Des Moines’ planning, funding and implementation of a joint human services application and funding program as provided in the 2003 Memorandum of Understanding for the Joint Human Services Funding Program between the Cities of Auburn, Burien, Covington, Des Moines, Federal Way, Renton, SeaTac, and Tukwila (Attachment 2), substantially in the form as submitted.”

Background

In 2003, the Cities of Auburn, Burien, Covington, Des Moines, Federal Way, Kent, Renton, SeaTac and Tukwila began making the most efficient use of their limited resources by streamlining the funding

process with the implementation of the Joint Human Services Funding Program in order to provide services for residents.

The Joint Human Services Funding Program was created by execution of the Memorandum of Understanding in 2003 between the above-listed cities to allow for selected King County human service providers to submit one application for funding, one invoice for payment, and one quarterly report of performance measures and specific city demographics as opposed to completing individual applications, invoice requests and quarterly reports for each city.

Des Moines participates in this process through annual approval of Exhibit A (Attachment A) to the 2003 MOU (Attachment 2). The City may terminate its participation with 30 days written notice but remains responsible for its funding responsibilities through the end of the calendar year.

Discussion

The 2003 MOU for Joint Human Services Funding Program consolidates the human services funding process. This results in a more efficient use of government resources and human service provider staffing and resources. The processing of fewer annual quarterly payment invoices and quarterly agency performance and demographic report forms saves significant staff time. The 2014 Exhibit A includes nine human service providers; however, not all of the programs receive Des Moines funds. Based on City of Des Moines' 2014 budget, the programs receiving funds from Des Moines are:

Crisis Clinic (Telephone Referral, 211 & Teen Link)	\$ 4,800.00
DAWN- (Continuum of Housing)	\$ 5,000.00
DAWN- (Community Advocacy)	\$ 1,000.00
HealthPoint (Medical and Dental)	\$ 7,500.00
King Co. Sexual Assault Resource Center	\$ 4,100.00
Multi-Service Center Emergency Housing	\$ 4,000.00
Senior Services (Meals on Wheels and Senior Shuttle)	<u>\$ 4,250.00</u>
Total:	\$30,650.00

Alternatives

City Council can choose to have the Des Moines Senior Services Manager Sue Padden manage all seventeen of the 2014 human services agency contracts and payments.

Financial Impact

There is no additional cost for the 2014 Exhibit A to the 2003 MOU for Joint Human Services Funding Program between the Cities of Auburn, Burien, Covington, Des Moines, Federal Way, Renton, SeaTac, and Tukwila. The amounts have been previously budgeted for the 2014 Budget.

Recommendation/Concurrence

Des Moines Administration and the Des Moines Human Services Advisory Committee recommend that the City Council approve the 2014 Exhibit A to the 2003 MOU for Joint Human Services Funding Program with the Cities of Auburn, Burien, Covington, Federal Way, Renton, SeaTac and Tukwila as attached.

Calendar Year 2014

Exhibit A to Memorandum of Understanding (MOU) between the Cities for planning, funding, and implementation of a joint human services application and funding program.

Name of Nonprofit Agency & Program	Participating Cities	Funding
Catholic Community Services for Emergency Assistance	Federal Way - Lead City	\$ 13,500
	Covington	8,500
	Burien	10,500
	Renton	10,609
	SeaTac	12,000
	TOTAL	\$ 55,109
Catholic Community Services for Volunteer Chore Services	Federal Way - Lead City	\$ 9,000
	Auburn	3,000
	Covington	3,000
	Renton	5,000
	SeaTac	5,000
	TOTAL	\$ 25,000
Child Care Resources for Information & Referral	Covington - Lead City	\$ 3,585
	Burien	5,000
	Renton	5,000
	SeaTac	5,000
	Tukwila	5,000
	TOTAL	\$ 23,585
Crisis Clinic for telephone referral line and 2-1-1	2-1-1 \$9,000; 24 hr line \$3,000	Federal Way - Lead City \$ 12,000
	2-1-1 \$1,000; 24 hr line \$1,000	Auburn 2,000
	2-1-1 \$8,500; 24 hr line None	Burien 8,500
	2-1-1 \$2,000; 24 hr line \$2,400	Covington 4,400
	2-1-1 \$2,600; 24 hr line \$1,700	Des Moines 4,300
	2-1-1 \$15,000; 24 hr line \$5,000	Renton 20,000
	2-1-1 \$4,500; 24 hr line \$2,500	SeaTac 7,000
	2-1-1 \$1,500; 24 hr line \$2,620	Tukwila 4,120
	TOTAL	\$ 62,320

Calendar Year 2014

Exhibit A to Memorandum of Understanding (MOU) between the Cities for planning, funding, and implementation of a joint human services application and funding program.

Name of Nonprofit Agency & Program	Participating Cities	Funding
Crisis Clinic for Teen Link	Federal Way - Lead City	\$ 3,000
	Auburn	1,000
	Burien	1,000
	Covington	2,671
	Des Moines	500
	Renton	5,000
	SeaTac	2,500
	Tukwila	1,500
	TOTAL \$	17,171
Domestic Abuse Women's Network (DAWN) for Community Advocacy and Crisis Line	Covington - Lead City	\$ 8,000
	Burien	2,000
	Des Moines	1,000
	Federal Way	5,000
	Renton	8,480
	SeaTac	5,000
	Tukwila	4,000
	TOTAL \$	33,480
Domestic Abuse Women's Network (DAWN) for Transitional Housing (Shelter)	Burien - Lead City	\$ 8,000
	Des Moines	5,000
	Federal Way	20,000
	SeaTac	8,000
	Tukwila	7,000
	TOTAL \$	48,000
Dynamic Partners for Children with Special Needs	Tukwila - Lead City	\$ 6,750
	Auburn	10,000
	Burien	5,000
	Covington	10,000
	Federal Way	10,000
	Renton	10,200
	SeaTac	13,000
	TOTAL \$	64,950
HealthPoint - DENTAL	Renton - Lead City	\$ 5,000
	Covington	3,181
	Des Moines	2,600
	Federal Way	15,900
	SeaTac	14,000
	Tukwila	4,550
	DENTAL TOTAL \$	45,231

Calendar Year 2014

Exhibit A to Memorandum of Understanding (MOU) between the Cities for planning, funding, and implementation of a joint human services application and funding program.

Name of Nonprofit Agency & Program	Participating Cities	Funding
HealthPoint - MEDICAL	Renton - Lead City	\$ 28,350
	Burien	10,000
	Covington	4,000
	Des Moines	4,900
	Federal Way	15,000
	SeaTac	47,000
	Tukwila	5,000
	MEDICAL TOTAL	\$ 114,250
King County Sexual Assault Resource Center (KCSARC) for Comprehensive Sexual Assault Services	Covington - Lead City	\$ 4,864
	Auburn	22,500
	Burien	7,500
	Renton	32,000
	Des Moines	4,100
	Federal Way	25,000
	SeaTac	8,100
	Tukwila	8,305
TOTAL	\$ 112,369	
Multi-Service Center for Emergency Shelter and Transitional Housing	Burien - Lead City	4,000
	Des Moines	4,000
	Federal Way	38,000
	Renton	6,631
	SeaTac	7,000
	Tukwila	4,000
TOTAL	\$ 63,631	
Senior Services for Meals on Wheels	Renton - Lead City	\$ 10,000
	Auburn	7,000
	Burien	5,000
	Des Moines	3,750
	Federal Way	10,000
	SeaTac	11,000
Tukwila	7,079	
TOTAL	\$ 53,829	
Senior Services for Volunteer Transportation Services and Senior Shuttles	Renton - Lead City	\$ 11,180
	Auburn	5,000
	Burien (Sr. Shuttle)	2,000
	Des Moines (Sr. Shuttle)	500
	Federal Way	10,000
	SeaTac	4,000
Tukwila	2,048	
TOTAL	\$ 34,728	

Calendar Year 2014

Exhibit A to Memorandum of Understanding (MOU) between the Cities for planning, funding, and implementation of a joint human services application and funding program.

Name of Nonprofit Agency & Program	Participating Cities	Funding
<u>Summary of Lead Cities:</u>		
Burien:	DAWN - Shelter	
	Multi-Service Center -Emergency Housing	
Covington:	Childcare Resources - Info & Referral	
	DAWN - DV Advocacy/Crisis Line	
	KSCARC	
Federal Way:	CCS - Emergency Assistance	
	CCS - Volunteer Chore Services	
	Crisis Clinic - 2-1-1 & 24 hr line	
	Crisis Clinic - Teen Link	
Renton:	HealthPoint - Dental	
	HealthPoint- Medical	
	Senior Services - Meals on Wheels	
	Senior Services - Volunteer Transportation	
Tukwila:	Dynamic Partners	

MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITIES OF AUBURN, BURien, DES MOINES,
FEDERAL WAY, KENT, RENTON, SEATAC, AND
TUKWILA FOR PLANNING, FUNDING, AND
IMPLEMENTATION OF A JOINT HUMAN
SERVICES APPLICATION AND FUNDING
PROGRAM.

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into pursuant to Chapter 39.34 RCW by the Cities of Auburn, Burien, Des Moines, Federal Way, Kent, Renton, SeaTac, and Tukwila, Washington hereinafter referred to as "Cities"; to provide for planning, funding, and implementation of a joint human services application and funding program.

WHEREAS, the Cities engage in activities which support human service providers in King County; and

WHEREAS, the parties wish to make the most efficient use of their resources by cooperating to provide funding to support human service providers in south King County; and

WHEREAS, through the Interlocal Cooperation Act, the parties have the authority to engage in cooperative efforts which result in more efficient use of Government resources; and

NOW THEREFORE, and in consideration of the terms, conditions and performances made herein, it is agreed as follows:

1. Purpose of MOU: The purpose of the MOU is to set up a cooperative arrangement between the Cities to consolidate the human services application and funding process. Four nonprofit human services agencies, commonly funded by many of the Cities, have been designated by the Cities for calendar year 2003. Nonprofit agencies may be added or deleted each year as determined by the Cities for the cooperative program.

2. Joint Participation.

a) Lead City. A Lead City will be designated by the Cities for each Nonprofit Agency, as shown in Exhibit A, to act as the fiscal and administrative agent for the Cities for that Nonprofit Agency. A Lead City is usually established by the amount of funding and/or support to the particular Nonprofit Agency. The responsibilities of the Lead City are described in Section 4.

b) Participating City. A Participating City is a city participating in the cooperative funding of a Nonprofit Agency, who is not a Lead City. Participating Cities for each Nonprofit Agency are identified in Exhibit A. A Participating City shall review quarterly reports from the Nonprofit Agency.

Joint Human Services Application and Funding MOU
Page 2 of 7

If a Participating City becomes concerned with a Nonprofit Agency's services, it will promptly notify the Lead City. If a Participating City determines that a Nonprofit Agency is not performing satisfactorily for their city, the Participating City reserves the right to request the Lead City to withhold payments to the Nonprofit Agency for their share of funding. In the event that a claim or lawsuit is initiated by a Nonprofit Agency against any City for withholding payment, the City requesting the withholding of payment shall be responsible for settling or defending the claim or lawsuit. In addition, in the event of any settlement or judgment on the claim or lawsuit, the City requesting that payment be withheld shall be fully responsible for the payment of such settlement or judgment and shall indemnify, defend, and hold harmless the other Cities for such settlement or lawsuit.

- c) Nonprofit Agency. For calendar year 2003, the Cities identified and agreed that they will coordinate to consolidate the human services application and funding process for the following four Nonprofit Agencies: Crisis Clinic, King County Sexual Assault Resource Center, Community Health Center, and the Part-Time Domestic Violence Planner through the King County Coalition Against Domestic Violence. Nonprofit Agencies may be added or deleted each year as determined by the Cities for the cooperative program.

3. Funding Arrangement.

- a) Allocation. Each Participating City shall provide to the Lead City no later than March 31st of each year, the total annual funding allocation approved by their City Councils for the Nonprofit Agency, as described in Exhibit A. No administrative costs shall be imposed by the Lead City to the other Participating Cities. Exhibit A will be updated each year to show the Nonprofit Agencies, Lead Cities, Participating Cities, and funding amounts for that calendar year. *{For City of Des Moines only, the last sentence of this paragraph was changed to read: "Exhibit A will be updated each year by approval of amendment to this agreement to show the Nonprofit Agencies, Lead Cities, Participating Cities, and funding amounts for that calendar year."}*
- b) Return of Unspent Funds. Any monies that the Nonprofit Agency(s) does not spend during the calendar year shall be proportionately returned to each Participating City. On or before March 31st of the next calendar year the Lead City will provide the unspent funds to each Participating City.

4. Responsibilities of Lead City. A Lead City has been designated to act as the fiscal and administrative agent for the Cities for each Nonprofit Agency, as shown in Exhibit A. The responsibilities of the Lead City shall include the following:

- a) Send an invoice to each Participating City by January 30th of each year for their annual approved allocation to the Nonprofit Agency.

Joint Human Services Application and Funding MOU
Page 3 of 7

- b) Contract with the Nonprofit Agency each year, for the total funding allocated by the Participating Cities, detailing performance measures to be performed by the Nonprofit Agency for each City.
- c) Receive, review, and process the quarterly invoices and reports from the Nonprofit Agency. Quarterly reports shall describe services provided specifically to each City. Disputes regarding billings will be resolved among the Participating Cities.
- d) Provide copies of quarterly reports to the Participating Cities, if the reports are not provided directly by the Nonprofit Agency.
- e) Provide the Nonprofit Agency with a funding application and technical assistance as required.
- f) Perform an annual monitoring visit of the Nonprofit Agency, to include the participation of another Participating City.
- g) Maintain accounts and records which properly reflect transactions related to this MOU.

5. Duration. This MOU shall become effective when it is approved by a majority of the Cities and shall remain in effect through December 31, 2003, with automatic extensions annually, unless terminated as described in section 6.

6. Termination. Any party may terminate its participation in the MOU without cause by giving the other Cities a thirty day written notice. The terminating party shall remain fully responsible for meeting its funding responsibilities and other obligations established by this MOU through the end of the calendar year in which such notice is given.

7. Notices. Notices to the Cities shall be sent to the following persons:

City	Contact
Auburn	Planner, currently Shirley Aird
Burien	Management Analyst, currently Lori Fleming
Des Moines	Senior Services Manager, currently Sue Padden
Federal Way	Human Services Manager, currently Lydia Assefa-Dawson
Kent	Human Services Manager, currently Katherin Johnson
Renton	Contract Specialist, currently Dianne Utecht
SeaTac	Senior Project Coordinator, currently Soraya Lowry
Tukwila	Human Services Manager, currently Evelyn Boykan

8. Indemnification.

Each City agrees to indemnify the other Cities from any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage and bodily injury, including death, caused solely by the negligence or willful misconduct of such City, the City's employees,

Joint Human Services Application and Funding MOU
Page 4 of 7

affiliated corporations, officers, and lower tier subcontractors in connection with this MOU.

Each City hereby waives its immunity under Title 51 of the Revised Code of Washington for claims of any type brought by any City agent or employee against the other Cities. This waiver is specifically negotiated by the parties and a portion of the City's payment hereunder is expressly made the consideration for this waiver.

9. Insurance. Each City shall procure and maintain in full force throughout the duration of the Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. In the event that a City is a member of a pool of self-insured cities, the City shall provide proof of such membership in lieu of the insurance requirement above. Such self insurance shall provide coverage equal to or greater that required of non-self insurance pool member Cities.

10. Oversight Committee. This Agreement shall be managed by an Oversight Committee made up of one representative of each City. The representative of each City shall be that person designated in section 7 of this Agreement. The Oversight Committee shall meet at least annually to discuss the terms of the Agreement and manage the services provided pursuant to the Agreement.

11. Applicable Law; Venue; Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit.

12. Counterparts. This document may be executed in any number of counterparts, each one which shall be considered an original.

IN WITNESS WHEREOF, the undersigned have entered into this MOU as of this _____ day of _____, 2003.

Each City hereby waives its immunity under Title 51 of the Revised Code of Washington for claims of any type brought by any City agent or employee against the other Cities. This waiver is specifically negotiated by the parties and a portion of the City's payment hereunder is expressly made the consideration for this waiver.

9. Insurance. Each City shall procure and maintain in full force throughout the duration of the Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000.00 per occurrence/aggregate for personal injury and property damage. In the event that a City is a member of a pool of self-insured cities, the City shall provide proof of such membership in lieu of the insurance requirement above. Such self insurance shall provide coverage equal to or greater that required of non-self insurance pool member Cities.

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IN WITNESS WHEREOF, the undersigned have entered into this MOU as of this 3rd day of February, 2003.

CITY OF RENTON

By: Jesse Tanner
Jesse Tanner

Title: Mayor

Date: 2-3-2003

Attest: Bonnie I. Walton
City Clerk, Bonnie I. Walton

Approved As To Form:

Lawrence J. Warner
City Attorney

IN WITNESS WHEREOF, the undersigned have entered into this MOU as of this
21st day of January, 2003.

CITY OF AUBURN

By: [Signature]

Title: Mayor

Date: JAN 21 2003

Attest: [Signature]

Approved As To Form

[Signature]
City Attorney

Joint Human Services Application and Funding MOU
Page 5 of 7

CITY OF BURIEN

By: Darryl P. Long

Title: City Manager

Date: 1-21-03

Attest: _____

Approved As To Form:

[Signature]
City Attorney

CITY OF COVINGTON

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF DES MOINES

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF FEDERAL WAY

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

Joint Human Services Application and Funding MOU
Page 5 of 7

CITY OF BURIEN

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF COVINGTON

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF DES MOINES

By: [Signature]

Title: City Manager

Date: 1/28/03

Attest: _____

Approved As To Form:

[Signature]
City Attorney

CITY OF FEDERAL WAY

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

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cm

Joint Human Services Application and Funding MOU
Page 6 of 8

CITY OF FEDERAL WAY

By: [Signature]
Title: CITY MANAGER

Approved As To Form:

[Signature]
City Attorney

Date: 3/26/03

Attest: [Signature]

CITY OF KENT

By: _____

Approved As To Form:

Title: _____

City Attorney

Date: _____

Attest: _____

CITY OF RENTON

By: _____

Approved As To Form:

Title: _____

City Attorney

Date: _____

Attest: _____

CITY OF SEATAC

By: _____

Approved As To Form:

Title: _____

City Attorney

Date: _____

Attest: _____

Joint Human Services Application and Funding MOU
Page 6 of 7

CITY OF KENT

By: Judy Woods

Title: Mayor Pro Tem

Date: 2/4/03

Attest: _____

Approved As To Form:

[Signature]

DEPUTY City Attorney

CITY OF RENTON

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF SEATAC

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF TUKWILA

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

Joint Human Services Application and Funding MOU
Page 6 of 7

CITY OF KENT

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF RENTON

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

CITY OF SEATAC

By: Bruce Rayburn
Title: Bruce Rayburn, City Manager

Date: 3/3/03

Attest: _____

Approved As To Form:

Dee L McAdam
City Attorney

CITY OF TUKWILA

By: _____

Title: _____

Date: _____

Attest: _____

Approved As To Form:

City Attorney

Joint Human Services Application and Funding MOU
Page 6 of 7

CITY OF KENT

By: _____
Title: _____
Date: _____
Attest: _____

Approved As To Form:

City Attorney

CITY OF RENTON

By: _____
Title: _____
Date: _____
Attest: _____

Approved As To Form:

City Attorney

CITY OF SEATAC

By: _____
Title: _____
Date: _____
Attest: _____

Approved As To Form:

City Attorney

CITY OF TUKWILA

By: ib Steven M. Mullett
Title: Mayor
Date: 1/16/03
Attest: Jane E. Cantu
City Clerk

Approved As To Form:

[Signature]
City Attorney

ORIGINAL

Addendum 1

to

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITIES OF AUBURN, BURIEN, DES MOINES, FEDERAL WAY, KENT, RENTON, SEATAC, AND TUKWILA FOR PLANNING, FUNDING, AND IMPLEMENTATION OF A JOINT HUMAN SERVICES APPLICATION AND FUNDING PROGRAM.

The attached Memorandum of Understanding between the Cities for the planning, funding, and implementation of a joint human services application and funding program shall be modified to include the City of Covington, Washington.

Provision 7. Notices on page 3 shall be changed to include the City of Covington, with the contact person being the Human Services Manager, currently Victoria Throm.

All other terms and conditions of the above referenced contract shall remain the same.

These changes shall become effective on January 1, 2005.

CITY OF COVINGTON

By: [Signature]

Title: Acting City Manager

Date: 2-24-05

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Memorandum of Understanding with the Des Moines Police Guild regarding Dental Insurance

ATTACHMENTS:

1. Memorandum of Understanding

FOR AGENDA OF: February 20, 2014

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: February 12, 2014

CLEARANCES:

- Legal N/A
- Finance N/A
- Marina N/A
- Parks, Recreation & Senior Services N/A
- Planning, Building & Public Works N/A
- Police N/A
- Courts N/A

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is to request the City Council to approve a memorandum of understanding (MOU) between the City of Des Moines and the Des Moines Police Guild regarding dental insurance coverage for 2014.

Suggested Motion

“I move to approve the memorandum of understanding with the Des Moines Police Guild regarding dental insurance coverage for 2014.”

Background

For 2014, the City of Des Moines changed its medical, dental, and vision insurance carrier from Alliant to the Association of Washington Cities (AWC). The medical and vision coverage is comparable between the two carriers. The AWC dental coverage, however, only provides \$1,500 per person per year of coverage versus \$1,750 per person per year under the Alliant plan.

Discussion

To mitigate this difference, the City could agree to reimburse Guild members for costs incurred under the new dental plan that would have been covered under the old plan. The attached MOU, if approved by Council, would obligate the City to reimburse Guild members up to \$250 per insured individual for costs incurred for covered dental procedures in 2014 only. Because of the provisions of the Des Moines City Code that require the City to provide the same benefits to non-represented employees as represented employees, non-unionized employees would also be provided this reimbursement. The City's other represented employees, the Teamsters (representing Public Works, Parks, and Marina maintenance employees) and the Des Moines Police Management Association orally agreed to change from Alliant to AWC, provided that any mitigation given to other employee groups, represented or non-represented, be given to them as well. Therefore, all employees will be provided this reimbursement for 2014 only.

Alternatives

Council may elect not to approve the attached MOU and direct the City Manager to continue discussions with the Police Guild.

Financial Impact

It is difficult to determine exactly how much reimbursement the City will be obligated to pay for 2014 as a result of the MOU. The City currently provides insurance coverage to approximately 290 individuals (employees and their dependents). If ten percent of them were to incur dental costs of \$250 that would have been covered under the City's old plan, the total cost to the City would be \$7,500. If twenty percent incur such costs, the cost to the City would be \$15,000. The cost savings from moving dental insurance from Alliant to AWC for 2014 is over \$50,000.

Recommendation

Staff recommends approval of the MOU with the Guild.

MEMORANDUM OF UNDERSTANDING
by and between
CITY OF DES MOINES, WASHINGTON
and
DES MOINES POLICE GUILD

THIS MEMORANDUM OF UNDERSTANDING is supplemental to the AGREEMENT by and between the CITY OF DES MOINES, WASHINGTON, hereinafter referred to as the Employer, and the DES MOINES POLICE GUILD, herein after referred to as the Guild.

WHEREAS the premiums for City medical insurance provided through Alliant were set to increase by thirty-one percent (31%) in 2014; and

WHEREAS the City and the Guild discussed options for moving the medical insurance, along with dental insurance and vision insurance to the Association of Washington Cities (AWC) for 2014; and

WHEREAS the City moved medical, dental and vision insurances to AWC, declaring the coverages equal to or better than those provided through Alliant; and

WHEREAS the annual plan maximum for the comparable Delta Dental plan offered by AWC is \$1,500 per individual covered versus the \$1,750 per covered individual on the Delta Dental Plan offered through Alliant;

NOW THEREFORE, the parties agree:

1. To mitigate the potential increased dental out-of-pocket expense that Guild members may incur in 2014, the City will reimburse Guild members any additional out-of-pocket expenses for each insured individual that would have been covered had the annual plan maximum not been reached.
2. The maximum amount of reimbursement shall be \$250 per covered individual.
3. When requesting reimbursement, Guild members shall be required to provide validation that the out-of-pocket dental expenses were for a covered procedure that would have been paid by insurance had the insured individual not reached the annual plan maximum. Such validation, for example an Explanation of Benefits, must clearly show that the Guild member incurred out-of-pocket expenses for themselves or an insured family member for covered procedures because the annual plan maximum of \$1,500 was reached.
4. The provisions of this MOU shall not cover any out-of-pocket orthodontia expenses incurred by a Guild member.
5. This MOU shall cover out-of-pocket expenses over the \$1,500 annual plan maximum for each covered individual for 2014 only.

DES MOINES POLICE GUILD

CITY OF DES MOINES, WASHINGTON

By *T. Nowacki*
Tony Nowacki
President

By _____
Anthony A. Piasecki
City Manager

Date 021014

Date _____

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Des Moines Creek Business Park
Amended and Restated Second
Development Agreement
and Panattoni Master Plan
File Number LUA2013-0036

FOR AGENDA OF: February 20, 2014

DEPT. OF ORIGIN: Planning, Building, &
Public Works

DATE SUBMITTED: February 12, 2014

ATTACHMENTS:

1. Draft Resolution 14-013 including the Amended and Restated Second Development Agreement
2. June 2012 Second Development Agreement with Port of Seattle
3. Public Hearing PowerPoint Presentation

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 seek the City Council's approval of the Amended and Restated Second Development Agreement with the Port of Seattle regarding the development of the Des Moines Creek Business Park (DMCBP) and the Master Plan for the proposed Panattoni project, Areas 1 and 2, located within the DMCBP. Staff recommends that the City Council approve both the Amended and Restated Second Development Agreement and the requested Master Plan by passing the following motion:

Suggested Motion

Motion: "I move to approve Draft Resolution 14-013 authorizing the City Manager to sign the Amended and Restated Second Development Agreement with the Port of Seattle regarding the development of the Des Moines Creek Business Park substantially in the form as submitted and approving the Master Plan for the proposed Panattoni project, Areas 1 and 2, filed with the Des Moines Planning, Building and Public Works Department under file number LUA2013-0036 subject to conditions set forth in Resolution 14-013."

Background:

The site that is now referred to as the Des Moines Creek Business Park (DMCBP) had been developed as a single family residential neighborhood until the early 1990s. From 1989 to 1993, the Port of Seattle (Port) acquired approximately 77 acres of residential lots in the City of Des Moines (City) as part of Sea-Tac Airport's noise mitigation program. Subsequently, the Port removed all existing single family homes from the site leaving a few foundations and the asphalt roadways which served the neighborhood. The Port later purchased approximately 12 acres of abandoned streets in 2011 from the City, King County and the Washington State Department of Transportation.

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 2005, the City and the Port began working together to bring economic development to the City and the region through the development of the DMCBP. In July of 2005, the City and the Port entered into the First Development Agreement which outlined the jurisdictional authority of each party and established the development process for the DMCBP including the creation of a conceptual master plan, environmental review, and approval of a conceptual master plan.

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.

In November of 2006, the City and the Port acting together issued the *Des Moines Creek Business Park Draft Environmental Impact Statement (DEIS)* which analyzed and identified the probable significant environmental impacts that could occur as a result of development of the DMCBP. In March of 2007, the *Des Moines Creek Business Park Final Environmental Impact Statement (FEIS)* was issued to provide additional information and responses based on comments received during the comment period for the DEIS. Together, the FEIS and DEIS comprise the Environmental Impact Statement (EIS) for the DMCBP project and the parties issued the *Final SEPA Decision for the Des Moines Creek Business Park* on February 21, 2007 as required by SEPA (Attachment 3). As a result, developers are not required to conduct a separate environmental analysis as part the development if the development is within the parameters of the alternatives evaluated in the DMCBP EIS. The City's SEPA Official has determined that the proposed Amended and Restated Second Development Agreement and Areas 1 and 2 of the Panattoni project are within the parameters of the proposed actions evaluated under the DMCBP EIS; therefore, a threshold determination is not required pursuant to WAC 197-11-600.

The Port and City amended the First Development Agreement with a First and Second Addenda in May 2008 and November 2010 respectively. Both addenda ultimately led to the passage of Ordinance 1489 and 1490 which transferred ownership of all of the existing roadways within the DMCBP to the Port and resulted in the City's acquisition of the additional right-of-way along 24th Avenue South and South 216th Street needed for roadway widening and redevelopment under the Transportation Gateway Project.

Late in 2010, the Port and the City were approached by representatives of Puget Sound Energy regarding a project to relocate PSE's material distribution and emergency storage, storm response operations, and related office and shop facilities from Kent, the gas/electric meter services and shop facilities in SeaTac, and substation/technical field services and transformer shop in Renton to an integrated centralized facility located within the DMCBP. PSE withdrew from the project in December 2012.

In June 2013, the Port of Seattle announced that they had selected another developer for the Des Moines Creek Business Park project, Panattoni Development Company, Inc., a privately-held real estate development firm headquartered in Newport Beach, California. The firm was chosen with the City's assistance from a field of four proposers. This project is part of the Port's Century Agenda vision to grow the economic benefits of Sea-Tac by tripling the volume of air cargo and expand opportunities for local businesses.

Panattoni's preliminary development budget for the project is estimated at \$100- \$125 million. The development will include up to two million square feet of flexible-use, manufacturing, office, distribution and industrial business park buildings able to accommodate tenants that desire immediate proximity to Sea-Tac Airport for their business (such as freight, avionics manufacturers, air cargo company offices, etc.). Their vision is to create a Class A business park that will be well-positioned for large-scale users seeking a close-in location to the Airport and seaport. The build-out of the project is expected to be in several phases over 7 years, with ground breaking for the first phase as soon as the spring of 2014.

Founded in 1986, Panattoni Development Company, Inc. is one of the largest commercial real estate development companies in the world having developed 175 million square feet of space globally. The Newport Beach-based company currently operates 28 offices in the United States, Canada, and Europe and has extensive experience in the development of industrial, office, retail, and mixed-use projects. In Seattle, Panattoni has completed 64 buildings totaling 7.2 million square feet since 2003 and currently has over 1 million square feet in the pipeline. The Des Moines Creek project is being marketed by Kidder Mathews of Seattle.

The Port of Seattle is nearing completion of negotiations of an option agreement and long-term ground lease with Panattoni. These agreements along with the Amended and Restated Second Development Agreement will be brought to the Port of Seattle Commission for final approval in March following action by the Des Moines City Council.

Discussion:**Development Agreement**

As envisioned in the First Development Agreement, the City has also been working with the Port to finalize an Amended and Restated Second Development Agreement addressing the development of the entire DMCBP. The proposed Restated and Amended Second Development Agreement is included as Attachment 1. The proposed terms of the Development Agreement include:

- ***Frontage Improvements.*** As the DMCBP site is built out, the Port or its developers would normally be responsible for the frontage improvements along South 216th Street and 24th Avenue South. Typically each individual developer would construct the improvements adjacent to their site in stages which would be significantly more costly than widening the streets as one integrated project given the magnitude and complexity of the Gateway Project. Therefore, the Port agreed to and has already made a discounted advance payment of all in-lieu fees in order to advance the construction the Gateway Project in accordance with the June 2012 Second Development Agreement. The Port's early payment assisted the City in securing state and federal grants to complete the Gateway Project. In consideration of the Port's advance payment of all in-lieu fees, the City reduced the Port's total payment from approximately \$9.1 million to \$6 million.
- ***Transportation Impact Fees.*** In consideration for the Port advance payment of in-lieu fees, the Port will not be required to pay transportation impact fees. As the Gateway Project is one of the projects on the City's Transportation Impact Fee Rate Study, the Port would have received a credit for the amount of the in-lieu payment against the Transportation Impact Fees. Other project and system improvements (e.g., SEPA mitigation) identified in the EIS may be required as the DMCBP site is built out.
- ***Access and Internal Roadways.*** The Port will construct three new streets, South 208th Street, South 211th Street, and South 214th Street/20th Avenue South, that upon completion will be dedicated to and maintained by the City as public streets. South 214th/20th Avenue South may be constructed in two phases. The first phase will be constructed concurrent with development of Area 2. Construction of the second phase may occur with development of the remainder of the DMCBP site depending on traffic loads calculated when the final Area 2 building is constructed.
- ***Modification of the Development Regulations.*** As part of the Agreement, the City would agree to modify the following three development regulations in order to facilitate the construction of the DMCBP:
 - ***Parking.*** The Development Agreement waives the requirement that Panattoni provide additional parking based on the square footage of any exterior storage yards.
 - ***Landscaping.*** The twenty foot wide landscaping strip adjacent to South 216th Street and 24th Avenue South which is also required to contain an earthen berm at least five feet in height¹ would be modified to a 10 foot wide Type II landscaping

¹ 18.195.340(2)

strip. This modified landscaping strip is the same requirement adjacent to 24th Avenue South for developments in the South Sub-Area of the B-P Zone².

