

AMENDED AGENDA

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

September 26, 2019 – 6:00 p.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

CORRESPONDENCE

PRESIDING OFFICER’S REPORT

Item 1: COUNCILMEMBER BACK SWEARING IN – AWC BOARD MEMBER

ADMINISTRATION REPORT

Item 1: STAFF INTRODUCTIONS

COMMENTS FROM THE PUBLIC – 20 minutes

Please Note: Public comment will be limited to 20 minutes. If time allows, we will resume public comment at the end of our meeting after all official business has been conducted.

BOARD & COMMITTEE REPORTS/COUNCILMEMBER COMMENTS – 30 minutes

NEW BUSINESS

Page 203 Item 2: RECYCLING RATE ADJUSTMENT – RECOLOGY
CLEANSCAPES, INC. CONTRACT AMENDMENT
Staff Presentation: Principal Planner Laura Techico

Page 151 Item 1: DRAFT ORDINANCE NO. 19-060 – REFUNDING AND
REFINANCING SCORE BONDS AND AMENDING THE
INTERLOCAL AGREEMENT (ILA)
Staff Presentation: City Attorney Tim George

CONSENT CALENDAR

- Page 4 Item 1: APPROVAL OF VOUCHERS
Motion is to approve for payment vouchers and payroll transfers through September 5, 2019 included in the attached list and further described as follows:
- | | | |
|---|----------------|----------------|
| Total A/P Checks/Vouchers | #158680-158885 | \$ 659,483.26 |
| Electronic Wire Transfers | # 1306-1312 | \$ 554,181.95 |
| Payroll Checks | # 19256-19261 | \$ 3,773.25 |
| Payroll Direct Deposit | #360001-360193 | \$ 374,132.35 |
| Total Checks and Wires for A/P and Payroll: | | \$1,591,570.81 |
- Page 7 Item 2: APPROVAL OF MINUTES
Motion is to approve the August 8, 2019 Budget Retreat and the September 5, 2019 City Council Regular Meeting Minutes.
- Page 15 Item 3: ACCEPTANCE OF WASHINGTON TRAFFIC SAFETY COMMISSION GRANT: DES MOINES MUNICIPAL COURT-DUI COURT
Motion is to accept the grant from the Washington Traffic Safety Commission in the amount of \$65,000 for the purposes of continuing operations of the Des Moines Municipal Court-DUI Court and authorize the City Manager to sign the contract substantially in the form as attached.
- Page 33 Item 4: DOMESTIC VIOLENCE AWARENESS MONTH
Motion is to approve the Proclamation supporting October as Domestic Violence Awareness Month.
- Page 37 Item 5: DES MOINES CREEK BASIN HABITAT RESTORATION MONITORING: CONSULTANT ON-CALL AGREEMENT TASK ASSIGNMENT FOR ENGINEERING SERVICES
Motion is to approve the 2018-2019 On-Call General Civil Engineering Services Task Order Assignment 2018-08 with Parametrix, that will provide habitat restoration monitoring along the Des Moines Creek Basin corridor in the amount of \$69,458.83, and further authorize the City Manager to sign said Task Order Assignment substantially in the form as submitted.
- Page 45 Item 6: DRAFT ORDINANCE NO. 19-081 PROSTITUTION VEHICLE IMPOUND ORDINANCE
Motion 1 is suspend Rule 26(a) in order to enact Draft Ordinance No. 19-081 on first reading.
- Motion 2 is to enact Draft Ordinance No. 19-081, designating defined areas within the City of Des Moines as areas within which vehicles are subject to impoundment for certain prostitution related offense and directing signs to be posted at the boundaries of designated prostitution impound areas.

- Page 59 Item 7: KING COUNTY YOUTH AND AMATEUR SPORTS GRANT ACCEPTANT
Motion is to accept the King County Youth and Amateur Sports Grant for grant funding in the amount of \$100,000 for Des Moines Field House Sports Field Renovation Project, and authorize the City Manager to sign the grant agreement substantially in the form as submitted.
- Page 71 Item 8: WASHINGTON STATE RECREATION AND CONSERVATION OFFICE YOUTH ATHLETIC FACILITIES GRANT ACCEPTANCE
Motion is to accept the Youth Athletic Facilities Grant through the Washington State RCO for grant funding in the amount of \$107,202 for the Des Moines Field House Park Field Renovations Project, and authorize the City Manager to sign the grant agreement substantially in the form as submitted.
- Page 93 Item 9: INTERAGENCY AGREEMENT – EDWARD BYRNE MEMORIAL JUSTICE GRANT (JAG) PROGRAM JAG GRANT AWARD #2017-DJ-BX-0496
Motion is to authorize the City Manager to sign the Interagency Agreement with the City of Seattle for the Edward Bryne Memorial Justice Grant #2017-DJ-BX-0496 substantially in the form as attached and for the City of Des Moines to accept the \$11,122.00 in federal funds under terms and conditions listed within the JAG Grant and Interagency Agreement.

NEW BUSINESS

- ~~Item 1: DRAFT ORDINANCE NO. 19-060 – REFUNDING AND REFINANCING SCORE BONDS AND AMENDING THE INTERLOCAL AGREEMENT (ILA)
Staff Presentation: City Attorney Tim George~~
- ~~Item 2: RECYCLING RATE ADJUSTMENT – RECOLOGY CLEANSCAPES, INC. CONTRACT AMENDMENT
Staff Presentation: Principal Planner Laura Techico~~
- Item 3: MARINA REDEVELOPMENT UPDATE
Staff Presentation: City Manager Michael Matthias

EXECUTIVE SESSION

Potential Litigation under RCW 42.30.110(1)(i) – 30 minutes

NEXT MEETING DATE

October 10, 2019 City Council Regular Meeting

ADJOURNMENT

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CITY OF DES MOINES
Voucher Certification Approval
September 26, 2019
Auditing Officer Certification

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

As of **September 26, 2019** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through September 19, 2019 and payroll transfers through September 5, 2019 included in the attached list and further described as follows:

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

Beth Anne Wroe, Finance Director

	# From	# To	Amounts
Claims Vouchers:			
Total A/P Checks/Vouchers	158680	- 158885	659,483.26
Void Checks from Previous Check Runs			0.00
Electronic Wire Transfers	1306	1312	554,181.95
Total claims paid			1,213,665.21
Payroll Vouchers			
Payroll Checks	19256	19261	3,773.25
Direct Deposit	360001	360193	374,132.35
Total Paychecks/Direct Deposits paid			377,905.60
Total checks and wires for A/P & Payroll			1,591,570.81

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MINUTES

**DES MOINES CITY COUNCIL
BUDGET RETREAT
Council Chambers
21630 11th Avenue S, Des Moines, Washington**

August 8, 2019 – 5:00 p.m.

CALL TO ORDER

Mayor Pina called the meeting to order at 5:03 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Mayor Pina.

ROLL CALL

Council present: Mayor Matt Pina; Deputy Mayor Vic Pennington; Councilmembers Traci Buxton, Luisa Bangs, Jeremy Nutting, Robert Back and Matt Mahoney

Staff present: City Manager Michael Matthias; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Finance Director Beth Anne Wroe; Police Chief Ken Thomas; Harbormaster Scott Wilkins; Judge Lisa Leone; Court Administrator Jennefer Johnson; Probation Officer Melissa Patrick; Management Analyst Nicole Nordholm; Human Resource Director Adrienne Johnson; Public Works Director Brandon Carver; Surface Water & Environment Engineering Manager Loren Reinhold; Marina Office Manager Katy Bevegni; Events and Facilities Manager Shannon Kirchberg; Associate Events and Facilities Manager Ashley Young; Staff Accountant Angelica Martinez-Estrada; Information Systems Manager Dale Southwick; Commander Mike Graddon; Master Police Officer Justin Cripe; Master Police Officer Isaac Helgren; Legislative Advocate Anthony Hemstad; Deputy City Clerk Taria Keane and City Clerk/Communications Director Bonnie Wilkins.

Direction/Action

Motion made by Councilmember Bangs to give support Promoting United Government Efforts To Save Our Sound Act being proposed under US House Bill 2247 resulting in more resources for WRIA 9; seconded by Councilmember Nutting.
Motion passed 7-0.

Direction/Action

Motion made by Councilmember Nutting to temporary suspend participation with StART; seconded by Councilmember Bangs.
Motion passed 7-0.

DISCUSSION ITEMS

ITEM 1: APPROVAL OF VOUCHERS

Motion is to approve for payment vouchers and payroll transfers through August 1, 2019 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#158090-158360	\$1,439,826.90
Void Checks from Previous Check Runs		\$ (110.00)
Electronic Wire Transfers	# 1274-1288	\$ 648,205.16
Payroll Checks	# 19223-19235	\$ 16,544.07
Payroll Direct Deposit	#294001-294186	\$ 424,266.55
Total Checks and Wires for A/P and Payroll:		\$2,528,732.68

ITEM 2: APPROVAL OF MINUTES

Motion is to approve the June 6, 2019 Study Session Minutes and the June 13, June 27, and July 11, 2019 Regular Meeting Minutes.

ITEM 3: CONSULTANT CONTRACT AMENDMENT #9 – GRANT FREDRICKS

Motion is to approve Amendment/Addendum #9 to the Contract with Grant Fredricks, continuing professional consulting services through December 31, 2020, with an increase of \$25,000 for 2019 (bringing the total not-to-exceed amount for 2019 services to \$75,000.00) and up to \$60,000 in 2020 services, and authorize the City Manager to sign the contract amendment substantially in the form submitted.

ITEM 4: ARTS COMMISSION APPOINTMENT

Motion is to confirm the Mayoral appointment of Tiffani Melake to a term on the City of Des Moines Arts Commission effective immediately and expiring on December 31, 2020.

ITEM 5: AMENDMENT 1 TO THE CONSULTANT CONTRACT WITH WAGGONER MARINA CONSULTING/BURROWS BAY ASSOCIATES LLC

Motion is to approve the amendment for the phase II proposal with Waggoner Consultants in the amount not to exceed \$46,500.00, bringing the total contract amount to \$49,500.00 and authorize the City Manager to sign said amendment, substantially in the form as submitted.

ITEM 6: LEASE AGREEMENT WITH SR-3 FOR DES MOINES MARINA, SOUTH

Motion is to approve the lease agreement with SR-3, leasing certain property on the Marina floor, and authorize the City Manager to sign said agreement substantially in the form as submitted.

Mayor Pina read Titles of Discussion Items 1 – 6.

Direction/Action

Motion made by Councilmember Nutting to approve Discussion Items 1 – 6 as listed; seconded by Councilmember Bangs.

Motion passed 7-0

ITEM 7: BUDGET

Council and staff discussed and reviewed the current future organizational structure and succession planning that is now integrated within the organization and reviewed the current budget and proposed 2020 budget.

At 6:15 p.m. Council took a 30 minute break.

At 6:45 p.m. Mayor Pina extended the break 15 minutes.

The meeting resumed at 6:56 p.m.

NEXT MEETING DATE

September 5, 2019 City Council Regular Meeting

ADJOURNMENT

Direction/Action

Motion made by Deputy Mayor Pennington to adjourn; seconded by Councilmember Back.

The motion passed 7-0.

The meeting was adjourned at 8:35 p.m.

Respectfully Submitted
Taria Keane
Deputy City Clerk

MINUTES

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

September 5, 2019 – 7:00 p.m.

CALL TO ORDER

Mayor Pina called the meeting to order at 7:01 p.m.

PLEDGE OF ALLEGIANCE

The flag salute was led by Councilmember Mahoney.

ROLL CALL

Council present: Mayor Matt Pina; Deputy Mayor Vic Pennington; Councilmembers Traci Buxton, Robert Back, Luisa Bangs, Jeremy Nutting and Matt Mahoney.

Staff present:

City Manager Michael Matthias; Chief Operations Officer Dan Brewer; Chief Strategic Officer Susan Cezar; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Harbormaster Scott Wilkins; Finance Director Beth Anne Wroe; Police Chief Ken Thomas; Assistant Police Chief Mark Couey; Assistant Director of Parks, Recreation and Senior Services; Public Works Director Brandon Carver; Planning & Development Services Manager Denise Lathrop; Principal Planner Laura Techico; Civil Engineer II Tommy Owen; City Clerk/Communications Director Bonnie Wilkins; Deputy City Clerk Taria Keane

CORRESPONDENCE

- Note from Joe Schadt thanking the City for the lovely flower planters in the Downtown and Marina District
- Letter from Port of Seattle in response to City of Des Moines' decision to suspend participation in the Sea-Tac Stakeholder Advisory Round Table (StART)

At 7:03 p.m. Mayor Pina called Councilmember Luisa Bangs so she could participate in the meeting.

PRESIDING OFFICER'S REPORT

- Mayor Pina formally recognized City Manager Matthias on receiving the 2019 Award of Excellence, the Washington City/County Management Association's top award. This award was presented to City Manager Matthias on August 14, 2019 at the WCMA's summer conference.