- **Performance Standards.** The requirement that warehouse, light manufacturing and distribution buildings be designed and oriented to locate the shorter width of the building toward the public right-of-way would be waived. The buildings will be designed so that the office portion will be oriented towards the adjacent public street with the highest classification.
- **Recreation Improvements.** The Port will construct the following recreation improvements:
 - **Joint Use Access Path.** This pathway will be located adjacent to South 214th Street and 20th Avenue South north of South 216th Street and will provide space for both bikes and pedestrians similar to the Des Moines Creek Trail. This pathway will ultimately connect to the Barnes Creek Trail and the Des Moines Creek Trail.
 - **Des Moines Creek Trail Connection.** This connection will also be a joint use pedestrian and bike pathway ultimately providing a connection between the Joint Use Access Path and the Des Moines Creek Trail. The Port would construct a spur from the Joint Use Access Path to the western boundary of the DMCBP. The remainder of the connection would be constructed when the properties to the west are developed in the future.
- **Critical Area Easement.** In order to mitigate the impacts associated with filling the 5 small wetlands, less than ¼ acre in total, the Port is required to create new wetland areas at a 2:1 ratio. One of the areas targeted for this required wetland mitigation is around one of the off-site wetlands to the west which is located on City property as illustrated on Attachment 4. This area is currently encumbered with a number of critical areas and as such is not developable; therefore, the mitigation will not impact the future use of the property. As part of the Development Agreement, the City would agree to allow the Port to construct the mitigation for the DMCBP at this location. The specific language of the easement would be brought back to the City Council for approval if the site is selected for mitigation. However, the Port also has the option to purchase credits from the King County Wetland In-Lieu Fee Program to fulfill their mitigation requirement.
- **Storm Water Management.** The Port will construct two storm water ponds to address surface water runoff. One detention pond will be constructed to serve the northern two-thirds of the DMCBP and a second pond will be constructed for the south one-third adjacent to South 216th Street. Both storm water facilities will be deeded to the City upon completion and maintained by the City³.
- **Duration and Termination.** The Amended and Restated Second Development Agreement will remain in effect for 15 years unless the term is extended, the DMCBP is fully developed, or the Agreement is terminated.

² 18.195.340(2)

³ DMMC 17.35.130

- ***Vesting of Development Regulations.*** All development regulations that govern development of the DMCBP site and that are in effect when the City approves the Development Agreement will vest for a 15-year period, subject to the City's authority to impose new or different regulations to the extent necessary or required to address a threat to public health or safety. Changes in permitted uses may be made provided that those changes are not more restrictive. In addition, compliance with the International Building Code, the City's Street Development Standards, the City's NPDES permit, and other regulatory codes adopted by the State and County may preempt the development regulations in effect as of the date the Port submits a particular development application to the City for review.

Panattoni Master Plan

The DMCBP is zoned Business Park (B-P) and is located within the North Subarea of the North Central Des Moines Neighborhood and as such, a master plan is required to be approved by the City for any proposed development. A complete master plan includes two key components. First, a site plan is required which provides a graphic depiction of the general layout, type, and amount of development on a site.⁴ Second, a project narrative is also required which includes a description of the planned improvements and discussion of items such as the maximum site coverage, the types of uses, building heights, and the extent of off-site improvements.⁵

The master plan is required to be reviewed and approved by the City Council and is therefore classified as a Type IV land use action requiring a public hearing with the City Council. Following the approval of the Master Plan, the applicant is then required to obtain administrative approval for a short subdivision, design review, civil engineering, grading, building and other construction permits.⁶

The proposed conceptual site plan for the project is included as Attachment 5 and the project narrative is included as Attachment 6. Together these documents are the Master Plan for the development of Areas 1 and 2. To expedite permitting and Port Commission approval of the lease and the Amended and Restated Second Development Agreement in March, and in recognition of the City Council's June 2012 review and approval of the technical details of the DMCBP Master Plan as part of the Second Development Agreement, the City Council delegates final review of certain technical details of the Master Plan as elaborated in Draft Resolution 14-0213.

- ***Lot Coverage:*** The maximum allowable site coverage for buildings, structures and paved or gravel surfaces is 75 percent⁷. Proposed building heights are currently unknown. The proposed buildings and impervious surfaces in Areas 1 and 2 will cover approximately 69% of the proposed 63.3 acre project site.
- ***Critical Areas:*** Beyond the property lines to the west is the Des Moines Creek ravine. This environmentally critical area will be placed into a critical area tract and will be preserved in its current native condition. In addition to the ravine, there are 2 minor wetlands and a number of storm water ditches that are under the jurisdiction U.S. Army Corps of Engineers. The applicant is working with the Corps to finalize the permits to fill

⁴ DMMC 18.105.050

⁵ DMMC 18.105.050

⁶ DMMC 18.105.050

⁷ DMMC 18.105.060

these regulated water features. The City agreed to waive the local permitting requirements for the wetlands as part of the First Development Agreement between the City and the Port. There are also a number of wetlands located beyond the western edge of the proposed site which will also be placed into protective critical area tracts.

Alternatives:

Amended and Restated Second Development Agreement: With respect to the proposed Amended and Restated Second Development Agreement, the City Council has the following alternatives:

1. Alternative 1: Do Nothing

The City Council could decline to enter into the Amended and Restated Second Development Agreement. Under this scenario, Panattoni would also have to redesign its project because a number of the modifications to the development regulations are critical to the approval of the Master Plan for their project. This is not the recommended alternative.

2. Alternative 2: Authorize the City Manger to Sign the Agreement

The City Council can adopt Draft Resolution 14-013 authorizing the City Manger to sign the Amended and Restated Second Development Agreement once the technical review and approval of certain Master Plan elements are completed. This option will ensure the earliest possible construction start of the Panattoni Project. This is the recommended alternative.

3. Alternative 3: Renegotiate the Agreement

The City Council can decline to adopt Draft Resolution 14-013 and instruct Administration to renegotiate a portion or all of the Amended and Restated Second Development Agreement. The Council would need to provide specific direction to Administration regarding the areas that would need to be renegotiated with the Port. This option would delay site development activities tentatively scheduled to begin on April 1st. This is not the recommended alternative.

Panattoni Master Plan: With respect to the proposed Master Plan, the City Council has the following alternatives:

1. Alternative 1: Do Nothing

The City Council may determine that particular conditions exist that warrant denying or delaying approval of the Master Plan; however, these conditions would have to be clearly articulated. This alternative results in construction delays, no near-term revenue and other economic benefits for the City. This is not the recommended alternative.

2. Alternative 2: Approval of the Master Plan

The City Council may approve the Master Plan with conditions set out in Draft Resolution 14-013. This alternative would result in both significant short term and long term financial

and economic benefits to the City as discussed in Financial Impact section. This is the recommended alternative.

3. *Alternative 3: Approval of the Master Plan with Conditions*

The City Council may conditionally approve the Master Plan; provided that the conditions are proportional to the impact and are supported by the public record. This is not the recommended alternative.

4. *Alternative 4: Delay Approval of the Master Plan until a Later Council Meeting.*

If the Council is not comfortable with approving the Master Plan with conditions set out in Draft Resolution 14-013, it may conditionally approve the Amended and Restated Development Agreement subject to further review and approval of the Master Plan, so that the Port commission can schedule action in March. Under this alternative, the Council would need to continue the public hearing for further consideration of the Master Plan elements for sometime in March, preferably before the scheduled March 25th Port Commission meeting at which the Amended and Restated Second Development Agreement will be considered.

Financial Impact:

The first phase of the proposed Panattoni development is expected to produce permanent and construction jobs, one time and on-going revenue, and construction sales tax. The specific benefits have not yet been estimated.

Recommendation/Conclusion:

Administration has reviewed the Master Plan and determined that the proposed Master Plan is consistent with the requirements of B-P Zone (Chapter 18.105 DMMC). Administration has also determined that the project achieves a number of the economic goals and strategic objectives of the City. Specifically, approving the Master Plan will achieve or implement the following City strategic objectives:

- **City Council Objectives:** A Strategic Objective of the City Council is to develop opportunities of the DMCBP returning vacant land which has laid fallow for the last twenty-years to an economically productive use. The development of the property will also create an alternative revenue source to address the City's structural deficit, another short term Strategic Objective of the City Council.
- **Des Moines Comprehensive Plan:** The proposed new development will enhance the economic quality of the City as directed in Policy 2-03-09. The development will also help the City achieve its job target established in Appendix B.
- **Des Moines Municipal Code:** A primary purpose and objective of the Business Park (B-P) Zone is to provide suitable areas of the City for development of compatible professional office and wholesale trade uses that provide for the planned economic development of the City.

Therefore, following the public hearing for this quasi-judicial action, Administration requests the City Council pass the Draft Resolution authorizing the City Manager to sign the Amended and Restated Second Development Agreement and approve the Panattoni Master Plan subject to conditions in the Resolution.

Concurrence:

South King Fire and Rescue has reviewed the proposed layout and has approved the layout for fire access purposes.

PLANNING, BUILDING & PUBLIC WORKS FIRST DRAFT 02/12/2014

DRAFT RESOLUTION NO. 14-013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, approving the Restated and Amended Second Development Agreement By and Between the City of Des Moines (the "City"), and the Port of Seattle (the "Port").

WHEREAS, the City of Des Moines, pursuant to chapter 36.70B RCW has the authority to enter into a development agreement for development of property within its jurisdiction, and

WHEREAS, the Port owns property located within the City of Des Moines and wishes to develop the property, and

WHEREAS, the City Council desires to expedite the review and approval of this Amended and Restated Second Development Agreement so that it can be considered by the Port of Seattle Commission at its March 25, 2014 meeting, and

WHEREAS, DMMC 18.105.050 provides for the City Council to review all the environmental and engineering details of any master plan presented for its approval, and

WHEREAS, the City Council has had an opportunity for an environmental and engineering review and approval process for this master plan in conjunction with its June 2012 review and approval of the Second Development Agreement. The technical detail of the current master plan does not materially differ from the June 2012 master plan, and staff will ensure there are no material changes in addition to those reviewed on February 20, 2014 by the City Council, and

WHEREAS, pursuant to RCW 36.70B.200, a public hearing was held before the City Council on February 20, 2014, and all persons wishing to be heard were heard; now therefore,

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

The City Council hereby authorizes the City Manager to enter into the Restated and Amended Second Development Agreement By and Between the City of Des Moines and Port of Seattle,
2/5/2014

Resolution No. ____
Page 2 of ____

substantially in the form as attached hereto as Attachment "A" and incorporated herein by reference, for the development of the Des Moines Creek Business Park once all master plan requirements of DMMC 18.105.050, are approved including:

1. A complete site plan consistent with the Conceptual Site Area shown in Exhibit B of the Agreement;
2. Conceptual building locations, parking areas, and landscaping plans;
3. A conceptual utilities plan;
4. Covenants, conditions, and restrictions controlling future development;
5. A sign program;
6. A subdivision application;
7. Satisfactory completion of the environmental checklist;
8. A narrative description of the project proposal consistent with DMMC 18.105.050(3)(e);
9. An acceptable traffic analysis and report consistent with DMMC 18.105.050(3)(f);

ADOPTED BY the City Council of the City of Des Moines, Washington this 20th day of February, 2014 and signed in authentication thereof this ____ day of February, 2014.

M A Y O R

APPROVED AS TO FORM:

City Attorney

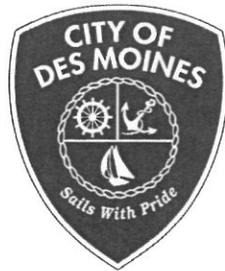
ATTEST:

City Clerk

2/12/14 2:01 PM

**AMENDED & RESTATED SECOND
DEVELOPMENT AGREEMENT
BY AND BETWEEN**

**THE CITY OF DES MOINES
and
THE PORT OF SEATTLE**



_____, 2014

TABLE OF CONTENTS

SECTION 1. DEFINED TERMS..... 2

1.1 Agreement..... 3

1.2 Conceptual Master Plan..... 3

1.3 DMCBP..... 3

1.4 DMMC..... 3

1.5 Development Regulations..... 3

1.6 Environmental Documents..... 3

1.7 Master Plan..... 3

1.8 Permitted Uses..... 3

1.9 Port..... 3

1.10 Project..... 3

1.11 Transportation Gateway Project..... 3

 1.11.1 S. 216th St. - Segment 1A:..... 4

 1.11.2 S. 216th St. - Segment 1B:..... 4

 1.11.3 S. 216th St. - Segment 2:..... 4

 1.11.4 24th Avenue South Segment:..... 4

SECTION 2. PURPOSE..... 4

2.1 General..... 4

2.2 Assurances..... 4

SECTION 3. PROPERTY DESCRIPTIONS..... 5

3.1 Property..... 5

3.2 Zoning Designation..... 5

SECTION 4. PARTIES..... 5

4.1 The City..... 5

4.2 The Port..... 5

SECTION 5. PROJECT..... 6

5.1 General..... 6

5.2 Phases..... 6

 5.2.1 Area 1 –..... 6

 5.2.2 Area 2 –..... 6

 5.2.3 Area 3 –..... 6

SECTION 6. BACKGROUND DOCUMENTATION AND PREVIOUS AGREEMENTS... 6

6.1 General..... 6

6.2 DMCBP Conceptual Master Plan..... 6

6.3 DMCBP Draft EIS..... 7

6.4 DMCBP Final EIS..... 7

6.5 Traffic Trip Thresholds Technical Memorandum..... 7

DRAFT 10: 0212/14

6.6 Wetland Re-Delineation Report..... 7

SECTION 7. DEVELOPMENT REGULATIONS 7

7.1 General..... 7

7.2 Parking..... 7

7.3 Recreation Requirements..... 7

7.3.1 Joint Use Access Path..... 8

7.3.2 Des Moines Creek Trail Connection..... 8

7.4 Landscaping Requirements..... 8

7.5 Performance Standards..... 8

SECTION 8. MASTER PLAN..... 8

8.1 Approval..... 8

8.2 Limitation..... 9

SECTION 9. STATE ENVIRONMENTAL POLICY ACT (“SEPA”) 9

9.1 Development Agreement..... 9

9.2 SEPA Review..... 9

9.3 Supplemental Traffic Impact Analysis..... 9

9.4 Other Mitigation Measures..... 9

SECTION 10. [INTENTIONALLY DELETED]..... 10

SECTION 11. TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS..... 10

11.1 Access and Internal Roadways..... 10

11.1.1 South 208th Street (Public)..... 10

11.1.2 South 211th Street (Public)..... 10

11.1.3 South 214th Street/20th Avenue South (Public):..... 11

South 214th Street/20th Avenue South..... 11

11.2 Frontage Improvements..... 12

11.2.1 South 216th Street..... 13

11.2.2 24th Avenue South..... 13

11.2.3 20th Avenue South Traffic Signal..... 13

11.2.4 South 208th Street Traffic Signal..... 14

11.3 Transportation Impact Fees..... 14

11.4 Project and System Improvements..... 14

SECTION 12. DRAINAGE REQUIREMENTS AND INFRASTRUCTURE..... 15

12.1 General..... 15

12.2 Standard..... 15

12.3 Surface Water Management Fees..... 15

12.4 Flow Control..... 15

12.6 Drainage Reports..... 16

12.6.1 Areas 1 and 2..... 16

12.6.2 Area 3..... 16

SECTION 13. ENVIRONMENTALLY CRITICAL AREAS 16

DRAFT 10: 0212/14

13.1 Wetlands and Ditches. 16

13.2 Permits. 16

13.3 Mitigation Site. 16

13.4 Critical Aquifer Recharge Area. 16

13.5 Tracts..... 17

SECTION 14. PERMITTING..... 17

14.1 General..... 17

14.2 Short Subdivision. The Port shall submit, for City approval, a Short Subdivision application consistent with the approved Master Plan and DMMC 17.12 17

14.3 Design Review. 17

14.4 Clearing and Grading..... 17

14.5 Building Permits. 17

14.6 Right-of-Way Permits..... 17

14.7 Permit Fees..... 18

SECTION 15. VESTED RIGHTS AND TERM..... 18

15.1 Duration and Termination..... 18

15.2 Vesting of Development Regulations. 18

SECTION 16. CERTAINTY OF DEVELOPMENT AGREEMENT..... 19

16.1 Development Agreement Deemed Controlling. 19

16.2 Subsequent Actions..... 19

16.3 Changes in the Law..... 19

16.4 Emergency Situations. 19

SECTION 17. GENERAL PROVISIONS 19

17.1 Notices, Demands and Communications. 19

17.2 Amendments. 20

17.3 Other Government Approvals..... 20

17.4 Conflict of Interests..... 20

17.5 Non-Liability of City, Officials, Employees, and Agents. 20

17.6 Enforced Delay. 20

17.7 Title of Parts and Sections. 21

17.8 Hold Harmless. 21

17.9 Enforcement, Rights and Remedies Cumulative. 21

17.10 Applicable Law..... 21

17.11 Severability. 21

17.12 Legal Actions. 21

17.13 Binding Upon Successors. 22

17.14 Parties Not Co-ventures. 22

17.15 Warranties. 22

17.16 Reasonable Approvals. 22

17.17 Recordation..... 22

DRAFT 10: 0212/14

17.18 Execution of Other Documentation. 22
17.19 Complete Understanding of the Parties. 22

EXHIBITS

- A DMCBP Legal Description*
- B Master Plan*
- C Environmental Mitigation (SEPA)*
- D Development Traffic Trip Thresholds*
- E Wetland Mitigation Area Map*
- F Executive Order 13-003: City-Wide Development Incentive (Permit Fees)*

**AMENDED & RESTATED SECOND DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF DES MOINES
and
THE PORT OF SEATTLE**

THIS AMENDED & RESTATED SECOND DEVELOPMENT AGREEMENT, hereinafter referred to as the “Agreement”, is entered into effective on the _____ day of _____, 2014 by and between the City of Des Moines, a Washington municipal corporation (hereinafter referred to as the “City”) and the Port of Seattle, a Washington municipal corporation (hereinafter referred to as the “Port”) in connection with the real property described herein (hereinafter referred to as the “Property”), and development of the Property by its assigns for the purposes and on the terms and conditions set forth herein.

RECITALS

A. The City is a non-charter code city organized pursuant to Chapter 35A.13 RCW of the laws of the State of Washington having authority to enact laws and enter into agreements to promote the health, safety, and welfare of its citizens, and thereby control the use and development of property within its jurisdiction.

B. The Port is a municipal corporation, with authority under the Revised Airports Act, Chapter 14.08 RCW; the Airport Zoning Act, Chapter 14.12 RCW, the State Environmental Policy Act (SEPA), Chapter 43.21C RCW; certain port district enabling statutes; and other state and local laws, to exercise discretionary land use jurisdiction over real property located within its boundaries.

C. The Port and City share the goals of creating an attractive and safe commercial development, an employment center that provides family wage jobs, a new source of direct and indirect long-term revenue for both the Port and the City, and increasing trade opportunities for the region.

D. The Port and the City executed the “First Development Agreement” concerning the Property in July 2005 under the authority of RCW 36.70B.170-.210 and the Interlocal Cooperation Act, Chapter 39.34 RCW, to enter into agreements for joint performance of actions within their separate powers.

E. The Port and City subsequently amended the First Development Agreement with a First Addendum in May 2008, and a Second Addendum modifying the First Addendum in

November 2010 regarding compensation for dedicated and deeded rights of way and purchase of right of way frontage within and for the Des Moines Creek Business Park (DMCBP).

F. The Port and City entered into a Second Development Agreement as of June 15, 2012 which this Agreement amends and restates in its entirety to reflect the revised terms and conditions under which the Property will be developed.

G. RCW 36.70B.170. et. seq., authorizes the City to enter into development agreements with owners, contract purchasers, and option holders of real property, to establish, among other things, the “development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.

H. RCW 36.70B.190 requires that any development agreement be recorded with the real property records of King County.

I. The City and the Port have agreed to enter into this Agreement to establish, among other things, the development standards and other provisions that shall apply to, govern and vest the development, use, and mitigation of the development of the Property for the duration specified in the Agreement.

J. The proposed Project accomplishes the statutory intent of a comprehensive, orderly, planned development within the City, providing public benefits to the citizens and residents of the City.

K. Pursuant to RCW 36.70B.200, a public hearing has been held before the City Council and the City Council has enacted Resolution _____ authorizing the City Manager to enter into this Agreement, and

L. The Port Commission voted on _____, 2014 to authorize the Port Chief Executive Officer to enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants of the parties contained herein, and pursuant to RCW 36.70B.170-200, the parties hereto agree as follows:

AGREEMENT

SECTION 1. DEFINED TERMS

Terms not otherwise defined herein have the meaning set forth in 36.70B.170 RCW, the provisions of which are incorporated herein by reference.

1.1 Agreement. This Amended & Restated Second Development Agreement by and between the City of Des Moines and the Port of Seattle.

1.2 Conceptual Master Plan. *The Des Moines Creek Business Park Conceptual Master Plan* dated April 2006 prepared by CH2M Hill.

1.3 DMCBP. The Des Moines Creek Business Park, an approximately 89-acre property owned by the Port within the City, which can be generally described as the area bounded by South 216th Street to the south, the City municipal boundary to the north (roughly South 208th Street), 24th Avenue South to the east and the surplus SR 509 right-of-way to the west.

1.4 DMMC. The Des Moines Municipal Code.

1.5 Development Regulations. The controls, requirements, and limitations placed on development within the City adopted by the City, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, drainage requirements, transportation requirements, SEPA ordinances, and subdivision ordinances.

1.6 Environmental Documents. The background environmental studies identified in Sections 6.3 – 6.6 of this Agreement.

1.7 Master Plan. The generalized layout plans for development of the Property, including but not limited to environmental protections, transportation, surface water, general building location, associated parking facilities, loading facilities, square footage of buildings, utilities, and identification of lots and tracts.

1.8 Permitted Uses. The uses allowed on properties zoned Business Park (B-P) as established by DMMC 18.52.010B.

1.9 Port. The Port of Seattle and/or the developer(s) who have executed a ground lease with the Port for development within the DMCBP.

1.10 Project. The phased build-out of the DMCBP consistent with the terms of this Agreement.

1.11 Transportation Gateway Project. The City's project to construct transportation improvements to the South 216th Street and 24th Avenue South rights-of-way to accommodate multiple modes of travel (pedestrians, bicycles, transit, automobiles, & freight) in support of the

DMCBP as well as accommodating future growth as reflected in the City's Comprehensive Transportation Plan. The project limits for South 216th Street are between I-5 and 18th Avenue South and for 24th Avenue South are between South 208th Street and South 216th Street. The project has been split in to the following segments:

- 1.11.1 S. 216th St. - Segment 1A:** This segment of the project includes the portion of South 216th Street from 29th Avenue South to 24th Avenue South.
- 1.11.2 S. 216th St. - Segment 1B:** This segment of the project includes the portion of South 216th Street from 29th Avenue South to I-5. It is envisioned that Segment 1B of the project will be constructed concurrent with the State's SR 509 construction project and in coordination with the City of SeaTac.
- 1.11.3 S. 216th St. - Segment 2:** This segment of the project includes the portion of South 216th Street from 24th Avenue South to 18th Avenue South including the 24th/216th intersection.
- 1.11.4 24th Avenue South Segment:** The portion of 24th Avenue South from South 208th Street to South 216th Street.

SECTION 2. PURPOSE.

2.1 General. The parties agree that this Agreement is premised upon the DMCBP Master Plan (**Exhibit B**), being approved by the City and the subsequent administrative approval and recordation of the DMCBP Short Plat. This Agreement addresses the development standards and other provisions that apply to and govern and vest the development, use, and mitigation of the development of the Property for the duration specified herein. It will guide the phased development of the Project, including addressing the street and stormwater improvements related to build-out of the Project.

2.2 Assurances. The Port desires to obtain and the City makes the following assurances:

- The Property is appropriately zoned to serve the needs envisioned in the Master Plan.
- The requirements for improvements to public streets and related infrastructure under the jurisdiction of the City are specifically identified.

- The development standards, including any modifications and other provisions which apply to the development of the Property, are clearly specified.
- Required environmental mitigation is accurately identified.
- Upon receipt of its development and construction permits the Port may proceed with the development of the Project.
- The Development Regulations vested for the duration of the Project are clearly identified.

SECTION 3. PROPERTY DESCRIPTIONS

3.1 Property. The Property subject to this Agreement is commonly referred to as the DMCBP and is fully described in **Exhibit A** attached hereto and incorporated herein by this reference.

3.2 Zoning Designation. The zoning designation of the Property as Business Park (B-P) and the current Permitted Uses associated therewith shall not be more restrictive than those in effect as of the date hereof for the duration of this Agreement as provided for in Section 15 below.

SECTION 4. PARTIES

4.1 The City. The City of Des Moines, a municipality of the State of Washington, exercises governmental functions and powers pursuant to the laws of the State of Washington and the DMMC. The principal office of the City is located at 21630 11th Avenue South, Des Moines, Washington 98198.

4.2 The Port. The Port of Seattle, a municipal corporation, exercises governmental functions and powers pursuant to the laws of the State of Washington. The principal office of the Port is located at 2711 Alaskan Way, Seattle, Washington 98121.

4.3 The Developer. The Port anticipates entering into option and ground lease agreements with Panattoni Development Company, Inc. or a related entity under which agreements Panattoni will assume the rights and obligations of the Port under this Agreement.

SECTION 5. PROJECT

5.1 General. The DMCBP is envisioned as a thriving center for diverse light industrial and commercial activities.

5.2 Phases. It is anticipated that the Project will be developed in three phases that correspond to the three geographical areas identified in the Master Plan (**Exhibit B**) and generally described as follows:

5.2.1 Area 1 – Area 1 consists of Lots 1 – 3, Tracts A, Y and Z, and South 208th Street and South 211th Street of the DMCBP Short Plat, and covers approximately 30 acres. The Port anticipates this area will be developed with approximately 535,830 square feet of business park uses, including light industrial or commercial office uses.

5.2.2 Area 2 – Area 2 consists of Lots 4 – 5, and South 214th Street of the DMCBP Short Plat and covers approximately 30 acres. The Port anticipates this area will be developed with approximately 497,425 square feet of business park uses, including light industrial or commercial office uses.

5.2.3 Area 3 – Area 3 consists of Lots 6 – 9, Tracts B, D and X, and 20th Avenue South of the DMCBP Short Plat. The Port anticipates this area will be developed with business park uses, including light industrial, commercial office, or retail uses.

SECTION 6. BACKGROUND DOCUMENTATION AND PREVIOUS AGREEMENTS

6.1 General. The terms of this Agreement and the development envisioned for the DMCBP is influenced by a number of previous documents. The documents identified in this Section evaluated numerous aspects of the Property and provide critical information utilized to formulate decisions associated with the development of the Property and the preparation of this Agreement.

6.2 DMCBP Conceptual Master Plan. *The Des Moines Creek Business Park Conceptual Master Plan* dated April 2006 prepared by CH2MHill. This report presented illustrative concepts for the development of the DMCBP given the site's physical features, the applicable development regulations, and market conditions. It was meant to be representative of

the range of possible future buildout scenarios. This report was also utilized to complete the environmental review analysis required under the State Environmental Policy Act (SEPA).

6.3 DMCBP Draft EIS. The *Des Moines Creek Business Draft Environmental Impact Statement* dated November, 2006 prepared by Blumen Consulting Group Inc., A.C. Kindig and Co., Cedarock Consultants, and CH2MHill. The Draft Environmental Impact Statement (DEIS) analyzed and identified the probable significant environmental impacts that could occur as a result of development of the DMCBP. The DEIS also identified environmental mitigation measures that must be incorporated into the Project to reduce or prevent the identified environmental impacts. The DEIS was completed jointly by the City and the Port as SEPA Co-Lead Agencies.

6.4 DMCBP Final EIS. The *Des Moines Creek Business Final Environmental Impact Statement* (FEIS) dated March, 2007 prepared by Blumen Consulting Group Inc., A.C. Kindig and Co., Cedarock Consultants, and CH2MHill. The FEIS provided additional information and responses based on comments received during the comment period for the DEIS. Together, the FEIS and DEIS comprise the environmental impact statement for the DMCBP project as required by SEPA.

6.5 Traffic Trip Thresholds Technical Memorandum. The *Des Moines Creek Business Park – Draft Project Element Traffic Trip Thresholds Technical Memorandum* dated February 20, 2007 prepared by CH2MHill. This technical memorandum describes the projected traffic volume the DMBCP could generate before triggering the project elements described in the Traffic Analysis Report of the DMCBP DEIS (**Exhibit D**).

6.6 Wetland Re-Delineation Report. The 2014 *Wetland Delineation and Habitat Assessment – Des Moines Creek Business Park Facilities* prepared by Soundview Consultants. The report re-delineated and assessed the wetlands and other potentially regulated aquatic features of the Property.

SECTION 7. DEVELOPMENT REGULATIONS

7.1 General. The Port shall comply with all applicable Development Regulations, except as modified by this Agreement.

7.2 Parking. The City agrees to waive the parking requirement established by DMMC 18.210.090(5)(c) that requires one (1) parking space for every 2,000 square feet of uncovered storage area for Area 1, 2 & 3 pursuant to DMMC 18.210.070(1).

7.3 Recreation Requirements. The Port shall provide the recreational facilities described in this Section.

7.3.1 Joint Use Access Path. The Port will construct a 12-foot-wide joint use pedestrian and bike pathway located adjacent to South 214th Street and 20th Avenue South north of 216th Street (previously identified as the Internal Loop Road). The construction of the joint use access pathway will be completed in conjunction with the construction of South 214th Street and 20th Avenue South, connecting at South 216th Street. The Joint Use Access Path will be completed as part of the construction of Areas 2 & 3 where South 214th Street is planned and connecting to 20th Avenue South as shown on the Master Plan.

7.3.2 Des Moines Creek Trail Connection. The Port will construct a 12-foot-wide joint use pedestrian and bike pathway within a 24-foot-wide tract to provide a connection to the Des Moines Creek Trail in conjunction with the development of Area 3. The location of the tract will be south of the tract established for the detention facilities for Areas 1 and 2, as illustrated on the Master Plan (**Exhibits B**). The tract will be established as part of the DMCBP Short Plat. This connection will provide access from the Joint Use Access Path via Barnes Creek Trail to the Des Moines Creek Trail which is part of the Lake to Sound Regional Trail System.

7.4 Landscaping Requirements. The City agrees to waive the requirement of DMMC 18.195.340(2) that sites within the DMCBP provide a twenty (20) feet wide Type I landscaping strip including a five (5) foot tall earthen berm adjacent to 24th Avenue South and South 216th Street pursuant to DMMC 18.230.120. In lieu of the required landscaping, the Port agrees to install a ten (10) foot wide Type II landscaping strip as defined by DMMC 18.195.390 along 24th Avenue South and South 216th Street.

7.5 Performance Standards. The requirement of DMMC 18.105.070(4)(c) that warehouse, light manufacturing and distribution buildings be designed and oriented to locate the shorter width of the building toward the public right-of-way is waived. Buildings will be designed so that the office portion will be oriented towards the adjacent public street with the highest classification.

SECTION 8. MASTER PLAN

8.1 Approval. The City agrees that the Master Plan attached as **Exhibit B** and incorporated by this reference satisfies requirements of DMMC 18.105.050 for Area 1 & 2. The Port agrees that a master plan amendment for Area 3 will be submitted to the City for review that will be processed in accordance with DMMC 18.105.060 and as an amendment to this Agreement pursuant to Section 17.2.

8.2 Limitation. The Parties acknowledge that approval of the Master Plan by the City constitutes approval of the general layout of the Project and is subject to permitting conditions to be identified on individual permits. Master Plan approval does not constitute acceptance or approval of specific details of the Project. When the Port seeks permits to develop an individual area within the Property, the Port shall submit appropriate permit applications which include but are not limited to the applications identified in Section 14 and the supplemental traffic impact analysis as described in Section 9.3.

SECTION 9. STATE ENVIRONMENTAL POLICY ACT (“SEPA”)

9.1 Development Agreement. The City’s approval of a development agreement is a “project action” as defined by the State Environmental Policy Act (SEPA) and, as such, requires environmental review. The Parties agree that the SEPA review required for consideration and adoption of this Agreement has been fulfilled with the publication of the Environmental Documents.

9.2 SEPA Review. The Parties acknowledge that the Environmental Documents fully evaluated the environmental impacts from the development of the Project and that the City will review the submitted materials to ensure that the project is within the list of Proposed Actions evaluated. Given that the size of the development proposed for Areas 1 and 2 (approximately 1.0 million square feet) is within the upper limit of the SEPA evaluation (900,000 - 1.1 million square feet), additional environmental review may be required for Area 3 development.

9.3 Supplemental Traffic Impact Analysis. Several project and system improvements were identified within the Environmental Documents, and assumed to be constructed and in place at various points of the phased build-out of the Project. In order to mitigate the traffic impacts associated with the Project, trip thresholds were established that would trigger these various project and system improvements. The Port shall submit, for City review and approval, a supplemental traffic impact analysis with each phase of the Project to document that the proposed phase of the Project is consistent with the traffic analysis in the Environmental Documents. If the proposed phase of the development is not consistent with the traffic analysis in the Environmental Documents, additional mitigating measures may be required.

9.4 Other Mitigation Measures. As triggered during build-out of the Project, the Port agrees to implement the other environmental mitigation measures not related to traffic impacts established by the Environment Documents and provided in **Exhibit C**.

SECTION 10. [INTENTIONALLY DELETED]

SECTION 11. TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS

11.1 Access and Internal Roadways. Roadways on the Property accessing South 216th Street and 24th Avenue South shall be built to City of Des Moines Street Development Standards (Street Design and Construction Standards) as described in this Section.

11.1.1 South 208th Street (Public). The Port shall construct the northern access roadway identified in the Environmental Documents generally within the boundaries of the vacated/surplused South 208th Street; provided that the roadway will be modified to be a dead end cul-de-sac.. This road will be placed within a 60-foot-wide right-of-way, shall align with South 208th Street on the east side of 24th Avenue South, and shall be dedicated to the City as part of the DMCBP Short Plat. Prior to the construction of the road, the Port shall prepare civil engineering plans for review and approval by the City generally consistent with the cross-section provided in the City's Street Development Standards. The City will take over maintenance responsibility of this roadway when its construction is completed, and it is accepted in accordance with the provisions of the City's right-of-way permit. The threshold trigger for completion of South 208th Street shall be concurrent with the development of Area1.

The Port shall have the option of paying the design and construction change order cost of the City associated with building the roadway approach and sidewalk curb returns located in the right-of-way, or build these improvements independently of the City's current 24th Avenue South construction project. The City has made adjustments to the locations of the utilities and associated vaults to accommodate the roadway approach at South 208th Street, on the west side of 24th Avenue South.