CONSENT CALENDAR

- Item 1: APPROVAL OF VOUCHERS
Motion is to approve for payment vouchers and payroll transfers through August 29, 2019 included in the attached list and further described as follows:
- | | |
|---|----------------|
| Total A/P Checks/Vouchers #158361-158679 | \$1,778,677.75 |
| Void Checks from Previous Check Runs | \$ 0.00 |
| Electronic Wire Transfers # 1289-1305 | \$1,470,100.29 |
| Payroll Checks # 19236-19247 | \$ 7,752.42 |
| Payroll Direct Deposit #310001-310193 | \$ 395,731.30 |
| Payroll Checks # 19248-19255 | \$ 6,689.43 |
| Payroll Direct Deposit #340001-340189 | \$ 400,238.25 |
| Total Checks and Wires for A/P and Payroll: | \$4,059,189.44 |
- Item 2: 2019 COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN
Motion is to adopt Draft Resolution No. 19-086 approving the 2019 Comprehensive Solid Waste Management Plan for the King County Solid Waste System.
- Item 3: DRAFT RESOLUTION NO. 19-085: DECLARING THE INTENT TO ADOPT LEGISLATION TO AUTHORIZE A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING
Motion is to enact Draft Resolution No. 19-085, declaring the intent of the City Council to adopt legislation to authorize a sales and use tax for affordable and supportive housing in accordance with Substitute House Bill 1406.
- Item 4: KING COUNTY YOUTH AND AMATEUR SPORTS GRANT – BEACH PARK AUDITORIUM ATHLETIC FLOOR
Motion is to accept the King County Youth and Amateur Sports Grant for the Beach Park Auditorium Floor, and authorize the City Manager to sign the Agreement substantially in the form as submitted.
- Item 5: CHILDHOOD CANCER AWARENESS MONTH
Motion is to approve the Proclamation supporting September as Childhood Cancer Awareness Month.
- Item 6: NATIONAL RECOVERY MONTH
Motion is to approve the Proclamation supporting September 2019 as National Recovery Month.
- Item 7: DRAFT ORDINANCE 18-107 SMALL CELL FACILITIES FRANCHISE AGREEMENT WITH EXTENET SYSTEMS, INC., SECOND READING
Motion is to pass the Draft Ordinance No. 18-107 approving non-exclusive small cell franchise agreement with Extenet, Inc.
- Item 8: DRAFT RESOLUTION 19-064 SETTING A PUBLIC HEARING DATE FOR VACATION OF PUBLIC RIGHTS-OF-WAY FOR SOUTH 236TH STREET (HIGHLINE COLLEGE)
Motion is to adopt Draft Resolution No. 19-064 setting a public hearing on Oct 10, 2019 or soon thereafter as the matter may be heard, for a street vacation of South 236th Street within the City of Des Moines.

- Item 9: 2019-2021 RECYCLING PROGRAM FUNDING GRANT
Motion is to authorize the City Manager to sign the 2019-2021 Local Solid Waste Financial Assistance Grant between the City of Des Moines and the Washington State Department of Ecology, substantially in the form as attached.

Direction/Motion

Motion made by Councilmember Nutting to approve the consent calendar; seconded by Councilmember Buxton.
Motion passed 7-0.

ADMINISTRATION REPORT

- Police Chief Thomas introduced new Assistant Police Chief Mark Couey to Council.
- SR3 Executive Director Casey McLean informed the Council about SR3's programs.
- SCORE Executive Director Devon Schrum gave Council a brief PowerPoint regarding 2018-2019 SCORE highlights.
- Public Works Director Carver presented a PowerPoint to Council with an update on the Redondo Pier.
- Public Works Director Carver updated the Council on the 216th Project.
- Chief Strategic Officer Cezar gave a PowerPoint presentation to Council on the King County Veterans Senior and Human Services Levy Grant.
- City Manager Matthias informed the Council on Marina Redevelopment Events.
- City Manager Matthias commented on the recent sale of the Landmark on the Sound.

At 8:06 p.m. Councilmember Bangs left the meeting.

Mayor Pina read the summary of both the Childhood Cancer Awareness Month and the National Recovery Month proclamations into the Record.

COMMENTS FROM THE PUBLIC

- Marty Kooistra, Burién, House Bill 1406
- Rick Johnson, Redondo Beach, Wish List
- Anne Kroeker, Redondo Beach, PRSC Vision 2050

BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Mahoney

- Redondo Fishing Pier
- Waterland Parade
- Bootleggers Event
- SCATBd Meeting
- SR3 Partnership
- Congratulated Michael on his award

Councilmember Back

- Congratulated Michael on his award
- Safety while driving especially in School Zones

Councilmember Nutting

- Commented on Consent Calendar Item #4
- Des Moines Police Foundation Auction
- Nutting Girl's Lemonade Stand

Councilmember Buxton

- Commented on Consent Calendar Item #3, Item #4, Item #7, Item #9
- Summer wrap up

Deputy Mayor Vic Pennington

- Presentation of City Managers Award
- Ad Hoc Franchise Committee Meeting
- Public Safety/Emergency Management Meeting
- September 11th Ceremony at SKFR Station 64

PRESIDING OFFICER'S REPORT

- Commented on Consent Calendar Item #4
- Ad Hoc Franchise Committee Meeting
- Des Moines Rotary Blues and Brews
- Thanked Community Members, Friends, and City of Des Moines Team for help with father's celebration of life
- Betts Redondo Boardwalk Dedication

NEW BUSINESS

Item 1:

PROPERTY ACQUISITION FOR MIDWAY PARK EXPANSION IN PACIFIC RIDGE (22104 28TH AVE S.)

Staff Presentation: Assistant Director of Parks Nicole Nordholm

Assistant Director of Parks, Recreation and Senior Services Nordholm gave Council a PowerPoint Presentation.

Direction/Action

Motion 1 made by Councilmember Back to approve the agreement for purchase of the property at 22104 28th Ave S in Des Moines, for the purchase price of \$460,000 plus closing costs, and direct Administration to bring forward a budget amendment reflecting the cost for the purchase; seconded by Councilmember Nutting.

The motion passed 6-0.

Motion 2 made by Councilmember Back to direct Administration to proceed with demolition of structures on the property at 22104 28th Ave S. in Des Moines, and to make other improvements as necessary to convert this residential property to Park property, once the current residents vacate the residence in late 2020; seconded by Councilmember Nutting.

The motion passed 6-0.

Item 2: DRAFT VISION 2050 PLAN
Staff Presentation: Planning & Development Service Manager
Denise Lathrop

Planning & Development Service Manager Lathrop gave a PowerPoint Presentation to Council.

Direction/Action

Motion made by Councilmember Nutting to authorize the Mayor and the City Manager to sign the comment letter on the draft VISION 2050 plan substantially in the form submitted in Attachment 1; seconded by Councilmember Buxton. The motion passed 6-0.

NEXT MEETING DATE:

September 26, 2019 City Council Regular Meeting.

ADJOURNMENT

Direction/Action

Motion made by Deputy Mayor Pennington to adjourn; seconded by Councilmember Nutting. The motion passed 6-0.

The meeting adjourned at 9:00 p.m.

Respectfully Submitted,
Taria Keane
Deputy City Clerk

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Acceptance of Washington Traffic Safety Commission Grant: Des Moines Municipal Court-DUI Court

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Court

DATE SUBMITTED: September 12, 2019

ATTACHMENTS:

1. Grant Contract for Services between Washington Traffic Safety Commission and Des Moines Municipal Court for DUI Court operations.

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal
- Finance *Law*
- Court *de*
- Police

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

Purpose and Recommendation

The purpose of this Agenda Item is to request the Council’s authorization to accept a grant from the Washington Traffic Safety Commission to be used to continue the operations of the DUI (Driving Under the Influence) Court. The grant will cover on-going training, participant materials, translation expenses, urinalysis expenses, alternatives to confinement, and labor fees incurred by DUI Court operations outside normal operations as needed through September 30, 2020.

Suggested Motion

“I move to accept the grant from the Washington Traffic Safety Commission in the amount of \$65,000 for the purposes of continuing operations of the Des Moines Municipal Court-DUI Court and authorize the City Manager to sign the contract substantially in the form as attached.”

Background

Des Moines Municipal Court was approved to begin DUI Court operations by the Washington Traffic Safety Commission in September 2017 and awarded a grant for \$34,800 to facilitate the launch. WTSC awarded \$65,000 for continued operations for October 2018-September 2019. In December 2017, the DUI Court team received Foundational Training from the National Center for DWI (DUI) Courts and in July 2019 the DUI Court team received additional education at the National Association of Drug Court Professionals Conference. Throughout the course of the last funding period; DUI Court has met all program objectives, stayed well within budget and had a successful site visit/audit from the Washington Traffic Safety Commission. The DUI Court team meets bi-weekly to review potential cases, refine the program and look for innovative ways to reduce DUI recidivism.

DUI Court currently has seven potential DUI Court participants, has enrolled two participants, and screened an additional thirteen for participation. Through increased supervision, frequent court visits and urinalysis we are better able to track and monitor these high risk/high needs offenders. Additionally, DUI Court continues to partner with law enforcement, defense counsel, substance use treatment providers and the King County Peer Navigator to ensure the success of the program and participants.

Discussion

Through this partnership with Washington Traffic Safety Commission our DUI Court team has been afforded educational opportunities, increased networking and the opportunity to grow the program. Washington State Traffic Safety Commission had awarded the court a grant of \$65,000 to cover the on-going education, increased supervision programs, contract expenses, labor and travel.

Alternatives

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

Financial Impact

The costs not covered by the grant will be absorbed by already budgeted line items in the court/probation budgets for 2020 as these are not new cases, but rather cases that would normally be heard. Accordingly, there is no negative financial impact to accepting this grant.

Recommendation

Staff recommends that the Council approve and ratify the Grant with the Washington Traffic Safety Commission for the Des Moines Municipal Court-DUI Court.



INTERAGENCY AGREEMENT

BETWEEN THE

Washington Traffic Safety Commission

AND

Des Moines Municipal Court

THIS AGREEMENT is made and entered into by and between the Washington Traffic Safety Commission, hereinafter referred to as "WTSC," and Des Moines Municipal Court, hereinafter referred to as "SUB-RECIPIENT."

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties mutually agree as follows:

1. PURPOSE OF THE AGREEMENT:

The purpose of this Agreement is to provide funding, provided by the United States Department of Transportation (USDOT) National Highway Traffic Safety Administration (NHTSA) and allowed under the Assistance Listing/Catalog of Federal Domestic Assistance (CFDA) #20.608, for traffic safety grant project 2020-AG-3580-Des Moines DUI Accountability Court.

2. PERIOD OF PERFORMANCE

The period of performance of this Agreement shall commence upon the date of execution by both parties, but not earlier than October 1, 2019, and remain in effect until September 30, 2020 unless terminated sooner, as provided herein.

3. STATEMENT OF WORK

The SUB-RECIPIENT shall carry out the provisions of the traffic safety project described here as the Statement of Work (SOW).

3.1 SCOPE OF WORK

SUMMARY OF PROJECT:

Des Moines Municipal Court is found just south of Seattle. With a combined population in Des Moines and Normandy Park nearing 40,000 residents and another quarter of a million people within five miles of city center, we are a frequently trafficked area. Our DUI Court was founded in September 2017 due to the continuous increase in repeat DUI offenders. From January 1, 2017- July 31, 2019 our city prosecutor filed 207 DUI/Physical Control complaints. During the same period of time there have been 69 convictions as charged; 57 convictions on amended charges; and 27 Deferred Prosecutions or Stipulated Orders of Continuance. Sixty-five percent of the defendants on Active Supervised Probation are DUI related offenders. Of our DUI related offenders approximately 1/3 have two or more priors.

The number of repeat DUI offenders who continue to engage in substance use and drive poses an on-going public safety challenge, especially given the volume of traffic moving through Des Moines and Normandy Park. By expanding our DUI Court services to include surrounding courts who also see a need for their high risk high needs offender, but do not have the numbers or resources to establish their own DUI Court at this time, we are able to have a greater impact on public safety. Additionally, our hopes are to also address those who do not qualify for the full DUI Court program, but to address their high risk behaviors through increased accountability and interventions not normally afforded to them through increased probation appointments, random urinalysis, and more review hearings. Our overall goals remain consistent: provide support, accountability, treatment and intensive supervision to DUI offenders with substance use and/or mental health disorders who are at risk of reoffending absent such interventions. By addressing the addictive behaviors, clients' behavior mechanisms, associated criminal conducts and their needs; we aim to reduce recidivism, enhance community safety, reduce alcohol and drug related traffic offenses and deaths, reduce cost of incarceration and increase rehabilitation.

SCOPE OF WORK:

1. Expand DUI Court services for high-risk, high-need offenders.
 - a. Invite Seatac and Tukwila Municipal Courts to establish a regional DUI Court Program through an interlocal agreement.
 - b. Expand use of TAD/SCRAM, random UAs, and PBTs to monitor abstinence.
 - i. Implement a portable cellular breathalyzer as a measure of accountability for those with a substance use disorder-alcohol.
 - ii. Use technology to continuously monitor usage while participant is not in treatment or as a sanction for usage related violations.
 - iii. Enforce consistent and random urinalysis for those offenders who have a been assigned to pre or post trial drug testing
 - c. Establish a part-time or contract probation clerk/officer position to process urinalysis, conduct pre and post-trial risk/needs assessments, meet with DUI offenders and monitor compliance with conditions of supervision.
 - d. Expand public defender services to cover DUI Court staffings, hearings, meetings and trainings.
2. Continue the use CARS risk assessment tool to identify the risk and needs of our DUI populations.
 - a. Pre-screen participants to ensure fidelity to the DUI Court model only accepting high risk, high needs offenders into DUI Court.
 - b. Providing increased interventions as recommended by the National Association of DWI Courts for the high risk, low need offenders.
 - c. Identify areas of early intervention, i.e. mental health issues, substance use issues, housing, employment/education and health care.
 - d. Match treatment and rehabilitation to the diagnosis.
3. Provide resources for substance use disorder assessments and DUI Victim Impact Panels.
 - a. Continue working with providers on core team and throughout the community to facilitate timely and accurate evaluations and treatment enrollment.
 - b. Work with local DUI Victim Impact Panels to bring a DUI Victim Impact Panel to Des Moines to be held on a consistent basis.
 - c. Utilize
4. Maximize training opportunities for DUI Court staff.
 - a. Including:
 - i. Washington Traffic Safety Commission Conference
 - ii. Washington Association of Drug Court Professionals Conference
 - iii. Position specific traffic/DUI trainings
 - b. Specialized training for:
 - i. Grant Project Manager in Strategic Planning through National Center for State Courts.
5. Engage in community outreach to educate the public about the goals of DUI Court.

- a. Network with the private bar to ensure continued support of Des¹⁹ Moines DUI Court.
- b. Maintain open communication with the city councils of Des Moines and Normandy Park, the Public Safety and Transportation Committee, the police departments for both cities, and WTSC.
- c. Increase community awareness through speaking engagements, newsletters and/or articles.