11.1.2 South 211th Street (Public). The Port shall construct an internal roadway identified in the Environmental Documents South 211th Street; provided that the roadway will be modified to be a dead end cul-de-sac and not be connected to South 214th Street or 20th Avenue South discussed in Section 11.1.3 with a public roadway. This road will be placed within a 60-foot-wide right-of-way, and shall align approximately with the South 21100 Block on the of 24th Avenue South, and shall be dedicated to the City as part of the DMCBP Short Plat. Prior to the

construction of the road, the Port shall prepare civil engineering plans for review and approval by the City generally consistent with the cross-section provided in the City's Street Development Standards. The City will take over maintenance responsibility of this roadway when its construction is completed, and it is accepted in accordance with the provisions of the City's right-of-way permit. The threshold trigger for completion of South 211th Street shall be concurrent with the development of Area 1. The Port shall construct South 211th Street north of the boundary of the vacated/surplused South 212th Street as shown on the Master Plan.

The Port shall have the option of paying the design and construction change order cost of the City associated with building the roadway approach located in the right-of-way, or build these improvements independently of the City's current 24th Avenue South construction project. The City has made adjustments to the locations of the utilities and associated vaults to accommodate the roadway approach at South 211th Street on the west side of 24th Avenue South.

- 11.1.3 South 214th Street/20th Avenue South (Public):** The Port shall construct the internal road providing a connection from South 216th Street to 24th Avenue South as identified in the Environmental Documents; provided that the alignment of the roadway will be modified to connect to 24th Avenue South at the approximate location of the vacated/surplused South 214th Street.

South 214th Street/20th Avenue South will be constructed when cumulative DMCBP development exceeds 390 PM peak hour trips as required by the traffic trip thresholds in **Exhibit D**. If development does not exceed this 390 PM peak hour threshold, the Port will only be required to construct the first segment of South 214th Street. Prior to the issuance of the building permit for the final building in Area 2, the Port shall provide an updated traffic impact memorandum verifying the cumulative PM peak hour traffic based on the actual building land uses constructed in Area 1 and Area 2 to date. This first segment of South 214th Street will be modified to be a dead end cul-de-sac and will be placed within a 66-foot-wide (minimum) right-of-way and dedicated to the City as part of the DMCBP Short Plat. The City will take over maintenance responsibility of the first segment of this roadway when its construction is completed, and

it is accepted in accordance with the provisions of the City's right-of-way permit.

Construction of the second segment of the South 214th Street/20th Avenue South internal road shall be concurrent with the development of Area 3. As part of the DMCBP Short Plat, this segment will be shown in a 66-foot-wide (minimum) tract. When the construction of the second segment is completed, the tract will be dedicated to the City as right-of-way.

Prior to the construction of each segment of South 214th Street/20th Avenue South, the Port shall prepare civil engineering plans for review and approval by the City generally consistent with the City's Street Development Standards.

The Port shall have the option of paying the design and construction change order cost of the City associated with building the roadway approach and sidewalk curb returns located in the right-of-way, or build these improvements independently of the City's current 24th Avenue South construction project. The City has made adjustments to the locations of the utilities and associated vaults to accommodate the roadway approach at South 214th Street on the west side of 24th Avenue South.

11.2 Frontage Improvements. In accordance with the Environmental Documents and the DMMC, the Port is responsible for providing frontage improvements along South 216th Street and 24th Avenue South consistent with the design of the Transportation Gateway Project when permits are issued for construction fronting on these streets. Consistent with DMMC 12.20.050(2) and in advance of permitted development, the Port has made an in-lieu cash payment totaling Six Million Dollars (\$6,000,000) to the City to fulfill all obligations to physically construct the required frontage improvements. The Parties acknowledge that due to the magnitude and complexity of the Transportation Gateway Project, completing its construction in incremental stages would have been significantly more costly than constructing it as one integrated project, given its off-set alignment, comprehensive storm drainage systems, traffic signal systems, and other utility improvements. Incremental construction would have been most costly due to the fact that each individual stage of construction would have had to account for interim roadway transitions, utility terminations, and other temporary systems, which would increase project costs by at least twenty percent (20%) and potentially as high as thirty percent (30%). Therefore, the Parties agreed that in order to minimize the overall roadway improvement costs, the improvements are best completed at one time as part of an integrated project with advance payment of all in-lieu fees by the Port. Such payment has reduced and limited the Port's future costs. In addition, the payment allowed the City to secure committed

state grant funds and improve its competitiveness for additional regional and federal funds. In accepting the in-lieu cash payment, the City has taken the lead and been responsible for the construction of the frontage improvements adjacent to South 216th Street and 24th Avenue South. This in-lieu cash payment is based on the estimated cost of the frontage improvements pursuant to DMMC 12.20.050(2) and further described below:

11.2.1 South 216th Street. The Port is responsible for fifty percent (50%) of the cost of Segment 2 of the Gateway Road Project as a condition for the City's issuance of a building permit for Area 3. The Port agrees that the cost estimate for Segment 2, including engineering, administration, right-of-way, and construction totals \$8,653,787. Therefore, the Port's in-lieu cash payment for this frontage totals \$4,326,894. To induce the Port's advance payment of the required in lieu fee, the City agreed to accept and the Port paid an in-lieu cash payment in the amount of \$2.5 million instead of the \$4,326,894 that would otherwise have been due. In return, the City agrees that the requirement for the Port to provide frontage improvements along South 216th Street has been fully satisfied. The Port's payment of \$2.5 million, together with the in-lieu cash payment described in Section 11.2.2, is the basis for the Transportation Impact Fee waiver described in Section 11.3.

11.2.2 24th Avenue South. The Port agrees that it is responsible for fifty percent (50%) of the cost of the 24th Avenue Segment of the Transportation Gateway Project improvements as a condition for the City's issuance of a building permit for Areas 1, 2 and a portion of Area 3. The cost estimate for this Segment, including engineering, administration, right-of-way, and construction totals \$9,569,989. Therefore, the Port's in-lieu cash payment for this frontage totals \$4,784,995. To induce the Port's advance payment of the required in lieu fee, the City agreed to accept and the Port paid an in-lieu cash payment in the amount of \$3.5 million instead of the \$4,784,995 that would otherwise have been due. In return, the City agrees that the requirement for the Port to provide frontage improvements along 24th Avenue South has been fully satisfied. The Port's payment of \$3.5 million, together with the in-lieu cash payment described in Section 11.2.1 is the basis for the Transportation Impact Fee waiver described in Section 11.3.

11.2.3 20th Avenue South Traffic Signal. The Parties acknowledge that the installation of a traffic signal at the intersection of South 216th Street and 20th Avenue South, along with the associated roadway improvements at

the intersection is part of the Transportation Gateway Project, and therefore is included in the in-lieu cash payment for Segment 2 of South 216th Street.

11.2.4 South 208th Street Traffic Signal. The Parties acknowledge that the installation of a traffic signal at the intersection of South 208th Street and 24th Avenue South may be needed in the future to allow for safe access onto or across 24th Avenue South from the site, especially once SR 509 construction is completed. While a traffic signal is not current warranted, provisions for the future installation of a traffic signal at this intersection shall be included in the civil improvements for South 208th Street. At a minimum, traffic signal conduit and junction boxes shall be installed for future loops (including advance loops west of 24th) and intersection crossings.

11.3 Transportation Impact Fees. In consideration for the Port providing in-lieu cash payments as discussed in Section 11.2, the Port shall not be required to pay Transportation Impact Fees (TIF) pursuant to RCW 82.02.060 for the duration of this Agreement; provided however that this waiver does not relieve the Port of providing actual project and system improvements as described in Section 11.4.

11.4 Project and System Improvements. The Port shall construct the required Project and system improvements identified in the Environmental Documents, and any additional Project or system improvements that may be identified in supplemental traffic impact analysis submitted for each phase of the Project. A list of the Project and system improvements, along with their threshold trigger points, is provided in **Exhibit D**. This list is not all inclusive, as it only includes the Project and system improvements identified in the Environmental Documents submitted as of the date of this Agreement. The list does not include any additional Project or system improvements that may be identified in supplemental traffic impact analysis submitted for each phase of the Project.

The City will accept proportionate share contributions from the Port for the system improvement identified for South 216th Street – Segment 1A (between 29th Avenue South and 24th Avenue South (refer to **Exhibit D** – Project 5). When the threshold for the system improvement is triggered by a specific phase of the Project, that phase of the Project (and all subsequent phases of the Project) will make a proportionate share contribution towards this system improvement. The proportionate share contribution shall be calculated by taking the total PM peak hour trips generated by the specific phase of the Project at the intersection of Pacific Highway South and South 216th Street, dividing it by the total PM peak hour trips at the intersection, and multiplying the result by the cost estimate for the system improvement.

SECTION 12. DRAINAGE REQUIREMENTS AND INFRASTRUCTURE

12.1 General. The Port shall provide stormwater facilities to address surface water runoff created as the result of development of the Property. All stormwater facilities shall be located in separate public tracts. The stormwater facilities will be built by the Port, and, upon completion, deeded to the City as part of the DMCBP Short Plat for long-term ownership and maintenance.

12.2 Standard. The Port shall comply with the version of the *King County Surface Water Design Manual* (KCSWDM) in effect at the time that permits are submitted for the development of Area 3. Development within Areas 1 and 2 shall be vested to the regulations of the *2009 King County Surface Water Design Manual* for projects that have been approved prior to January 1, 2017 under the conditions of the City's NPDES permit. Additionally, under the terms of the NPDES permit, any applications that have been approved prior to January 1, 2017 must start construction by January 1, 2022 or the vesting rights will be lost. Before January 1, 2017, it is preferred, but not required, that stormwater be handled using Low Impact Development approaches when economically and technically feasible. The City may impose additional water quality or flow control requirements if it is deemed through performance that the facilities are not sufficient in achieving the standards set forth in the KCSWDM.

12.3 Surface Water Management Fees. All surface water development fees and surface water service fees are applicable to the DMCBP in accordance with Chapter 11.12 of the DMMC.

12.4 Flow Control. The Port may utilize the King County Level 1 flow control criterion and the 1994 land use condition as the pre-developed condition for sizing flow control facilities that discharge directly to Des Moines Creek, a drainage tributary or to a City conveyance system as set forth in the KCSWDM for the sizing of stormwater detention facilities due to the implementation of the Des Moines Creek Basin project. However, areas that discharge directly or indirectly to a wetland shall meet the criterion set forth in the KCSWDM as amended by Chapter 11.28 DMMC – Supplemental Storm Water Standards.

12.5 Detention Tracts. Pursuant to DMMC 17.35.130, all detention facilities are to be located within separate tracts that are deeded to the City, whereupon the City shall assume all maintenance and ownership responsibilities. A private access easement to the detention tracts shall also be provided to allow access to the facilities for water quality testing that may be required in order to meet any issued industrial NPDES permits. Prior to City acceptance of the detention facilities, the Port will provide the City with an operations and maintenance manual for the care of the facilities, including any special instructions for maintaining any protective netting or plantings required to satisfy FAA regulations.

12.6 Drainage Reports.

12.6.1 Areas 1 and 2. The City agrees that the Technical Information Report (drainage report) submitted for the detention facility located in Tract A of the DMCBP Short Plat has been designed to address the drainage associated with the development of Areas 1 and 2 of the Property; provided that the development occurs consistent with the Preliminary Technical Information Report prepared by Barghausen Engineering dated December 11, 2013.

12.6.2 Area 3. A Technical Information Report shall be prepared, for City Approval, to identify drainage facility requirements and demonstrate compliance with the KCSWDM or other approved standards as specified in Section 12.4 at the time the Design Review Application and/or Grading Permit is submitted for development of Area 3.

SECTION 13. ENVIRONMENTALLY CRITICAL AREAS

13.1 Wetlands and Ditches. The Parties acknowledge there are several existing wetlands and ditches on or directly adjacent to the Property. The Environmental Documents envisioned filling all of the on-site wetlands and ditches as part of the development of the Property.

13.2 Permits. The Port shall secure the required approvals from the Army Corps of Engineers and/or the Washington State Department Ecology as may be necessary for the fill of wetlands W, B11, 14 and 32 and any other regulated waters identified in the Environmental Documents. The City acknowledges that local permits are not required to fill these wetlands pursuant to Section V – Step 2(4) of the *First Development Agreement between the City of Des Moines and the Port of Seattle*.

13.3 Mitigation Site. The City agrees to issue all necessary easements, construction licenses, and consent to construct the required mitigation for impacts to the wetlands and ditches regulated by the Army Corps of Engineers within the area illustrated on **Exhibit E** within the boundaries of the Des Moines Creek Park.

13.4 Critical Aquifer Recharge Area. The Port shall submit, for City approval, a report prepared by a licensed professional engineer demonstrating that the Project complies with DMMC 16.10.260, Critical Aquifer Recharge Areas (CARA). The Parties agree that the CARA Report can be submitted at the time of submittal of the building permit application(s) for each Area.

13.5 Tracts. The Port agrees to place the wetlands and corresponding buffers, stream buffers, and ravine sidewalls and corresponding buffer into separate tract(s) as part of the DMCBP Short Plat.

SECTION 14. PERMITTING

14.1 General. The Port shall submit all permit applications required by the City for the development of Areas 1, 2 and 3 within the Project. The Port acknowledges that the City has attempted to identify the permits and applications required for the development of the Project and that subsequent review of proposed development for Areas 1, 2 and 3 may reveal additional issues that may require other permits or applications not discussed in this Section.

14.2 Short Subdivision. The Port shall submit, for City approval, a Short Subdivision application consistent with the approved Master Plan and DMMC 17.05 for Areas 1-3. The application materials required for Preliminary Plat are provided on Form DSW-03.

14.3 Design Review. The Port shall submit, for City approval, a Design Review application consistent with Chapter 18.235 DMMC – Design Review for development of each individual Area within the Property. The application materials required for Design Review are provided on Form DSW-01. The City's design review will follow its standard review procedures including a requirement to satisfy the design guidelines contained in DMMC 18.235 and 18.105, B-P Business Park, as well as DMMC 18.195, Landscaping and Screening, and DMMC 18.210, Loading Areas and Off-Street Parking. The City will coordinate its design review with that occurring concurrently by the Port.

14.4 Clearing and Grading. The Port shall submit, for City approval, a Clearing and Grading Plan consistent with Chapter 14.20 DMMC for the development of each individual Area within the Property. The application materials required for Grading Permit are provided on page 4 of Form DSA-02. Clearing and grading for the Project shall be restricted to those areas identified on the clearing and grading plans approved by the City for each Area. No other clearing of any nature shall be allowed without prior written approval of the City.

14.5 Building Permits. The Port shall submit, for City approval, Building, Electrical, Plumbing, and Mechanical Permit Applications consistent with Title 14 DMMC – Buildings and Construction Code.

14.6 Right-of-Way Permits. The Port shall submit, for City review and approval, right-of-way permits for any work occurring within the City right-of-way. Since South 208th Street, South 211th Street and South 214th Street/24th Avenue South identified in Section 11 will eventually be dedicated to the City, right-of-way permits will also be required for the construction of these roadways.

14.7 Permit Fees. The City agrees to vest the Port to the provision of Des Moines Executive Order 13-003 (**Exhibit F**) for the term of this Agreement. This Executive Order established a *City-Wide Development Incentive Program* for all commercial projects by reducing fees for, environmental review, subdivision, planned unit development, short subdivision and lot line adjustment, engineering plan review, building plan check and building permit, , mechanical, electrical and plumbing permit, and right of way permits by twenty percent (20%) for individual project applications with over 50,000 square feet of gross floor area excluding parking areas and by ten percent (10%) for individual project applications with over 25,000 square feet of development excluding parking areas.

SECTION 15. VESTED RIGHTS AND TERM

15.1 Duration and Termination. This Agreement shall remain in effect for a period of fifteen (15) years unless either (a) the Parties both agree to extend the Agreement for a period to be defined, (b) the Project is fully developed consistent with Master Plans approved by the City for Areas 1 – 3, or (c) the Agreement is sooner terminated by the Parties. Other than as may be prohibited by law, and specifically subject to the limitations of RCW 36.70B.180, the Parties may terminate this Agreement by providing ninety (90) days written notice pursuant to Section 17.1. Termination of this Agreement shall not result in termination of any other legally binding agreement or action based upon this Agreement unless such additional termination is required under the terms of such other agreement or action. Notice of termination shall be provided in accordance with Section 17.1.

15.2 Vesting of Development Regulations. The Port is assured that all Development Regulations that govern development of the Property that are in effect as of the date of the City's approval of this Agreement shall apply for a period of fifteen (15) years from the effective date of this Agreement; provided, the Port shall be required to comply with the International Building Code, the City's Street Development Standards (Street Design and Construction Standards), the City's NPDES Permit, and other regulatory codes adopted by the State of Washington and King County that preempt the City's authority in effect as of the date that the Port submits a complete permit application to the City for review. If the Property has not reached full build-out within this 15-year period, the Parties agree that Development Regulations in effect at that time will control the further development of the Property. The Port may elect, at its discretion, to conform to new Development Regulations that the City may adopt from time to time. Notwithstanding the foregoing, the City reserves the authority to impose new or different regulations to the extent necessary or required to address a threat to public health or safety.

SECTION 16. CERTAINTY OF DEVELOPMENT AGREEMENT

16.1 Development Agreement Deemed Controlling. This Agreement, once recorded, and any terms, conditions, maps, notes, references, or regulations which are a part of the Agreement shall be considered enforceable. In the event of a specific conflict with any provisions of the DMMC, this Agreement shall take precedence. Unless otherwise provided by this Agreement, the City's ordinances, resolutions, rules and regulations, and official policies governing permitted land uses, density, design, improvement, and construction standards shall be those City ordinances, resolutions, rules and regulations, and official policies in force at the time of the execution of this Agreement.

16.2 Subsequent Actions. This Agreement shall not prevent the City, in subsequent actions applicable to the Property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the Property, nor shall this Agreement prevent the City from denying or conditionally approving any subsequent development project application on the basis of such new rules, regulations, and policies.

16.3 Changes in the Law. In the event that City, state or federal laws or regulations, enacted after this Agreement has been entered into, prevent or preclude compliance with one or more of the provisions of the Agreement, such provisions of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations following modification procedures in Section 17 for an amendment or cancellation.

16.4 Emergency Situations. The City may suspend the issuance of building permits for the planned Project if it finds that continued construction would place surrounding residents or the immediate community in a condition dangerous to their health or safety.

SECTION 17. GENERAL PROVISIONS

17.1 Notices, Demands and Communications. Formal notices, demands and communications between the City and the Port shall be sufficient if given and shall not be deemed given unless dispatched by certified mail, postage prepaid, returned receipt requested, or delivered personally, to the principal offices of the City and the Port as follows:

City:

Anthony Piasecki or successor
City Manager
City of Des Moines
21630 11th Avenue South

Port:

Tay Yoshitani or successor
Chief Executive Officer
Port of Seattle
2711 Alaskan Way

Des Moines, Washington 98198

Seattle, Washington 98121

17.2 Amendments. This Agreement may be amended or modified in accordance with RCW 36.70B.170-200, and other applicable laws, rules or regulations, and upon mutual consent of the Parties, such mutual consent of the Parties shall be evidenced by a written amendment signed by the Parties.

17.3 Other Government Approvals. Should the Port at any time require the approval of any governmental body or board, whether of local, regional, state or federal jurisdiction, the Port shall bear the sole cost and responsibility for obtaining needed approvals. The City, upon request by the Port, shall lend its full cooperation and affirmative support if it deems such would be in the interest of timely performance under this Agreement, and such cooperation and support would not compromise the responsibilities of the City, including its responsibilities to the Port as set forth in this Agreement. Nothing contained herein is designed to relieve the Port of the necessity of complying with the laws governing the permitting requirements, conditions, terms or restrictions.

17.4 Conflict of Interests. No member, official or employee of the City shall make any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. The Port warrants that it has not paid or given, and shall not pay or give, any third person any money or other consideration for securing the City's approval of this Agreement.

17.5 Non-Liability of City, Officials, Employees, and Agents. No member, official, employee or agent of the City shall be personally liable to the Port, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Port or successor or on any obligation under the terms of this Agreement.

17.6 Enforced Delay. Performance by either party under this Agreement shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes, lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions of priority; litigation (including suits filed by third parties concerning or arising out of this Agreement); unusually severe weather; inability to secure necessary labor, materials or tools; acts or failure to act of any public or governmental authority or entity (other than the acts or failure to act of the City which shall not excuse performance by the City), or any other causes (other than lack of funds of the Port) beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for a period of the enforced delay and shall commence to run from the commencement of the cause, if notice by the party claiming such extension is sent to the other party within fifteen (15) calendar days of

the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the City's City Manager or designee.

17.7 Title of Parts and Sections. Any titles of the parts, sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provisions.

17.8 Hold Harmless. The Port shall indemnify and hold harmless the City and their officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of the negligent act or omission of the Port, its officers, agents, employees, or any of them relating to or arising out of the performance of this Agreement. If a final judgment is rendered against the City, its officers, agents, employees and/or any of them, or jointly against the City and the Port and their respective officers, agents and employees, or any of them, the Port shall satisfy the same to the extent that such judgment was due to the Port's negligent acts or omissions.

17.9 Enforcement, Rights and Remedies Cumulative. This Agreement shall be enforceable by the City, applicant, or successor-in-interest notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City which alters or amends the rules, regulations, or policies specified in this Agreement. Enforcement may be through any remedy or enforcement method or process, or combination thereof, allowed under law and/or equity. Except as otherwise stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise one or more of these rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

17.10 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. Venue for any legal action brought hereunder shall be in the King County Superior Court.

17.11 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

17.12 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement, or to collect damages as a result of any breach of the Agreement, the Parties shall be responsible for their attorneys' fees and costs incurred in the action.

17.13 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

17.14 Parties Not Co-ventures. Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another, nor employees and/or employers of each other.

17.15 Warranties. The City expresses no warranty or other representation to the Port or any other Party as to fitness or condition of the Property other than those expressed within this Agreement.

17.16 Reasonable Approvals. The approval of a party of any documentation or submissions herein called for shall not be unreasonably withheld unless the text clearly indicates a different standard. All such approvals shall be given or denied in a timely and expeditious fashion.

17.17 Recordation. Within ten (10) days after the effective date of this Agreement, or any modification or the cancellation thereof, the City Clerk shall have this Agreement, the modification or cancellation notice recorded with the County Auditor/Recorder of King County.

17.18 Execution of Other Documentation. The City and the Port agree to execute any further documentation that may be necessary to carry out the intent and obligations under this Agreement.

17.19 Complete Understanding of the Parties. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement consists of _____ pages and _____ attached Exhibits and constitutes the entire understanding and agreement of the Parties.

CITY OF DES MOINES

PORT OF SEATTLE

 Anthony A. Piasecki
 City Manager
 By direction of the Des Moines City Council
 in Open Public Meeting
 on _____, 2014

 Tay Yoshitani
 Chief Executive Officer
 By direction of the Port Commission
 in Open Public Meeting
 on _____, 2014

STATE OF WASHINGTON)
) ss
COUNTY OF _____)

On this _____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Tay Yoshitani to me known as the Chief Executive Officer, for the Port of Seattle, the corporation who executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Port of Seattle, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

NAME

NOTARY PUBLIC in and for the State of
Washington, residing at _____
MY COMMISSION EXPIRES: _____

DES MOINES CREEK BUSINESS PARK LEGAL DESCRIPTION

THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; TOGETHER WITH THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EASTERLY OF THE WESTERLY LINE AND SOUTHERLY OF THE NORTHERLY LINE OF THE PLAT OF MAYVALE NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 78 OF PLATS, PAGE 55, IN KING COUNTY, WASHINGTON; TOGETHER WITH THAT PORTION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY OF STATE HIGHWAY SR 509 AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 753046 AND CONVEYED TO THE STATE OF WASHINGTON BY DEEDS RECORDED UNDER RECORDING NUMBERS 7105060274, 7201180290, 7206160326 AND 7206160338; EXCEPTING THEREFROM THE EAST 30 FEET FOR 24TH AVENUE SOUTH AND THE SOUTH 30 FEET FOR SOUTH 216TH STREET; AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT A MONUMENT IN CASE AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER, ALSO BEING THE INTERSECTION OF 24TH AVENUE SOUTH AND SOUTH 208TH STREET;

THENCE NORTH 88°26'01" WEST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, 30.00 FEET TO THE NORTHERLY EXTENSION OF A LINE THAT IS 30.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH), AND THE TRUE POINT OF BEGINNING;

THENCE NORTH 01°06'35" EAST ALONG SAID NORTHERLY EXTENSION, 30.00 FEET TO A LINE THAT IS 30.00 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER;

THENCE NORTH 88°26'01" WEST ALONG SAID PARALLEL LINE, 37.50 FEET TO THE NORTHERLY EXTENSION OF A LINE THAT IS 67.50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH);

THENCE SOUTH 01°06'35" WEST ALONG SAID NORTHERLY EXTENSION AND ALONG SAID PARALLEL LINE, 1751.88 FEET;

THENCE SOUTHERLY ON A CURVE TO THE LEFT WHOSE CENTER BEARS SOUTH 88°53'25" EAST, 6049.50 FEET, AN ARC DISTANCE OF 226.75 FEET;
THENCE SOUTH 01°02'16" EAST, 255.41 FEET;

THENCE SOUTHERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS SOUTH 88°57'44" WEST, 5950.50 FEET, AN ARC DISTANCE OF 223.04 FEET TO A LINE THAT IS 49.50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH);

THENCE SOUTH 01°06'35" WEST ALONG SAID PARALLEL LINE, 119.10 FEET;

THENCE SOUTH 46°25'19" WEST, 42.84 FEET TO A LINE THAT IS 63.50 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER (SAID SOUTH LINE ALSO BEING THE CENTERLINE OF SOUTH 216TH STREET);

THENCE NORTH 88°15'56" WEST ALONG SAID PARALLEL LINE, 1172.31 FEET;

THENCE NORTH 01°18'27" EAST, 2.00 FEET TO A LINE THAT IS 65.50 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER (SAID SOUTH LINE ALSO BEING THE CENTERLINE OF SOUTH 216TH STREET);

THENCE NORTH 88°15'56" WEST ALONG SAID PARALLEL LINE, 1.00 FEET;
THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 01°44'04" EAST, 19.50 FEET, AN ARC DISTANCE OF 30.49 FEET;

THENCE NORTH 01°18'27" EAST, 17.04 FEET;

THENCE NORTH 88°41'33" WEST, 39.36 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER;

THENCE SOUTH 01°06'10" WEST ALONG SAID WEST LINE, 71.60 FEET TO A LINE THAT IS 30.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER (SAID SOUTH LINE ALSO BEING THE CENTERLINE OF SOUTH 216TH STREET);
THENCE SOUTH 88°15'56" EAST ALONG SAID PARALLEL LINE, 1281.85 FEET TO A LINE THAT IS 30.00 WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH);

THENCE NORTH 01°06'35" EAST ALONG SAID PARALLEL LINE, 2609.79 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT C

PROJECT ELEMENTS TO BE INCORPORATED INTO THE PROPOSAL

The following features would be incorporated into the DMCBP proposal to offset the potential for significant impacts.

Earth

- A more definitive grading plan would be prepared at the Final Master Plan stage, and would be submitted to the City of Des Moines for review and approval. This grading plan would comply with the City's regulations for grading (DMMC Section 14.60) and for protection of steep slope areas (DMMC Section 18.86).
- During initial construction, soil may become compacted by construction traffic. The area of compacted soil would be minimized by restricting the construction traffic to a single access road. Following construction, the remaining compacted soils would be broken up and plowed to reduce the potential for erosion.
- Excavated native materials from the site considered suitable for fill or landscaping could be stockpiled onsite for later use. If onsite native materials are used for fill they would be compacted first to avoid the potential for settlement during the life of the project. Less desirable excavated soils would require off-site disposal and would be replaced by imported material. An appropriately permitted off-site disposal site would be identified prior to construction.
- If onsite Vashon Till soils are used for filling, blending with dry material may be necessary to bring the natural moisture content down so that compacting can occur. Alternatively, other material could be imported to provide adequate backfill for structural support in development areas.
- Perched groundwater interflow that is encountered during construction would be controlled using trenching and sump pumps.
- A comprehensive temporary erosion and sediment control (TESC) plan would be prepared and implemented for the full duration of construction for the DMCBP, in accordance with the Washington State Department of Ecology (Ecology) and City of Des Moines requirements. This plan would include Best Management Practices (BMPs) to minimize erosion and sedimentation impacts during construction. BMPs would also prevent the mobilization of arsenic in the site soils from past operation of the ASARCO Tacoma Smelter. The BMPs could include:
 - Performing major grading and soil disturbing activities during the drier portions of the year (i.e. between May 1 and September 30), unless modified by Ecology as part of the National Pollutant Discharge Elimination System (NPDES) permit and Stormwater Pollution Prevention Plan (SWPPP) for the site, and approved by the City of Des Moines. See Section 3.3, **Water Resources** of this Draft EIS for further discussion of the NPDES and SWPPP;
 - Beginning construction activities as soon as possible after a section has been cleared and stripped of vegetation;

EXHIBIT C

- Revegetating disturbed areas as soon as possible after completion of construction, using plants that would rapidly stabilize the soil;
 - Placing straw bales or silt fences to reduce runoff velocity, in conjunction with collection, transport, and disposal of surface runoff generated in the construction zone;
 - Placing straw, jute matting, or commercially available erosion control blankets on slopes that require additional protection; and
 - Covering soil stockpiles with plastic sheeting and weights and protecting stockpile areas from vehicular traffic.
- The TESC measures for stormwater discharge during construction would comply with Washington State Department of Ecology's NPDES requirements and would include monitoring.
 - During the dry season, dust would be controlled by watering or spraying dust suppressants to control fugitive dust on unpaved haul roads.
 - Stabilized quarry spall pads would be used to remove mud from the tires of construction trucks before they exit the site onto adjacent roads to help keep mud off of the paved roads and prevent sediments from being washed off of the roads during wet weather.
 - Subsurface exploration would be conducted as part of the construction and/or building permit process, to verify the quality of subsurface material and provide specific foundation and construction recommendations. Specific foundation support systems would be determined as part of the specific design and permitting of infrastructure and individual buildings associated with future site development at the DMCBP.
 - An undisturbed buffer of native vegetation would be retained from the top of the Des Moines Creek ravine sidewall west of the site, and a building setback would be maintained from the ravine buffer edge to prevent erosion and sedimentation impacts on environmentally sensitive areas, such as steep slopes and the creek (per DMMC 18.86.076). The City may approve a buffer reduction if a special geotechnical study is prepared that demonstrates that the reduction would result in minimal impacts to soil stability and existing native vegetation (DMMC Section 18.86.076(2)). Specific buffers would be determined as part of the Final Master Plan process.
 - The final grading plan for the DMCBP would require that the final grade of any mass excavation be at least 10 feet in elevation above the top of the Advanced Outwash unit, providing a ten-foot thickness of low permeability till as a protective buffer above the top of the uppermost regional aquifer. Should excavation for a new stormwater pipe that could be constructed from the site west to the existing S 212th Street outfall to Des Moines Creek extend through the lower 10 feet of the Vashon Till layer at any point, pipe backfill would be constructed using impermeable materials. A geotechnical survey would be conducted in conjunction with preparation of the final grading plan to confirm the till thickness and establish construction excavation limitations.
 - The relationship of DMCBP site development, and associated site disturbance, to the various slope categories established in DMMC Section 18.86.077 would be determined at the Final Master Plan stage, when a final grading plan is formulated.

- USTs encountered during grading would be managed consistent with appropriate state regulations.
- Following construction, areas of exposed soils would be either developed or revegetated to prevent erosion and sedimentation.
- A permanent stormwater control system, designed in accordance with Washington State Department of Ecology's 2005 Manual, would be installed to control stormwater runoff release and prevent erosion and sedimentation impacts onsite and downstream (see Section 3.3, **Water Resources** and **Appendix C** for further information).
- The design of all structures would comply with applicable building code requirements that address typical seismic considerations, such as ground acceleration.

Air Quality

- The construction contractor(s) would be required to comply with PSCAA regulations that require control of emissions of odor-bearing air contaminants that could be injurious to human health, plant or animal life, or property, or that could unreasonably interfere with the enjoyment of life and property (Regulation 1, Section 9.11).
- It is anticipated that regular watering of the construction site would occur to minimize fugitive dust. The construction contractor(s) would be required to comply with the PSCAA (Regulation I, Section 9.15), requiring reasonable precautions to avoid dust emissions and could include, but are not limited to the following:
 - The use of control equipment, enclosures, and wet (or chemical) suppression techniques, as practical, and curtailment during high winds;
 - Surfacing roadways and parking areas with asphalt, concrete, or gravel;
 - Treating temporary, low-traffic areas (e.g. construction sites) with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages before they exit to prevent the track-out of mud or dirt onto paved public roadways; and/or
 - Covering or wetting truck loads or allowing adequate freeboard to prevent the escape of dust-bearing materials.
- Certain future uses that would potentially be new air emission sources would be required to obtain permits from PSCAA to ensure that appropriate technology is in place to prevent the release of harmful contaminants into the atmosphere.

Water Resources

- Monitoring and erosion control measures would be employed for stormwater discharge associated with construction activities, per a National Pollutant Discharge Elimination System (NPDES) permit from the Department of Ecology (Ecology) to protect water quality.

- A Stormwater Pollution Prevention Plan (SWPPP) would be prepared and implemented, as required by the NPDES permit. The SWPPP would contain specific best management practices (BMPs) for each construction season.
- Temporary erosion and sediment control (TESC) best management practices (BMPs) as specified in the Ecology Manual (2005) would be implemented. See Tables 3.1-1 and 3.1-2 in **Appendix C** and Section 3.1, **Earth** for specific BMP measures.
- Construction entrances would include truck wheel washes in addition to quarry spalls to dislodge sediment, if warranted by the specific truck traffic and soil export volumes. Streets would also be routinely cleaned during construction.
- Specialized products, such as Chitosan or Electrocoagulation, and other water treatment systems could be used, if warranted and approved by Ecology under the NPDES permit.
- During drier weather, settling ponds would be drawn down via pumping and the water dispersed to upland vegetated areas away from steep slopes, as feasible.
- BMPs for concrete work would include the following:
 - Cement trucks wash water would not be disposed of onsite, but would be returned to the off-site batch plant for recycling as process water;
 - New concrete work would be covered and protected from rainfall until cured; and,
 - Monitoring of pH would occur in areas with active concrete work.
- If concrete amendments to soils are proposed to meet compaction standards, specific measures described in **Appendix C** would be employed.
- Excavations conducted as part of mass grading for infrastructure and buildings onsite would be at least 10 feet in elevation above the top of the advanced outwash unit and in the Vashon Fill Layer, which forms a water quality-protective barrier between the ground surface and the Qva Aquifer. Excavation for the new stormwater discharge pipe (under stormwater routing option 2) could be 50 feet deep onsite; such a cut would be backfilled with impermeable material to maintain the integrity of the till aquitard and to protect the Qva Aquifer.
- Wetland fill would be limited to 0.96 acres of isolated wetlands that are perched on the Vashon Till and are dry during the summer. These wetlands have low groundwater recharge potential. Approximately 0.85 acres of wetlands with some recharge potential would be retained as part of DMCCBP development.
- Stormwater would be managed per the requirements of the 2005 Ecology Manual (2005). All stormwater runoff from pollution-generating surfaces would be collected and treated to enhanced water quality treatment standards, per the Ecology Manual (2005).
- Approximately 30 percent of the site would be retained as natural (perimeter buffers, wetlands and wetland buffers) or landscaped areas which would contribute to groundwater recharge (this percentage does not include area in stormwater facilities).

- The stormwater conveyance function of on-site ditches would be replaced by relocation of ditch conveyance in pipes (or as open channel); conveyance and discharge points to off-site Wetlands B4 and B13 would be maintained.

Wetlands

- Wetland Impacts would be limited to isolated wetlands approved for fill by the previously issued Sections 404 and 401 issued by the Corps of Ecology and subsequent Corps jurisdictional determinations and/or Ecology-issued Administrative Orders pertinent to the site.
- Except for the Wetland 48 buffer, it is anticipated that native vegetation in wetland buffers would not be altered in order to avoid potential water quality and habitat impacts.
- Construction best management practices (BMPs) would be employed to prevent construction impacts to wetlands and wetland buffers (see Section 3.3, **Water Resources** and **Appendix C** for details on the BMPs).
- Roof run-off or treated stormwater runoff would be used to maintain wetland hydrology, as warranted (i.e. for Wetlands B15 and 48). No new open water habitat that could attract waterfowl would be created. Untreated stormwater runoff from non-roof areas would not be distributed to, stored, or treated in the wetlands.
- A permanent stormwater management system would be installed that would control stormwater runoff release and prevent erosion and sedimentation impacts to wetlands on and adjacent to the site (see Section 3.3, **Water Resources** and **Appendix C** for further information on this system).
- The conditions of the previously issued Section 404 permit and 401 Water Quality Certification require mitigation for all wetlands that would be filled by the DMCBP project. The Port would construct this wetland mitigation to compensate for the loss of wetland area and wetland functions at the DMCBP site. The mitigation is planned and would be constructed on Port-owned property to the north of the DMCBP site, as well as on Port-owned property near the City of Auburn. The mitigation north of the DMCBP site would consist of the enhancement of approximately 1.4 acres of wetland area and approximately 1.3 acres of wetland and stream buffer adjacent to Des Moines Creek. Construction was completed on mitigation near the City of Auburn in June 2006.

Plants and Animals

- Open space areas, including natural and landscaped areas, would encompass approximately 32 acres, or 35 percent of the site. Natural areas would consist of steep forested slopes, retained wetlands and their buffers.
- Landscaping would be provided along the site boundaries (adjacent to public streets), along internal roadways, and in parking lot areas in accordance with applicable City of Des Moines' landscaping regulations (or as modified through the Final Master Plan).

Landscaping would also be consistent with FAA and Port of Seattle standards to ensure that no wildlife or avian habitat is created on the site.

- Per the City's tree retention regulations, existing healthy evergreen trees six inches in diameter at breast height (DBH) or greater and existing healthy deciduous trees eight inches DBH or greater would be retained within landscape areas; specifics would be determined during the Final Master Plan review process.
- No construction activities or development on the DMCBP site would occur within 200 feet of Des Moines Creek adjacent to the site (most development areas would be more than 200 feet from the creek).
- In accordance with City of Des Moines development standards, an undisturbed buffer of native vegetation would be retained from the top of the Des Moines Creek ravine sidewall west of the site. Appropriate building setbacks would be maintained from the ravine buffer edge to prevent impacts on environmentally sensitive areas. Specific buffers and setbacks related to slopes would be determined during the Final Master Plan process.
- A permanent stormwater management system would be installed that would control stormwater runoff release and prevent erosion and sedimentation onsite and downstream (see Section 3.3, **Water Resources** and **Appendix C** for further information on this system).

Noise

- Construction hours would be limited, as required by the Des Moines Municipal Code (DMMC Section 14.04.0900 and DMMC 14.60.150). Operation of heavy construction equipment during grading operations would not take place between 5 PM and 8 AM Monday through Sunday and other construction activities would not take place between 7 PM and 7 AM Monday through Saturday, or between 5 PM and 8 AM Sundays or on legal holidays.
- Stationary construction equipment would be positioned as far from sensitive noise uses as possible, and construction trailers or other quiet stationary objects would be parked in a location that would help block noise, as possible.
- Construction equipment with sound-attenuating devices would be supplied, as possible.
- Equipment would be enclosed within sound-proof enclosures, as possible.
- Portable noise barriers would be used, as possible, to provide additional noise attenuation.
- Equipment would be turned off when not in use rather than left idling, as possible.
- Hydraulic or electric equipment would be used instead of impact equipment, whenever possible.

- Equipment locations (i.e. placement of HVAC systems) would be selected to minimize potential off-site noise impacts.
- Mechanical systems would be designed to minimize the use of noisy equipment, as feasible.
- Neighboring uses on S 208th Street and 24th Avenue S would be shielded from operational noise by appropriate building orientation (location of loading docks behind the buildings).
- Mufflers and quiet packages for chillers and other high-level noise sources would be used, as warranted for manufacturing uses.
- The perimeter buffers, possibly including earthen berms, to be provided along 24th Avenue S, and S 216th Street (and potentially S 208th Street if it remains a public street) and the open space area in the west portion of the site would reduce potential noise impacts on adjacent uses.
- Loading areas would be set back, recessed and/or screened to minimize potential noise impacts to surrounding off-site uses.
- Truck traffic would be directed to use the primary site access at S 216th Street and 20th Avenue S via on-site signage, in order to reduce traffic and associated noise on 24th Avenue S and S 208th Street.
- Buildings would be designed to meet the City of Des Moines Sound Transmission Control Ordinance (DMMC 14.08.280).

Land Use

- Approximately 35 percent of the site would be in some form of open space area, including natural vegetation and newly landscaped area.
- Average 20-foot wide perimeter buffers containing landscaping, and potentially an earthen berm, would be provided along the eastern and southern boundaries of the site to provide a visual screen to site development per sections 18.41 and 18.25.060 of the DMMC; the specific details of the perimeter landscaped buffer and/or the berm would be determined in the Final Master Plan.
- Truck loading areas would be located in the back of buildings (away from adjacent streets) and would be designed to minimize impacts to surrounding uses by incorporating setbacks, recesses and/or screening (per section 18.25.060 of the DMMC).
- The business park would be designed to conform with the applicable general site and building design guidelines of the BP zone (per sections 18.25.060 and 18.25.070 of the DMMC or as modified in the Final Master Plan). See Section 3.8, **Relationship to Plans and Policies** of this Draft EIS for further discussion of the guidelines.

- All future business park buildings would be required to obtain design review approval in accordance with DMMC 18.58.

Aesthetics/Light and Glare

- Approximately 35 percent of the site would be retained in some form of open space area.
- Average 20-foot wide perimeter buffers containing landscaping, and potentially an earthen berm, along the eastern and southern boundaries of the site would provide visual screening of site development per sections 18.41 and 18.25.060 of the DMMC; the specific details of the perimeter landscaped buffer and/or the berm would be determined in the Final Master Plan.
- Landscaping would be designed to create an aesthetically pleasing park-like setting (per Section 18.25.060 of the DMMC).
- Truck loading areas would be set back, recessed, and/or screened so as not to be visible from neighboring streets or residentially zoned or used properties and to minimize visibility from areas zoned Business Park (per Section 18.25.060 of the DMMC).
- Building design would be compatible with the site and with uses in the area. Building modulation and other design techniques to add architectural interest and minimize building mass would be used. Variety in detail, form, and siting would be used to provide visual interest (per Section 18.25.070 of the DMMC).
- Exterior lighting fixtures and standards would be part of the architectural concept and harmonious with building design (per Section 18.25.070 of the DMMC).
- Exterior lighting fixtures would use appropriate shields to reduce light spillage and lighting would be directed away from adjacent areas, including wetlands and Des Moines Creek Park.
- All future business park buildings would be required to obtain design review approval in accordance with DMMC Section 18.58.

Transportation

- A threshold of 840 PM peak hour trips could be established for the DMCBP. In order to exceed this threshold, additional capacity would need to be created in the transportation network. Additional capacity could include the completion of the SR 509/S Access Road project, the 28th/24th Avenue S Improvement project, and/or other traffic capacity improvements. Full buildout of Alternative 2 (1,045 PM peak hour trips) could be accommodated without exceeding LOS mobility standards and without resulting in significant impacts assuming completion of the capacity improvements noted above.

- Signal optimization and corridor progression improvements on International Boulevard/Pacific Highway S between S 188th Street and S 216th Street would be required to improve intersection operations under Alternatives 1 and 2 in years 2015 and 2024. Specific funding responsibilities for these improvements would be determined as part of the Second Development Agreement between the Port and the City of Des Moines.
- Signal optimization at the S 216th Street/24th Avenue S intersection would be required to improve operations under both Alternatives 1 and 2 in 2024, and to respond to the change in travel patterns created by the SR 509/S Access Road and 28th/24th Avenue S improvement projects. Specific funding responsibilities for these improvements would be determined as part of the Second Development Agreement between the Port and the City of Des Moines.
- The Port or future developer(s) would install a traffic signal at the S 216th Street/20th Avenue S intersection by year 2008 in order to improve the LOS of the intersection to an acceptable level, assuming 500,000 square feet of development occurs in the initial 2008 scenario. This signal would be interconnected with the traffic signal recently installed by the City of Des Moines at the S 216th Street /24th Avenue S intersection.
- The City of Des Moines (DMMC Chapter 12.40) and City of SeaTac regulations require that street frontage improvements, or a fee in lieu of, be provided by new developments. It is anticipated that a construction schedule and arrangements concerning DMCBP frontage improvements would be addressed in the Second Development Agreement between the Port and City or in the Final Master Plan. The Port anticipates coordinating with the City of SeaTac on any frontage improvements for portions of the site that abut the City. The frontage improvements would be designed and constructed to ensure adequate right-of-way width to accommodate the planned expansion of 24th Avenue S and S 216th Street improvements by the Cities of Des Moines and SeaTac.
- Construction of appropriate traffic calming measures along 24th Avenue S, south of S 216th Street would occur, to minimize the desirability of this road as an access to and from the DMCBP site (see Table 20 in Appendix D for some of the potential traffic calming measures that could be constructed). Specific funding responsibilities for these improvements would be determined as part of the Second Development Agreement between the Port and the City of Des Moines.
- During site construction and operations, trucks would be signed to use S 216th Street and access the site at the main entrance at 20th Avenue S to reduce potential impacts to residents along S 208th Street and 24th Avenue S. By year 2024 with the proposed SR 509/S Access Road and 28th/24th Avenue S improvement projects, trucks would be also directed to use 24th Avenue S for access to and from SR 509.
- The DMCBP development would support transportation demand management (TDM) measures, such as bus pass subsidies, preferential parking for car and van pools, flextime, bicycle parking, and ride match services.
- The DMCBP development would abide by the adopted City of Des Moines Transportation Impact Fee Service Area program. To the extent that the Port and/or future developer(s) contribute to certain improvements on a greater than pro-rata basis,

credits against impacts fees could be granted. Specifics related to funding responsibilities would be determined in conjunction with the City of Des Moines as part of the Second Development Agreement process.

Public Services

- Construction worker safety measures would be implemented during construction in accordance with Occupational Safety and Health Administration (OSHA) standards.
- All new buildings would be constructed in compliance with the applicable International Building Code and International Fire Code regulations, as adopted by the City of Des Moines.
- On-site security would be provided during construction. On-site security measures, such as fencing and securing areas where equipment is stored, would be implemented to reduce the potential for construction-related incidents.
- Traffic control measures would be provided for both construction vehicles as well as for truck trips as part of operation of the DMCBP (see Section 3.10 **Transportation** for details). Other transportation improvements would be implemented to preclude significant impacts on the transportation network as a result of the DMCBP.

Utilities

- The Port or future developer(s) would coordinate with the City of Des Moines and Highline Water District regarding all water utility installation on the site to insure consistency with overall water systems.
- Fire hydrants would be placed on the DMCBP site in a grid pattern, spaced in accordance with the City of Des Moines Fire Code.
- The Port or future developer(s) would coordinate with the City of Des Moines and Midway Sewer District regarding all sanitary sewer utility installation on the DMCBP site to insure consistency with overall sewer system.
- The Port or future developer(s) would coordinate with PSE regarding amending the existing service agreement between the Port and PSE and installation of electrical facilities on the DMCBP site.
- All new buildings on the DMCBP site would meet or exceed applicable City of Des Moines and State of Washington energy code provisions for energy utilization.
- The Port or future developer(s) would coordinate with PSE during design and permitting to insure that new natural gas lines on the site would be adequately sized to maintain sufficient pressure for new natural gas costumers on site and existing customers in the area.

EXHIBIT D

Exhibit D

List of known project and system improvements with threshold trigger points

(Refer to Section 11.4)

Development Traffic Trip Thresholds – based on 2006 EIS (arranged to assume north end develops first)

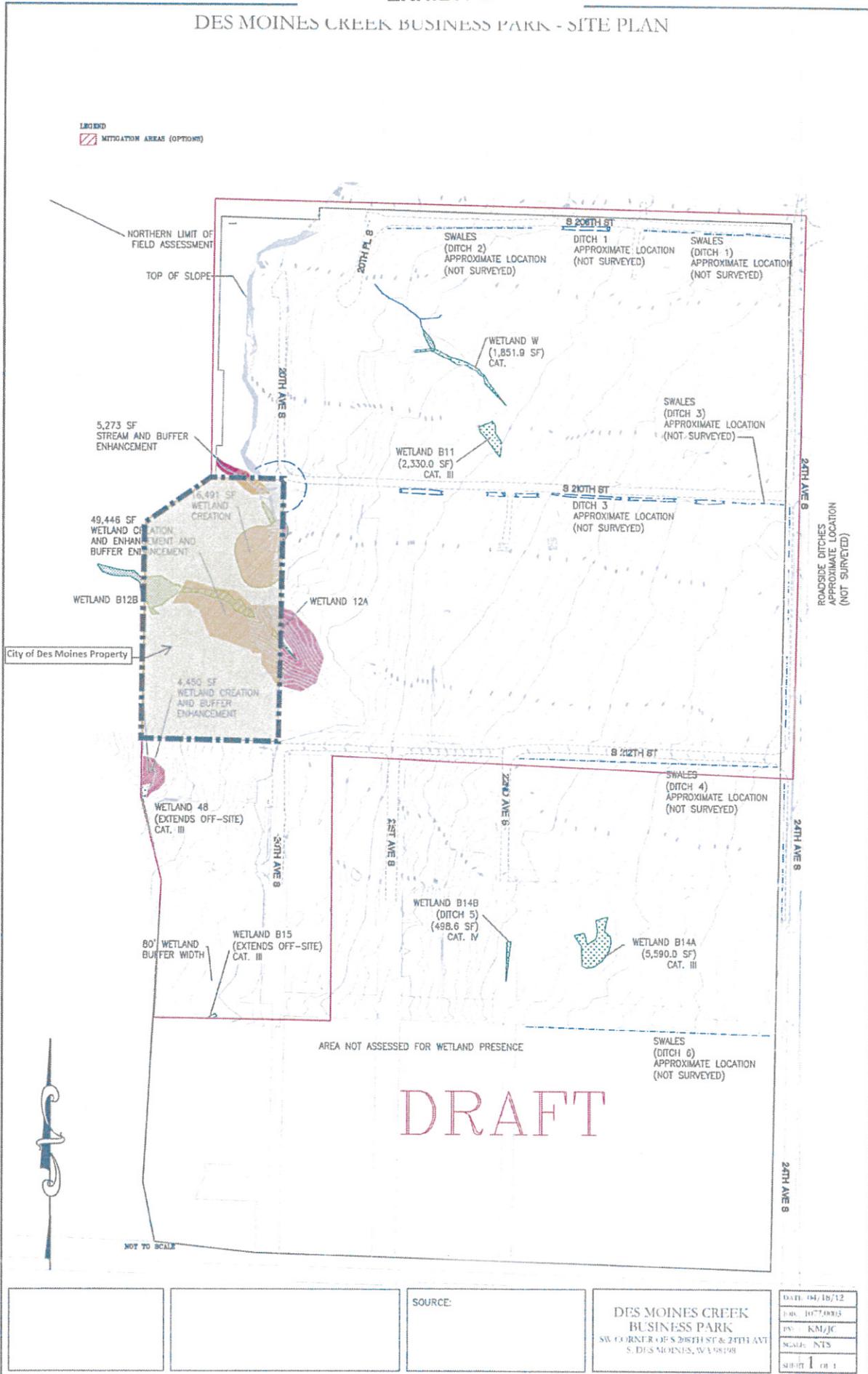
Improvement	Threshold	Notes
1 – Access roadway to 24 th Ave S (S. 211 th St – vicinity)	40 PM peak hour trips	Phase 1 will trigger this
2 - SR 99 Signal coordination	390 PM peak hour trips	Initially completed fall 2010.
3 – Completion of internal Loop road (connection to S. 216 th St.)	390 PM peak hour trips	Refer to Section 11.1.3.
4 – New Traffic Signal at S. 216 th /20 th Ave S	390 PM peak hour trips	Signal completed with South 216 th Segment 2 project.
5 – Traffic Signal improvements at 216 th /SR-99	Level of Service of 216 th /SR-99 exceeds standard of F (v/c >1.0)	Based on supplemental site specific Traffic Impact Analysis (TIA).
6 – 24 th /28 th Ave South Extension to S. 200 th St.	*840 PM peak hour trips from DMCBP	Roadway project currently in design phase at City of SeaTac
7 – New Traffic Signal at S. 208 th /24 th Ave S	Level of Service of 208 th /24 th exceeds standard of D	Based on supplemental site specific Traffic Impact Analysis (TIA)

8 – Traffic Signal improvements at 208th/SR-99 Level of Service of 208th/SR-99 exceeds standard of E (Sea-Tac) Site specific TIA (may not be needed if 24th/28th extended)

*A site specific Traffic Impact Analysis may allow this number to be higher based on previous improvements made and background traffic growth.

EXHIBIT E

DES MOINES CREEK BUSINESS PARK - SITE PLAN



		SOURCE:	DES MOINES CREEK BUSINESS PARK SW CORNER OF S 20TH ST & 24TH AVE S. DES MOINES, IA 50319	DATE: 04/18/12 DRAWN: 10775003 PLOT: KM/JC SCALE: NTS SHEET: 1 OF 1
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EXHIBIT F

CITY MANAGER'S EXECUTIVE ORDER NO. 13-003 CITY OF DES MOINES

AN EXECUTIVE ORDER OF THE CITY MANAGER OF THE CITY OF DES MOINES establishing the *City-Wide Development Incentive Program* to further the goals and objectives established by the Pacific Ridge Neighborhood Improvement Plan, the Marina District Neighborhood and North Central Neighborhood elements of the Comprehensive Plan, the City Council's economic development goals and strategic objectives, and to provide additional incentives to encourage development throughout the City, effective **December 26, 2013**.

RECITALS

WHEREAS, DMMC 12.04.100 provides that the fee for right-of-way permits issued by the City under the authority of Chapter 12.04 DMMC shall be established by the City Manager.

WHEREAS, DMMC 14.04.160 provides that the fee for any permit issued by the City under the authority of Title 14 DMMC shall be established by the City Manager, and

WHEREAS, DMMC 16.04.260 provides that the fee for a State Environmental Policy Act (SEPA) determination issued by the City under the authority of Title 16 DMMC shall be established by the City Manager, and

WHEREAS, DMMC 17.40.010 provides that the fee for any approval issued by the City under the authority of Title 17 DMMC shall be established by the City Manager, and

WHEREAS, DMMC 18.58.050 provides that "the City Manager may adopt by executive order procedural rules for the efficient implementation of this chapter" [Chapter 18.58 DMMC – Design Review], and

WHEREAS, DMMC 18.64.050 provides that "fees for the following land use applications are established by the City Manager

- (a) Change of zone;
- (b) Unclassified use permit;
- (c) Planned unit development;
- (d) Variance;
- (e) Conditional use permit;
- (f) Comprehensive plan amendment

WHEREAS, the Des Moines City Council established “Improved economic vitality and development” as a strategic goal and “facilitate development of the Des Moines Creek Business Park” and changes to Marina District development regulations and improvements to the Downtown water system as strategic objectives to advance this strategic goal; and

WHEREAS, the City Manager by Executive Order No. 07-005, established the Pacific Ridge Redevelopment Incentive Program to further the goals and objectives established by the Pacific Ridge Neighborhood Improvement Plan effective January 1, 2008; and

WHEREAS, DMMC 18.31.010 provides that the purpose of the Pacific Ridge Zone is “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,” and

WHEREAS, Policy 11-03-02 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should “encourage increased building heights in this neighborhood to enhance land value, promote redevelopment, expand view opportunities, and to accommodate household growth targets specified by the Countywide Planning Policies for King County,” and

WHEREAS, Policy 11-03-06 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should “ensure that development requirements, land use review procedures, and mitigation measures do not unnecessarily hinder redevelopment. Utilize innovative land use review techniques/procedures to minimize timeframes and uncertainty during permit review. Examples of such techniques/procedures include: streamlined environmental review; optional DNS; impact fees, etc.” within the Pacific Ridge, and

WHEREAS, Policy 11-03-07 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should “promote redevelopment of Pacific Ridge properties to attract new or expanded businesses and commercial development to Pacific Ridge,” and

WHEREAS, DMMC 18.25.010 provides that the purpose of the Business Park Zone is, “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,” and

WHEREAS, DMMC 18.27.010 provides that the purpose of the Downtown Commercial Zone is, “to enhance, promote, and encourage development within the marina district,” and

WHEREAS, Policy 2-03-08 of the Land Use Element of the Des Moines Comprehensive Plan provides that the City should, “promote new development and

redevelopment within the Marina District to reflect and enhance its ties to the waterfront, pedestrian orientation, and role in serving local shopping and service requirements,” and

WHEREAS, Policy 10-02-04 of the Marina District Element of the Des Moines Comprehensive Plan provides that the City should, “promote new development and redevelopment within the commercial district to reflect and enhance its ties to the waterfront, pedestrian orientation, and role in serving local shopping and service requirements,” and

WHEREAS, given the size of the large scale projects envisioned in the Pacific Ridge and Des Moines Creek Business Park and potential for such projects in the Marina District, the City will achieve an economy of scale allowing the City to recover the cost of land use and building permitting at a lower rate than needed for smaller scale projects, and

WHEREAS, encouraging development throughout the City is in the best interest of the public health, safety or welfare of the City’s citizens, **NOW THEREFORE.**

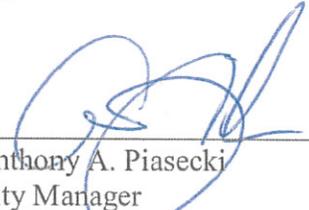
It is hereby **ORDERED** as follows:

1. The City-Wide Development Incentive Program is established.
2. The Incentive Program shall reduce fees for environmental review, subdivision, planned unit development, short subdivision and lot line adjustment, engineering plan review, building plan check and building permit, mechanical, electrical and plumbing permit, and right of way permits as follows:
 - a. By 20%, provided that the individual permit applications contain a minimum of 50,000 square feet of commercial or residential development or a combination thereof, excluding the area necessary for any required parking.
 - b. By 10%, provided that the individual permit applications contain a minimum of 25,000 square feet of commercial or residential development or a combination thereof, excluding the area necessary for any required parking.
3. The Incentive Program shall not apply to any fee established by ordinance or by another agency including transportation impact fees, park in-lieu fees, South King Fire & Rescue review fees, surface water management hookup fees, or business licenses and taxes. The Incentive Program shall also not include the cost for any third-party review.
4. The Incentive Program shall apply to the first group of tenant improvements provided that the building was constructed as a “shell building.” All future tenant improvements regardless of size shall comply with the City wide fee schedules.
5. The Incentive Program is only available to the first 3,125,000 square feet of occupiable commercial development (excluding the area necessary for any required parking) and 5,541 residential units if the project is in Pacific Ridge. Once the allotments are

exhausted this Incentive Program will cease for Pacific Ridge projects unless additional allotments are added by executive order of the City Manger.

- 6. The Incentive Program for the Marina District Neighborhood and the North Central Neighborhood will cease five years from the date of this Executive Order unless an extension is granted by executive order of the City Manager.
- 7. Fees for development activity that qualify for the Incentive Program will be assessed in accordance with the City Development Services Fee Schedule (Exhibit A), the Building Permits Fee Schedule (Exhibit B), Right-of-Way Permit Fee Schedule (Exhibit C).
- 8. Issuance of the Executive Order amends and supersedes Executive Order Number 10-001 regarding the City-Wide Development Incentive Program

DATED this 26th day of December, 2013.



Anthony A. Piasecki
City Manager
City of Des Moines

APPROVED AS TO FORM:



City Attorney

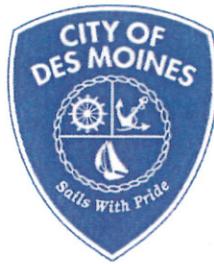
ATTEST:



City Clerk

**SECOND
DEVELOPMENT AGREEMENT
BY AND BETWEEN**

**THE CITY OF DES MOINES
and
THE PORT OF SEATTLE**



June 15, 2012

TABLE OF CONTENTS

SECTION 1. DEFINED TERMS.....	2
1.1 Agreement.....	2
1.2 Conceptual Master Plan.....	3
1.3 DMCBP.....	3
1.4 DMMC.....	3
1.5 Development Regulations.....	3
1.6 Environmental Documents.....	3
1.7 Master Plan.....	3
1.8 Permitted Uses.....	3
1.9 The Port.....	3
1.10 The Project.....	3
1.11 Transportation Gateway Project.....	3
1.11.1 S. 216th St. - Segment 1A:.....	4
1.11.2 S. 216th St. - Segment 1B:.....	4
1.11.3 S. 216th St. - Segment 2:.....	4
1.11.4 24th Avenue South Segment:.....	4
SECTION 2. PURPOSE.....	4
2.1 General.....	4
2.2 Assurances.....	4
SECTION 3. PROPERTY DESCRIPTIONS.....	5
3.1 Property.....	5
3.2 Zoning Designation.....	5
SECTION 4. PARTIES.....	5
4.1 The City.....	5
4.2 The Port.....	5
SECTION 5. PROJECT.....	5
5.1 General.....	5
5.2 Phases.....	5
5.2.1 Area 1 – Puget Sound Energy/Benaroya.....	5

5.2.2 Area 2 – Logistics Park..... 6

5.2.3 Area 3 – Retail or Business Park..... 6

SECTION 6. BACKGROUND DOCUMENTATION AND PREVIOUS AGREEMENTS... 6

6.1 General..... 6

6.2 DMCBP Conceptual Master Plan..... 6

6.3 DMCBP Draft EIS..... 6

6.4 DMCBP Final EIS..... 7

6.5 Traffic Trip Thresholds Technical Memorandum..... 7

6.6 Wetland Re-Delineation Report..... 7

SECTION 7. DEVELOPMENT REGULATIONS 7

7.1 General..... 7

7.2 Parking..... 7

7.3 Recreation Requirements..... 7

 7.3.1 Joint Use Access Path..... 7

 7.3.2 Des Moines Creek Trail Connection..... 8

7.4 Landscaping Requirements..... 8

7.5 Design Standards..... 8

SECTION 8. MASTER PLAN..... 8

8.1 Approval..... 8

8.2 Limitation..... 8

SECTION 9. STATE ENVIRONMENTAL POLICY ACT (“SEPA”) 9

9.1 Development Agreement..... 9

9.2 SEPA Review..... 9

9.3 Supplemental Traffic Impact Analysis..... 9

9.4 Other Mitigation Measures..... 9

SECTION 10. RETAIL DEVELOPMENT..... 9

10.1 General..... 9

10.2 Purchase Option..... 10

SECTION 11. TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS..... 10

11.1 Access and Internal Roadways..... 10

 11.1.1 South 208th Street (Public)..... 10

 11.1.2 Internal Loop Road (Public):..... 10

11.2 Frontage Improvements..... 11

 11.2.1 South 216th Street..... 11

 11.2.2 24th Avenue South..... 12

 11.2.3 Advance Payment of In-Lieu Fees..... 12

 11.2.3.1 South 216th Street..... 12

 11.2.3.2 24th Avenue South..... 13

 11.2.3.3 20th Avenue South Traffic Signal..... 13

11.3 Transportation Impact Fees..... 14

11.4 Project and System Improvements..... 14

SECTION 12. DRAINAGE REQUIREMENTS AND INFRASTRUCTURE..... 14

12.1 General..... 14

12.2 Standard..... 14

12.3 Surface Water Management Fees..... 15

12.4 Flow Control..... 15

12.6 Drainage Reports..... 15

 12.6.1 Areas 1 and 2..... 15

 12.6.2 Area 3..... 15

SECTION 13. ENVIRONMENTALLY CRITICAL AREAS..... 16

13.1 Wetlands..... 16

13.2 Permits..... 16

13.3 Mitigation Site..... 16

13.4 Critical Aquifer Recharge Area..... 16

13.5 Tracts..... 16

SECTION 14. PERMITTING..... 16

14.1 General..... 16

14.2 Design Review..... 16

14.3 Clearing and Grading..... 17

14.4 Building Permits..... 17

14.5 Right-of-Way Permits..... 17

14.6 Permit Fees..... 17

SECTION 15. VESTED RIGHTS AND TERM..... 17

 15.1 *Duration and Termination.* 17

 15.2 *Vesting of Development Regulations.* 18

SECTION 16. CERTAINTY OF DEVELOPMENT AGREEMENT..... 18

 16.1 *Development Agreement Deemed Controlling.* 18

 16.2 *Subsequent Actions.* 18

 16.3 *Changes in the Law.*..... 18

 16.4 *Emergency Situations.*..... 19

SECTION 17. GENERAL PROVISIONS 19

 17.1 *Notices, Demands and Communications.* 19

 17.2 *Amendments.* 19

 17.3 *Other Government Approvals.*..... 19

 17.4 *Conflict of Interests.*..... 19

 17.5 *Non-Liability of City, Officials, Employees, and Agents.* 20

 17.6 *Enforced Delay.* 20

 17.7 *Title of Parts and Sections.* 20

 17.8 *Hold Harmless.* 20

 17.9 *Enforcement, Rights and Remedies Cumulative.* 20

 17.10 *Applicable Law.* 21

 17.11 *Severability.* 21

 17.12 *Legal Actions.* 21

 17.13 *Binding Upon Successors.* 21

 17.14 *Parties Not Co-ventures.*..... 21

 17.15 *Warranties.*..... 21

 17.16 *Reasonable Approvals.* 21

 17.17 *Recordation.*..... 22

 17.18 *Execution of Other Documentation.* 22

 17.19 *Complete Understanding of the Parties.*..... 22

EXHIBITS

- A *DMCBP Legal Description*
- B *Master Plan*
- C *DMCBP Short Plat*
- D *Design Guidelines*
- E *Environmental Mitigation (SEPA)*
- F *S. 208th Street Private Cross-section*
- G *Internal Loop Road Cross-section*
- H *Transportation System Improvement Matrix*
- I *Wetland Mitigation Area Map*
- J *Executive Order 10-001: City-wide Development Incentive (Permit Fees)*

**SECOND DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF DES MOINES
and
THE PORT OF SEATTLE**

THIS SECOND DEVELOPMENT AGREEMENT, hereinafter referred to as the “Agreement”, is entered into effective on the 15th day of June, 2012 by and between the City of Des Moines, a Washington municipal corporation (hereinafter referred to as the “City”) and the Port of Seattle, a Washington municipal corporation (hereinafter referred to as the “Port”) in connection with the real property described herein (hereinafter referred to as the “Property”), and development of the Property by its assigns for the purposes and on the terms and conditions set forth herein.

RECITALS

A. The City is a non-charter code city organized pursuant to Chapter 35A.13 RCW of the laws of the State of Washington having authority to enact laws and enter into agreements to promote the health, safety, and welfare of its citizens, and thereby control the use and development of property within its jurisdiction.