PROJECT MEASURES

- 1. Through inter-local agreement include Seatac and Tukwila high risk/high need DUI offenders in a regional DUI Court through Des Moines Municipal Court DUI Court
- 2. Increased supervision of high risk low needs DUI offenders through an intensive supervision model.
- 3. Evaluate effectiveness of DUI Court at reducing:
 - a. Offender substance abuse
 - b. Recidivism
 - i. DUI/Physical Control
 - ii. Criminal Traffic Offenses
 - iii. Other impaired crimes
 - c. Over a 12 month and 24 month period following sentencing
 - d. Comparison
 - i. Those who were on deferred prosecution/stipulated order of continuance
 - ii. DUI Court participants
 - iii. Rejected from DUI Court
 - iv. Intensive Supervision (high risk, low need)
 - v. Standard suspended sentence
 - vi. Revoked from DUI Court
 - e. Post-graduation effectiveness for DUI Court offenders versus other populations at reducing substance abuse related traffic crimes (24-36 months post-graduation)

3.2. MILESTONES AND DELIVERABLES

Milestone OR Deliverable Description and	Completed Date
Attend Washington State Drug Court Professionals Conference in Tukwila	11/29/2019
Implement Cellular Breathalyzer as sanction/increased accountability tool.	11/29/2019
Develop Regional DUI Court	01/31/2020
Establish probation officer/clerk to assist in increased DUI offender monitoring.	01/31/2020
Attend Washington State Traffic Safety Conference in Spokane.	07/01/2020
Implement increased accountability for high risk offenders through drug testing, increased probation visits and court visits	09/30/2020
Grant manager-Visioning/Strategic Planning Course	09/30/2020

3.3. COMPENSATION

3.3.1. Compensation for the work provided in accordance with this Agreement has been established under the terms of RCW 39.34. The cost of accomplishing the work described in the SOW will not exceed \$65,000.00. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount in a written Amendment to this Agreement executed by both parties.

3.3.2. If the SUB-RECIPIENT intends to charge indirect costs, an Indirect Cost Rate must be established in accordance with WTSC policies, and a federally-approved cost allocation plan may be required to be submitted to the WTSC before any performance is conducted under this Agreement.

3.3.3 The SUB-RECIPIENT must submit a travel authorization form (A-40) to request approval for any travel not defined in the scope of work and for all travel outside of the continental United States. State travel policies (SAAM Chapter 10) would apply.

3.3.4. If WTSC makes travel arrangements on behalf of the SUB-RECIPIENT, state travel policies must be followed. See Washington State Administrative & Accounting Manual (SAAM) Chapter 10.

3.3.5. WTSC will reimburse travel related expenses consistent with the written travel policies of the SUB-RECIPIENT. If no written policy exists, state travel policies (SAAM Chapter 10) apply.

3.3.6. WTSC will only reimburse the SUB-RECIPIENT for travel related expenses for travel defined in the scope of work and budget or for which approval was expressly granted. The SUB-RECIPIENT must provide appropriate documentation (receipts) to support reimbursement requests, including the A-40 Travel Authorization form if required.

3.4. SUMMARY OF PROJECT COSTS

SUMMARY OF COSTS	AMOUNT
Employee salaries and benefits	\$38,500.00
Travel	\$6,100.00
Contract Services	\$17,500.00
Equipment (listed in the table below)	\$0.00
Goods or other expenses	\$2,900.00
Indirect Costs	\$0.00
TOTAL	\$65,000.00

Employee Salaries and Benefits Total \$38,500

Law Enforcement: Costs to cover associated activities for increased home visits to check compliance with the program.

Estimated at 8 hours a month. Each participant is subject to a minimum of one home visit or collateral contact bi-monthly at minimum.

\$4,500

Labor Expenses for Pro Tem Judges, Prosecutor and Public Defenders: Expenses related to activities for said individuals to attend DUI Court trainings, for coverage of DUI Court Team members to attend trainings and for increased presence of public

defenders at DUI Court staffings, hearings, meetings and trainings²¹. Labor expenses accrued due to the education/training of DUI Court public defenders or judge(s) and additional staffing at DUI Court activities not currently covered under contract.
\$9,000

Probation Officer or Clerk: This role would observe and process urine/saliva for drug testing; conduct risk/needs assessments of DUI offenders; monitor/supervise DUI offenders. A term-limited person to work no more than 20 hours a week to assist in the increased DUI offender workload. \$25,000

Travel (in-state and out-of-state) Total \$6,100

Washington Traffic Safety Commission Conference: Expenses related to team travel to Spokane for bi-annual conference. Including registration, hotel, per diem and air/mileage.
\$5,000

National Center for State Courts Training for Grant Project Manager

This course provides the tools court leaders need to develop a vision and achieve goals using strategic planning. This course demonstrates that having a strategic plan is an effective way to define priorities and allocate limited court resources.
\$1,100

Contract Services Total \$17,500

Urinalysis/Saliva Testing: Expand drug testing program to high risk DUI offenders to include saliva and urine from a medical grade facility to provide confirmations for each test submitted. Additionally, utilize instant read tests as applicable. Cost of testing supplies, mailing and laboratory fees. Begin monitoring defendants as ordered by the court in pre-trial setting as well as post-adjudication.
\$10,000

Electronic Monitoring: Costs associated with use of continuous monitoring tools including to ensure compliance with DUI Court rules/program objectives: TAD/SCRAM; EHD; Portable Breathometer or Cellular breathalyzer. Utilize newest technology as increased accountability tool or sanction in lieu of incarceration.
\$4,500

Interpreter Costs: Costs associated with increased interpreter needs due to more hearings, probation appointments and Moral Reconciliation Therapy. \$3,000

Goods and Other Services Total \$2,900

Victims Panel: Costs related to providing vouchers for indigent clients to complete impact panel.
\$500

Printing Costs: Costs associated with printing certificates of completion, handbooks and homework assignments.
\$500

Registration fees: Costs related to team participation at the bi-annual conference TS Conference and NCSC training.
\$1,900

APPLICABLE STATE AND FEDERAL TERMS AND CONDITIONS:

4. ACTIVITY REPORTS

The SUB-RECIPIENT will submit quarterly progress reports and a final report on the activity of this project in the form provided by the WTSC using the WTSC Enterprise Management System (WEMS) Progress Reporting process or other alternate means pre-approved by WTSC. The SUB-RECIPIENT will include copies of publications, training reports, and any statistical data generated in project execution in the reports. The final report will be submitted to WTSC within 30 days of termination of this Agreement. Upon approval by WTSC, the final report may be submitted in lieu of the fourth quarter report, if the report thoroughly covers the entirety of all grant activities conducted during the course of the fourth quarter and the entire grant period. WTSC reserves the right to delay the processing of invoices until activity reports are received and approved.

5. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Agreement shall be made by the WTSC.

6. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties in the form of a written Amendment to this Agreement. Such amendments shall only be binding if they are in writing and signed by personnel authorized to bind each of the parties.

7. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

8. ASSIGNMENT

The SUB-RECIPIENT may not assign the work to be provided under this Agreement, in whole or in part, without the express prior written consent of the WTSC, which consent shall not be unreasonably withheld. The SUB-RECIPIENT shall provide the WTSC a copy of all third-party contracts and agreements entered into for purposes of fulfilling the SOW. Such third-party contracts and agreements must follow applicable federal, state, and local law, including but not limited to procurement law, rules, and procedures. If any of the funds provided under this Agreement include funds from NHTSA, such third-party contracts and agreements must include the federal provisions set forth in this Agreement in sections 32 through 40.

9. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the Agreement terms, each party agrees to bear its own attorney fees and costs.

10. BILLING PROCEDURE

The SUB-RECIPIENT shall submit monthly invoices for reimbursement to WTSC with supporting documentation as WTSC shall require. All invoices for reimbursement shall be submitted using a standard Form A-19 provided by WTSC, its pre-approved equivalent, or through the WTSC automated electronic system, as determined by the WTSC. Payment to the SUB-RECIPIENT for approved and completed work will be made by warrant or account transfer by WTSC within 30 days of receipt of such properly documented invoices acceptable to WTSC. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 45 days after the expiration date of this Agreement. All invoices for goods received or services performed on or prior to June 30, 2020, must be received by WTSC no later than August 10, 2020. All invoices for goods received or services performed between July 1, 2020, and September 30, 2020, must be received by WTSC no later than November 15, 2020. WTSC reserves the right to delay the processing of invoices until activity reports required by Section 4 of this agreement, are received and approved.

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION ²³

The SUB-RECIPIENT shall not use or disclose any information concerning the WTSC, or information which may be classified as confidential, for any purpose not directly connected with the administration of this Agreement, except with prior written consent of the WTSC, or as may be required by law.

12. COST PRINCIPLES

Costs incurred under this Agreement shall adhere to provisions of 2 CFR Part 200 Subpart E.

13. COVENANT AGAINST CONTINGENT FEES

The SUB-RECIPIENT warrants that it has not paid, and agrees not to pay, any bonus, commission, brokerage, or contingent fee to solicit or secure this Agreement or to obtain approval of any application for federal financial assistance for this Agreement. The WTSC shall have the right, in the event of breach of this section by the SUB-RECIPIENT, to annul this Agreement without liability.

14. DISPUTES

14.1. Disputes arising in the performance of this Agreement, which are not resolved by agreement of the parties, shall be decided in writing by the WTSC Deputy Director or designee. This decision shall be final and conclusive, unless within 10 days from the date of the SUB-RECIPIENT's receipt of WTSC's written decision, the SUB-RECIPIENT furnishes a written appeal to the WTSC Director. The SUB-RECIPIENT's appeal shall be decided in writing by the Director or designee within 30 days of receipt of the appeal by the Director. The decision shall be binding upon the SUB-RECIPIENT and the SUB-RECIPIENT shall abide by the decision.

14.2. Performance During Dispute. Unless otherwise directed by WTSC, the SUB-RECIPIENT shall continue performance under this Agreement while matters in dispute are being resolved.

15. GOVERNANCE

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

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

- 15.2.1. Applicable federal and state statutes and rules
- 15.2.2. Terms and Conditions of this Agreement
- 15.2.3. Any Amendment executed under this Agreement
- 15.2.4. Any SOW executed under this Agreement
- 15.2.5. Any other provisions of the Agreement, including materials incorporated by reference

16. INCOME

Any income earned by the SUB-RECIPIENT from the conduct of the SOW (e.g., sale of publications, registration fees, or service charges) must be accounted for, reported to WTSC, and that income must be applied to project purposes or used to reduce project costs.

17. INDEMNIFICATION

17.1. To the fullest extent permitted by law, the SUB-RECIPIENT shall indemnify and hold harmless the WTSC, its officers, employees, and agents, and process and defend at its own expense any and all claims, demands, suits at law or equity,

actions, penalties, losses, damages, or costs of whatsoever kind (²⁴ "claims") brought against WTSC arising out of or in connection with this Agreement and/or the SUB-RECIPIENT's performance or failure to perform any aspect of the Agreement. This indemnity provision applies to all claims against WTSC, its officers, employees, and agents arising out of, in connection with, or incident to the acts or omissions of the SUB-RECIPIENT, its officers, employees, agents, contractors, and subcontractors. Provided, however, that nothing herein shall require the SUB-RECIPIENT to indemnify and hold harmless or defend the WTSC, its agents, employees, or officers to the extent that claims are caused by the negligent acts or omissions of the WTSC, its officers, employees or agents; and provided further that if such claims result from the concurrent negligence of (a) the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors, and (b) the WTSC, its officers, employees, or agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the SUB-RECIPIENT, its officers, employees, agents, contractors, or subcontractors.

17.2. The SUB-RECIPIENT waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the WTSC, its officers, employees, or agents.

17.3. The indemnification and hold harmless provision shall survive termination of this Agreement.

18. INDEPENDENT CAPACITY

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

19. INSURANCE COVERAGE

19.1. The SUB-RECIPIENT shall comply with the provisions of Title 51 RCW, Industrial Insurance, if required by law.

19.2. If the SUB-RECIPIENT is not required to maintain insurance in accordance with Title 51 RCW, prior to the start of any performance of work under this Agreement, the SUB-RECIPIENT shall provide WTSC with proof of insurance coverage (e.g., vehicle liability insurance, private property liability insurance, or commercial property liability insurance), as determined appropriate by WTSC, which protects the SUB-RECIPIENT and WTSC from risks associated with executing the SOW associated with this Agreement.

20. LICENSING, ACCREDITATION, AND REGISTRATION

The SUB-RECIPIENT shall comply with all applicable local, state, and federal licensing, accreditation, and registration requirements and standards necessary for the performance of this Agreement. The SUB-RECIPIENT shall complete registration with the Washington State Department of Revenue, if required, and be responsible for payment of all taxes due on payments made under this Agreement.

21. RECORDS MAINTENANCE

21.1. During the term of this Agreement and for six years thereafter, the SUB-RECIPIENT shall maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended in the performance of the services described herein. These records shall be subject to inspection, review, or audit by authorized personnel of the WTSC, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration. The Office of the State Auditor, federal auditors, the WTSC, and any duly authorized representatives shall have full access and the right to examine any of these materials during this period.

21.2. Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the

property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving them a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

22. RIGHT OF INSPECTION

The SUB-RECIPIENT shall provide right of access to its facilities to the WTSC or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement. The SUB-RECIPIENT shall make available information necessary for WTSC to comply with the right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The SUB-RECIPIENT shall upon request make available to the WTSC and the United States Secretary of the Department of Health and Human Services all internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of Personal Information obtained or used as a result of this Agreement.

23. RIGHTS IN DATA

23.1. WTSC and SUB-RECIPIENT agree that all data and work products (collectively called "Work Product") pursuant to this Agreement shall be considered works made for hire under the U.S. Copyright Act, 17 USC §101 et seq., and shall be owned by the state of Washington. Work Product includes, but is not limited to, reports, documents, pamphlets, advertisement, books, magazines, surveys, studies, computer programs, films, tapes, sound reproductions, designs, plans, diagrams, drawings, software, and/or databases to the extent provided by law. Ownership includes the right to copyright, register the copyright, distribute, prepare derivative works, publicly perform, publicly display, and the ability to otherwise use and transfer these rights.

23.2. If for any reason the Work Product would not be considered a work made for hire under applicable law, the SUB-RECIPIENT assigns and transfers to WTSC the entire right, title, and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

23.3. The SUB-RECIPIENT may publish, at its own expense, the results of project activities without prior review by the WTSC, provided that any publications (written, visual, or sound) contain acknowledgment of the support provided by NHTSA and the WTSC. Any discovery or invention derived from work performed under this project shall be referred to the WTSC, who will determine through NHTSA whether patent protections will be sought, how any rights will be administered, and other actions required to protect the public interest.

24. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to completion of the SOW under this Agreement, the WTSC may terminate the Agreement under the "TERMINATION FOR CONVENIENCE" clause, without the 30 day notice requirement. The Agreement is subject to renegotiation at the WTSC's discretion under any new funding limitations or conditions.

25. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

26. SITE SECURITY

While on WTSC premises, the SUB-RECIPIENT, its agents, employees, or sub-contractors shall conform in all respects with all WTSC physical, fire, or other security policies and applicable regulations.

27. TAXES

All payments of payroll taxes, unemployment contributions, any other taxes, insurance, or other such expenses for the SUB-RECIPIENT or its staff shall be the sole responsibility of the SUB-RECIPIENT.

28. TERMINATION FOR CAUSE

If the SUB-RECIPIENT does not fulfill in a timely and proper manner its obligations under this Agreement or violates any of these terms and conditions, the WTSC will give the SUB-RECIPIENT written notice of such failure or violation, and may terminate this Agreement immediately. At the WTSC's discretion, the SUB-RECIPIENT may be given 15 days to correct the violation or failure. In the event that the SUB-RECIPIENT is given the opportunity to correct the violation and the violation is not corrected within the 15-day period, this Agreement may be terminated at the end of that period by written notice of the WTSC.

29. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Agreement, either party may terminate this Agreement, without cause or reason, with 30 days written notice to the other party. If this Agreement is so terminated, the WTSC shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

30. TREATMENT OF ASSETS

30.1. Title to all property furnished by the WTSC shall remain property of the WTSC. Title to all property furnished by the SUB-RECIPIENT for the cost of which the SUB-RECIPIENT is entitled to be reimbursed as a direct item of cost under this Agreement shall pass to and vest in the WTSC upon delivery of such property by the SUB-RECIPIENT. Title to other property, the cost of which is reimbursable to the SUB-RECIPIENT under this Agreement, shall pass to and vest in the WTSC upon (i) issuance for use of such property in the performance of this Agreement, or (ii) commencement of use of such property in the performance of this Agreement, or (iii) reimbursement of the cost thereof by the WTSC in whole or in part, whichever first occurs.

30.2. Any property of the WTSC furnished to the SUB-RECIPIENT shall, unless otherwise provided herein or approved by the WTSC, be used only for the performance of this Agreement.

30.3. The SUB-RECIPIENT shall be responsible for any loss or damage to property of the WTSC which results from the negligence of the SUB-RECIPIENT or which results from the failure on the part of the SUB-RECIPIENT to maintain and administer that property in accordance with sound management practices.

30.4. If any WTSC property is lost, destroyed, or damaged, the SUB-RECIPIENT shall immediately notify the WTSC and shall take all reasonable steps to protect the property from further damage.

30.5. The SUB-RECIPIENT shall surrender to the WTSC all property of the WTSC upon completion, termination, or cancellation of this Agreement.

30.6. All reference to the SUB-RECIPIENT under this clause shall also include SUB-RECIPIENT's employees, agents, or sub-contractors.

31. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement.

APPLICABLE CERTIFICATIONS AND ASSURANCES FOR HIGHWAY SAFETY GRANTS (23 CFR PART 1300 APPENDIX A):

32. BUY AMERICA ACT

The SUB-RECIPIENT will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using federal funds. Buy America requires the SUB-RECIPIENT to purchase only steel, iron, and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use federal funds to purchase foreign produced items, the WTSC must submit a waiver request that provides an adequate basis and justification, and which is approved by the Secretary of Transportation.

33. DEBARMENT AND SUSPENSION

Instructions for Lower Tier Certification

33.1. By signing this Agreement, the SUB-RECIPIENT (hereinafter in this section referred to as the "lower tier participant") is providing the certification set out below and agrees to comply with the requirements of 2 CFR part 180 and 23 CFR part 1300.

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

33.3. The lower tier participant shall provide immediate written notice to the WTSC if at any time the lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

33.4. The terms covered transaction, debarment, suspension, ineligible, lower tier, participant, person, primary tier, principal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Covered Transactions sections of 2 CFR part 180.

33.5. The lower tier participant agrees by signing this Agreement that it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHTSA.

33.6. The lower tier participant further agrees by signing this Agreement that it will include the clause titled "Instructions for Lower Tier Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions, and will require lower tier participants to comply with 2 CFR part 180 and 23 CFR part 1300.

33.7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of parties Excluded from Federal Procurement and Non-procurement Programs.

33.8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in

good faith the certification required by this clause. The knowledge²⁸ and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

33.9. Except for transactions authorized under paragraph 33.5. of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, the department or agency with which this transaction originated may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend you, or take other remedies as appropriate.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

33.10. The lower tier participant certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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

34. THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

34.1. The SUB-RECIPIENT shall:

34.1.1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace, and shall specify the actions that will be taken against employees for violation of such prohibition.

34.1.2. Establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the SUB-RECIPIENT's policy of maintaining a drug-free workplace; any available drug counseling, rehabilitation, and employee assistance programs; and the penalties that may be imposed upon employees for drug violations occurring in the workplace.

34.1.3. Make it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph 34.1.1. of this section.

34.1.4. Notify the employee in the statement required by paragraph 34.1.1. of this section that, as a condition of employment under the grant, the employee will abide by the terms of the statement, notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction, and notify the WTSC within 10 days after receiving notice from an employee or otherwise receiving actual notice of such conviction.

34.1.5. Take one of the following actions within 30 days of receiving notice under paragraph 34.1.3. of this section, with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination, and/or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

34.1.6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

35. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

In accordance with FFATA, the SUB-RECIPIENT shall, upon request, provide WTSC the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its

annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

36. FEDERAL LOBBYING

36.1. The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

36.1.3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grant, loans, and cooperative agreements), and that all sub-recipients shall certify and disclose accordingly.

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

37. NONDISCRIMINATION (Title VI, 42 U.S.C. § 2000d et seq.)

37.1. During the performance of this Agreement, the SUB-RECIPIENT agrees:

37.1.1. To comply with all federal nondiscrimination laws and regulations, as may be amended from time to time.

37.1.2. Not to participate directly or indirectly in the discrimination prohibited by any federal non-discrimination law or regulation, as set forth in Appendix B of 49 CFR Part 21 and herein.

37.1.3. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the WTSC, USDOT, or NHTSA.

37.1.4. That, in the event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding Agreement, the WTSC will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies, and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part.

37.1.5. To insert this clause, including all paragraphs, in every sub-contract and sub-agreement and in every solicitation for a

sub-contract or sub-agreement that receives federal funds under this program.

38. POLITICAL ACTIVITY (HATCH ACT)

The SUB-RECIPIENT will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

39. PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

The SUB-RECIPIENT will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists. This Agreement does not include any aspects or elements of helmet usage or checkpoints, and so fully complies with this requirement.

40. STATE LOBBYING

None of the funds under this Agreement will be used for any activity specifically designed to urge or influence a state or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any state or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a state official whose salary is supported with NHTSA funds from engaging in direct communications with state or local legislative officials, in accordance with customary state practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

41. DESIGNATED CONTACTS

The following named individuals will serve as designated contacts for each of the parties for all communications, notices, and reimbursements regarding this Agreement:

The Contact for the SUB-RECIPIENT is:	The Contact for WTSC is:
Melissa Patrick mpatrick@desmoineswa.gov 206-870-6593	Edica Esqueda eesqueda@wtsc.wa.gov 360-725-9886 ext.

42. AUTHORITY TO SIGN

The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies or entities to the obligations set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Des Moines Municipal Court

Signature

Printed Name

Title

Date

WASHINGTON TRAFFIC SAFETY COMMISSION

Signature

Printed Name

Title

Date

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Domestic Violence Awareness Month

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Administration

ATTACHMENTS:

DATE SUBMITTED: August 12, 2019

- 1. Proclamation

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal *TG*
- Finance
- Courts
- Police

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

The purpose of this agenda item is to recommend City Council approval of the attached Proclamation supporting October as Domestic Violence Awareness Month.

Suggested Motion

Motion: "I move to approve the Proclamation supporting October as Domestic Violence Awareness Month."

Background

Domestic Violence Awareness Month was launched nationwide in October 1987 as a way to connect and unite individuals and organizations working on domestic violence issues and raise awareness for those issues.

Over the last three decades, much progress has been made to support domestic violence victims and survivors, to hold abusers accountable, and to create and update legislation to further those goals.

Discussion

This is the first year that this proclamation has been before Council.

Alternatives

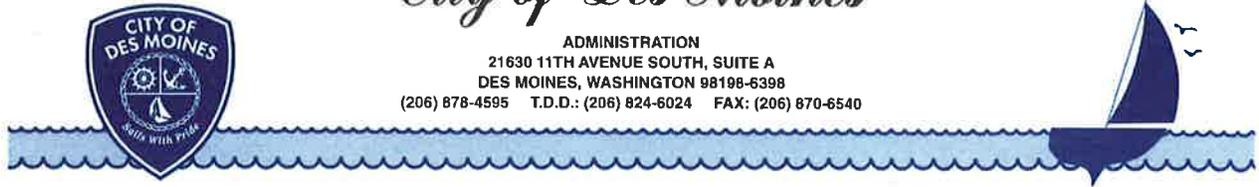
None provided.

Financial Impact

No financial impact.

Recommendation/Concurrence

Administration supports Council approving the Proclamation supporting October as Domestic Violence Awareness Month.



Proclamation

WHEREAS, every one of our residents deserves to live a life free from violence and abuse; and

WHEREAS, anyone can be a victim of domestic violence regardless of age, sex, ability, ethnicity, sexual orientation, socioeconomic status, or religion; and

WHEREAS, children that grow up in violent homes are believed to be abused and neglected at a rate higher than the national average; and

WHEREAS, Domestic Violence Awareness Month provides an excellent opportunity for our community to learn more about preventing domestic violence and to show support for the numerous organizations and individuals providing critical advocacy, services and assistance to its victims;

NOW THEREFORE, the Des Moines City Council wishes to recognize October as

DOMESTIC VIOLENCE AWARENESS MONTH

and encourages the community to ensure that victims of domestic violence know that they are not alone and are here to support survivors of domestic violence as they courageously move forward to enjoy full and healthy lives.

SIGNED this 26th day of September, 2019.

Matt Pina, Mayor

The Waterland City

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Des Moines Creek Basin Habitat
Restoration Monitoring: Consultant
On-Call Agreement Task Assignment
for Engineering Services

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Public Works

DATE SUBMITTED: September 19, 2019

ATTACHMENTS:

1. 2018-2019 On-Call General Civil Engineering Services, Parametrix, Task Order #2018-08

CLEARANCES:

- Community Development __N/A__
- Marina __N/A__
- Parks, Recreation & Senior Services N/A
- Public Works PKC

CHIEF OPERATIONS OFFICER: _____

- Legal TS
- Finance Saw
- Courts __N/A__
- Police __N/A__

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

Purpose and Recommendation

The purpose of this agenda item is to request City Council approval of Task Order Assignment 2018-08 with Parametrix (Attachment 1) that will provide habitat restoration monitoring in the Des Moines Creek Basin. On behalf of the Des Moines Creek (DMC) Basin Committee, the City of Des Moines will be assuming the role previously held by King County to conduct monitoring of the installed habitat restoration and enhancement areas along the Des Moines Creek corridor. The following motion will appear on the Consent Calendar:

Suggested Motion

Motion "I move to approve the 2018-2019 On-Call General Civil Engineering Services Task Order Assignment 2018-08 with Parametrix, that will provide habitat restoration monitoring along the Des Moines Creek Basin corridor in the amount of \$69,458.83, and further authorize the City Manager to sign said Task Order Assignment substantially in the form as submitted."

Background

The DMC Basin Committee is a coalition of municipalities that includes the City of Des Moines, SeaTac, and Port of Seattle. The DMC Basin Committee has implemented a series of habitat restoration and enhancement projects within the DMC Basin as part of the DMC Basin Plan. The work was implemented in three phases with Phase 1 work constructed in 2007, Phase 2 work constructed in 2009, and Phase 3 work constructed in 2010. On behalf of the DMC Basin Committee, under a service agreement, King County was directed to develop and initiate a monitoring program of the restoration and enhancement areas that included evaluations in 2009, 2010, 2015, and 2016. Due to staffing issues, King County has notified the Basin Committee that they will no longer be able to provide these monitoring services. In response and to continue monitoring services the Basin Committee convened to find a new alternative.

Discussion

In an effort to continue the DMC Basin monitoring, as required by the DMC Basin Plan, the DMC Basin Committee met on May 23, 2019 to review the scope and budget and directed the City of Des Moines to proceed with a new contract with Parametrix.

Through the City of Des Moines' 2018-2019 On-Call General Civil Engineering Services roster, Parametrix has been selected to provide an additional three-years of habitat restoration monitoring. All costs under this Task Assignment will be reimbursed in accordance to the 2004 DMC Interlocal Agreement.

The scope of work provided by Parametrix includes four primary elements:

1. Assessment of baseline conditions within the Phase 1, 2, and 3 project areas.
2. Annual monitoring and observations
3. Development of management recommendations
4. Assistance with implementing management recommendations

Financial Impact

The total budget for the 3-years of additional monitoring is \$69,458.83. Through the DMC Basin Committee Interlocal Agreement, the consultant costs under this Task Assignment are fully reimbursable by the Committee. Des Moines has an annual cost share of 18% that goes into the DMC Basin Committee fund for operations/maintenance of the basin improvements. This equates to roughly \$60,000/year that is paid to the Committee from the Professional Services Account in Stormwater Management-Maintenance. The costs and reimbursements will be managed from the same fund as the annual contribution.

Alternatives

Council could choose not to approve this task order and the DMC Basin Committee would be required to find an alternative solution for the continuation of monitoring services.

Recommendation/Conclusion

Staff recommends approval of the proposed motion.

Concurrence

Legal, Public Works and the Finance Departments concur.

Formal Task Assignment Document

Task Number 2018-08

The general provisions and clauses of the Consultant On-Call Services Contract dated December 31, 2019 shall be in full force and effect for this Task Assignment.