B. The Port is a municipal corporation, with authority under the Revised Airports Act, Chapter 14.08 RCW; the Airport Zoning Act, Chapter 14.12 RCW, the State Environmental Policy Act (SEPA), Chapter 43.21C RCW; certain port district enabling statutes; and other state and local laws, to exercise discretionary land use jurisdiction over real property located within its boundaries.

C. The Port and City share the goals of creating an attractive and safe commercial development, an employment center that provides family wage jobs, a new source of direct and indirect long-term revenue for both the Port and the City, and increasing trade opportunities for the region.

D. The Port and the City executed the “First Development Agreement” concerning the Property in July 2005 under the authority of RCW 36.70B.170-.210 and the Interlocal Cooperation Act, Chapter 39.34 RCW, to enter into agreements for joint performance of actions within their separate powers.

E. The Port and City subsequently amended the First Development Agreement with a First Addendum in May 2008, and a Second Addendum modifying the First Addendum in November 2010 regarding compensation for dedicated and deeded rights of way and purchase of right of way frontage within and for the Des Moines Creek Business Park (DMCBP).

F. RCW 36.70B.170. et. seq., authorizes the City to enter into development agreements with owners, contract purchasers, and option holders of real property, to establish, among other things, the “development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.

G. RCW 36.70B.190 requires that any development agreement be recorded with the real property records of King County.

H. The City and the Port have agreed to enter into this Agreement to establish, among other things, the development standards and other provisions that shall apply to, govern and vest the development, use, and mitigation of the development of the Property for the duration specified in the Agreement.

I. The proposed Project accomplishes the statutory intent of a comprehensive, orderly, planned development within the City, providing public benefits to the citizens and residents of the City.

J. Pursuant to RCW 36.70B.200, a public hearing has been held before the City Council and the City Council has enacted Resolution Number 1194 authorizing the City Manager to enter into this Agreement, and

K. The Port Commission voted on June 5, 2012 to authorize the Port Chief Executive Officer to enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants of the parties contained herein, and pursuant to RCW 36.70B.170-200, the parties hereto agree as follows:

AGREEMENT

SECTION 1. DEFINED TERMS

Terms not otherwise defined herein have the meaning set forth in 36.70B.170 RCW, the provisions of which are incorporated herein by reference.

1.1 Agreement. The Second Development Agreement by and between the City of Des Moines and the Port of Seattle.

1.2 Conceptual Master Plan. *The Des Moines Creek Business Park Conceptual Master Plan* dated April 2006 prepared by CH2M Hill.

1.3 DMCBP. The Des Moines Creek Business Park, an approximately 89-acre property owned by the Port within the City, which can be generally described as the area bounded by South 216th Street to the south, the City municipal boundary to the north (roughly South 208th Street), 24th Avenue South to the east and the surplus SR 509 right-of-way to the west.

1.4 DMMC. The Des Moines Municipal Code.

1.5 Development Regulations. The controls, requirements, and limitations placed on development within the City adopted by the City, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, drainage requirements, transportation requirements, SEPA ordinances, and subdivision ordinances.

1.6 Environmental Documents. The background environmental studies identified in Sections 6.3 – 6.6 of this Agreement.

1.7 Master Plan. The generalized layout plans for development of the Property, including but not limited to environmental protections, transportation, surface water, general building location, associated parking facilities, loading facilities, square footage of buildings, utilities, and identification of lots and tracts.

1.8 Permitted Uses. The uses allowed on properties zoned Business Park (B-P) as established by DMMC 18.25.020.

1.9 The Port. The Port of Seattle and/or the developer(s) who have executed a ground lease with the Port for development within the DMCBP.

1.10 The Project. The phased build-out of the DMCBP consistent with the terms of this Agreement.

1.11 Transportation Gateway Project. The City's project to construct transportation improvements to the South 216th Street and 24th Avenue South rights-of-way to accommodate multiple modes of travel (pedestrians, bicycles, transit, automobiles, & freight) in support of the DMCBP as well as accommodating future growth as reflected in the City's Comprehensive Transportation Plan. The project limits for South 216th Street are between I-5 and 18th Avenue South and for 24th Avenue South are between South 208th Street and South 216th Street. The project has been split in to the following segments:

- 1.11.1 S. 216th St. - Segment 1A:** This segment of the project includes the portion of South 216th Street from 29th Avenue South to 24th Avenue South.
- 1.11.2 S. 216th St. - Segment 1B:** This segment of the project includes the portion of South 216th Street from 29th Avenue South to I-5. It is envisioned that Segment 1B of the project will be constructed concurrent with the State's SR 509 construction project.
- 1.11.3 S. 216th St. - Segment 2:** This segment of the project includes the portion of South 216th Street from 24th Avenue South to 18th Avenue South including the 24th/216th intersection.
- 1.11.4 24th Avenue South Segment:** The portion of 24th Avenue South from South 208th Street to South 216th Street.

SECTION 2. PURPOSE.

2.1 General. The parties agree that this Agreement is premised upon the DMCBP Master Plan for Area 1 (**Exhibit B**), being approved by the City concurrent with this Agreement and the DMCBP Short Plat (**Exhibit C**), being approved by the City concurrent with this Agreement and later recorded. This Agreement addresses the development standards and other provisions that apply to and govern and vest the development, use, and mitigation of the development of the Property for the duration specified herein. It will guide the phased development of the Project, including addressing the street and stormwater improvements related to build-out of the Project.

2.2 Assurances. The Port desires to obtain and the City makes the following assurances:

- The Property is appropriately zoned to serve the needs envisioned in the Master Plan.
- The requirements for improvements to public streets and related infrastructure under the jurisdiction of the City are specifically identified.
- The development standards, including any modifications and other provisions which apply to the development of the Property, are clearly specified.
- Required environmental mitigation is accurately identified.

- Upon receipt of its development and construction permits the Port may proceed with the development of the Project.
- The Development Regulations vested for the duration of the Project are clearly identified.

SECTION 3. PROPERTY DESCRIPTIONS

3.1 Property. The Property subject to this Agreement is commonly referred to as the DMCBP and is fully described in **Exhibit A** attached hereto and incorporated herein by this reference.

3.2 Zoning Designation. The zoning designation of the Property as Business Park (B-P) shall be unchanged for the duration of this Agreement.

SECTION 4. PARTIES

4.1 The City. The City of Des Moines, a municipality of the State of Washington, exercises governmental functions and powers pursuant to the laws of the State of Washington and the DMMC. The principal office of the City is located at 21630 11th Avenue South, Des Moines, Washington 98198.

4.2 The Port. The Port of Seattle, a municipal corporation, exercises governmental functions and powers pursuant to the laws of the State of Washington. The principal office of the Port is located at 2711 Alaskan Way, Seattle, Washington 98121.

SECTION 5. PROJECT

5.1 General. The DMCBP is envisioned as a thriving center for diverse light industrial and commercial activities.

5.2 Phases. It is anticipated that the Project will be developed in three phases that correspond to the three geographical areas identified in the Master Plan (**Exhibit B**) and generally described as follows:

- 5.2.1 Area 1** – Area 1 consists of Lots 1 – 3 and Tract Y of the DMCBP Short Plat. The Port plans to enter into a long-term lease agreement with Puget Sound Energy (PSE) covering this area. PSE intends to assign the lease to Benaroya Capital Co., LLC to construct a central operational facility to

provide improved maintenance and emergency services to the Puget Sound Region and the greater Pacific Northwest.

5.2.2 Area 2 – Area 2 consists of Lots 4 – 5 of the DMCBP Short Plat. The Port anticipates this area will be developed with business park uses, including light industrial or commercial office uses. The Port expects to enter into a long-term lease agreement with a developer for this area.

5.2.3 Area 3 – Area 3 consists of Lots 6 – 9 of the DMCBP Short Plat. The Port anticipates this area will be developed with business park uses, including light industrial, commercial office, or retail uses. If this area is developed for retail uses, the Port anticipates the property will be purchased by the City or its assignee pursuant to Section 10 of this Agreement. Otherwise, the Port expects to enter into a long-term lease agreement with a developer for this area.

SECTION 6. BACKGROUND DOCUMENTATION AND PREVIOUS AGREEMENTS

6.1 General. The terms of this Agreement and the development envisioned for the DMCBP is influenced by a number of previous documents. The documents identified in this Section evaluated numerous aspects of the Property and provide critical information utilized to formulate decisions associated with the development of the Property and the preparation of this Agreement.

6.2 DMCBP Conceptual Master Plan. *The Des Moines Creek Business Park Conceptual Master Plan* dated April 2006 prepared by CH2MHill. This report presented illustrative concepts for the development of the DMCBP given the site's physical features, the applicable development regulations, and market conditions. It was meant to be representative of the range of possible future buildout scenarios. This report was also utilized to complete the environmental review analysis required under the State Environmental Policy Act (SEPA).

6.3 DMCBP Draft EIS. *The Des Moines Creek Business Draft Environmental Impact Statement* dated November of 2006 prepared by Blumen Consulting Group Inc., A.C. Kindig and Co., Cedarock Consultants, and CH2MHill. The Draft Environmental Impact Statement (DEIS) analyzed and identified the probable significant environmental impacts that could occur as a result of development of the DMCBP. The DEIS also identified environmental mitigation measures which must be incorporated into the Project in order to reduce or prevent the identified environmental impacts. The DEIS was completed jointly by the City and the Port as SEPA Co-Lead Agencies.

6.4 DMCBP Final EIS. The *Des Moines Creek Business Final Environmental Impact Statement* (FEIS) dated March of 2007 prepared by Blumen Consulting Group Inc., A.C. Kindig and Co., Cedarock Consultants, and CH2MHill. The FEIS provided additional information and responses based on comments received during the comment period for the DEIS. Together, the FEIS and DEIS comprise the environmental impact statement for the DMCBP project as required by SEPA.

6.5 Traffic Trip Thresholds Technical Memorandum. The *Des Moines Creek Business Park – Draft Project Element Traffic Trip Thresholds Technical Memorandum* dated February 20, 2007 prepared by CH2MHill. This technical memorandum describes the amount of traffic volume the DMBCP could generate in year 2008, 2015 and 2024 before triggering the project elements described in the Traffic Analysis Report of the DMCBP DEIS.

6.6 Wetland Re-Delineation Report. The *Wetland Delineation and Habitat Assessment – Des Moines Creek Business Park Puget Sound Energy Facilities* dated February 15, 2012 prepared by Soundview Consultants. The report re-delineated and assessed the wetlands and other potentially regulated aquatic features within Areas 1 and 2 of the Property. The Port acknowledges that an updated delineation report for the wetlands and other potentially regulated aquatic features will be completed as part of the development of Area 3.

SECTION 7. DEVELOPMENT REGULATIONS

7.1 General. The Port shall comply with all applicable Development Regulations, except as modified by this Agreement.

7.2 Parking. The City agrees to waive the requirement of DMMC 18.25.060(1) that any buildings containing three or more floors provide at least fifty percent (50%) of the required parking within the building or an adjacent multistory parking structure pursuant to DMMC 18.52.100. Further, the City agrees to waive the parking requirement established by DMMC 18.44.060(5)(c) that requires one (1) parking space for every 2,000 square feet of uncovered storage area for Area 1 pursuant to DMMC 18.44.040(1).

7.3 Recreation Requirements. The Port shall provide the recreational facilities described in this Section. In consideration for these facilities, the City pursuant to DMMC 18.52.100 waives the requirement of DMMC 18.25.080 that sites within the B-P zone submit a park study to evaluate the impact on the City's park system and identify the recreational needs of the employees and customers.

7.3.1 Joint Use Access Path. The Port will construct a 12-foot-wide joint use pedestrian and bike pathway located on the north and west side of the

Internal Loop Road discussed in Section 11.1.2. The construction of the joint use access pathway will be completed in conjunction with the construction of each segment of the Internal Loop Road.

7.3.2 Des Moines Creek Trail Connection. The Port will construct a 12-foot-wide joint use pedestrian and bike pathway within a 24-foot-wide tract to provide a connection to the Des Moines Creek Trail in conjunction with the development of Area 3. The location of the tract will be south of the tract established for the detention facilities for Areas 1 and 2, as illustrated on the Master Plan and DMCBP Short Plat (**Exhibits B and C** respectfully). The tract will be established as part of the DMCBP Short Plat. This connection will provide access from the Joint Use Access Path via Barnes Creek Trail to the Des Moines Creek Trail which is part of the Lake to Sound Regional Trail System.

7.4 Landscaping Requirements. The City agrees to waive the requirement of DMMC 18.41.310(2) that sites within the DMCBP provide a twenty (20) feet wide Type I landscaping strip including a five (5) foot tall earthen berm adjacent to 24th Avenue South and South 216th Street pursuant to DMMC 18.52.100. In lieu of the required landscaping, the Port agrees to install a ten (10) foot wide Type II landscaping strip as defined by DMMC 18.41.350 along 24th Avenue South and South 216th Street.

7.5 Design Standards. The City agrees that the DMCBP Design Guidelines prepared by the Port are approved by this Agreement to guide the development of the Property and are attached hereto as **Exhibit D** and incorporated herein by this reference.

SECTION 8. MASTER PLAN

8.1 Approval. The City agrees that the Master Plan attached as **Exhibit B** and incorporated by this reference satisfies requirements of DMMC 18.25.030 for Area 1. The Port agrees that separate Master Plans for Areas 2 and 3 will be submitted to the City for review that will be processed in accordance with DMMC 18.25.030(5) and as an Amendment to this Agreement pursuant to Section 17.2.

8.2 Limitation. The Parties acknowledge that approval of the Master Plan by the City constitutes approval of the general layout of the Project and is subject to permitting conditions to be identified on individual permits. Master Plan approval does not constitute acceptance or approval of specific details of the Project. When the Port seeks permits to develop an individual area within the Property, the Port shall submit appropriate permit applications

which include but are not limited to the applications identified in Section 14 and the supplemental traffic impact analysis as described in Section 9.3.

SECTION 9. STATE ENVIRONMENTAL POLICY ACT (“SEPA”)

9.1 Development Agreement. The City’s approval of a development agreement is a “project action” as defined by the State Environmental Policy Act (SEPA) and, as such, requires environmental review. The Parties agree that the SEPA review required for consideration and adoption of this Agreement has been fulfilled with the publication of the Environmental Documents.

9.2 SEPA Review. The Parties acknowledge that the Environmental Documents fully evaluated the environmental impacts from the development of the Project, except for the environmental impacts associated with the retail development as discussed in Section 10 of this Agreement. The City agrees that if additional SEPA analysis is needed to assess the environmental impacts associated with retail development within Area 3, the cost for such additional SEPA analysis will be paid for by the City or its assign.

9.3 Supplemental Traffic Impact Analysis. Several project and system improvements were identified within the Environmental Documents, and assumed to be constructed and in place at various points of the phased build-out of the Project. In order to mitigate the traffic impacts associated with the Project, trip thresholds were established that would trigger these various project and system improvements. The Port shall submit, for City review and approval, a supplemental traffic impact analysis with each phase of the Project to document that the proposed phase of the Project is consistent with the traffic analysis in the Environmental Documents. If the proposed phase of the development is not consistent with the traffic analysis in the Environmental Documents, mitigating measures shall be identified and constructed.

9.4 Other Mitigation Measures. As triggered during build-out of the Project, the Port agrees to implement the other environmental mitigation measures not related to traffic impacts established by the Environment Documents and provided in **Exhibit E**.

SECTION 10. RETAIL DEVELOPMENT

10.1 General. Following preparation of the Conceptual Master Plan and the Environmental Documents, the City requested that the Port include destination retail use on Area 3. The Port agreed in principle to allow the City to option Area 3 for retail use subject to certain conditions.

10.2 Purchase Option. If the City concludes that retail development is viable to the Port's satisfaction by September 28, 2012, the Port and the City shall negotiate and execute an option agreement within three (3) months of such date that outlines the terms for a fixed-term, assignable option not exceeding two (2) years for the City (or its assign) to acquire Area 3 for retail development. If the City declines to pursue an option, the Port shall then develop Area 3 of the Project with other business park uses permitted by the DMMC.

SECTION 11. TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS

11.1 Access and Internal Roadways. Roadways on the Property accessing South 216th Street and 24th Avenue South shall be built to City of Des Moines Street Design and Construction Standards as described in this Section. These roadways will be designed to match the final grades provided in the Transportation Gateway Project. Accommodations for interim grade transitions should be included in the Port's civil plans to address construction timing issues. The individual roadways are further described below:

11.1.1 South 208th Street (Public). The Port shall construct the northern access roadway identified in the Environmental Documents generally within the boundaries of the vacated/surplused South 208th Street; provided that the roadway will be modified to be a dead end cul-de-sac and not connect to the Internal Loop Road discussed in Section 11.1.2. This road will be placed within a 60-foot-wide right-of-way, shall align with South 208th Street on the east side of 24th Avenue South, and shall be dedicated to the City as part of the DMCBP Short Plat. Prior to the construction of the road, the Port shall prepare civil engineering plans for review and approval by the City generally consistent with the cross-section provided in **Exhibit F**. The City will take over maintenance responsibility of this roadway when its construction is completed, and it is accepted in accordance with the provisions of the City's right-of-way permit. The threshold trigger for completion of South 208th Street shall be concurrent with the development of Area 1.

11.1.2 Internal Loop Road (Public): The Port shall construct the Internal Loop Road providing a connection from South 216th Street to 24th Avenue South as identified in the Environmental Documents; provided that the alignment of the roadway will be modified to connect to 24th Avenue South at the approximate location of the vacated/surplused South 212th Street.

The Internal Loop Road will be constructed in phases. The first phase will be constructed concurrent with the development of Area 1 and is identified

on the Site Plan – **Exhibit B**. This first phase of the road will be placed within a 66-foot-wide (minimum) right-of-way and dedicated to the City as part of the DMCBP Short Plat. The City will take over maintenance responsibility of the first phase of this roadway when its construction is completed, and it is accepted in accordance with the provisions of the City’s right-of-way permit.

Construction of subsequent phases of the Internal Loop Road shall be concurrent with the development of Areas 2 and 3, respectively, unless supplemental traffic impact analysis determines that its complete construction is required. As part of the DMCBP Short Plat, these future road segments will be shown in a 66-foot-wide (minimum) tract. When the construction of that phase of the roadway is completed, the tract will be dedicated to the City as right-of-way.

Prior to the construction of each phase of the Internal Loop Road, the Port shall prepare civil engineering plans for review and approval by the City consistent with the cross-section provided in **Exhibit G**.

11.2 Frontage Improvements. In accordance with the Environmental Documents and the DMMC, the Port is responsible for providing frontage improvements along South 216th Street and 24th Avenue South consistent with the design of the Transportation Gateway Project when permits are issued for construction fronting on these streets. Consistent with DMMC 12.40.040(2) and in advance of permitted development, the Port agrees to make an in-lieu cash payment to the City to fulfill the requirement to physically construct the required frontage improvements. Such payment will reduce, cap and limit the Port’s future costs. In addition, the payment will allow the City to secure committed state grant funds and improve its competitiveness for additional regional and federal funds. In accepting the in-lieu cash payment, the City agrees to take the lead on and be responsible for the construction of the frontage improvements adjacent to South 216th Street and 24th Avenue South. This in-lieu cash payment is based on the estimated cost of the frontage improvements pursuant to DMMC 12.40.040(2) and further described below:

11.2.1 South 216th Street. The Port is responsible for fifty percent (50%) of the cost of Segment 2 of the Gateway Road Project as a condition for the City’s issuance of a building permit for Area 3. The Port agrees that the cost estimate for Segment 2, including engineering, administration, right-of way, and construction totals \$8,653,787. Therefore, the Port’s in-lieu cash payment for this frontage totals \$4,326,894.

11.2.2 24th Avenue South. The Port agrees that it is responsible for fifty percent (50%) of the cost of the 24th Avenue Segment of the Transportation Gateway Project improvements as a condition for the City's issuance of a building permit for Areas 1 and 2. The cost estimate for this Segment, including engineering, administration, right-of-way, and construction totals \$9,569,989. Therefore, the Port's in-lieu cash payment for this frontage totals \$4,784,995.

11.2.3 Advance Payment of In-Lieu Fees. The Parties acknowledge that as of the date of this Agreement, the Port is only prepared to begin the development of Area 1 and that any in-lieu cash payments made by the Port for Areas 2 and 3 are in advance of the typical payment trigger for development of Areas 2 and 3. The Parties further acknowledge that due to the magnitude and complexity of the Transportation Gateway Project, completing its construction in incremental stages would be significantly more costly than constructing it as one integrated project, given its off-set alignment, comprehensive storm drainage systems, traffic signal systems, and other utility improvements. Incremental construction would be most costly due to the fact that each individual stage of construction would have to account for interim roadway transitions, utility terminations, and other temporary systems, which would increase project costs by at least twenty percent (20%) and potentially as high as thirty percent (30%). Therefore, the Parties agree that in order to minimize the overall roadway improvement costs, the improvements are best completed at one time as part of an integrated project with advance payment of all in-lieu fees by the Port. The Port's agreement to such advance payment will help the City secure state and/or federal grants needed to complete the Transportation Gateway Project improvements, without which the Port's share of the costs for the roadway improvements would be significantly higher. To induce the Port's advance payment of all the in-lieu payments for the required Transportation Gateway Project frontage improvements, the Parties agree to the following payment amounts and schedule:

11.2.3.1 South 216th Street. The City has secured a Transportation Improvement Board (TIB) grant of \$4 million for the construction of Segment 2 of the Transportation Gateway Project. This grant requires the construction of this segment be underway in the first quarter of 2013. To facilitate the City's adherence to this schedule and to provide the necessary local match for the grant, the Port agrees to pay the City an advance

in-lieu cash payment in the amount of \$2.5 million, on or before January 31, 2013 instead of the \$4,326,894 that would otherwise be due. In return, the City agrees that the requirement for the Port to provide frontage improvements along South 216th Street will be fully satisfied. The Port's payment of \$2.5 million, together with the in-lieu cash payment described in Section 11.2.3.2, is the basis for the Transportation Impact Fee waiver described in Section 11.3.

11.2.3.2 24th Avenue South. The City is in the process of securing federal, state, and/or regional grants for the construction of this segment. To facilitate the City's timely construction of this segment and to provide local match for these grants, the Port agrees to pay an advance in-lieu cash payment to the City in the amount of \$3.5 million, on or before May 31, 2013 instead of the \$4,784,995 that would otherwise be due. In return, the City agrees that the requirement for the Port to provide frontage improvements along 24th Avenue South will be fully satisfied. The payment of \$3.5 million from the Port, together with the in-lieu cash payment described in Section 11.2.3.1, is the basis for the Transportation Impact Fee waiver described in Section 11.3.

11.2.3.3 20th Avenue South Traffic Signal. The Port acknowledges that the development of Area 1 will generate 364 PM peak hour trips. This is significant given the threshold trigger points identified in **Exhibit H**. Several project and system improvements are identified in the Environmental Documents when the total PM peak hour trips generated by the DMCBP are 390 or greater. The Parties acknowledge that one of these requirements is the installation of a traffic signal at the intersection of South 216th Street and 20th Avenue South, along with the associated roadway improvements at the intersection. This improvement is part of the Transportation Gateway Project, and therefore is included in the in-lieu cash payment for Segment 2 of South 216th Street. The Port agrees that while the development of Area 1 does not specifically trigger the requirement for this improvement at this time, its development does contribute to the overall and eventual need for the improvement, and that it would likely be triggered by the next phase of development on the Property whether in Area 2 or 3.

11.3 Transportation Impact Fees. In consideration for the Port providing in-lieu cash payments as discussed in Section 11.2, the Port shall not be required to pay Transportation Impact Fees (TIF) pursuant to RCW 82.02.060 for the duration of this Agreement; provided however that this waiver does not relieve the Port of providing actual project and system improvements as described in Section 11.4.

11.4 Project and System Improvements. The Port shall construct the required Project and system improvements identified in the Environmental Documents, and any additional Project or system improvements that may be identified in supplemental traffic impact analysis submitted for each phase of the Project. A list of the Project and system improvements, along with their threshold trigger points, is provided in **Exhibit H**. This list is not all inclusive, as it only includes the Project and system improvements identified in the Environmental Documents submitted as of the date of this Agreement. The list does not include any additional Project or system improvements that may be identified in supplemental traffic impact analysis submitted for each phase of the Project.

The City will accept proportionate share contributions from the Port for the system improvement identified for South 216th Street – Segment 1A (between 29th Avenue South and 24th Avenue South (refer to **Exhibit H** – Project 5). When the threshold for the system improvement is triggered by a specific phase of the Project, that phase of the Project (and all subsequent phases of the Project) will make a proportionate share contribution towards this system improvement. The proportionate share contribution shall be calculated by taking the total PM peak hour trips generated by the specific phase of the Project at the intersection of Pacific Highway South and South 216th Street, dividing it by the total PM peak hour trips at the intersection, and multiplying the result by the cost estimate for the system improvement.

SECTION 12. DRAINAGE REQUIREMENTS AND INFRASTRUCTURE

12.1 General. The Port shall provide stormwater facilities to address surface water runoff created as the result of development of the Property. All stormwater facilities shall be located in separate public tracts. The stormwater facilities will be built by the Port, and, upon completion, deeded to the City as part of the DMCBP Short Plat for long-term ownership and maintenance.

12.2 Standard. The Port shall comply with the version of the *King County Surface Water Design Manual* (KCSWDM) in effect at the time that permits are submitted for the development of Area 3. Development within Areas 1 and 2 shall be vested to the regulations of the *2009 King County Surface Water Design Manual* for the duration of this Agreement. It is anticipated that Low Impact Development drainage standards will be a KCSWDM requirement

for any development within the City after January 1, 2016. Before January 1, 2016, it is preferred, but not required, that stormwater be handled using Low Impact Development approaches when economically and technically feasible. The City may impose additional water quality or flow control requirements if it is deemed through performance that the facilities are not sufficient in achieving the standards set forth in the KCSWDM.

12.3 Surface Water Management Fees. All surface water development fees and surface water service fees are applicable to the DMCBP in accordance with Chapter 11.12 of the DMMC.

12.4 Flow Control. The Port may utilize the King County Level 1 flow control criterion and the 1994 land use condition as the pre-developed condition for sizing flow control facilities that discharge directly to Des Moines Creek, a drainage tributary or to a City conveyance system as set forth in the KCSWDM for the sizing of stormwater detention facilities due to the implementation of the Des Moines Creek Basin project. However, areas that discharge directly or indirectly to a wetland shall meet the criterion set forth in the KCSWDM as amended by Chapter 11.28 DMMC – Supplemental Storm Water Standards.

12.5 Detention Tracts. Pursuant to DMMC 17.36.100, all detention facilities are to be located within separate tracts that are deeded to the City, whereupon the City shall assume all maintenance and ownership responsibilities. A private access easement to the detention tracts shall also be provided to allow access to the facilities for water quality testing that may be required in order to meet any issued industrial NPDES permits. Prior to City acceptance of the detention facilities, the Port will provide the City with an operations and maintenance manual for the care of the facilities, including any special instructions for maintaining any protective netting or plantings that is required to satisfy FAA regulations.

12.6 Drainage Reports.

12.6.1 Areas 1 and 2. The City agrees that the Technical Information Report (drainage report) submitted for the detention facility located in Tract A of the DMCBP Short Plat has been designed to address the drainage associated with the development of Areas 1 and 2 of the Property; provided that the development occurs consistent with the Technical Information Report prepared by Barghausen Engineering dated May 16, 2012.

12.6.2 Area 3. A Technical Information Report shall be prepared, for City Approval, to identify drainage facility requirements and demonstrate compliance with the KCSWDM or other approved standards as specified

in Section 12.4 at the time the Design Review Application and/or Grading Permit is submitted for development of Area 3.

SECTION 13. ENVIRONMENTALLY CRITICAL AREAS

13.1 Wetlands. There are a number of wetlands that exist on or directly adjacent to the Property. The Environmental Documents envisioned filling all of the on-site wetlands in conjunction with the development of the Property.

13.2 Permits. The Port shall secure the required approvals from the Army Corps of Engineers and/or the Washington State Department Ecology as may be necessary for the fill of wetlands W, B11, 14 and 32 and any other regulated waters identified in the Environmental Documents. The City acknowledges that local permits are not required to fill these wetlands pursuant to Section V – Step 2(4) of the *First Development Agreement between the City of Des Moines and the Port of Seattle*.

13.3 Mitigation Site. The City agrees to issue all necessary easements, construction licenses, and consent to construct the required mitigation for impacts to the wetlands and ditches regulated by the Army Corps of Engineers within the area illustrated on **Exhibit I** within the boundaries of the Des Moines Creek Park.

13.4 Critical Aquifer Recharge Area. The Port shall submit, for City approval, a report prepared by a licensed professional engineer demonstrating that the Project complies with DMMC 18.86.240, Critical Aquifer Recharge Areas (CARA). The Parties agree that the CARA Report can be submitted at the time of submittal of the building permit application(s) for each Area.

13.5 Tracts. The Port agrees to place the wetlands and corresponding buffers, stream buffers, and ravine sidewalls and corresponding buffer into separate tract(s) as part of the DMCBP Short Plat.

SECTION 14. PERMITTING

14.1 General. The Port shall submit all permit applications required by the City for the development of Areas 1, 2 and 3 within the Project. The Port acknowledges that the City has attempted to identify the permits and applications required for the development of the Project and that subsequent review of proposed development for Areas 1, 2 and 3 may reveal additional issues that may require other permits or applications not discussed in this Section.

14.2 Design Review. The Port shall submit, for City approval, a Design Review application consistent with Chapter 18.58 DMMC – Design Review for development of each

individual Area within the Property. The application materials required for Design Review are provided on Form DSW-01.

14.3 Clearing and Grading. The Port shall submit, for City approval, a Clearing and Grading Plan consistent with Chapter 14.24 DMMC for the development of each individual Area within the Property. The application materials required for Grading Permit are provided on page 4 of Form DSA-02. Clearing and grading for the Project shall be restricted to those areas identified on the clearing and grading plans approved by the City for each Area. No other clearing of any nature shall be allowed without prior written approval of the City.

14.4 Building Permits. The Port shall submit, for City approval, Building, Electrical, Plumbing, and Mechanical Permit Applications consistent with Title 14 DMMC – Buildings and Construction Code.

14.5 Right-of-Way Permits. The Port shall submit, for City review and approval, right-of-way permits for any work occurring within the City right-of-way. Since both South 208th Street and the Internal Loop Road identified in Section 11 will eventually be dedicated to the City, right-of-way permits will also be required for the construction of these roadways.

14.6 Permit Fees. The City agrees to vest the Port to the provision of Des Moines Executive Order 10-001 (**Exhibit L**) for the term of this Agreement. This Executive Order established a *City-Wide Development Incentive Program* for all commercial projects by reducing fees for design review, environmental review, subdivision, planned unit development, short subdivision and lot line adjustment, engineering plan review, building plan check and building permit, land clearing, grading or filling, mechanical, electrical and plumbing permit, and right of way permits by twenty percent (20%) for projects with over 50,000 square feet of gross floor area excluding parking areas.

SECTION 15. VESTED RIGHTS AND TERM

15.1 Duration and Termination. This Agreement shall remain in effect for a period of fifteen (15) years unless either (a) the Parties both agree to extend the Agreement for a period to be defined, (b) the Project is fully developed consistent with Master Plans approved by the City for Areas 1 – 3, or (c) the Agreement is sooner terminated by the Parties. Other than as may be prohibited by law, and specifically subject to the limitations of RCW 36.70B.180, the Parties may terminate this Agreement by providing ninety (90) days written notice pursuant to Section 17.1. Termination of this Agreement shall not result in termination of any other legally binding agreement or action based upon this Agreement unless such additional termination is required under the terms of such other agreement or action. Notice of termination shall be provided in accordance with Section 17.1.

15.2 Vesting of Development Regulations. The Port is assured that all Development Regulations that govern development of the Property that are in effect as of the date of the City's approval of this Agreement shall apply for a period of fifteen (15) years from the effective date of this Agreement; provided, the Port shall be required to comply with the International Building Code, the City's Street Design and Construction Standards, and other regulatory codes adopted by the State of Washington and King County that preempt the City's authority in effect as of the date that the Port submits a complete permit application to the City for review. If the Property has not reached full build-out within this 15-year period, the Parties agree that Development Regulations in effect at that time will control the further development of the Property. The Port may elect, at its discretion, to conform to new Development Regulations that the City may adopt from time to time. Notwithstanding the foregoing, the City reserves the authority to impose new or different regulations to the extent necessary or required to address a threat to public health or safety.

SECTION 16. CERTAINTY OF DEVELOPMENT AGREEMENT

16.1 Development Agreement Deemed Controlling. This Agreement, once recorded, and any terms, conditions, maps, notes, references, or regulations which are a part of the Agreement shall be considered enforceable. In the event of a specific conflict with any provisions of the DMMC, this Agreement shall take precedence. Unless otherwise provided by this Agreement, the City's ordinances, resolutions, rules and regulations, and official policies governing permitted land uses, density, design, improvement, and construction standards shall be those City ordinances, resolutions, rules and regulations, and official policies in force at the time of the execution of this Agreement.

16.2 Subsequent Actions. This Agreement shall not prevent the City, in subsequent actions applicable to the Property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the Property, nor shall this Agreement prevent the City from denying or conditionally approving any subsequent development project application on the basis of such new rules, regulations, and policies.

16.3 Changes in the Law. In the event that City, state or federal laws or regulations, enacted after this Agreement has been entered into, prevent or preclude compliance with one or more of the provisions of the Agreement, such provisions of the Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations following modification procedures in Section 17 for an amendment or cancellation.

16.4 Emergency Situations. The City may suspend the issuance of building permits for the planned Project if it finds that continued construction would place surrounding residents or the immediate community in a condition dangerous to their health or safety.

SECTION 17. GENERAL PROVISIONS

17.1 Notices, Demands and Communications. Formal notices, demands and communications between the City and the Port shall be sufficient if given and shall not be deemed given unless dispatched by certified mail, postage prepaid, returned receipt requested, or delivered personally, to the principal offices of the City and the Port as follows:

City:

Anthony Piasecki or successor
City Manager
City of Des Moines
21630 11th Avenue South
Des Moines, Washington 98198

Port:

Tay Yoshitani or successor
Chief Executive Officer
Port of Seattle
2711 Alaskan Way
Seattle, Washington 98121

17.2 Amendments. This Agreement may be amended or modified in accordance with RCW 36.70B.170-200, and other applicable laws, rules or regulations, and upon mutual consent of the Parties, such mutual consent of the Parties shall be evidenced by a written amendment signed by the Parties.

17.3 Other Government Approvals. Should the Port at any time require the approval of any governmental body or board, whether of local, regional, state or federal jurisdiction, the Port shall bear the sole cost and responsibility for obtaining needed approvals. The City, upon request by the Port, shall lend its full cooperation and affirmative support if it deems such would be in the interest of timely performance under this Agreement, and such cooperation and support would not compromise the responsibilities of the City, including its responsibilities to the Port as set forth in this Agreement. Nothing contained herein is designed to relieve the Port of the necessity of complying with the laws governing the permitting requirements, conditions, terms or restrictions.

17.4 Conflict of Interests. No member, official or employee of the City shall make any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. The Port warrants that it has not paid or given, and shall not pay or give, any third person any money or other consideration for securing the City's approval of this Agreement.

17.5 Non-Liability of City, Officials, Employees, and Agents. No member, official, employee or agent of the City shall be personally liable to the Port, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Port or successor or on any obligation under the terms of this Agreement.

17.6 Enforced Delay. Performance by either party under this Agreement shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes, lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions of priority; litigation (including suits filed by third parties concerning or arising out of this Agreement); unusually severe weather; inability to secure necessary labor, materials or tools; acts or failure to act of any public or governmental authority or entity (other than the acts or failure to act of the City which shall not excuse performance by the City), or any other causes (other than lack of funds of the Port) beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for a period of the enforced delay and shall commence to run from the commencement of the cause, if notice by the party claiming such extension is sent to the other party within fifteen (15) calendar days of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the City's City Manager or designee.

17.7 Title of Parts and Sections. Any titles of the parts, sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provisions.

17.8 Hold Harmless. The Port shall indemnify and hold harmless the City and their officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of the negligent act or omission of the Port, its officers, agents, employees, or any of them relating to or arising out of the performance of this Agreement. If a final judgment is rendered against the City, its officers, agents, employees and/or any of them, or jointly against the City and the Port and their respective officers, agents and employees, or any of them, the Port shall satisfy the same to the extent that such judgment was due to the Port's negligent acts or omissions.

17.9 Enforcement, Rights and Remedies Cumulative. This Agreement shall be enforceable by the City, applicant, or successor-in-interest notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City which alters or amends the rules, regulations, or policies specified in this Agreement. Enforcement may be through any remedy or enforcement method or process, or combination thereof, allowed under law and/or equity. Except as otherwise stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise one or

more of these rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

17.10 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington. Venue for any legal action brought hereunder shall be in the King County Superior Court.

17.11 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

17.12 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement, or to collect damages as a result of any breach of the Agreement, the party prevailing in any such action shall be entitled to recover against the party not prevailing all reasonable attorneys' fees and costs incurred in the action.

17.13 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

17.14 Parties Not Co-ventures. Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another, nor employees and/or employers of each other.

17.15 Warranties. The City expresses no warranty or other representation to the Port or any other Party as to fitness or condition of the Property other than those expressed within this Agreement.

17.16 Reasonable Approvals. The approval of a party of any documentation or submissions herein called for shall not be unreasonably withheld unless the text clearly indicates a different standard. All such approvals shall be given or denied in a timely and expeditious fashion.

17.17 Recordation. Within ten (10) days after the effective date of this Agreement, or any modification or the cancellation thereof, the City Clerk shall have this Agreement, the modification or cancellation notice recorded with the County Auditor/Recorder of King County.

17.18 Execution of Other Documentation. The City and the Port agree to execute any further documentation that may be necessary to carry out the intent and obligations under this Agreement.

17.19 Complete Understanding of the Parties. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement consists of twenty-three (23) pages and ten (10) attached Exhibits and constitutes the entire understanding and agreement of the Parties.

CITY OF DES MOINES



Anthony A. Piasecki
City Manager
By direction of the Des Moines City Council
in Open Public Meeting
on June 14, 2012

Dated: 6/15/12

Approved as to Form:



City of Des Moines Attorney

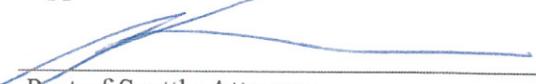
PORT OF SEATTLE



Tay Yoshitani
Chief Executive Officer
By direction of the Port Commission
in Open Public Meeting
on June 5, 2012

Dated: 8/17/2012

Approved as to Form:



Port of Seattle Attorney
Sojin E. Kim

STATE OF WASHINGTON)
) ss
COUNTY OF King)

On this 15th day of June, 2012, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Anthony A. Piasecki to me known as the City Manager, for the City of Des Moines, the corporation who executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said City of Des Moines, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.



Vicki C. Sheckler
NAME
Vicki C. Sheckler
NOTARY PUBLIC in and for the State of Des Moines,
Washington, residing at Washington
MY COMMISSION EXPIRES: 4/29/2018

STATE OF WASHINGTON)
) ss
COUNTY OF King)

On this 17th day of August, 2012 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Tay Yoshitani to me known as the Chief Executive Officer, for the Port of Seattle, the corporation who executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Port of Seattle, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument on behalf of said municipal corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.



Tammy J. Ashcraft
NAME
Tammy J. Ashcraft
NOTARY PUBLIC in and for the State of
Washington, residing at Des Moines, Washington
MY COMMISSION EXPIRES: 8/24/2014

DES MOINES CREEK BUSINESS PARK LEGAL DESCRIPTION

THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON; TOGETHER WITH THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON LYING EASTERLY OF THE WESTERLY LINE AND SOUTHERLY OF THE NORTHERLY LINE OF THE PLAT OF MAYVALE NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 78 OF PLATS, PAGE 55, IN KING COUNTY, WASHINGTON; TOGETHER WITH THAT PORTION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING EASTERLY OF STATE HIGHWAY SR 509 AS CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 753046 AND CONVEYED TO THE STATE OF WASHINGTON BY DEEDS RECORDED UNDER RECORDING NUMBERS 7105060274, 7201180290, 7206160326 AND 7206160338; EXCEPTING THEREFROM THE EAST 30 FEET FOR 24TH AVENUE SOUTH AND THE SOUTH 30 FEET FOR SOUTH 216TH STREET; AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT A MONUMENT IN CASE AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER, ALSO BEING THE INTERSECTION OF 24TH AVENUE SOUTH AND SOUTH 208TH STREET;

THENCE NORTH 88°26'01" WEST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, 30.00 FEET TO THE NORTHERLY EXTENSION OF A LINE THAT IS 30.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH), AND THE TRUE POINT OF BEGINNING;

THENCE NORTH 01°06'35" EAST ALONG SAID NORTHERLY EXTENSION, 30.00 FEET TO A LINE THAT IS 30.00 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER;

THENCE NORTH 88°26'01" WEST ALONG SAID PARALLEL LINE, 37.50 FEET TO THE NORTHERLY EXTENSION OF A LINE THAT IS 67.50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH);

THENCE SOUTH 01°06'35" WEST ALONG SAID NORTHERLY EXTENSION AND ALONG SAID PARALLEL LINE, 1751.88 FEET;

EXHIBIT A

THENCE SOUTHERLY ON A CURVE TO THE LEFT WHOSE CENTER BEARS SOUTH 88°53'25" EAST, 6049.50 FEET, AN ARC DISTANCE OF 226.75 FEET;
THENCE SOUTH 01°02'16" EAST, 255.41 FEET;

THENCE SOUTHERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS SOUTH 88°57'44" WEST, 5950.50 FEET, AN ARC DISTANCE OF 223.04 FEET TO A LINE THAT IS 49.50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH);

THENCE SOUTH 01°06'35" WEST ALONG SAID PARALLEL LINE, 119.10 FEET;

THENCE SOUTH 46°25'19" WEST, 42.84 FEET TO A LINE THAT IS 63.50 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER (SAID SOUTH LINE ALSO BEING THE CENTERLINE OF SOUTH 216TH STREET);

THENCE NORTH 88°15'56" WEST ALONG SAID PARALLEL LINE, 1172.31 FEET;

THENCE NORTH 01°18'27" EAST, 2.00 FEET TO A LINE THAT IS 65.50 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER (SAID SOUTH LINE ALSO BEING THE CENTERLINE OF SOUTH 216TH STREET);

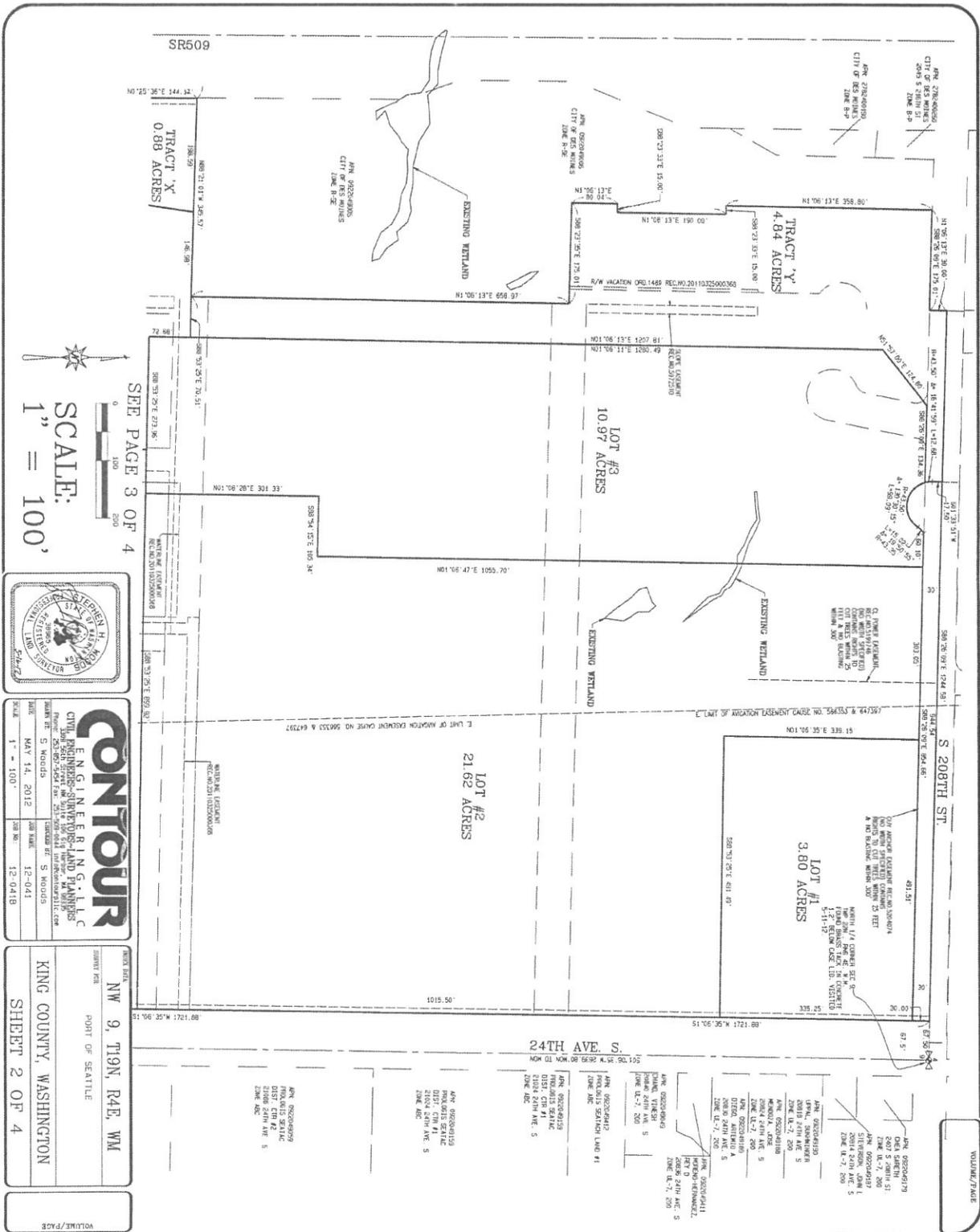
THENCE NORTH 88°15'56" WEST ALONG SAID PARALLEL LINE, 1.00 FEET;
THENCE NORTHWESTERLY ON A CURVE TO THE RIGHT WHOSE CENTER BEARS NORTH 01°44'04" EAST, 19.50 FEET, AN ARC DISTANCE OF 30.49 FEET;

THENCE NORTH 01°18'27" EAST, 17.04 FEET;

THENCE NORTH 88°41'33" WEST, 39.36 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER;

THENCE SOUTH 01°06'10" WEST ALONG SAID WEST LINE, 71.60 FEET TO A LINE THAT IS 30.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER (SAID SOUTH LINE ALSO BEING THE CENTERLINE OF SOUTH 216TH STREET);
THENCE SOUTH 88°15'56" EAST ALONG SAID PARALLEL LINE, 1281.85 FEET TO A LINE THAT IS 30.00 WEST OF AND PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTER (SAID EAST LINE ALSO BEING THE CENTERLINE OF 24TH AVENUE SOUTH);

THENCE NORTH 01°06'35" EAST ALONG SAID PARALLEL LINE, 2609.79 FEET TO THE TRUE POINT OF BEGINNING.



SEE PAGE 3 OF 4

SCALE: 1" = 100'



CONTOUR
ENGINEERING, INC.
CIVIL ENGINEERS-PLANNERS-LAND PLANNERS
20570 24th Ave S, Suite 100
Burien, WA 98148
Phone: 206-834-4444 Fax: 206-834-4444
www.contour-engineering.com

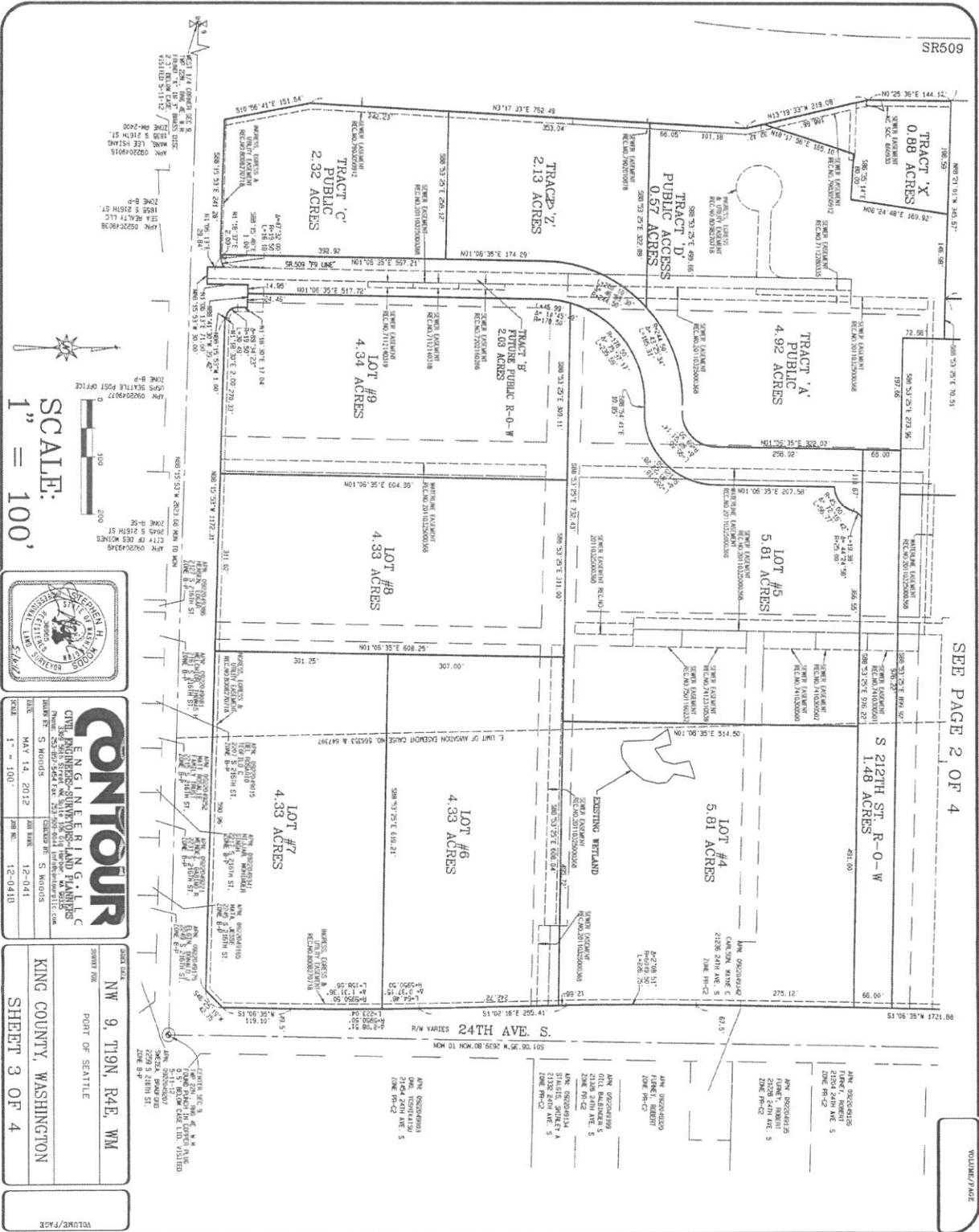
DATE	SCALE	SHEET NO.	TOTAL SHEETS
MAY 14, 2012	1" = 100'	12-041B	12-041B

PROJECT: NW 9, T19N, R4E, WM
POINT OF SEATTLE
KING COUNTY, WASHINGTON
SHEET 2 OF 4

VOLUME/PAGE

VOLUME/PAGE

SR509



SCALE:
1" = 100'



CONTOUR
ENGINEERING & PLANNING, INC.
CIVIL ENGINEERS - LAND PLANNERS
3000 1st Ave. S. Ste. 200
Seattle, WA 98148
Phone: 206-461-5444 Fax: 206-461-5444
www.contour-engineering.com

PROJECT NO. 12-041B
DATE: MAY 14, 2012
SCALE: 1" = 100'

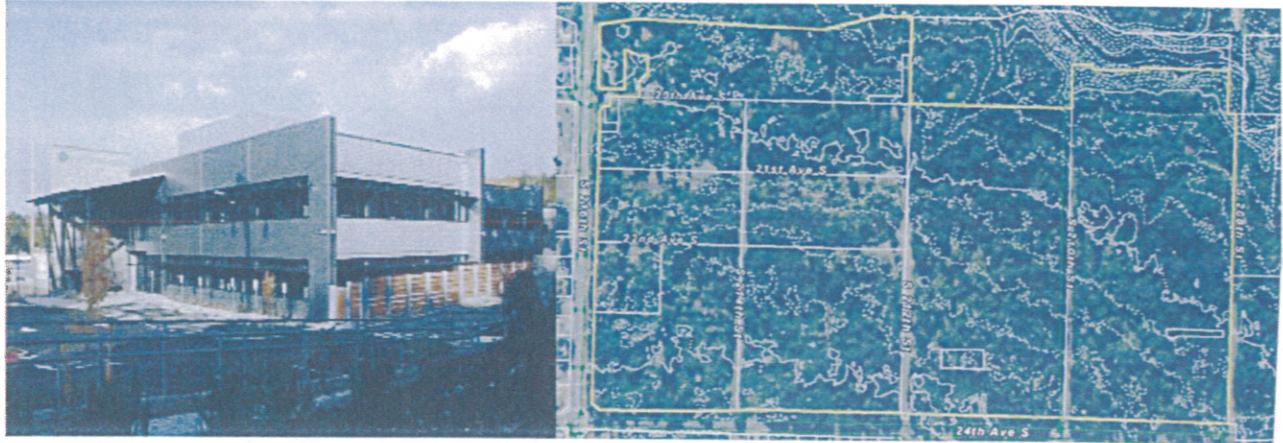
SUBJECT: NW 9, T19N, R4E, WM
PORT OF SEATTLE
KING COUNTY, WASHINGTON
SHEET 3 OF 4

SEE PAGE 2 OF 4

VOIDING PAGE



DES MOINES CREEK BUSINESS PARK DESIGN GUIDELINES



PREPARED BY:



8383 158th Ave NE #280
Redmond, WA 98052
425.885.4300
magellanarchitects.com

DATE ISSUED:

- » 1ST DRAFT: MARCH 20, 2012
- » 2ND DRAFT: APRIL 03, 2012
- » 3RD DRAFT: APRIL 13, 2012
- » 4TH DRAFT: MAY 04, 2012

EXHIBIT D

TABLE OF CONTENTS:

CHAPTERS 1-5

0.1

1. **INTRODUCTION**
 - Intent
 - Objectives

2. **SITE PLANNING**
 - Intent
 - Building Placement
 - Passenger Vehicle Parking Areas
 - Service Yards, Loading Areas, Equipment Storage Areas, and Trash and Recycling Enclosures

3. **SITE AMENITIES**
 - Intent
 - Site Furnishings
 - Bicycle Storage
 - Bollards
 - Trash and Ash Receptacles
 - Recreation Requirements
 - A. Joint Use Access Path
 - B. Des Moines Creek Trail Connection
 - C. Internal Loop Road

4. **SITE LIGHTING**
 - Intent

5. **LANDSCAPING**
 - Intent
 - General Requirements
 - Building Entrances
 - Building Elevations
 - Passenger Vehicle Parking Areas
 - Service Yards, Loading Areas, Equipment Storage Areas, and Trash and Recycling Enclosures
 - Approved Plant List
 - Maintenance

- 6. FENCING AND SCREENING**
 - Intent
 - Service Yards, Loading Areas, and Equipment Storage Areas Visible from Public Right-of-way.
 - Service Yards, Loading Areas, and Equipment Storage Areas Visible from Interior Roadways or Other Businesses within Business Park
 - Trash and Recycling Enclosures

- 7. SIGNAGE**
 - Intent
 - Informational/Directional Signs
 - Ground-Mounted/Monument Signs
 - Prohibited Signs

- 8. UTILITIES DESIGN AND INFRASTRUCTURE**
 - Utilities Design
 - A. Stormwater
 - B. Sewer System
 - C. Water System
 - D. Dry Utilities
 - Antennas and Microwave Dishes
 - A. Roof-Mounted Antennas
 - B. Ground-Mounted Antennas
 - C. Associated Utilities
 - Infrastructure
 - A. Access and Paving
 - B. Retaining Walls
 - C. Fences
 - D. Curbs and Gutters
 - E. Sidewalks

- 9. BUILDING DESIGN**
 - Intent
 - Height and Mass
 - Building Design

- 10. DEVELOPMENT REVIEW PROCESS**
 - Intent
 - Review Process
 - Variances



Visual continuity of architecture, open space, and landscaping elements provide an attractive environment.



Use of landscaping to buffer building elevations and provide orderly and safe pedestrian circulation.

Intent

These design guidelines are intended to aid in the development of the property owned by the Port of Seattle known as the Des Moines Creek Business Park (DMCBP) in an orderly and visually cohesive manner. These guidelines are to be used in conjunction with the basic principles of good design and the applicable jurisdictional regulations (City of Des Moines, WA.) to expedite the approval process and development of projects within the business park.

Objectives

The objectives of these guidelines are:

- To create a high-quality, functional, and visually attractive environment that will encourage development and promote safe interaction between vehicles and pedestrians.
- To encourage visual continuity of architecture in terms of mass, scale, materials and color.
- To encourage cohesive landscaping, building orientation, and relationship to the street frontages that provides an orderly and unifying visual appearance to the business park.



Preservation of existing landforms and significant trees is encouraged.



Pedestrian paths integrated with landscaping provide a safe path for pedestrians.



Use of landscaping and building facade to screen storage areas.

Intent

The overall site design should contribute to the character of the City of Des Moines. The South portion of the business park at the corner of South 216th Street and 24th Ave South should be considered a “Gateway” to the city. Site planning should consider the internal organization and circulation of the site and the external relationship with the public right-of-way, adjacent properties and public transportation.

Building Placement

The arrangement of individual buildings on the site shall consider their relationship to adjacent parcels and lots. Building forms shall complement and preserve the natural landforms and minimize cut and fill to the greatest extent possible. Preservation of significant trees is encouraged where appropriate in relationship to building and parking placement.

Buildings should provide a positive presence along South 216th Street and near the corner at 24th Ave South that orients main building entries, courtyards and pedestrian space to the public rights-of-way. The placement of buildings should consider the connectivity of pedestrians and employees using transit or recreational paths onsite and avoid facing the back of buildings toward these routes.

Passenger Vehicle Parking Areas

A variety of building, parking and landscaping setbacks shall be provided to promote visual interest and diversity to design. Pedestrian access to building entries should be provided in a clear and sequential path from parking areas as well as from the public right-of-way and transit stops where appropriate. Open space, plazas, courtyards, patios, and outdoor areas for recreation are encouraged to help promote human scale and identify building entrances, secondary entries and pedestrian paths. Parking areas should not dominate the street frontage and should be screened by building and landscaping.

Service Yards, Loading Areas, Equipment Storage Areas, and Trash and Recycling Enclosures

Service yards, loading areas, equipment storage areas, and trash and recycling areas should be provided with separate access and circulation whenever feasible. The placement of secondary structures shall be designed to minimize visibility and adverse impacts to the street frontage and building entries to the greatest extent possible. All secondary structures should be designed in a manner that is compatible with the overall design of their respective buildings and the business park as a whole. Trash storage enclosures shall accommodate a recycling area. Loading areas and service yards shall be concealed from public view, at the rear of the site and behind the facade of the principal structure. These areas shall be screened appropriately with walls, fencing, and landscaping that minimizes the visual impact of the area.



Site furnishings help to define outdoor spaces.



Bicycle storage in coordination with building design is encouraged.



Bollards help define pedestrian and vehicular traffic

Intent

The integration of site amenities in open spaces adjacent to building entries, such as site furniture and landscaping; promotes visual interest, cohesive use, and general enjoyment of the site.

Site Furnishings

Site furnishings are an important element of the business park, creating cohesiveness for individual buildings. Cohesive site furnishing selections contribute to a unique campus identity. Diverse outdoor seating opportunities for employees and visitors adjacent to building entries and pedestrian areas are encouraged. Benches shall be securely attached in hardscape areas, plazas, and courtyards adjacent to main building entries. Outdoor tables shall be provided as appropriate in relation to the building use. Special consideration shall be made when planning outdoor tables to recognize solar aspect and prevailing winds. Informal seating opportunities such as seat walls and raised planter walls with a minimum of 15 inch depth and between 15 and 24 inch height are encouraged. The top of seat walls shall be sloped to prevent puddling. Skate deterrents or skate discouraging wall design are appropriate, but should not interfere with seating opportunities. Materials and forms of seat walls and raised planters shall relate to adjacent building architecture.

Bicycle Storage

To accommodate alternative and multi-modal transportation and to help meet trip reduction goals set by the City of Des Moines to secure bicycle storage opportunities for employees and visitors is encouraged. The quantity of bicycle parking shall be determined by the City of Des Moines. Bicycle parking areas should include adequate, convenient and easily identifiable bicycle storage for employees and visitors and be located near primary building entries but shall not interfere with vehicular and pedestrian access or outdoor seating areas. Bicycle parking shall be fully coordinated with the building and landscape design.

Bollards

Bollards should be used to provide a physical separation between pedestrian spaces and vehicular access areas. Bollards shall be utilized in locations where spatial constraints or access requirements prevent the use of landscaping. Where appropriate, bollards with illumination should be considered to meet site lighting requirements and provide accent to pedestrian spaces. The use of bollards will not be allowed within the internal loop roadway outlined in Chapter 3.2.

Trash and Ash Receptacles

Convenient outdoor litter receptacles for employees and visitors should be provided. Litter receptacles shall discourage wildlife and be resistant to climatic influences. Trash only receptacles shall be located near primary building entrances and at all outdoor gathering areas in which seating is provided. Trash and ash receptacles shall be provided 30 feet away from building entrances. Receptacles shall be located so as to not interfere with vehicular or pedestrian circulation.

Recreational Requirements

As per the Second Development Agreement between the Port of Seattle and the City of Des Moines, the Des Moines Creek Business Park is required to provide recreational facilities as follows:

A. Joint Use Access Path

A 12-foot-wide joint use pedestrian and bike pathway shall be located on the north and west side of the Internal Loop Road. The construction of the access pathway will be completed in conjunction with the construction of the Internal Loop Road.

B. Des Moines Creek Trail Connection

A 12-foot-wide joint use pedestrian and bike pathway shall be located within a 24-foot-wide tract to provide a connection to the Des Moines Creek Trail. The location of the tract is illustrated on the DMCBP Short Plat. This connection will provide access from the Joint Use Access Path via the Barnes Creek Trail to the Des Moines Creek Trail which is part of the Lake to Sound Regional Trail System.



Parking lot lighting



Pedestrian area lighting



Use of bollards as pedestrian pathway lighting

Intent

The primary objective of site lighting is to provide safe and functional illumination for the business park. Secondly, lighting shall create an aesthetically pleasing environment which creates a unified campus. The visual impact of light shall be minimized to the project site. Fully shielded lights with cut-offs shall be utilized to prevent light from being emitted above the horizontal plane of the light fixture. Fixtures shall be shielded to prevent direct illumination of adjacent properties. Light fixture placement shall achieve appropriate illumination levels for all outdoor uses. The scale of light fixtures and poles shall be carefully considered for various use areas. Fixtures shall be "Dark Sky" compliant and shall comply with the Exterior Lighting Power Allowance for Zone 2 as established in the most recent edition of the Washington State Energy Code or current applicable code.

Light fixture heights (as measured from grade below) shall be as follows unless otherwise permitted by the City of Des Moines or the Port:

- Building mounted: 14 foot maximum
- Parking lot pole mounted: 14 foot maximum
- Service yard area pole mounted: 18 foot maximum (Unless otherwise approved by the Port)
- Streets and public rights-of-way: 14 foot maximum

All lighting must meet the standards set forth by current Federal Aviation Requirements. The use of LED lights is required for street lights. All light fixtures, poles and bases (including size, style, and color) shall be reviewed and approved by Port of Seattle prior to installation.

PORT OF SEATTLE:

DES MOINES CREEK BUSINESS PARK DESIGN GUIDELINES

CHAPTER 5: LANDSCAPING

5.1



Low-Impact Development landscaping is encouraged.



Mixed landscaping buffer are encouraged.



Limit the use of turf grass in favor of landscaping

Intent

Landscaping shall minimize negative effects of the business park on the natural environment. Landscape treatments that create a continuous and harmonious appearance are strongly encouraged. Treatments shall be tailored to the building use (i.e. industrial, retail, office use.) Landscape buffers shall be in scale with adjacent uses and shall at maturity accomplish their intended purpose. Landscaping should be utilized to define outdoor spaces and use areas. Landscaping should provide screening for outdoor areas which have differing uses. Landscaping should also screen adjacent streets, properties, buildings and open space from undesirable views and use areas. Parking areas should appear to have groves of trees rather than single isolated specimens.

General Landscape Requirements

Low impact development strategies as listed below are strongly encouraged:

- Utilization of drought tolerant and native plant materials .
- Retention and re-use of native topsoil as well as existing native landscaping.
- The use of compost for soil amendment.
- Grinding of wood and stumps on site for re-use.
- Limiting the use of turf grass to 25 percent or less of the landscape areas. Consider the use of lawn alternatives or the use of drought tolerant turf grass.
- Mulching landscape areas with a minimum of two inches of organic mulch.
- A minimum of 50 percent of the landscape area should have shade coverage from trees at maturity.

Trees shall be provided and protected as stated here. Tree caliper shall be measured per ANSIZ 60.1-2004 or most current code edition. Deciduous trees shall be a minimum of 1 ½ inch caliper in parking lots, public and interior roadways, storage, loading, shipping, and receiving areas. Deciduous trees shall be a minimum of 2 ½ inch caliper at main building entrances, site entrances and areas of special interest. Evergreen trees shall be a minimum 5-6 foot in height. Trees in paved areas such as parking lot islands shall have root barrier systems unless trees are selected that exhibit a root growth habit that does not require a root barrier. Planting areas with root barriers shall be sized to allow normal tree growth. Care should be taken to choose appropriate species for subject areas. All landscape areas shall be protected from vehicles by vertical curbs, wheel stops or raised planter walls. Site lighting and tree placement shall be carefully considered to minimize conflicts. Proper clearance shall be provided around all fire protection equipment. Landscape irrigation shall utilize fully automatic, intelligent control systems, rain sensors, weather station coordination, flow sensors, low volume/ high efficiency spray nozzles or drip irrigation systems. Overspray or runoff of irrigation onto paved surfaces is prohibited.



Use of landscaping and site furnishing helps to define pedestrian areas and entries.



Use of parking area landscaping helps create a buffer between pedestrian and vehicular areas.

Building Entrances

The use of landscape structures such as raised planters and trellises is encouraged to provide transitional spaces between interior and exterior spaces. Landscape structures shall utilize colors and materials that are responsive toward the architecture. Special paving is required for all entry plazas and courtyards. Pedestrian areas shall be accented by distinctive planting materials and extensive planting areas.

Building Elevations

Foundation plantings between parking areas and building walls are required. The careful consideration of landscape treatments at blank walls is required. The use of trellises and screens which support climbing plants is encouraged to minimize the appearance of blank walls.