Location of Project: Des Moines Creek Basin, Des Moines, WA

Project Title: Habitat Restoration Monitoring

Maximum Amount Payable Per Task Assignment: \$69,458.83

Completion Date: December 31, 2021

Description of Work:

Refer to Exhibit A: Scope of Work

Refer to Exhibit B: Budget Estimate

Note: The Completion Date shown above goes beyond the expiration date for the current on-call contract which expires 12/31/2019. It is anticipated that this task assignment will extend two and a half years past that date. The current Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement will expire 12/31/2019 at which time we will request an amendment to support the additional time needed to complete this task assignment.

Agency Project Manager Signature: _____ Date: _____

Oral Authorization Date: _____ See Letter Dated: _____

Consultant Signature:  _____ Date: 8/1/19

Agency Approving Authority: _____ Date: _____

SCOPE OF WORK

City of Des Moines Des Moines Creek Habitat Restoration Monitoring

The City of Des Moines, King County, and other stakeholders have implemented a series of habitat restoration and enhancement projects with the Des Moines Creek Basin as part of the Des Moines Creek Basin Plan. The work was generally implemented in three phases with Phase 1 work constructed in 2007, Phase 2 work constructed in 2009, and Phase 3 work constructed in 2010. King County implemented a monitoring program of the restoration and enhancement areas that included evaluations in 2009, 2010, 2015, and 2016.

The City of Des Moines has requested monitoring activities continue in the Des Moines Creek basin for an additional three-years of habitat restoration monitoring. An emphasis of the on-going monitoring will be to evaluate fish passage conditions throughout the enhanced and restored reaches.

This scope of work includes four primary elements:

1. Assessment of baseline conditions within the Phase 1, 2, and 3 project areas.
2. Annual monitoring and observations
3. Development of management recommendations
4. Assistance with implementing management recommendations

TASK 1 – HABITAT ASSESSMENT AND BASELINE MONITORING (YEAR 1)

Goals

Coordinate with King County and other stakeholders regarding the previously completed restoration and enhancement projects.

Document baseline habitat and fish passage conditions within Des Moines Creek throughout each of the previously established restoration and enhancement areas.

Identify areas or activities within the project area that require maintenance or adaptive management and work with the City and other City-selected stakeholders to priorities maintenance or management activities.

Parametrix will:

- Review existing documentation that may include the Des Moines Creek Basin Plan, previously completed monitoring reports, and design and/or as-built plans, as available.
- Conduct a stream walk with King County and/or City staff to identify the extents and scope of the original restoration and enhancement areas.

SCOPE OF WORK (continued)

- Conduct a baseline evaluation of habitat and fish passage conditions within each of the Phase 1, 2, and 3 project areas. Parametrix biologists and/or surface water engineers will complete a general census of the number and location of large woody materials and locations of potential fish passage barriers.
- Parametrix staff will conduct a qualitative assessment of potential fish passage barriers following the criteria identified for “other obstructions” described in the “Fish Passage Barrier and Surface Water Diversion Screening Assessment and Prioritization Manual” by the Washington Department of Fish and Wildlife (2009)(Manual). For each potential obstruction, Parametrix will record the water surface drop, slope, and water depth to identify the possibility percentage based on the criteria identified in Table 5.2 of the Manual.
- Map areas of stream bank with a ponderance of invasive species, areas of bank instability, excessive scour, sediment aggradation, head cutting, and specific habitat features or complexes that may not be functioning as intended, or other areas that would benefit from maintenance or management. Parametrix will consolidate these recommendations into a matrix, which will include recommendations for maintenance, adaptive management, or further monitoring.
- Prepare a summary report of the baseline monitoring and habitat assessments following the completion of the first-year monitoring. This report will provide the basis for subsequent annual monitoring.

Task 1 deliverables include:

- Basement Habitat Assessment and Monitoring Report – Year 1.
- Matrix of potential maintenance and management activities with recommendations for prioritization.

TASK 2 – ANNUAL MONITORING – YEAR 2

Goals

Document Year 2 conditions within Des Moines Creek throughout each of the previously established restoration and enhancement areas.

Document the success of implemented maintenance and management activities conducted the previous season.

Identify additional areas or activities within the project area that require maintenance or adaptive management and work with the City and other City-selected stakeholders to priorities maintenance or management activities.

Parametrix will:

- Conduct habitat evaluation and review changes in fish passage conditions within each of the Phase 1, 2, and 3 project areas following the same methods identified during Year 1.
- Map new areas that would benefit from maintenance or management and update the matrix developed during Year 1.
- Prepare a summary report of the Year 2 monitoring results following the completion of the second year monitoring.

Task 2 deliverables include:

- Monitoring Report – Year 2.

SCOPE OF WORK (continued)

- Revised Matrix of potential maintenance and management activities with recommendations for prioritization.

TASK 3 – ANNUAL MONITORING – YEAR 3

Goals

Document Year 3 conditions within Des Moines Creek throughout each of the previously established restoration and enhancement areas.

Document the success of implemented maintenance and management activities conducted the previous seasons.

Identify additional areas or activities within the project area that require maintenance or adaptive management and work with the City and other City-selected stakeholders to priorities maintenance or management activities.

Parametrix will:

- Conduct habitat evaluation and review changes in fish passage conditions within each of the Phase 1, 2, and 3 project areas following the same methods identified during Year 1 and Year 2.
- Map new areas that would benefit from maintenance or management and update the matrix developed during Year 1 and updated during Year 2.
- Prepare a summary report of the Year 3 monitoring results following the completion of the third year monitoring.

Task 3 deliverables include:

- Monitoring Report – Year 3.
- Revised Matrix of potential maintenance and management activities with recommendations for prioritization.

TASK 4 –IMPLEMENTING MAINTENANCE AND MANAGEMENT RECOMMENDATIONS

Goals

Parametrix will prepare project descriptions, scopes of work, and/or supporting analysis or additional design to assist the City with the implementation of priority maintenance or management activities to be implemented during Year 2 and Year 3. Parametrix will work with City staff to develop a short list of priority projects and assist the City to determine the appropriate method and approach for implementation. If requested, Parametrix staff may assist the City to oversee implementation of the work and provide ongoing coordination through project completion. Because the specific location and extents of work is not known at this time, Parametrix will provide support for this task up to the authorized budget. Additional work, if necessary may be authorized under subsequent work orders.

Deliverables

Task 4 deliverables include:

SCOPE OF WORK (continued)

- Project descriptions, scopes of work, and/or supporting analysis or additional design to assist the City with the implementation of priority maintenance or management activities to be implemented during Year 2 and Year 3.
- Other materials completed for the City developed during the implementation of work.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Draft Ordinance No. 19-081
Prostitution Vehicle Impound
Ordinance

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Legal

DATE SUBMITTED: September 19, 2019

ATTACHMENTS:

1. Draft Ordinance No. 19-081: Designating a prostitution impound area
2. Map of proposed prostitution impound area
3. RCW 9A.88.140

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal SG
- Finance _____
- Courts _____
- Police [Signature]

APPROVED BY CITY MANAGER
FOR SUBMITTAL: [Signature]

Purpose and Recommendation

The purpose of this agenda item is for the City Council to consider the proposed Draft Ordinance that would designate certain high-prostitution areas within the City as an area where motor vehicles would be subject to impound under State law when used in the commission of certain prostitution-related crimes. It is recommended that the City Council pass Draft Ordinance No. 19-081, providing an additional tool for the Des Moines Police Department to deter demand for prostitution in the City and the resulting human trafficking.

Suggested Motions

Motion 1: "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 19-081 on first reading."

Motion 2: “I move to enact Draft Ordinance No. 19-081, designating defined areas within the City of Des Moines as areas within which vehicles are subject to impoundment for certain prostitution related offenses and directing signs to be posted at the boundaries of designated prostitution impound areas.”

Background

The State Legislature has, through RCW 9A.88.140, provided local governments the authority to designate areas where vehicles are subject to impound incident to arrest for the crimes of patronizing a prostitute (RCW 9A.88.110), promoting prostitution in the first degree (RCW 9A.88.070), promoting prostitution in the second degree (RCW 9A.88.080), or promoting travel for prostitution (RCW 9A.88.085) when the vehicle is owned by the offender or a rental car. A fine of \$500.00 must be paid before a vehicle impounded for one of these crimes may be released.

Before a local government may designate an area where an offender is subject to having their car impounded regardless of whether the individual has prior convictions, evidence must be presented that the proposed area has a disproportionately higher number of arrests for those offenses, as compared to other areas within the same jurisdiction. Once designated, the area must be posted with signs alerting drivers that motor vehicles are subject to impound under RCW 9A.88.140. Currently, there is no area in the City of Des Moines that has been so designated.

On September 5, 2019, Staff introduced a proposal to create a prostitution impound area in the City in order to allow for vehicles to be impounded when used in the crime. The Committee approved the Ordinance and recommended moving this forward to the full City Council for consideration at the next public meeting.

Discussion

Prostitution and prostitution related crime has historically been a chronic issue along Pacific Highway South in Des Moines and in surrounding communities. The efforts of the Des Moines Police Department and other agencies have succeeded in reducing the incidence of prostitution in the area of Pacific Highway, but some prostitution activity persists.

DMPD performed emphasis operations on June 20-21, 2019 and August 2, 2019 targeting customers of prostitution. The Street Crimes team also took part in an operation with an emphasis on sex trafficking operations on July 30 intended to identify and recover victims of sex trafficking and to arrest promoters of prostitution in South King County. As a result of these operations, six sex workers were contacted and offered services, over a dozen patrons were arrested, and an individual was arrested and charged with promoting the commercial sexual abuse of a minor. All of these contacts were made in the vicinity of Pacific Hwy S. No arrests of this kind have been made outside of this area in recent history.

These recent emphasis operations by DMPD confirms that the area surrounding Pacific Hwy remains the area where the overwhelming majority of prostitution occurs within the City, and arrests for patronizing a prostitute in the City occur almost exclusively along the Pacific Hwy S corridor. Historically, the entire length of Pacific Hwy S through the City has played host to prostitution activity. The City of Kent has designated their portion of the Pacific Hwy S corridor between Kent-Des Moines Road and S 272nd St as a prostitution impound area, so likewise designating the corresponding area of Des Moines would

ensure uniform enforcement of the area and eliminate any incentive for promoters and patrons of prostitution to frequent Des Moines rather than Kent.

DMPD believes that designating this area as an area where motor vehicles may be impounded when used in the commission of crimes involving patronizing a prostitute or promoting prostitution will be a valuable tool to impact both demand and supply. Empowering impounds will have the additional benefit of providing a revenue stream dedicated to assisting the victims of commercial sex crimes and supporting the enforcement of commercial sex crimes.

Alternatives

The Council may:

1. Pass the Draft Ordinance as presented.
2. Pass the Draft Ordinance with amendments. Alteration of area boundaries would still need to be supported by the arrest data.
3. Decline to pass the Draft Ordinance.

Financial Impact

City Staff will be required to post signs at the border of the designated area to advise drivers that they are entering a prostitution impound area. Public Works estimates a cost of \$2,000.00 to \$2,500.00 to manufacture and install the 16-20 signs required.

Revenue from the fines will be deposited in the General Fund. At least fifty percent of these funds must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling. The remaining funds are similarly restricted, but may be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

Recommendation or Conclusion

Staff recommends approval of the proposed Draft Ordinance as presented.

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CITY ATTORNEY'S FIRST DRAFT 09/19/2019**DRAFT ORDINANCE NO. 19-081**

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to public safety, authorizing law enforcement officers to impound vehicles used in certain prostitution related offenses within designated areas, designating defined areas within the City of Des Moines as areas within which vehicles are subject to impoundment for certain prostitution related offenses, directing signs to be posted at the boundaries of designated prostitution impound areas, amending DMMC 9.76.040, and adding a new section to chapter 9.76 DMMC.

WHEREAS, the City of Des Moines has historically had a significant history of criminal activity along Pacific Highway South, and

WHEREAS, in 2007, the City Council enacted Ordinance No. 1036, designating certain areas of the City as "anti-prostitution emphasis areas" based on a finding that disproportionately high amounts of prostitution related crimes were occurring in those areas, and

WHEREAS, emphasis operations by the Des Moines Police Department ("DMPD") between 2014 and 2019 confirm that prostitution activity still persists in the area around Pacific Highway South, and

WHEREAS, DMPD should utilize all available tools to combat the patronizing and promotion of prostitution and the sex trafficking that enables the activity to exist, and

WHEREAS, many patrons use motor vehicles in order to obtain the services of a prostitute, and

WHEREAS, promoters of prostitution use motor vehicles to support their criminal enterprise through such activities as transportation, surveillance, and collection of money, and

WHEREAS, successful prevention of prostitution involves efforts to curtail the demand for services offered by prostitutes and the opportunities for promoters to operate, and

Ordinance No. ____
Page 2 of 5

WHEREAS, the State Legislature has empowered arresting law enforcement officers to impound vehicles involved in certain prostitution-related crimes when the arrested person is the owner of the vehicle or the vehicle is a rental car under certain circumstances through RCW 9A.88.140, and

WHEREAS, RCW 9A.88.140 allows local jurisdictions to designate an area within which motor vehicles are subject to impound for the crimes involving patronizing a prostitute or promoting prostitution upon a finding that the area has a disproportionately high number of arrests for the offenses, and

WHEREAS, DMPD conducted emphasis operations on June 20-21, July 30, and August 2, 2019 targeting patrons of prostitution and promoters of prostitution, and

WHEREAS, these emphasis operations resulted in the arrest of over one dozen individuals for patronizing a prostitute and one individual for promoting the commercial sexual abuse of a minor, and

WHEREAS, the emphasis operations contacted six victims of sex trafficking, who were offered services in the hope of assisting the victims to escape their situation, and

WHEREAS, all of the arrests and victim contacts during these operations occurred in the area surrounding Pacific Hwy S, and

WHEREAS, no arrests of this kind have been made outside of this area in recent history, and

WHEREAS, historic patterns and the results of contemporary emphasis operations conclusively demonstrate that the area surrounding Pacific Hwy S, bounded by 24th Ave S north of Kent-Des Moines Road; bounded by 16th Ave S south of S 260th St; and within 500 feet of Pacific Hwy S in between, has a disproportionately higher number of arrests for crimes involving patronizing a prostitute or promoting prostitution as compared to other areas within the City, and

WHEREAS, designating this area as an area where motor vehicles may be impounded when used in the commission of crimes involving patronizing a prostitute or promoting prostitution will

Ordinance No. ____
Page 3 of 5

be a valuable tool to impact both the demand and supply for victims of sex trafficking, and

WHEREAS, the City Council finds that the designation of an area within which a motor vehicle may be impounded when used in the commission of crimes involving patronizing a prostitute or promoting prostitution and the authorization for arresting officers to make such an impound in accordance with RCW 9A.88.140 contained in this Ordinance are appropriate and necessary for the preservation of the public health and welfare; now therefore,

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

Sec. 1. Findings. The recitals to this Ordinance are hereby incorporated by reference, as if fully set forth herein.

Sec. 2. DMMC 9.76.040 and section 86 of Ordinance No. 1036 are amended to read as follows:

Prostitution.

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

RCW

9A.88.030	Prostitution.
9A.88.050	Prostitution - Sex of parties immaterial - No defense.
9A.88.060	Promoting prostitution - Definitions.
9A.88.090	Permitting prostitution.
9A.88.110	Patronizing a prostitute.
9A.88.140	<u>Vehicle impoundment-Fees-Fines.</u>

NEW SECTION. **Sec. 3.** A new section is added to chapter 9.76 DMMC to read as follows:

Ordinance No. ____
Page 4 of 5

Vehicle Impoundment Areas.

(1) The Des Moines City Council finds that the area described in section 3(2) of this ordinance has a disproportionately higher number of arrests for the offenses listed in RCW 9A.88.140(a) as compared to other areas within the City.

(2) An area within the City of Des Moines is designated as an area within which vehicles are subject to impoundment under RCW 9A.88.140, defined as follows:

The area within the City of Des Moines that includes and is east of 24th Avenue South and north of and including Kent-Des Moines Road, together with the area within the City of Des Moines between Kent-Des Moines Road and South 260th Street and lying within 500 feet of Pacific Highway South, together with the area within the City of Des Moines that includes and is east of 16th Avenue South and south of and including South 260th St.

(3) Signs shall be posted at the boundaries of the area designated in section 3(2) of this ordinance to indicate that the area has been designated as an area within which vehicles are subject to impound under RCW 9A.88.140.

Sec. 4. Severability - Construction.

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

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

Sec. 5. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

Ordinance No. ____
Page 5 of 5

PASSED BY the City Council of the City of Des Moines this ____ day of _____, 2019 and signed in authentication thereof this ____ day of _____, 2019.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

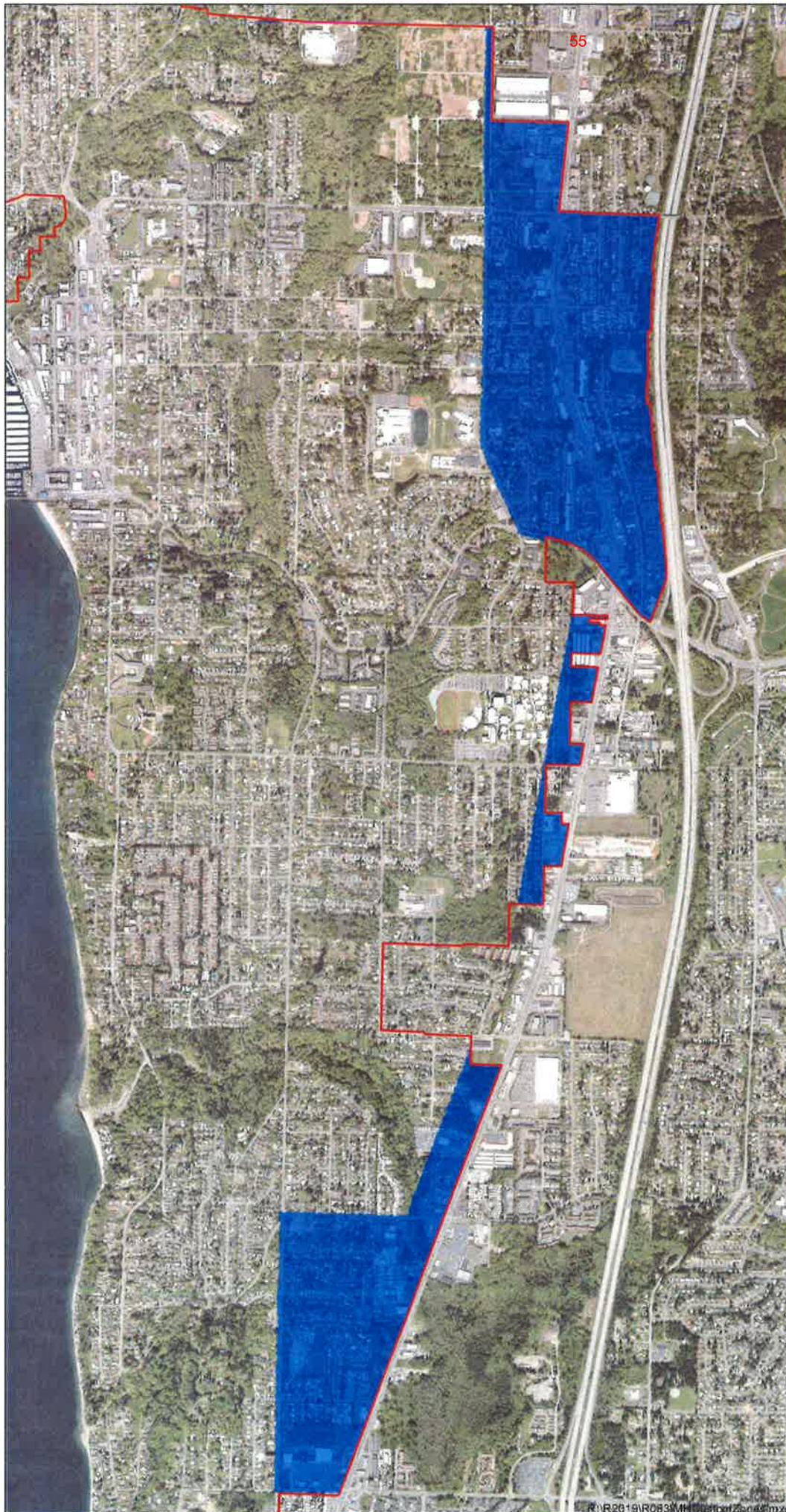
Published: _____

Effective Date: _____

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Draft Ordinance 19-081

Proposed Prostitution Impound Area
RCW 9A.88.140
For Illustrative Purposes



-  Des Moines City Limits
-  Proposed Prostitution Impound Area

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RCW 9A.88.140**Vehicle impoundment—Fees—Fines.**

(1)(a) Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution, the arresting law enforcement officer may impound the person's vehicle if (i) the motor vehicle was used in the commission of the crime; (ii) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW **46.04.465**; and (iii) either (A) the person arrested has previously been convicted of one of the offenses listed in this subsection or (B) the offense was committed within an area designated under (b) of this subsection.

(b) A local governing authority may designate areas within which vehicles are subject to impoundment under this section regardless of whether the person arrested has previously been convicted of any of the offenses listed in (a) of this subsection.

(i) The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for the offenses listed in (a) of this subsection as compared to other areas within the same jurisdiction.

(ii) The local governing authority shall post signs at the boundaries of the designated area to indicate that the area has been designated under this subsection.

(2) Upon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer shall impound the person's vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW **46.04.465**.

(3) Impoundments performed under this section shall be in accordance with chapter **46.55** RCW and the impoundment order must clearly state "prostitution hold."

(4)(a) Prior to redeeming the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter **46.55** RCW, an adult owner of an impounded vehicle must pay a fine to the impounding agency. The fine shall be five hundred dollars for the offenses specified in subsection (1) of this section, or two thousand five hundred dollars for the offenses specified in subsection (2) of this section.

(b) Upon receipt of the fine paid under (a) of this subsection, the impounding agency shall issue a written receipt to the owner of the impounded vehicle.

(c) Fines assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fines must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(i) At least fifty percent of the revenue from fines imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(ii) Two percent of the revenue from fines imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

(iii) Revenues from these fees are not subject to the distribution requirements under RCW **3.50.100**, **3.62.020**, **3.62.040**, **10.82.070**, or **35.20.220**.

(5)(a) In order to redeem a vehicle impounded under this section, the owner must provide the towing company with the written receipt issued under subsection (4)(b) of this section.

(b) The written receipt issued under subsection ⁵⁸(4)(b) of this section authorizes the towing company to release the impounded vehicle upon payment of all impoundment, towing, and storage fees.

(c) A towing company that relies on a forged receipt to release a vehicle impounded under this section is not liable to the impounding authority for any unpaid fine under subsection (4)(a) of this section.

(6)(a) In any proceeding under chapter 46.55 RCW to contest the validity of an impoundment under this section where the claimant substantially prevails, the claimant is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the five hundred dollar fine paid under subsection (4) of this section.

(b) If the person is found not guilty at trial for a crime listed under subsection (1) of this section, the person is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the fine paid under subsection (4) of this section.

(c) All refunds made under this section shall be paid by the impounding agency.

(d) Prior to receiving any refund under this section, the claimant must provide proof of payment.

[2015 c 265 § 21; 2013 c 121 § 6; 2010 c 289 § 12; 2009 c 387 § 1; 2007 c 368 § 8; 1999 c 327 § 3.]

NOTES:

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Intent—Finding—2013 c 121: See note following RCW 43.280.091.

Findings—Intent—1999 c 327: See note following RCW 9A.88.130.

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: King County Youth and Amateur Sports Grant Acceptance

ATTACHMENTS:

- 1. King County YASG Agreement

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Parks, Recreation and Senior Services

DATE SUBMITTED: September 19, 2019

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal *JG*
- Finance *DAW*
- Courts _____
- Police _____

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

Purpose and Recommendation

The purpose of this agenda item is to request for City Council approval of a King County Youth and Amateur Sports Grant (YASG) for the Des Moines Field House Sports Field Renovation Project in the amount of \$100,000.

Suggested Motion

Motion: "I move to accept the King County Youth and Amateur Sports Grant for grant funding in the amount of \$100,000 for the Des Moines Field House Sports Field Renovation Project, and authorize the City Manager to sign the grant agreement substantially in the form as submitted."

Background:

The Field House Park is a staple for recreation in the City of Des Moines. With areas for softball, baseball, soccer, tennis courts, play area and a skate park, it has heavy usage on a daily basis. Repairs are imminent to keep up with heavy demand.

Discussion:

Repairs for field drainage are needed to ensure safe playing conditions. Poor drainage creates pools of mud and rutting as well as program rainouts. There are very few fields for baseball, softball and soccer in Des Moines, leaving little to no options when these fields are unavailable for use. Field #2 has a backstop and fencing that is need of replacement due to safety concerns. The Field House Park does not currently have a drinking fountain and it is a necessity for the park. The current storage shed for the park is in desperate need of repairs.

Funding for these projects would come from a King County YASG and the Washington State Recreation and Conservation Office's Youth Athletic Facilities Grant as a match. This updated project is identified in the City of Des Moines 2019-2024 Capital Improvements Plan. Other funding will be provided by a Washington State Recreation and Conservation Office Youth Athletic Facilities Grant. The grant funds were announced in May 2019 and must be expended by December 31, 2020.

Alternatives:

Reject grant funding and not make needed repairs. (Not recommended).

Financial Impact:

All Funding for the Des Moines Field House Sports Field Renovation Project will be provided through grant funding from the King County YASG Program as well as the Washington State Recreation and Conservation Office's Youth Athletic Facilities Grant. There is no impact to the City's general fund.

Recommendation/Conclusion:

This project was identified in the 2016-2021 Master Plan as well as the 2019-2024 Capital Improvements Plan scheduled for 2020. Staff recommends that Council approve the suggested motion as written.



Youth and Amateur Sports Grant Agreement
Capital Grant Agreement

Department/Division: Natural Resources and Parks / Parks and Recreation

Agency: City of Des Moines

Project: Sports Field Renovation

Amount: \$100,000.00 Project#: _____ Contract#: _____

Term Period: May 1, 2019 To December 31, 2020

THIS CAPITAL GRANT AGREEMENT (“Agreement”) is entered into by KING COUNTY (the “County”), and City of Des Moines (the “Agency”), whose address is: 21630 11th Avenue S, Suite A
 Des Moines, WA 98198

WHEREAS, the Agency is either a public agency or a non-profit organization that provides youth or amateur sports opportunities or acts as a fiscal sponsor for such Project;

WHEREAS, King County has selected the identified Agency to receive a Youth and Amateur Sports Fund (“YASF”) Grant award to assist in projects that provide increased athletic opportunities for the citizens of King County, Washington;

WHEREAS, the Agency shall utilize the award to address an athletic need in King County; and

WHEREAS, King County is authorized to administer the YASF grant project and enter into agreements for the use of King County funds by public agencies or not-for-profit organizations to provide a service to the public under King County Ordinance 18409 § 84;

NOW THEREFORE, in consideration of payments, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and do mutually agree as follows:

1. The Agency shall provide services and comply with the requirements set forth hereinafter and in the following attached exhibits, which are incorporated herein by reference:

<input checked="" type="checkbox"/>	Program Summary and Scope of Work	Attached hereto as Exhibit I
<input checked="" type="checkbox"/>	Capital Budget	Attached hereto as Exhibit II
<input checked="" type="checkbox"/>	Project Design Schematic	Attached hereto as Exhibit III

2. TERM

This Agreement shall commence on May 1, 2019, and shall expire on the December 31, 2020, unless extended or earlier terminated, pursuant to the terms and conditions of this Agreement.