Passenger Vehicle Parking Areas

A minimum of 5 percent of the parking area shall be landscaped (excluding buffer plantings). Interior parking lot landscaping areas shall contain a minimum of 100 square feet and have a minimum dimension in any direction of 8 feet. A minimum of 40 percent of the trees within parking lot landscape areas shall be coniferous evergreen trees. Planting areas within parking areas shall be clustered to support numerous trees within the same area. Clustering of coniferous evergreen trees at the perimeter of parking lot landscaping areas is encouraged. Planting strips are required between every other row of parking. Rain gardens are encouraged. Special consideration should be given to pedestrian circulation through these areas. Primary pedestrian circulation routes through parking areas shall be screened or buffered with a combination of landscaping, berming and fencing. Parking area landscaping shall completely screen the lower 42 inches of the parking area. Parking areas shall have a minimum of 75 percent evergreen shrubs. One tree is required for every five parking spaces. Clustering of the required trees is encouraged.

Service Yards, Loading Areas, Equipment Storage Areas, and Trash and Recycling Enclosures

Loading, shipping and receiving areas shall be screened from adjacent streets, buildings, properties or open space by a fully landscaped buffer. Trees shall be 75 percent coniferous evergreens. Trees shall be planted at a minimum of 20 feet on center. One shrub is required for every 16 square feet of landscape buffer. Groundcover shall be spaced to achieve full coverage within a two-year period.

Approved Plant List

The following plants have been approved for use by the Port of Seattle within the DMCBP. Additional plants may be considered for use within the DMCBP after review and approval by the Port of Seattle. Plant selection shall be non-attractive to wildlife and should not produce edible fruits, nuts or berries. Plant selection should be carefully considered for local conditions including but not limited to solar exposure, micro-climate, soil conditions, slope and adjacent uses. Tree species selection should be carefully considered when the trees will be adjacent to paved areas and walkways as it relates to their root growth habit.

• Evergreen Trees

- o *Abies ambilis* – Pacific Silver Fir
- o *Abies grandis* – Grand Fir
- o *Calocedrus decurrens* – Incense Cedar
- o *Cedrus deodar* – Deodar Cedar
- o *Chamaecyparis nootkatensis* – Nootka Cypress
- o *Cupressocyparis leylandii* – Leyland Cypress
- o *Cupressus sempervirens* – Italian Cypress
- o *Picea omorika* – Serbian Spruce
- o *Pinus contorta contorta* – Shore Pine
- o *Pinus monticola* – Western White Pine
- o *Pinus nigra* – Austrian Black Pine
- o *Pinus ponderosa* – Ponderosa Pine
- o *Psuedotsuga menziesii* – Douglas Fir
- o *Thuja occidentalis* – Arborvitae
- o *Thuja plicata* – Western Red Cedar
- o *Thuja plicata* ‘Hogan’ – Hogan Western Red Cedar
- o *Tsuga canadensis* – Canadian Hemlock
- o *Tsuga heterophylla* – Western Hemlock



Douglas Fir

• Deciduous Trees

- o *Acer circinatum* – Vine Maple
- o *Acer macrophyllum* – Big-leaf Maple
- o *Alnus rubra* – Red Alder
- o *Betula glandulosa* – Swamp Birch
- o *Betula jacquemontii* – Jacquemontii Birch
- o *Betula occidentalis* – Water Birch
- o *Betula papyrifera* – Paper Birch
- o *Cornus nuttalli* – Pacific Dogwood
- o *Fraxinus latifolia* – Oregon Ash
- o *Fraxinus oxycarpa* – Raywood Ash
- o *Magnolia ‘Galaxy’* – Galaxy Magnolia
- o *Populus trichocarpa* – Black Cottonwood
- o *Prunus sargentii ‘Columnaris’* – Spire Flowering Cherry
- o *Zelkova serrata* – Saw-leaf Zelkova



Pacific Dogwood



Point Reyes Ceanothus

• Evergreen Shrubs

- o Abelia grandiflora 'Edward Goucher' – Edward Goucher Abelia
- o Ceanothus gloriosus – Point Reyes Ceanothus
- o Ceanothus thyrsiflorus – Victoria Ceanothus
- o Cistus hybridus – White Rockrose
- o Cistus purpureus – Orchid Rockrose
- o Escallonia langleyensis – Apple Blossom Escallonia
- o Leucothoe axillaris – Coast Leucothoe
- o Osmanthus delavayi – Delavay Osmanthus
- o Osmanthus heterophyllus – Holly-leaf Osmanthus
- o Prunus laurocearsus 'Otto Luyken' – Otto Luyken Laurel

• Deciduous Shrubs

- o Euonymus alatus compactus – Dwarf Burning Bush
- o Hydrangea quercifolia – Oak-leaf Hydrangea
- o Philadelphus lewisii – Mock Orange
- o Physocarpus capitatus – Pacific Ninebark
- o Rhododendron var. - Rhododendron
- o Ribes sanguineum – Red-flowering Currant
- o Rosa nutkana – Wild Rose
- o Salix hookeriana – Hooker's Willow
- o Salix lucida – Pacific Willow
- o Salix scouleriana – Scouler's Willow
- o Salix sitchensis – Sitka Willow
- o Spiraea douglasii – Hardhack Spiraea
- o Spiraea thunbergii – Thunberg Spiraea
- o Thuja occidentalis 'Little Gem' – Little Gem Dwarf Arborvitae
- o Umbelluria californica – California Bay
- o Viburnum opulus nanum – Dwarf European Cranberry Bush



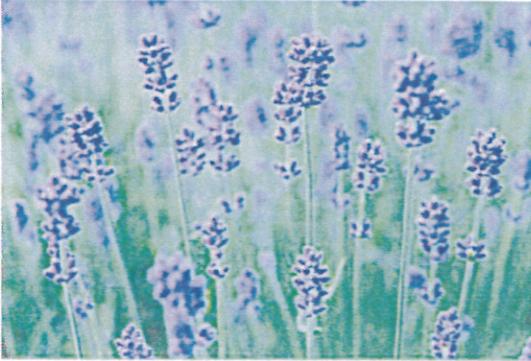
Orchid Rockrose

• Groundcover

- o Ceanothus prostratus – Mahala Mat
- o Erica carnea - Heather
- o Eunymus fortune coloratus – Wintercreeper
- o Genista pilosa 'Vancouver Gold' – Vancouver Gold Broom
- o Laurentia fluviatilis – Blue Star Creeper
- o Pachysandra terminalis – Japanese Spurge
- o Phyllodoce spp. – Mountain Heather
- o Trachelospermum asiaticum – Asian Jasmine



Wild Rose



Lavender



Black Mondo Grass



Goldenrod

• Perennials

- o Anemone hybrid – Japanese Anemone
- o Aster subspicatus douglasii – Douglas Aster
- o Bergenia 'Bressingham Ruby' – Bressingham Ruby Begonia
- o Geranium macrorrhizum var. ingerwersen – Ingerwersen Cranesbill
- o Epimedium rubrum - Epimedium
- o Hemerocallis – Daylily
- o Heuchera sanguinea 'Purple Palace' – Purple Palace Coralbells
- o Heuchera sanguinea – Coralbells
- o Iris siberica – Siberian Iris
- o Lavandula angustifolia – Lavender
- o Oxalis oregano – Oregon Oxalis
- o Phlox – Phlox
- o Tulipa var – Tulip
- o Vancouveria planipetalap – Small Inside-out Flower

• Ornamental Grasses

- o Carex morrowii 'Ice Dance' – Ice Dance Sedge
- o Carex nigra 'Variegatus' – Variegated Japanese Sedge
- o Deschampsia caespitosa – Tufted Hairgrass
- o Elymus glaucus – Giant Blue Wild Rye
- o Festuca ovina glauca – Large Blue Fescue
- o Ophiopogon planiscapus – Black Mondo Grass

• Raingardens

- o Agrostis exarta – Spike Bent Grass
- o Alopecurus geniculatus – Water Foxtail
- o Beckmanii syzigachne – Slough Sedge
- o Calamagrostic canadensis – Blue Joint
- o Carex amplifolia – Big-leaf Sedge
- o Carex praticola – Meadow Sedge
- o Carex stipata – Sawbeak Sedge
- o Glycera elata – Tall Mannagrass
- o Scripus cyperinus – Wool-grass
- o Solidago canadensis – Canada Goldenrod

Maintenance

Turf grass or turf grass alternative areas and planting beds shall be kept in a neat, trim appearance and free of weeds. Mulch planting beds shall have fresh mulch added annually to aid in the retention of soil moisture, reduction of weeds and to improve general appearance. All trees, shrubs, groundcovers, perennials and ornamental grasses shall be allowed to mature to full, natural size. Temporary irrigation systems shall be installed prior to completion of landscaping in accordance with best practices for establishment of landscaping. Irrigation scheduling shall be performed by a landscape professional experienced in water conservation techniques and maintaining landscapes in the Pacific Northwest.



Use of wall matching the character of building to screen loading area.



Use of landscaping and fencing to screen trash and recycling areas.



Use of black vinyl coated fencing at site perimeter

Intent

Fencing and screening should provide security and safety to the operational activities within the DMCBP. Fencing and screening shall also minimize adverse views from adjacent streets, buildings, properties or open space. Screening and fencing shall be architecturally integrated with adjacent buildings with respect to materials, colors, forms and proportions. The use of razor wire is prohibited. Barbed wire fences are permitted and may be a maximum of five feet in height containing four strands of taut parallel barbed wire. Fences may incorporate three strands of parallel barbed wire a maximum of two feet in height on the top of a fence and oriented per City of Des Moines DMMC 18.40.260.

Fencing shall also be utilized to direct pedestrians toward pedestrian areas and routes of travel. Fencing shall be utilized to provide edge definition to the site and create implied security to the DMCBP campus. Fencing shall provide visual continuity throughout the DMCBP campus.

Service Yards, Loading Areas, and Equipment Storage Areas Visible from Public Right-of-Way

Visually screen these areas from adjacent streets, residential properties or open space with a minimum six foot high visual barrier measured from the high point of the loading, shipping or receiving area. The use of a masonry wall matching the building color in conjunction with landscaping is encouraged.

Service Yards, Loading Areas, and Equipment Storage Areas Visible from Interior Roadways or other Business within Business Park

Provide security and safety to these areas. A minimum six foot black vinyl coated chain link fence as measured from the adjacent grade. The chain link fence shall be placed directly adjacent to the loading, shipping or receiving area.

Trash and Recycling Enclosures

Visually screen these areas from adjacent streets, buildings, properties or open space. A six foot high visual barrier measured from the high point of the storage, trash or recycling area. The use of a masonry wall matching the building color or black vinyl coated chain link fence in conjunction with landscaping is encouraged.



Ground mounted signs at site corners. Coordination of signage types throughout site create uniformity. (See building sign below)



Readily visible directional signage provides orderly vehicular and pedestrian traffic on site.



Signage using the same materials as building are encouraged.

Intent

All signs shall be reviewed and approved by the Port for appropriateness, including location and proportionality. Informational/directional signage shall be governed by these guidelines. All other signage requires a signage permit and review by the City of Des Moines prior to installation. Signs shall be restricted to the corporate or company name or logo and informational/directional signs (i.e. identification or type of business, hours of operations, products and services of the business at the site). Sign requests shall include details of design, materials, location, size, height, color, and lighting. Sign design shall not be oriented solely to vehicular traffic and shall be an integral part of the architectural design with respect to materials and color.

Informational/Directional Signs

Signs that provide the user with information about location, business hours, and other general information are informational/directional signs. Informational/directional signs may either be posted or ground-mounted and a maximum of 6 square feet per sign. Signs must be consistent in size, materials, and color with the overall site signage program. The number of signs may vary by site but should be sufficient to accommodate both vehicular and pedestrian traffic. The number of signs shall be approved by the Port. Signs for pedestrians should be placed at decision points in parking lots, in plazas, and where highly traveled walkways intersect. Parking lot entrances should be identified with employee and/or visitor designation along with the complex or building name. In areas of multiple buildings, directories should be placed at decision points for both vehicular and pedestrian traffic. Directories should be clearly visible, easily read, and part of a cohesive sign system.

Ground-Mounted/Monument Signs

Ground-mounted/monument signs shall be a maximum height of 6 feet including base from grade to the top of the sign. The base of any ground sign shall be planted with shrubs and landscaping. Ground signs may not be located within 10 feet of the property line.

Prohibited Signs

The following signs are prohibited:

- Pole/Pylon signs (for advertising use)
- Signs projecting above any vertical building surface (i.e. above a building roofline.)
- Signs painted on any wall of a primary or accessory building.
- Signs using unshielded (bare bulb) type lighting.
- Billboard signs.
- Animated, moving, rotating or sound-emitting signs.
- Reader boards and changeable message signs.
- Sign projecting more than two feet out from a building wall.
- Temporary banner signs or other signs not of a permanent nature shall be subject to Port approval.

PORT OF SEATTLE:

DES MOINES CREEK BUSINESS PARK DESIGN GUIDELINES

CHAPTER 8:

UTILITIES DESIGN AND INFRASTRUCTURE

8.1



Site development must meet all jurisdictional requirements as well as those for future development in the business park.



Stormwater systems should be installed at appropriate depth for future development of undeveloped portions of the business park.

Utility Design

The overall design approach of the utility system should take the entire Port of Seattle ownership into consideration as each portion of the site is developed. The Port will provide the developer of each portion of the site a list of potential uses for the remaining undeveloped portions of the site so the capacity and location of utilities can be properly planned and developed. The utility system will require the developer to obtain the necessary permits from applicable jurisdictions and the design and construction of the system shall meet all applicable standards. Following are some specific design guidelines.

A. Stormwater

The stormwater system for the site must be designed comprehensively. The depth and capacity of storm conveyance shall take into consideration potential development of upstream or downstream areas on undeveloped portions of the site. The water quality, quantity, and conveyance design shall meet all current City of Des Moines, King County, and State of Washington Department of Energy requirements. If the proposed use is industrial in nature, NPDES permits may be required. Adequate testing and water quality facilities should be designed in order to meet these permit requirements. It is anticipated that Low Impact Development standards for stormwater will be a requirement for any development within the City of Des Moines after January 1, 2016. Before January 1, 2016 it is preferred that stormwater be handled using Low Impact Development approaches when economically and technically feasible.

It is anticipated that the DMCBP will be served by two detention ponds. One pond shall serve the industrial portion of the business park while the other shall serve the potential retail portion.

In the design of any open storm water conveyance systems or ponds all FAA regulations in regards to bird attractants must be followed. This includes following all recommendations within the Wildlife Management Plan for the Seattle Tacoma International Airport dated June 4, 2004 or the most current version as well as implementing the approved plant list provided in Chapter 5.3 of the guideline. Coordination with the Port will be necessary to determine specific project requirements.

B. Sewer System

The sewer system must be designed and installed with the future development of the balance of the property owned by the Port in mind. The Port will review the design to ensure that it does not limit the development of adjacent properties in the business park. All sewer system improvements shall be designed and installed to the Midway Sewer District standards and/or other authorities having jurisdiction.

C. Water System

The water system must be designed and installed with the future development of the balance of the property owned by the Port in mind. The Port will review the design to ensure that it does not limit the development of adjacent properties in the business park. All water system improvements shall be designed and installed to the Highline Water District standards and/or other authorities having jurisdiction. It is preferred that all above-ground facilities other than fire hydrants are screened with landscaping.

D. Dry Utilities

The electrical, phone, cable, and fiber optic systems must be designed and installed with the development of the balance of the property owned by the Port in mind. The Port may require greater system capacity as they see fit in order to allow for flexibility to serve future tenants. All dry utility systems shall be designed and constructed to all applicable standards and obtain all necessary permits. It is preferred that all above-ground facilities are screened with landscaping while maintaining required clear working distances.



Screening of roof-mounted antennas, and equipment should be integrated into the design of the building



Ground mounted facilities shall provide a shelter and screened enclosure to minimize visual impact.

Antennas and Microwave Dishes

The design of the site shall consider the potential installation of antennas and microwave dishes. It is recommended that the major wireless providers be contacted during the design of the proposed improvements to determine interest in locating a communications site within a part of the proposed development. This will allow the communications facility to be fully integrated with the project design rather than having to retrofit the proposed building or site to provide for a wireless communications site. Please note the design and installation of antennas and microwave dishes are required to follow all City of Des Moines code and design standards, and all other applicable regulations and permitting requirements including current FAA wireless communications/frequency regulations and height restrictions. The following are some specific design guidelines.

A. Roof-Mounted

Roof-mounted antennas shall be screened with a solid visual barrier so that there is no negative visual impact as a result of the installation. Photo simulations shall be supplied to the Port for review and approval prior to the antennas being installed on an existing building. If it is anticipated that a wireless facility will need to be located on a roof, that roof shall be designed with the proper access and with the appropriate roof loading to accommodate the site. When feasible, it is recommended that communications equipment be located within the building with a separate HVAC system and adequate utility corridors to connect the communications equipment to the antennas.

B. Ground-Mounted

Ground-mounted facilities design standards shall meet all City of Des Moines requirements and receive approval by the Port. A typical ground-mounted wireless communications facility requires ground space of 50' x 50'. It is recommended that communications equipment be located inside a shelter, or screened with landscaping in order to reduce the visual impact of the site. The proposed tower shall be a monopole (unless otherwise approved by the Port) and painted to match the surroundings unless the City of Des Moines has more stringent standards, in which case those shall govern. Ground-mounted wireless facilities shall allow for multiple carriers.

C. Associated Utilities

If the Port requires a portion of the site to allow for a wireless communications facility, an allowance shall be made for the power and data required by a typical site. A major wireless provider shall be contacted to obtain the most current information regarding these requirements.



Retaining walls and site pavings should be consistent throughout site.



Use barrier curbs and curb and gutter as appropriate.

Infrastructure

The site infrastructure, including access, paving, retaining walls, fences, curbs and gutters, and sidewalks shall be designed to meet all applicable City of Des Moines standards. In addition, these items shall meet the following design guidelines.

A. Access and Paving

The Access to the site shall meet all City of Des Moines standards regarding the development of frontage improvements as well as public versus private access roads through the site. The pavement on site can be pervious or impervious, as allowed by the City of Des Moines, the Port and all other regulatory requirements. It is recommended that to the greatest extent feasible, no pollution generating impervious surfaces (walkways and courtyards) be pervious pavements.

B. Retaining Walls

The type of retaining walls should be consistent throughout the site. All retaining wall types shall be reviewed by the Port for visual appearance and shall meet all landscaping design requirements. Retaining wall types shall be consistent with the overall site design. All retaining walls shall be designed to and permitted by the City of Des Moines.

C. Fences

It is recommended that black vinyl fencing be utilized throughout the site as the standard fencing type. If a visual screening fence is part of the landscaping design requirements they should be consistent with other visual screening fences throughout the site.

D. Curbs and Gutters

The curbing throughout the site should meet the City of Des Moines standards. It is recommended that all curbs be barrier curbs (in areas that are the high point) or curb and gutter (where the curb collects water). Barrier curbs and curb and gutter are appropriate for this site because they are strong enough to withstand the type of use associated with this site.

E. Sidewalks

Sidewalk location, widths, and design shall meet the City of Des Moines standards. ADA access shall be provided from the public rights-of-way to the proposed building as required by code. It is recommended, where feasible, that sidewalks be designed as permeable to aid in the management of storm water.



Use of canopies and contrasting colors help to identify building entries.



Building modulation and changes in window types help to create visual interest.



Landscaping and outdoor spaces soften building facades

Intent

The intent of the building design guidelines is to provide direction for the built elements of the business park in order to achieve a built environment that is cohesive with the natural setting, adjacent properties, and provides visual interest.

Buildings developed for a single tenant or use shall provide a unified architectural concept. Methods to achieve this include the use of similar architectural styles, materials, roof forms, signage, and colors. All buildings should relate visually to one another and encourage pedestrian routes between building entries.

The following architectural elements are encouraged:

- Building modulation and architecture detailing.
- Building entry accentuation.
- Screening of service yards, loading areas and equipment, trash, and storage areas.
- Landscaping to soften the building exterior, reduce blank walls and buffer between more intensive uses.

The following architectural elements are discouraged:

- Blank un-modulated wall surfaces.
- Exposed untreated concrete masonry walls (grey block).
- Unscreened loading doors facing street frontage.

Height and Mass

The height and mass of buildings should consider the relationship to the site and public rights-of-way. Buildings should be broken down into a hierarchy of scales and forms that create a sense of human scale. Buildings should employ simple forms and coordinated masses to produce overall unity and visual interest. Varying building heights, massing, and setbacks are encouraged to define different functions within a building such as office and warehousing.

Buildings should be designed to step back and step down to follow natural terrain and help break up mass. Landscape materials should reinforce tiered building forms. This approach is especially appropriate for breaking up larger structures and those over two stories in height.



Recessed entries and varying rooflines bring visual interest and identify entries.



Durable materials add visual interest and will withstand abuse and accidental damage.

Building Design

Facades should have a high level of visual interest from both vehicular and pedestrian street frontages. The exterior character of all buildings should enhance public rights-of-way and the neighborhood. Elevations visible from interior roadways and public parking areas should provide building offsets and architectural details similar to the front façade. Entrances should be readily identifiable through the use of recesses, pop-outs, roof elements, canopies, columns or other architectural elements.

Rooflines are an important design element and should include variations in height, style, and modulation that is harmonious with the facade. Rooftop equipment should be screened from view of public rights-of-way and public parking areas. Screening shall be integrated with the design of the building.

Materials should be chosen to withstand abuse by vandal or accidental damage. The use of various siding materials to produce effects of texture and relief that provide visual interest are encouraged. (i.e. masonry, concrete texturing) The use of compatible colors in a single façade is required. Compatible colors add interest and variety while reducing scale and breaking up blank walls. Contrasting trim and color bands that help reduce scale are encouraged.

Intent

In addition to the applicable Design Review approval and permitting by the City of Des Moines, a separate review process will be administered by the Port. The Port will review, approve, or disapprove all site plans, architectural plans, elevations, and other submittals. The Port is responsible for reviewing and approving all site plans and architectural plans for all development including landscaping, lighting, signage, and all other improvements. All plans are reviewed to determine their compliance with these Design Guidelines. This process ensures harmony of design and compatibility of uses throughout the development of the Business Park. The review process by the Port does not equate to approval by the City of Des Moines. In the case of differing standards between these Design Guidelines and the City of Des Moines, the more restrictive standard shall prevail.

Review Process

The purpose of the review process is to facilitate cohesive and long-term development through evaluation and approval. These Design Guidelines establish consistent standards of quality to be used in the evaluation of each development. As described in this document, the review procedures are intended to provide an early interface between the developer and the Port so that preparation of site plans and buildings can be completed in a timely and efficient manner. The developer should meet with Port representatives early in the planning process to discuss the attributes of the site, the preliminary concept for development, and these Design Guidelines to develop a schedule for the formal approval process. The focus of this meeting is to exchange ideas and concepts regarding the development in relation to the Business Park as a whole. The review process will require a minimum of (2) submittal phases. Phase I will focus on site plan layout and building orientation. Phase II will focus on Building Design. These phases may be approached and approved concurrently as permitted by the Port based on the scale and size of the development. All improvement plans must be in compliance with these Design Guidelines. The Design Guidelines may be more restrictive than, but do not supersede or modify, any applicable governmental regulations. Conformance to the Design Guidelines and approval by the Port does not imply conformance to any governmental regulation or approval by any governmental agency. In some instances, governmental regulation may be more restrictive and shall prevail.

Variations

The Port may authorize variations from the Design Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental objectives or considerations may warrant, as long as the variations are not in conflict with City of Des Moines zoning and building code regulations.

Magellan
ARCHITECTS



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PROJECT ELEMENTS TO BE INCORPORATED INTO THE PROPOSAL

The following features would be incorporated into the DMCBP proposal to offset the potential for significant impacts.

Earth

- A more definitive grading plan would be prepared at the Final Master Plan stage, and would be submitted to the City of Des Moines for review and approval. This grading plan would comply with the City's regulations for grading (DMMC Section 14.60) and for protection of steep slope areas (DMMC Section 18.86).
- During initial construction, soil may become compacted by construction traffic. The area of compacted soil would be minimized by restricting the construction traffic to a single access road. Following construction, the remaining compacted soils would be broken up and plowed to reduce the potential for erosion.
- Excavated native materials from the site considered suitable for fill or landscaping could be stockpiled onsite for later use. If onsite native materials are used for fill they would be compacted first to avoid the potential for settlement during the life of the project. Less desirable excavated soils would require off-site disposal and would be replaced by imported material. An appropriately permitted off-site disposal site would be identified prior to construction.
- If onsite Vashon Till soils are used for filling, blending with dry material may be necessary to bring the natural moisture content down so that compacting can occur. Alternatively, other material could be imported to provide adequate backfill for structural support in development areas.
- Perched groundwater interflow that is encountered during construction would be controlled using trenching and sump pumps.
- A comprehensive temporary erosion and sediment control (TESC) plan would be prepared and implemented for the full duration of construction for the DMCBP, in accordance with the Washington State Department of Ecology (Ecology) and City of Des Moines requirements. This plan would include Best Management Practices (BMPs) to minimize erosion and sedimentation impacts during construction. BMPs would also prevent the mobilization of arsenic in the site soils from past operation of the ASARCO Tacoma Smelter. The BMPs could include:
 - Performing major grading and soil disturbing activities during the drier portions of the year (i.e. between May 1 and September 30), unless modified by Ecology as part of the National Pollutant Discharge Elimination System (NPDES) permit and Stormwater Pollution Prevention Plan (SWPPP) for the site, and approved by the City of Des Moines. See Section 3.3, **Water Resources** of this Draft EIS for further discussion of the NPDES and SWPPP;
 - Beginning construction activities as soon as possible after a section has been cleared and stripped of vegetation;

- Revegetating disturbed areas as soon as possible after completion of construction, using plants that would rapidly stabilize the soil;
 - Placing straw bales or silt fences to reduce runoff velocity, in conjunction with collection, transport, and disposal of surface runoff generated in the construction zone;
 - Placing straw, jute matting, or commercially available erosion control blankets on slopes that require additional protection; and
 - Covering soil stockpiles with plastic sheeting and weights and protecting stockpile areas from vehicular traffic.
- The TESC measures for stormwater discharge during construction would comply with Washington State Department of Ecology's NPDES requirements and would include monitoring.
 - During the dry season, dust would be controlled by watering or spraying dust suppressants to control fugitive dust on unpaved haul roads.
 - Stabilized quarry spill pads would be used to remove mud from the tires of construction trucks before they exit the site onto adjacent roads to help keep mud off of the paved roads and prevent sediments from being washed off of the roads during wet weather.
 - Subsurface exploration would be conducted as part of the construction and/or building permit process, to verify the quality of subsurface material and provide specific foundation and construction recommendations. Specific foundation support systems would be determined as part of the specific design and permitting of infrastructure and individual buildings associated with future site development at the DMCBP.
 - An undisturbed buffer of native vegetation would be retained from the top of the Des Moines Creek ravine sidewall west of the site, and a building setback would be maintained from the ravine buffer edge to prevent erosion and sedimentation impacts on environmentally sensitive areas, such as steep slopes and the creek (per DMMC 18.86.076). The City may approve a buffer reduction if a special geotechnical study is prepared that demonstrates that the reduction would result in minimal impacts to soil stability and existing native vegetation (DMMC Section 18.86.076(2)). Specific buffers would be determined as part of the Final Master Plan process.
 - The final grading plan for the DMCBP would require that the final grade of any mass excavation be at least 10 feet in elevation above the top of the Advanced Outwash unit, providing a ten-foot thickness of low permeability till as a protective buffer above the top of the uppermost regional aquifer. Should excavation for a new stormwater pipe that could be constructed from the site west to the existing S 212th Street outfall to Des Moines Creek extend through the lower 10 feet of the Vashon Till layer at any point, pipe backfill would be constructed using impermeable materials. A geotechnical survey would be conducted in conjunction with preparation of the final grading plan to confirm the till thickness and establish construction excavation limitations.
 - The relationship of DMCBP site development, and associated site disturbance, to the various slope categories established in DMMC Section 18.86.077 would be determined at the Final Master Plan stage, when a final grading plan is formulated.

- USTs encountered during grading would be managed consistent with appropriate state regulations.
- Following construction, areas of exposed soils would be either developed or revegetated to prevent erosion and sedimentation.
- A permanent stormwater control system, designed in accordance with Washington State Department of Ecology's 2005 Manual, would be installed to control stormwater runoff release and prevent erosion and sedimentation impacts onsite and downstream (see Section 3.3, **Water Resources** and **Appendix C** for further information).
- The design of all structures would comply with applicable building code requirements that address typical seismic considerations, such as ground acceleration.

Air Quality

- The construction contractor(s) would be required to comply with PSCAA regulations that require control of emissions of odor-bearing air contaminants that could be injurious to human health, plant or animal life, or property, or that could unreasonably interfere with the enjoyment of life and property (Regulation 1, Section 9.11).
- It is anticipated that regular watering of the construction site would occur to minimize fugitive dust. The construction contractor(s) would be required to comply with the PSCAA (Regulation 1, Section 9.15), requiring reasonable precautions to avoid dust emissions and could include, but are not limited to the following:
 - The use of control equipment, enclosures, and wet (or chemical) suppression techniques, as practical, and curtailment during high winds;
 - Surfacing roadways and parking areas with asphalt, concrete, or gravel;
 - Treating temporary, low-traffic areas (e.g. construction sites) with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages before they exit to prevent the track-out of mud or dirt onto paved public roadways; and/or
 - Covering or wetting truck loads or allowing adequate freeboard to prevent the escape of dust-bearing materials.
- Certain future uses that would potentially be new air emission sources would be required to obtain permits from PSCAA to ensure that appropriate technology is in place to prevent the release of harmful contaminants into the atmosphere.

Water Resources

- Monitoring and erosion control measures would be employed for stormwater discharge associated with construction activities, per a National Pollutant Discharge Elimination System (NPDES) permit from the Department of Ecology (Ecology) to protect water quality.

- A Stormwater Pollution Prevention Plan (SWPPP) would be prepared and implemented, as required by the NPDES permit. The SWPPP would contain specific best management practices (BMPs) for each construction season.
- Temporary erosion and sediment control (TESC) best management practices (BMPs) as specified in the Ecology Manual (2005) would be implemented. See Tables 3.1-1 and 3.1-2 in **Appendix C** and Section 3.1, **Earth** for specific BMP measures.
- Construction entrances would include truck wheel washes in addition to quarry spalls to dislodge sediment, if warranted by the specific truck traffic and soil export volumes. Streets would also be routinely cleaned during construction.
- Specialized products, such as Chitosan or Electrocoagulation, and other water treatment systems could be used, if warranted and approved by Ecology under the NPDES permit.
- During drier weather, settling ponds would be drawn down via pumping and the water dispersed to upland vegetated areas away from steep slopes, as feasible.
- BMPs for concrete work would include the following:
 - Cement trucks wash water would not be disposed of onsite, but would be returned to the off-site batch plant for recycling as process water;
 - New concrete work would be covered and protected from rainfall until cured; and,
 - Monitoring of pH would occur in areas with active concrete work.
- If concrete amendments to soils are proposed to meet compaction standards, specific measures described in **Appendix C** would be employed.
- Excavations conducted as part of mass grading for infrastructure and buildings onsite would be at least 10 feet in elevation above the top of the advanced outwash unit and in the Vashon Fill Layer, which forms a water quality-protective barrier between the ground surface and the Qva Aquifer. Excavation for the new stormwater discharge pipe (under stormwater routing option 2) could be 50 feet deep onsite; such a cut would be backfilled with impermeable material to maintain the integrity of the till aquitard and to protect the Qva Aquifer.
- Wetland fill would be limited to 0.96 acres of isolated wetlands that are perched on the Vashon Till and are dry during the summer. These wetlands have low groundwater recharge potential. Approximately 0.85 acres of wetlands with some recharge potential would be retained as part of DMCCBP development.
- Stormwater would be managed per the requirements of the 2005 Ecology Manual (2005). All stormwater runoff from pollution-generating surfaces would be collected and treated to enhanced water quality treatment standards, per the Ecology Manual (2005).
- Approximately 30 percent of the site would be retained as natural (perimeter buffers, wetlands and wetland buffers) or landscaped areas which would contribute to groundwater recharge (this percentage does not include area in stormwater facilities).

- The stormwater conveyance function of on-site ditches would be replaced by relocation of ditch conveyance in pipes (or as open channel); conveyance and discharge points to off-site Wetlands B4 and B13 would be maintained.

Wetlands

- Wetland impacts would be limited to isolated wetlands approved for fill by the previously issued Sections 404 and 401 issued by the Corps of Ecology and subsequent Corps jurisdictional determinations and/or Ecology-issued Administrative Orders pertinent to the site.
- Except for the Wetland 48 buffer, it is anticipated that native vegetation in wetland buffers would not be altered in order to avoid potential water quality and habitat impacts.
- Construction best management practices (BMPs) would be employed to prevent construction impacts to wetlands and wetland buffers (see Section 3.3, **Water Resources** and **Appendix C** for details on the BMPs).
- Roof run-off or treated stormwater runoff would be used to maintain wetland hydrology, as warranted (i.e. for Wetlands B15 and 48). No new open water habitat that could attract waterfowl would be created. Untreated stormwater runoff from non-roof areas would not be distributed to, stored, or treated in the wetlands.
- A permanent stormwater management system would be installed that would control stormwater runoff release and prevent erosion and sedimentation impacts to wetlands on and adjacent to the site (see Section 3.3, **Water Resources** and **Appendix C** for further information on this system).
- The conditions of the previously issued Section 404 permit and 401 Water Quality Certification require mitigation for all wetlands that would be filled by the DMCBP project. The Port would construct this wetland mitigation to compensate for the loss of wetland area and wetland functions at the DMCBP site. The mitigation is planned and would be constructed on Port-owned property to the north of the DMCBP site, as well as on Port-owned property near the City of Auburn. The mitigation north of the DMCBP site would consist of the enhancement of approximately 1.4 acres of wetland area and approximately 1.3 acres of wetland and stream buffer adjacent to Des Moines Creek. Construction was completed on mitigation near the City of Auburn in June 2006.