3. PREMISES

This grant Project is located at:

21630 11th Avenue S, Suite A
Des Moines, WA 98198

4. PARTIES

All communication, notices, coordination, and other tenets of this Agreement shall be managed by:

On behalf of County:

Butch Lovelace, YSFG Project Manager
King County Parks and Recreation Division
201 South Jackson Street, Suite 700
Seattle, WA 98104-3855

Email: butch.lovelace@kingcounty.gov
Phone: 206.477.4577

On behalf of Agency:

Rick Scott, Recreation Manager
1000 S 220th St
Des Moines, WA 98198

Email: rscott@desmoineswa.gov
Phone: 206-870-6586

5. COMPENSATION AND METHOD OF PAYMENT

- A. Excepting only Council directed grant funds, County shall authorize, at County's sole discretion, release of a portion of the grant funds, upon execution of this Agreement, and receipt of Agency's County-approved Scope of Work and Capital Budget (see Section 6). County shall initiate authorization for payment after approval of corrected invoices and required exhibits. County shall make payment to the Agency not more than thirty (30) days after a complete and accurate invoice and required documentation is received and approved.
- B. Agency shall submit its final invoice and any outstanding deliverables within fifteen (15) days of the date this Agreement expires or is terminated. If the Agency's final invoice and reports are not submitted by the day specified in this subsection, County will be relieved of all liability for payment to the Agency of the amounts set forth in said invoice or any subsequent invoice.

6. AGENCY DELIVERABLES

- A. Project Summary and Scope of Work. Agency shall provide a County-approved Project Summary and Scope of Work, attached hereto as **Exhibit I**. The Project Summary and Scope of Work shall describe Agency's capital project, facility use and programming, and description of its intended use of grant funds.

- B. Capital Budget. Agency shall provide a County-approved Capital Budget, attached hereto as **Exhibit II**. Agency shall apply the funds received from the County under this Agreement in accordance with said budget. If, at any time during the Term of this Agreement, Agency expects that the cumulative amount of transfers among the budget categories may exceed ten percent (10%) of the Agreement amount, then Agency shall notify County to request approval. Supporting documents necessary to explain fully the nature and purpose of the change(s) and an amended budget may be required for each request for such approval. County approval of any such amendment shall not be unreasonably withheld.
- C. Project Design Schematic. Agency shall provide a County-approved Project Design Schematic, attached hereto as **Exhibit III**.

7. COMMUNICATION

Agency shall recognize County as a “grant sponsor” for the grant project in the following manner:

- A. Events: Agency shall invite and recognize “King County Parks” at all events promoting the project, and at the final project dedication.
- B. Community Relations: Agency shall recognize “King County Parks” as a “grant sponsor” in all social media, websites, brochures, banners, posters, press releases, and other promotional material related to the Project.

8. PUBLIC ACCESS

These funds are provided for the purpose of developing and/or supporting the delivery of sports activities or infrastructure for, but not exclusively serving, persons under twenty-four (24) years of age, and low and moderate income communities within King County. Fees for the Project shall be no greater than those generally charged by public operators or project providers in King County.

9. INTERNAL CONTROL AND ACCOUNTING SYSTEM

Agency shall establish and maintain a system of accounting and internal controls which complies with applicable, generally accepted accounting principles, and governmental accounting and financial reporting standards in accordance with Revised Code of Washington (RCW) Chapter 40.14.

10. MAINTENANCE OF RECORDS

- A. Agency shall maintain accounts and records, including personnel, property, financial, Project records, including Agreement deliverables, and other such records as may be deemed necessary by the County to ensure proper accounting for all Agreement funds and compliance with this Agreement.
- B. These records shall be maintained for a period of six (6) years after the expiration or earlier termination of this Agreement unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14.
- C. Agency shall inform the County in writing of the location, if different from the Agency address listed on page one of this Agreement, of the aforesaid books, records, documents, and other evidence and shall notify the County in writing of any changes in location within ten (10) working days of any such relocation.

11. RIGHT TO INSPECT

County reserves the right to review and approve the performance of Agency with regard to this Agreement, and, at its sole discretion, to inspect or audit the Agency's records regarding this Agreement and the Project upon seventy-two (72) hours' notice during normal business hours.

12. COMPLIANCE WITH ALL LAWS AND REGULATIONS

Agency, in cooperation and agreement with the owners of the Premises, shall comply with all applicable laws, ordinances and regulations in using funds provided by the County, including, without limitation, those relating to providing a safe working environment to employees and, specifically, the requirements of the Washington Industrial Safety and Health Act (WISHA); and, to the extent applicable, those related to “public works,” payment of prevailing wages, and competitive bidding of contracts. The Agency specifically agrees to comply and pay all costs associated with achieving such compliance without notice from King County; and further agrees that King County, does not waive this Section by giving notice of demand for compliance in any instance. The Agency shall indemnify and defend the County should it be sued or made the subject of an administrative investigation or hearing for a violation of such laws related to this Agreement.

13. CORRECTIVE ACTION

- A. If the County determines that a breach of contract has occurred or does not approve of the Agency's performance, it will give the Agency written notification of unacceptable performance. The Agency will then take corrective action within a reasonable period of time, as may be defined by King County in its sole discretion in its written notification to the Agency.
- B. The County may withhold any payment owed the Agency until the County is satisfied that corrective action has been taken or completed.

14. TERMINATION

- A. The County may terminate this Agreement in whole or in part, with or without cause, at any time during the Term of this Agreement, by providing the Agency ten (10) days advance written notice of the termination.
- B. If the termination results from acts or omissions of the Agency, including but not limited to misappropriation, nonperformance of required services, or fiscal mismanagement, the Agency shall return to the County immediately any funds, misappropriated or unexpended, which have been paid to the Agency by the County.
- C. Any King County obligations under this Agreement beyond the current appropriation year are conditioned upon the County Council's appropriation of sufficient funds to support such obligations. If the Council does not approve such appropriation, then this Agreement will terminate automatically at the close of the current appropriation year.

15. FUTURE SUPPORT; UTILITIES AND SERVICE

The County makes no commitment to support the services contracted for herein and assumes no obligation for future support of the activity contracted for herein except as expressly set forth in this Agreement. The Agency understands, acknowledges, and agrees that the County shall

not be liable to pay for or to provide any utilities or services in connection with the Project contemplated herein.

16. HOLD HARMLESS AND INDEMNIFICATION

The Agency agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof, for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to any use of or occurrence on the Project that is the subject of this Agreement, or the Agency's exercise of rights and privileges granted by this Agreement, except to the extent of the County's sole negligence. The Agency's obligations under this Section shall include:

- A. The duty to promptly accept tender of defense and provide defense to the County at the Agency's own expense;
- B. Indemnification of claims made by the Agency's employees or agents; and
- C. Waiver of the Agency's immunity under the industrial insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify King County, which waiver has been mutually negotiated by the parties.

In the event it is necessary for the County to incur attorney's fees, legal expenses or other costs to enforce the provisions of this Section, all such fees, expenses and costs shall be recoverable from the Agency.

In the event it is determined that RCW 4.24.115 applies to this Agreement, the Agency agrees to protect, defend, indemnify and save the County, its officers, officials, employees and agents from any and all claims, demands, suits, penalties, losses damages judgments, or costs of any kind whatsoever for bodily injury to persons or damage to property (hereinafter "claims"), arising out of or in any way resulting from the Agency's officers, employees, agents and/or subcontractors of all tiers, acts or omissions, performance of failure to perform the rights and privileges granted under this Agreement, to the maximum extent permitted by law or as defined by RCW 4.24.115, as now enacted or hereafter amended.

A hold harmless provision to protect King County similar to this provision shall be included in all Agreements or subcontractor Agreements entered into by Agency in conjunction with this Agreement. **The Agency's duties under this Section will survive the expiration or earlier termination of this Agreement.**

17. INSURANCE

- A. Liability Insurance Requirements. Notwithstanding any other provision within this Agreement, Agency and its subcontractors shall procure and maintain coverage and limits for no less than the following:
 1. Commercial General Liability. Insurance Service "occurrence" form CG 00 01 (current edition), to include Products-Completed Operations, insurance against claims for injuries to persons or damages to property that may arise from or in connection with activities under this Agreement. The insurance coverage shall be no less than One Million Dollars (\$1,000,000) combined single limit per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate.

2. Automobile Liability. *If activities require vehicle usage.* Insurance Services form number CA 00 01 (current edition), covering BUSINESS AUTO COVERAGE, Symbol 1 “any auto”. If the grant includes the use of automobiles, the Limit of Liability shall be no less than One Million Dollars (\$1,000,000) per occurrence.
 3. Workers Compensation/Stop Gap. *If the recipient or its contractor(s) has/have employees.* Statutory Workers Compensation coverage and Stop Gap Liability for a limit no less than One Million Dollars (\$1,000,000) per occurrence.
 4. Professional Liability. *If the grant includes the use of Professional Services.* Professional Liability coverage shall be no less than One Million Dollars (\$1,000,000) per claim and in the aggregate.
 5. Sexual Misconduct Liability. *If the grant involves in-person work with minors.* Sexual Misconduct Liability coverage, at a limit of no less than Five Hundred Thousand Dollars (\$500,000) per occurrence and in the aggregate.
- B. If the grant involves the construction of a capital project or involves the purchase of equipment greater than Five Thousand (\$5,000) in value, the Agency shall provide “All Risk” Builders Risk or Property coverage for the full replacement value of the project/property built/purchased. King County shall be listed as an additional Loss payee as our interests may appear.
- C. King County and its officers, officials, employees and agents shall be covered as additional insured on Agency’s and its contractor(s’) commercial general liability insurance and, if applicable, commercial auto liability insurance, with respect to liability arising out of activities performed by the Agency and its contractors. Additional Insured status shall include Products-Completed Operations.
- D. To the extent of the Agency's or its contractor’s negligence, their insurance respectively shall be primary insurance with respect to the County, its officers, employees and agents. Any insurance or self-insurance maintained by the County, and its officers, officials, employees or agents shall not be subjected to contribution in favor of the Agency or its contractors insurance, and shall not benefit either in any way.
- Agency's and its contractors' insurance shall apply separately to each insured against whom a claim is made or a lawsuit is brought, subject to the limits of the insurer's liability.
- E. Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until after thirty (30) days' prior written notice has been given to and change in coverage accepted by King County.
- F. The insurance provider must be licensed to do business in the State of Washington and maintain a Best’s rating of no less than A-VIII. Within five (5) business days of County’s request, Agency must provide a Certificate of Insurance and Additional Insured Endorsement(s) (CG 20 10 11/85 or its equivalent) to the County. The Agency shall be responsible for the maintenance of their contractors' insurance documentation.
- G. If Agency is a municipal corporation or an agency of the State of Washington and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this Section.

H. **Agency's duties under this Section shall survive the expiration or earlier termination of this Agreement.** The Agency understands, acknowledges and agrees that for the relevant period of public use set forth in Section 8, the Agency shall maintain insurance and name the County as an additional insured, all of which shall be consistent with the requirements of this Section.

18. NONDISCRIMINATION

King County Code (“KCC”) chapters 12.16, 12.17 through 12.18 apply to this Agreement and are incorporated by this reference as if fully set forth herein. In all hiring or employment made possible or resulting from this Agreement, there shall be no discrimination against any employee or applicant for employment because of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except minimum age and retirement provisions, unless based upon a bona fide occupational qualification.

19. CONFLICT OF INTEREST

KCC Chapter 3.04 (Employee Code of Ethics) is incorporated by reference as if fully set forth hence, and the Agency agrees to abide by all conditions of said chapter. Failure by the Agency to comply with any requirement of said KCC Chapter shall be a material breach of contract.

20. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

21. PROJECT MAINTENANCE: EQUIPMENT PURCHASE, MAINTENANCE, AND OWNERSHIP

- A. As between the County and the Agency, Agency shall be responsible to operate and maintain the completed Project at its own sole expense and risk. Agency shall maintain the completed Project in good working condition consistent with applicable standards and guidelines. Agency understands, acknowledges, and agrees that the County is not responsible to operate or to maintain the Project in any way.
- B. Agency shall be responsible for all property purchased pursuant to this Agreement, including the proper care and maintenance of any equipment.
- C. Agency shall establish and maintain inventory records and transaction documents (purchase requisitions, packing slips, invoices, receipts) of equipment and materials purchased with Agreement funds. **Agency's duties under this Section shall survive the expiration of this Agreement.**

22. NOTICES

Whenever this Agreement provides for notice to be provided by one party to another, such notice shall be in writing, and directed to the person specified in Section 4 of this Agreement. Any such notice shall be deemed to have been given on the date of delivery, if mailed, on the third (3rd) business day following the date of mailing; or, if sent by fax, on the first (1st) business day following the day of delivery thereof by fax. Notice sent solely by e-mail shall be deemed to have been given on the date of transmission. Either party may change its address, fax number,

email address, or the name of the person indicated as the recipient by notice to the other in the manner aforesaid.

23. ASSIGNMENT

Agency shall not assign any portion of rights and obligations under this Agreement or transfer or assign any claim arising pursuant to this Agreement without the written consent of the County. Agency must seek such consent in writing not less than fifteen (15) days prior to the date of any proposed assignment.

24. AMENDMENTS

This Agreement together with the attached exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole Agreement between the Parties. Either party may request changes to this Agreement. No modifications or amendment of this Agreement shall be valid or effective unless evidenced by an Agreement in writing signed by the Parties.

25. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the County, which shall be attached to the original Agreement.

26. TAXES

Agency agrees to pay on a current basis all taxes or assessments levied on its activities and property, including, without limitation, any leasehold excise tax due under RCW Chapter 82.29A; PROVIDED, however, that nothing contained herein will modify the right of the Agency to contest any such tax, and Agency shall not be deemed to be in default as long as it will, in good faith, be contesting the validity or amount of any such taxes.

27. WASHINGTON LAW CONTROLLING; WHERE ACTIONS BROUGHT

This Agreement is made in and will be in accordance with the laws of the State of Washington, which will be controlling in any dispute that arises hereunder. Actions pertaining to this Agreement will be brought in King County Superior Court, King County, Washington.

28. PARAGRAPH HEADINGS

The paragraph headings contained herein are only for convenience and reference and are not intended to be a part of this Agreement or in any manner to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs to which they refer.

29. PUBLIC DOCUMENT

This Agreement will be considered a public document and will be available for inspection and copying by the public.

30. LEGAL RELATIONS

Nothing contained herein will make, or be deemed to make, County and the Agency a partner of one another, and this Agreement will not be construed as creating a partnership or joint venture. Nothing in this Agreement will create, or be deemed to create, any right, duty or obligation in any person or entity not a party to it.