Plants and Animals

- Open space areas, including natural and landscaped areas, would encompass approximately 32 acres, or 35 percent of the site. Natural areas would consist of steep forested slopes, retained wetlands and their buffers.
- Landscaping would be provided along the site boundaries (adjacent to public streets), along internal roadways, and in parking lot areas in accordance with applicable City of Des Moines' landscaping regulations (or as modified through the Final Master Plan).

Landscaping would also be consistent with FAA and Port of Seattle standards to ensure that no wildlife or avian habitat is created on the site.

- Per the City's tree retention regulations, existing healthy evergreen trees six inches in diameter at breast height (DBH) or greater and existing healthy deciduous trees eight inches DBH or greater would be retained within landscape areas; specifics would be determined during the Final Master Plan review process.
- No construction activities or development on the DMCBP site would occur within 200 feet of Des Moines Creek adjacent to the site (most development areas would be more than 200 feet from the creek).
- In accordance with City of Des Moines development standards, an undisturbed buffer of native vegetation would be retained from the top of the Des Moines Creek ravine sidewall west of the site. Appropriate building setbacks would be maintained from the ravine buffer edge to prevent impacts on environmentally sensitive areas. Specific buffers and setbacks related to slopes would be determined during the Final Master Plan process.
- A permanent stormwater management system would be installed that would control stormwater runoff release and prevent erosion and sedimentation onsite and downstream (see Section 3.3, **Water Resources** and **Appendix C** for further information on this system).

Noise

- Construction hours would be limited, as required by the Des Moines Municipal Code (DMMC Section 14.04.0900 and DMMC 14.60.150). Operation of heavy construction equipment during grading operations would not take place between 5 PM and 8 AM Monday through Sunday and other construction activities would not take place between 7 PM and 7 AM Monday through Saturday, or between 5 PM and 8 AM Sundays or on legal holidays.
- Stationary construction equipment would be positioned as far from sensitive noise uses as possible, and construction trailers or other quiet stationary objects would be parked in a location that would help block noise, as possible.
- Construction equipment with sound-attenuating devices would be supplied, as possible.
- Equipment would be enclosed within sound-proof enclosures, as possible.
- Portable noise barriers would be used, as possible, to provide additional noise attenuation.
- Equipment would be turned off when not in use rather than left idling, as possible.
- Hydraulic or electric equipment would be used instead of impact equipment, whenever possible.

- Equipment locations (i.e. placement of HVAC systems) would be selected to minimize potential off-site noise impacts.
- Mechanical systems would be designed to minimize the use of noisy equipment, as feasible.
- Neighboring uses on S 208th Street and 24th Avenue S would be shielded from operational noise by appropriate building orientation (location of loading docks behind the buildings).
- Mufflers and quiet packages for chillers and other high-level noise sources would be used, as warranted for manufacturing uses.
- The perimeter buffers, possibly including earthen berms, to be provided along 24th Avenue S, and S 216th Street (and potentially S 208th Street if it remains a public street) and the open space area in the west portion of the site would reduce potential noise impacts on adjacent uses.
- Loading areas would be set back, recessed and/or screened to minimize potential noise impacts to surrounding off-site uses.
- Truck traffic would be directed to use the primary site access at S 216th Street and 20th Avenue S via on-site signage, in order to reduce traffic and associated noise on 24th Avenue S and S 208th Street.
- Buildings would be designed to meet the City of Des Moines Sound Transmission Control Ordinance (DMMC 14.08.280).

Land Use

- Approximately 35 percent of the site would be in some form of open space area, including natural vegetation and newly landscaped area.
- Average 20-foot wide perimeter buffers containing landscaping, and potentially an earthen berm, would be provided along the eastern and southern boundaries of the site to provide a visual screen to site development per sections 18.41 and 18.25.060 of the DMMC; the specific details of the perimeter landscaped buffer and/or the berm would be determined in the Final Master Plan.
- Truck loading areas would be located in the back of buildings (away from adjacent streets) and would be designed to minimize impacts to surrounding uses by incorporating setbacks, recesses and/or screening (per section 18.25.060 of the DMMC).
- The business park would be designed to conform with the applicable general site and building design guidelines of the BP zone (per sections 18.25.060 and 18.25.070 of the DMMC or as modified in the Final Master Plan). See Section 3.8, **Relationship to Plans and Policies** of this Draft EIS for further discussion of the guidelines.

- All future business park buildings would be required to obtain design review approval in accordance with DMMC 18.58.

Aesthetics/Light and Glare

- Approximately 35 percent of the site would be retained in some form of open space area.
- Average 20-foot wide perimeter buffers containing landscaping, and potentially an earthen berm, along the eastern and southern boundaries of the site would provide visual screening of site development per sections 18.41 and 18.25.060 of the DMMC; the specific details of the perimeter landscaped buffer and/or the berm would be determined in the Final Master Plan.
- Landscaping would be designed to create an aesthetically pleasing park-like setting (per Section 18.25.060 of the DMMC).
- Truck loading areas would be set back, recessed, and/or screened so as not to be visible from neighboring streets or residentially zoned or used properties and to minimize visibility from areas zoned Business Park (per Section 18.25.060 of the DMMC).
- Building design would be compatible with the site and with uses in the area. Building modulation and other design techniques to add architectural interest and minimize building mass would be used. Variety in detail, form, and siting would be used to provide visual interest (per Section 18.25.070 of the DMMC).
- Exterior lighting fixtures and standards would be part of the architectural concept and harmonious with building design (per Section 18.25.070 of the DMMC).
- Exterior lighting fixtures would use appropriate shields to reduce light spillage and lighting would be directed away from adjacent areas, including wetlands and Des Moines Creek Park.
- All future business park buildings would be required to obtain design review approval in accordance with DMMC Section 18.58.

Transportation

- A threshold of 840 PM peak hour trips could be established for the DMCBP. In order to exceed this threshold, additional capacity would need to be created in the transportation network. Additional capacity could include the completion of the SR 509/S Access Road project, the 28th/24th Avenue S Improvement project, and/or other traffic capacity improvements. Full buildout of Alternative 2 (1,045 PM peak hour trips) could be accommodated without exceeding LOS mobility standards and without resulting in significant impacts assuming completion of the capacity improvements noted above.

- Signal optimization and corridor progression improvements on International Boulevard/Pacific Highway S between S 188th Street and S 216th Street would be required to improve intersection operations under Alternatives 1 and 2 in years 2015 and 2024. Specific funding responsibilities for these improvements would be determined as part of the Second Development Agreement between the Port and the City of Des Moines.
- Signal optimization at the S 216th Street/24th Avenue S intersection would be required to improve operations under both Alternatives 1 and 2 in 2024, and to respond to the change in travel patterns created by the SR 509/S Access Road and 28th/24th Avenue S improvement projects. Specific funding responsibilities for these improvements would be determined as part of the Second Development Agreement between the Port and the City of Des Moines.
- The Port or future developer(s) would install a traffic signal at the S 216th Street/20th Avenue S intersection by year 2008 in order to improve the LOS of the intersection to an acceptable level, assuming 500,000 square feet of development occurs in the initial 2008 scenario. This signal would be interconnected with the traffic signal recently installed by the City of Des Moines at the S 216th Street /24th Avenue S intersection.
- The City of Des Moines (DMMC Chapter 12.40) and City of SeaTac regulations require that street frontage improvements, or a fee in lieu of, be provided by new developments. It is anticipated that a construction schedule and arrangements concerning DMCBP frontage improvements would be addressed in the Second Development Agreement between the Port and City or in the Final Master Plan. The Port anticipates coordinating with the City of SeaTac on any frontage improvements for portions of the site that abut the City. The frontage improvements would be designed and constructed to ensure adequate right-of-way width to accommodate the planned expansion of 24th Avenue S and S 216th Street improvements by the Cities of Des Moines and SeaTac.
- Construction of appropriate traffic calming measures along 24th Avenue S, south of S 216th Street would occur, to minimize the desirability of this road as an access to and from the DMCBP site (see Table 20 in **Appendix D** for some of the potential traffic calming measures that could be constructed). Specific funding responsibilities for these improvements would be determined as part of the Second Development Agreement between the Port and the City of Des Moines.
- During site construction and operations, trucks would be signed to use S 216th Street and access the site at the main entrance at 20th Avenue S to reduce potential impacts to residents along S 208th Street and 24th Avenue S. By year 2024 with the proposed SR 509/S Access Road and 28th/24th Avenue S improvement projects, trucks would be also directed to use 24th Avenue S for access to and from SR 509.
- The DMCBP development would support transportation demand management (TDM) measures, such as bus pass subsidies, preferential parking for car and van pools, flextime, bicycle parking, and ride match services.
- The DMCBP development would abide by the adopted City of Des Moines Transportation Impact Fee Service Area program. To the extent that the Port and/or future developer(s) contribute to certain improvements on a greater than pro-rata basis,

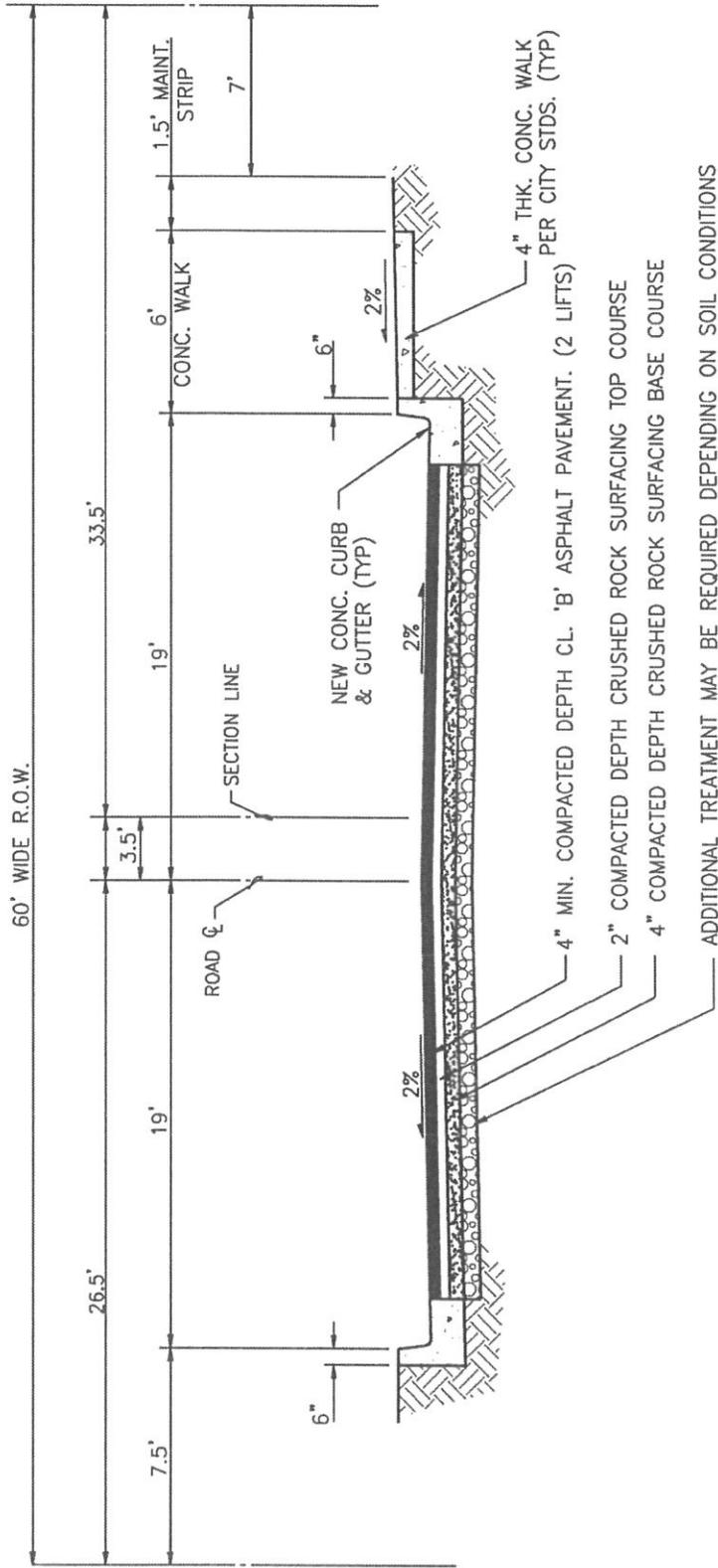
credits against impacts fees could be granted. Specifics related to funding responsibilities would be determined in conjunction with the City of Des Moines as part of the Second Development Agreement process.

Public Services

- Construction worker safety measures would be implemented during construction in accordance with Occupational Safety and Health Administration (OSHA) standards.
- All new buildings would be constructed in compliance with the applicable International Building Code and International Fire Code regulations, as adopted by the City of Des Moines.
- On-site security would be provided during construction. On-site security measures, such as fencing and securing areas where equipment is stored, would be implemented to reduce the potential for construction-related incidents.
- Traffic control measures would be provided for both construction vehicles as well as for truck trips as part of operation of the DMCBP (see Section 3.10 **Transportation** for details). Other transportation improvements would be implemented to preclude significant impacts on the transportation network as a result of the DMCBP.

Utilities

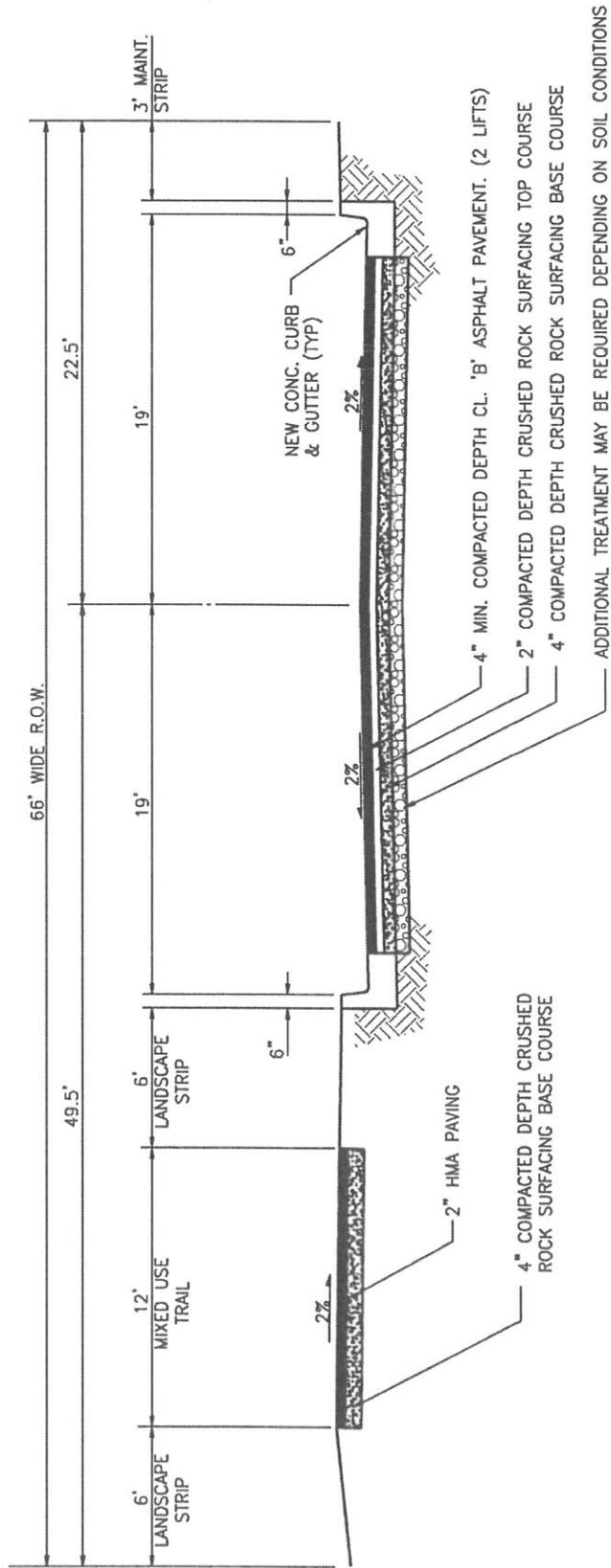
- The Port or future developer(s) would coordinate with the City of Des Moines and Highline Water District regarding all water utility installation on the site to insure consistency with overall water systems.
- Fire hydrants would be placed on the DMCBP site in a grid pattern, spaced in accordance with the City of Des Moines Fire Code.
- The Port or future developer(s) would coordinate with the City of Des Moines and Midway Sewer District regarding all sanitary sewer utility installation on the DMCBP site to insure consistency with overall sewer system.
- The Port or future developer(s) would coordinate with PSE regarding amending the existing service agreement between the Port and PSE and installation of electrical facilities on the DMCBP site.
- All new buildings on the DMCBP site would meet or exceed applicable City of Des Moines and State of Washington energy code provisions for energy utilization.
- The Port or future developer(s) would coordinate with PSE during design and permitting to insure that new natural gas lines on the site would be adequately sized to maintain sufficient pressure for new natural gas costumers on site and existing customers in the area.



SOUTH 208TH STREET TYPICAL SECTION

NOT TO SCALE (LOOKING EAST)

EXHIBIT F



INTERNAL LOOP ROAD TYPICAL SECTION

NOT TO SCALE (LOOKING EAST)

EXHIBIT G

Project and system improvements with threshold trigger points

Development Traffic Trip Thresholds – based on 2006 EIS (arranged to assume north end develops first)

Improvement	Threshold	Notes
1 – Access roadway to 24 th Ave S (S. 212 th St – vicinity)	40 PM peak hour trips	Part of Area 1 site development. (*342 PM peak hour trips/ 489,470 s.f. of development)
2 - SR 99 Signal coordination	390 PM peak hour trips or >500,000 s.f. of development.	Initially completed fall 2010. Will just need to update the coordination plan.
3 – Completion of internal Loop road (connection to S. 216 th St.)	390 PM peak hour trips or >500,000 s.f. of development	Refer to Section 11.1.2.
4 – New Traffic Signal at S. 216 th /20 th Ave S	390 PM peak hour trips or >500,000 s.f of development (Level of Service (LOS) exceeds standard of D at 212 th /24 th or LOS >D at 216 th /24 th Ave S)	* Assuming Area 1 site develops: 48 PM peak hour trips available/ ~10,530 s.f. development avail. Signal will be included with S. 216 th Seg. 2 improvements.
5 – Traffic Signal improvements at 216 th /SR-99	Level of Service of 216 th /SR-99 exceeds standard of F (v/c >1.0)	Based on supplemental site specific Traffic Impact Analysis (TIA).
6 – 24 th /28 th Ave South Extension to S. 200 th St. **840 PM peak hour trips from DMCBP		
7 – New Traffic Signal at S. 208 th /24 th Ave S	Level of Service of 208 th /24 th exceeds standard of D	Based on supplemental site specific Traffic Impact Analysis (TIA)

EXHIBIT H

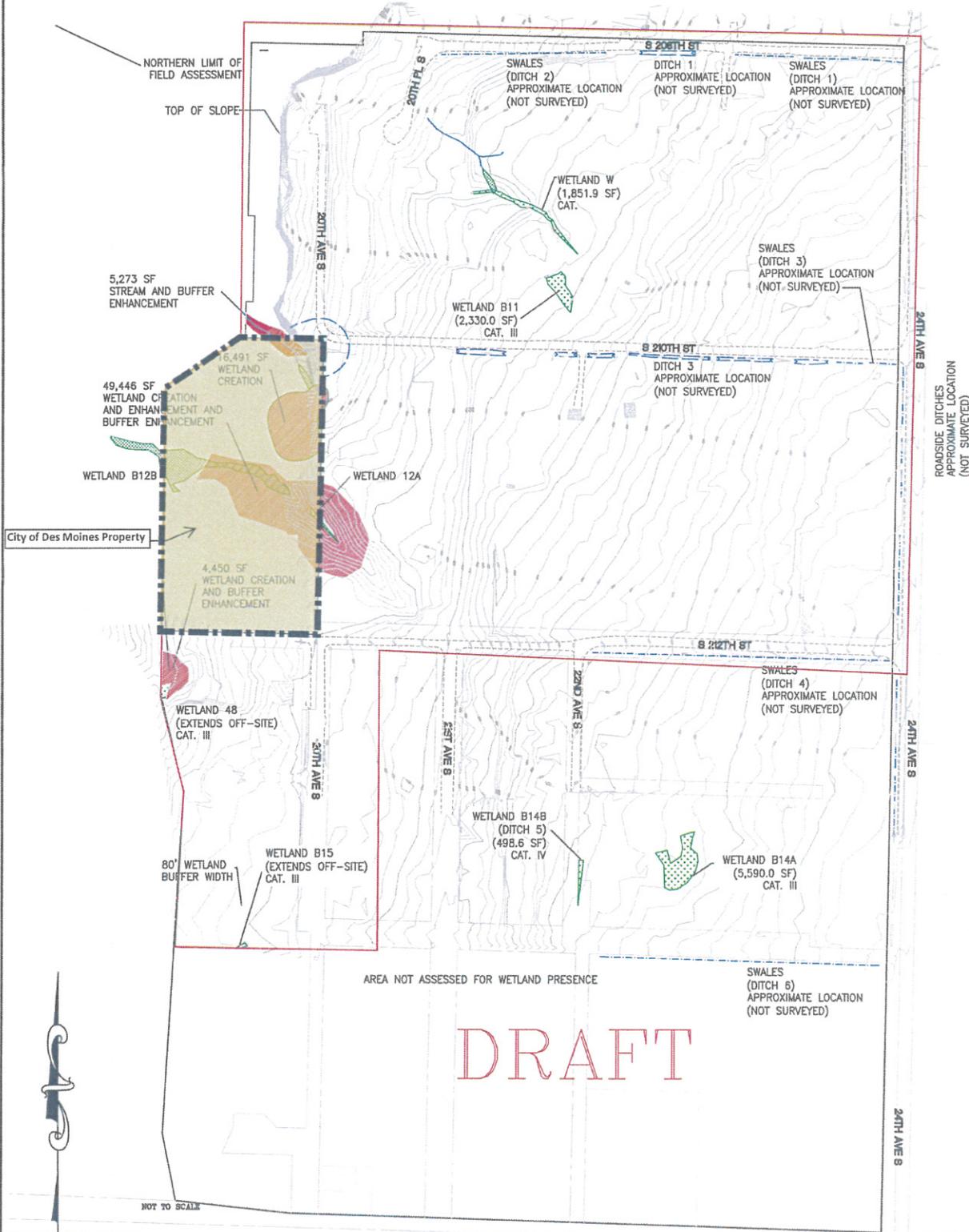
8 – Traffic Signal improvements at 208th/SR-99 Level of Service of 208th/SR-99 exceeds standard of E (Sea-Tac) Site specific TIA (may not be needed if 24th/28th extended)

*Based on PSE Site Plan dated 5/16/12 included as Exhibit B to the 2nd Development Agreement.

** A site specific Traffic Impact Analysis may allow this number to be higher based on previous improvements made and background traffic growth.

DES MOINES CREEK BUSINESS PARK - SITE PLAN

LEGEND
[Red hatched box] MITIGATION AREAS (OPTIONS)



NOT TO SCALE

SOURCE:

DES MOINES CREEK BUSINESS PARK SW CORNER OF S 20TH ST & 24TH AVE S, DES MOINES, WA 98198

DATE: 04/18/12
JOB: 1077.0003
BY: KAL/JC
SCALE: NTS
SHEET 1 OF 1

**CITY MANAGER'S EXECUTIVE ORDER NO. 10-001
CITY OF DES MOINES**

AN EXECUTIVE ORDER OF THE CITY MANAGER OF THE CITY OF DES MOINES establishing the *City-Wide Development Incentive Program* for all commercial and multifamily zoned areas in Des Moines, and to further the goals and objectives established by the Pacific Ridge Neighborhood Improvement Plan, the Downtown Neighborhood and North Central Neighborhood elements of the Comprehensive Plan, the City Council's economic development goals and strategic objectives, and to provide additional incentives to encourage development throughout the City, effective **September 1, 2010**.

RECITALS

WHEREAS, DMMC 12.04.100 provides that the fee for right-of-way permits issued by the City under the authority of Chapter 12.04 DMMC shall be established by the City Manager.

WHEREAS, DMMC 14.04.080 provides that the fee for any permit issued by the City under the authority of Title 14 DMMC shall be established by the City Manager, and

WHEREAS, DMMC 16.04.260 provides that the fee for a State Environmental Policy Act (SEPA) determination issued by the City under the authority of Title 16 DMMC shall be established by the City Manager, and

WHEREAS, DMMC 17.40.010 provides that the fee for any approval issued by the City under the authority of Title 17 DMMC shall be established by the City Manager, and

WHEREAS, DMMC 18.58.050 provides that "the City Manager may adopt by executive order procedural rules for the efficient implementation of this chapter" [Chapter 18.58 DMMC – Design Review], and

WHEREAS, DMMC 18.64.050 provides that "fees for the following land use applications are established by the City Manager

- (a) Change of zone;
- (b) Unclassified use permit;
- (c) Planned unit development;
- (d) Variance;
- (e) Conditional use permit;
- (f) Comprehensive plan amendment

EXHIBIT J

WHEREAS, the Des Moines City Council established "Improved economic vitality and development" as a strategic goal and "facilitate development of the Des Moines Creek Business Park" and changes to Downtown development regulations and improvements to the Downtown water system as strategic objectives to advance this strategic goal; and

WHEREAS, the City Manager by Executive Order No. 07-005, established the Pacific Ridge Redevelopment Incentive Program to further the goals and objectives established by the Pacific Ridge Neighborhood Improvement Plan effective January 1, 2008; and

WHEREAS, DMMC 18.31.010 provides that the purpose of the Pacific Ridge Zone is "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," and

WHEREAS, Policy 11-03-02 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should "encourage increased building heights in this neighborhood to enhance land value, promote redevelopment, expand view opportunities, and to accommodate household growth targets specified by the Countywide Planning Polices for King County," and

WHEREAS, Policy 11-03-06 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should "ensure that development requirements, land use review procedures, and mitigation measures do not unnecessarily hinder redevelopment. Utilize innovative land use review techniques/procedures to minimize timeframes and uncertainty during permit review. Examples of such techniques/procedures include: streamlined environmental review; optional DNS; impact fees, etc." within the Pacific Ridge, and

WHEREAS, Policy 11-03-07 of the Pacific Ridge Element of the Des Moines Comprehensive Plan provides that the City should "promote redevelopment of Pacific Ridge properties to attract new or expanded businesses and commercial development to Pacific Ridge," and

WHEREAS, DMMC 18.25.010 provides that the purpose of the Business Park Zone is, "provide suitable areas of the city for development of compatible business, professional office, light industrial, research and development, service uses, wholesale trade, and retail uses serving the needs of business park tenants," and

WHEREAS, DMMC 18.27.010 provides that the purpose of the Downtown Commercial Zone is, "to enhance, promote, and maintain the business areas of the downtown neighborhood," and

WHEREAS, Policy 2-03-08 of the Land Use Element of the Des Moines Comprehensive Plan provides that the City should, "promote new development and

redevelopment within the Downtown Business District to reflect and enhance its ties to the waterfront, pedestrian orientation, and role in serving local shopping and service requirements,” and

WHEREAS, Policy 10-02-04 of the Downtown Neighborhood Element of the Des Moines Comprehensive Plan provides that the City should, “promote new development and redevelopment within the Downtown Business District to reflect and enhance its ties to the waterfront, pedestrian orientation, and role in serving local shopping and service requirements,” and

WHEREAS, given the size of the large scale projects envisioned in the Pacific Ridge and Des Moines Creek Business Park and potential for such projects in the Downtown, along Pacific Highway South and in the RM-900B Restricted Service Zones, the City will achieve an economy of scale allowing the City to recover the cost of land use and building permitting at a lower rate than needed for smaller scale projects, and

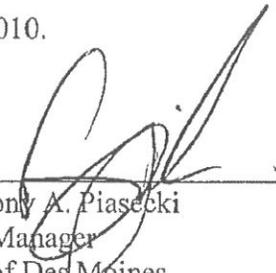
WHEREAS, encouraging development throughout the City is in the best interest of the public health, safety or welfare of the City’s citizens, **NOW THEREFORE.**

It is hereby **ORDERED** as follows:

1. The City-Wide Development Incentive Program is established.
2. The Incentive Program shall reduce fees for design review, environmental review, subdivision, planned unit development, short subdivision and lot line adjustment, engineering plan review, building plan check and building permit, land clearing, grading or filling, mechanical, electrical and plumbing permit, and right of way permits as follows:
 - a. By 20%, provided that the individual permit applications contain a minimum of 50,000 square feet of commercial or residential development or a combination thereof, excluding the area necessary for any required parking.
 - b. By 10%, provided that the individual permit applications contain a minimum of 25,000 square feet of commercial or residential development or a combination thereof, excluding the area necessary for any required parking.
3. The Incentive Program shall not apply to any fee established by ordinance or by another agency including transportation impact fees, park in-lieu fees, South King Fire & Rescue review fees, surface water management hook up fees, or business licenses and taxes. The Incentive Program shall also not include the cost for any third-party review.
4. The Incentive Program shall apply to the first group of tenant improvements provided that the building was constructed as a “shell building.” All future tenant improvements regardless of size shall comply with the City wide fee schedules.

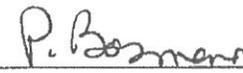
5. The Incentive Program is only available to the first 3,125,000 square feet of occupiable commercial development (excluding the area necessary for any required parking) and 5,541 residential units if the project is in Pacific Ridge. Once the allotments are exhausted this Incentive Program will cease for Pacific Ridge projects unless additional allotments are added by executive order of the City Manger.
6. The Incentive Program for the Downtown Neighborhood and the North Central Neighborhood will cease five years from the date of this Executive Order unless an extension is granted by executive order of the City Manager.
7. Fees for development activity that qualify for the Incentive Program will be assessed in accordance with the City Development Services Fee Schedule (Exhibit A), the Building Permits Fee Schedule (Exhibit B), Right-of-Way Permit Fee Schedule (Exhibit C).
8. Issuance of the Executive Order replaces and supersedes Executive Order Number 07-005 regarding the Pacific Ridge Redevelopment Fee Incentive Program

DATED this 19th day of August, 2010.



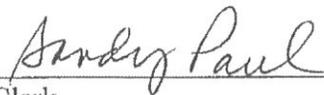
Anthony A. Piasecki
City Manager
City of Des Moines

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Clerk

Des Moines Creek Business Park

Amended and Restated Second Development Agreement Panattoni Master Plan



City Council Presentation
February 20, 2014

DEVELOPMENT AGREEMENT CRITERIA

- ✓ Agreement must set forth the development standards that govern and vest to the property
- ✓ Must be consistent with the City's adopted development regulations.
 - Deviations ok if authorized by current development regulations
- ✓ Must be approved by a resolution at a public hearing



MASTER PLAN CRITERIA

- ✓ Permitted use
- ✓ The project complies with the lot coverage requirements.
- ✓ There is sufficient access to the project site
- ✓ The environmental impacts have been sufficiently mitigated.
- ✓ The project complies with applicable sections of the *Des Moines Comprehensive Plan*



Previous Actions

Year	Action
2004	NEST Study / Conceptual Master Plan
2005	DEIS / 1st Development Agreement
2007	Benefit Study / FEIS
2008	1st Addendum
2010	2nd Addendum
2012	2nd Development Agreement / Amended & Restated 2nd Development Agreement





2nd Development Agreement Key Terms

Frontage Improvements In-Lieu Fees:

- ✓ Port made an advance \$ 6 Million in-lieu payment
 - South 216th Street – \$2.5 Million
 - 24th Avenue South – \$3.5 Million
- ✓ City agreed to waive the Transportation Impact Fees and construct the roadway improvements
 - City utilizing to secure grant funds for construction



Amended & Restated Second Development Agreement – Key Terms



Access and Internal Roadways:

- ✓ South 208th Street & South 211th Street
 - Constructed as part of Area 1
 - Dedicated to City upon completion
- ✓ South 214th Street/20th Avenue South (Internal Loop Road)
 - Phased construction – Areas 2 and 3
 - Each phase dedicated to City upon completion



Amended & Restated Second Development Agreement – Key Terms



Development Regulations:

- ✓ Parking
 - Removes parking requirement for exterior storage yards
- ✓ Landscaping
 - Reduces width and removes earthen berm
 - Consistent with requirements for properties on south side of South 216th Street
- ✓ Performance Standards
 - Allows re-orientation of buildings so that offices are oriented toward highest classified public streets
- ✓ Recreation Improvements
 - Provides Joint-Use Path and Des Moines Creek Trail Connection



Amended & Restated Second Development Agreement – Key Terms



Critical Area Easement:

- ✓ Mitigation for on-site wetlands proposed around adjacent wetlands located on City property or King County Wetland Mitigation In-Lieu Fees



Amended & Restated Second Development Agreement – Key Terms



Stormwater Facilities:

- ✓ Pond "A" – Tract A
 - For Areas 1 and 2 - Fully Constructed as part of Area 1
 - Deeded to City upon completion
- ✓ Pond "B" – Tract B
 - For Area 3 - Future construction
 - Deeded to City upon completion



Amended & Restated Second Development Agreement – Key Terms



Duration and Vesting:

- ✓ **Duration**
 - 15 years, unless extended
 - Terminates upon full build-out
 - May be terminated sooner by agreement
- ✓ **Vesting**
 - Development regulations vest for 15 years
 - Building code changes and storm water regulations excepted



Economic Benefit



- ✓ **Permanent and Construction Jobs**
- ✓ **On-going Revenues**
- ✓ **One Time Construction Sales Tax Revenues**