31. SINGULAR AND PLURAL

Wherever the context will so require, the singular will include the plural and plural will include the singular.

32. PERMITS AND LICENSES

Agency shall design, develop and construct the Project in accordance with all applicable laws and regulatory requirements including environmental considerations, permitting determinations, and other legal requirements. All activities and improvements shall be performed by Agency at its sole expense and liability. Agency shall, at its sole cost and expense, apply for, obtain and comply with all necessary permits, licenses and approvals required for the Project,

33. INTERPRETATION OF COUNTY RULES AND REGULATIONS

If there is any question regarding the interpretation of any County rule or regulation, the County decision will govern and will be binding upon the Agency.

34. POLICE POWERS OF THE COUNTY

Nothing contained in this Agreement will diminish, or be deemed to diminish, the governmental or police powers of the County.

35. ENTIRE AGREEMENT

This Agreement, including its attachments, constitutes the entire Agreement between the County and the Agency. It supersedes all other agreements and understandings between them, whether written, oral or otherwise.

KING COUNTY

City of Des Moines

FOR

King County Executive

Signature

Date

NAME (Please type or print), Title

Date

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A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Washington State Recreation and Conservation Office Youth Athletic Facilities Grant Acceptance

ATTACHMENTS:

1. RCO Grant Agreement

FOR AGENDA OF: September 26,2019

DEPT. OF ORIGIN: Parks, Recreation and Senior Services

DATE SUBMITTED: September 19, 2019

CLEARANCES:

Community Development _____

Marina _____

Parks, Recreation & Senior Services *SMR*

Public Works *RBC*

CHIEF OPERATIONS OFFICER: _____

Legal *JG*

Finance *SAW*

Courts _____

Police _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *[Signature]*

Purpose and Recommendation

The purpose of this agenda item is to request City Council approval of a Washington State Recreation and Conservation Office (RCO) Youth Athletic Facilities Grant for the Des Moines Field House Park Field Renovation Project in the amount of \$107,202.

Suggested Motion

Motion: "I move to accept the Youth Athletic Facilities Grant through the Washington State RCO for grant funding in the amount of \$107,202 for the Des Moines Field House Park Field Renovation Project, and authorize the City Manager to sign the grant agreement substantially in the form as submitted."

Background:

The Field House Park is a staple for recreation in the City of Des Moines. With areas for softball, baseball, soccer, tennis courts, play area and a skate park, it has heavy usage on a daily basis. Repairs are imminent to keep up with heavy demand.

Discussion:

Repairs for field drainage are needed to ensure safe playing conditions. Poor drainage creates pools of mud and rutting as well as program rainouts. There are very few fields for baseball, softball and soccer in Des Moines, leaving little to no options when these fields are unavailable for use. Field #2 has a backstop and fencing that is need of replacement due to safety concerns. The Field House Park does not currently have a drinking fountain and it is a necessity for the park. The current storage shed for the park is in desperate need of repairs.

Funding for these projects would come from a King County Youth and Amateur Sports Grant and the Washington State RCO's Youth Athletic Facilities Grant as a match. This updated project is identified in the City of Des Moines 2019-2024 Capital Improvements Plan. Other funding will be provided by a King County Youth and Amateur Sports Grant. The grant funds were announced in June 2019 and must be expended by June 30, 2021.

Alternatives:

Reject grant funding and not make needed repairs. (Not recommended).

Financial Impact:

All funding for the Des Moines Field House Park Field Renovation Project will be provided through grant funding from the King County Youth and Amateur Sports Grant Program as well as the Washington State RCO's Youth Athletic Facilities Grant. There is no impact to the City's general fund.

Recommendation/Conclusion:

This project was identified in the 2016-2021 Master Plan as well as the 2019-2024 Capital Improvements Plan scheduled for 2019. In support of this grant application, the City Council approved Resolution 1384 in April 2018 as was required to apply for this Washington State RCO grant.

RCO Project Agreement**Project Sponsor:** City of Des Moines**Project Number:** 18-1788D**Project Title:** Des Moines Field House Park Field Renovation**Approval Date:** 06/27/2019**PARTIES OF THE AGREEMENT**

This Recreation and Conservation Office Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Funding Board (RCFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and City of Des Moines (Sponsor, and primary Sponsor), 21630 11th Ave S Ste A, Des Moines, WA 98198, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) (including indemnification and waiver of sovereign immunity, if applicable, as provided therein), (3) enter any amendments thereto on behalf of the Sponsors, and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all sponsors, unless otherwise allowed in Amendments and Agreement Section.

If a Sponsor wishes to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization, the Sponsor has the obligation to provide to RCO in writing a new Applicant Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, RCO will be entitled to rely upon the fact that the current Authorized Representative/Agent has the authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the State Building Construction Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

DESCRIPTION OF PROJECT

The City of Des Moines will use this grant at Field House Park to replace aging facilities and to improve ballfield drainage which will maximize year round field usability. The scope of work includes replacing a backstop and fence, and adding bleachers to Ball Field #2; replacing a utility shed; and adding a drainage system to the outfields. The primary recreation opportunities that this project will provide is youth baseball, softball, and soccer.

PERIOD OF PERFORMANCE

The period of performance begins on July 1, 2019 (project start date) and ends on June 30, 2021 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

LONG-TERM OBLIGATIONS

For this development and renovation project, the sponsor's on-going obligations shall be for 20 years from the date of final reimbursement from RCO or the date RCO accepts the project as complete per the Project Agreement, whichever is later and shall survive the completion/termination of this Project Agreement unless otherwise identified in the Agreement or as approved by the funding board.

PROJECT FUNDING

The total grant award provided for this project shall not exceed \$107,202.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
RCFB - YAF - Large	50.00%	\$107,202.00	State
Project Sponsor	50.00%	\$107,202.00	
Total Project Cost	100.00%	\$214,404.00	

RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO's director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor if the representative/agent signing has been authorized to do so by Applicant Resolution/Authorization provided to the RCO and such Applicant Resolution/Authorization has not been withdrawn by the governing body in a subsequent resolution.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, and any applicable federal program and accounting rules effective as of the date of this Agreement, and with respect to any amendments to this Agreement, as of the effective date of that amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

For the purpose of this Agreement, WAC Title 286, RCFB policies, and shall apply as terms of this Agreement.

For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Development Projects - Manual 4
- Long Term Obligations - Manual 7
- Reimbursements - Manual 8
- Youth Athletic Facilities - Manual 17

SPECIAL CONDITIONS

1. Cultural Resources-Survey Required

This agreement requires compliance with Executive Order 05-05 and/or Section 106 of the National Historic Preservation Act. RCO has completed the initial consultation for this project and a cultural resources survey is required. The Sponsor must submit to RCO the survey and receive from RCO a notice of cultural resources completion before any ground disturbing

activities can begin. Ground disturbance started without approval will be considered a breach of contract. In the event that archaeological or historic materials are discovered while conducting ground disturbing activities, work in the immediate vicinity must stop and the Sponsor must ensure compliance with the provisions found in Section 8 of this agreement. All cultural resources work must meet reporting guidelines outlined by the Department of Archaeology and Historic Preservation.

AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Sponsor Project Contact

Rick Scott
Recreation Manager
1000 South 220th St.
Des Moines, WA 98198
rscott@desmoineswa.gov

RCO Contact

DeAnn Beck
Natural Resources Building
PO Box 40917
Olympia, WA 98504-0917
deanna.beck@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

EFFECTIVE DATE

This Agreement, for project 18-1788, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the sponsor and the RCO, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RECREATION AND CONSERVATION OFFICE AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

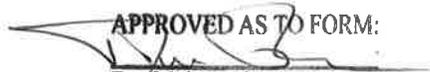
City of Des Moines

By: _____

Date: _____

Name (printed): _____

Title: _____

APPROVED AS TO FORM:

Des Moines City Attorney

**State of Washington Recreation and Conservation Office
On behalf of the Recreation and Conservation Funding Board (RCFB or funding board)**

By: _____

Date: _____

Kaleen Cottingham
Director
Recreation and Conservation Office

Pre-approved as to form:

By:  _____

Date: _____ 01/01/2019

Assistant Attorney General

Project Sponsor: City of Des Moines

Project Number: 18-1788D

Project Title: Des Moines Field House Park Field Renovation

Approval Date: 06/27/2019

Eligible Scope Activities

ELIGIBLE SCOPE ACTIVITIES

Project Metrics

Sites Improved

Project acres renovated: 1.54

Development Metrics

Worksite #1, Field House Park

Athletic Fields

Installation of athletic field amenities

Number of athletic field amenities: Spectator seating

Multi-purpose field development

Number of multi-purpose fields: 0 new, 5 renovated

Number of multi-purpose fields with lighting: 0 new, 5 renovated

Buildings and Structures

Construct storage facility

Number of storage buildings: 0 new, 1 renovated

General Site Improvements

Install site furnishings

Site Preparation

General site preparation

Cultural Resources

Cultural resources

Permits

Obtain permits

Architectural & Engineering

Architectural & Engineering (A&E)

Project Sponsor: City of Des Moines

Project Number: 18-1788D

Project Title: Des Moines Field House Park Field Renovation

Approval Date: 06/27/2019

Project Milestones

PROJECT MILESTONE REPORT

Complete	Milestone	Target Date	Comments/Description
X	Project Start	07/01/2019	
	Design Initiated	10/01/2019	
	Progress Report Due	12/31/2019	
	Applied for Permits	01/31/2020	
	60% Plans to RCO	02/29/2020	
	All Bid Docs/Plans to RCO	03/31/2020	
	Cultural Resources Complete	03/31/2020	Survey required, see special condition #1
	SEPA/NEPA Completed	03/31/2020	
	Bid Awarded/Contractor Hired	05/15/2020	
	Construction Started	06/30/2020	
	Progress Report Due	06/30/2020	
	Annual Project Billing Due	07/31/2020	
	50% Construction Complete	09/30/2020	
	RCO Interim Inspection	10/15/2020	
	Progress Report Due	12/31/2020	
	90% Construction Complete	01/31/2021	
	Construction Complete	04/30/2021	
	Funding Acknowl Sign Posted	05/10/2021	
	RCO Final Inspection	05/31/2021	
	Final Billing Due	06/10/2021	
	Final Report Due	06/15/2021	
	Agreement End Date	06/30/2021	



Project Sponsor: City of Des Moines

Project Number: 18-1788D

Project Title: Des Moines Field House Park Field Renovation

Approval Date: 06/27/2019

Standard Terms and Conditions of the Recreation and Conservation Office

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STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This agreement reflects Standard Terms and Conditions as of 07/02/2019.

CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

Agreement or project agreement – The document entitled “Recreation and Conservation Office Agreement” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the Recreation and Conservation Office Agreement, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Agreement subject to any limitations on their effect.

applicable manual(s) -- A manual designated in this Agreement to apply as terms of this Agreement, subject to substitution of the “RCO director” for instances where the term “board” occurs.

applicable WAC(s) -- Designated chapters or provisions of the Washington Administrative Code that are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for instances where the term “board” occurs.

applicant – Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds administered by RCO.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

director – The chief executive officer of the Recreation and Conservation Office or that person’s designee.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

- grant program** – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.
- long-term compliance period** – The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.
- long-term obligations** – Sponsor's obligations after the project end date, as specified in the Agreement and applicable regulations and policies.
- landowner agreement** – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.
- match or matching share** – The portion of the total project cost provided by the Sponsor.
- milestone** – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.
- Office** – Means the Recreation and Conservation Office or RCO.
- pass-through entity** – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.
- period of performance** – The period beginning on the project start date and ending on the project end date.
- pre-agreement cost** – A project cost incurred before the period of performance.
- primary Sponsor** – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.
- project** – An undertaking that is, or may be, funded in whole or in part with funds administered by RCO.
- project area** - A geographic area that delineates a grant assisted site which is subject to project agreement requirements.
- project cost** – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).
- project end date** – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.
- project start date** – The specific date identified in the Agreement on which the period of performance starts.
- RCO** – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.
- reimbursement** – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.
- renovation project** – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.
- RCFB** – Recreation and Conservation Funding Board
- RCW** – Revised Code of Washington
- secondary Sponsor** – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.
- Sponsor** – A Sponsor is an organization that is listed in and has signed this Agreement.
- Sponsor Authorized Representative/Agent** – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This

person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

useful service life – Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

WAC – Washington Administrative Code.

PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the RCO.

RESPONSIBILITY FOR PROJECT

While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

INDEMNIFICATION

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or the negligence of the Sponsor's agents, employees,

contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

This provision shall be included in any agreement between Sponsor and any contractors, subcontractor and vendor, of any tier.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:

"During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or

instruction may be a minor use of the grant supported recreation and conservation land or facility.

- C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries .
1. **Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.
- D. **Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor's Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.
- E. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.
- No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- F. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

RECORDS

- A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. **Maintenance.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment

under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.

- D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

PROJECT FUNDING

- A. **Authority.** This Agreement and funding is made available to Sponsor through the RCO.
- B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement .
- C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, which ever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. **Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:
1. All approved or required activities outlined in the Agreement are done;
 2. On-site signs are in place (if applicable);
 3. A final project report is submitted to and accepted by RCO;
 4. Any other required documents and media are complete and submitted to RCO;
 5. A final reimbursement request is submitted to RCO;

6. The completed project has been accepted by RCO;
7. Final amendments have been processed;
8. Fiscal transactions are complete, and
9. RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Overpayment Payments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INCOME (AND FEES) AND USE OF INCOME

See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

- A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- B. **Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
 1. The Sponsor's matching resources;
 2. The project's total cost;
 3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 5. Capital expenses for similar acquisition and/or development and renovation; and/or
 6. Other purposes explicitly approved by RCO.
- C. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
 1. Grant program laws, rules, and applicable manuals;
 2. Value of any service(s) furnished;
 3. Value of any opportunities furnished; and
 4. Prevailing range of public fees in the state for the activity involved.

PROCUREMENT REQUIREMENTS

A. **Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:

1. Publish a notice to the public requesting bids/proposals for the project;
2. Specify in the notice the date for submittal of bids/proposals;
3. Specify in the notice the general procedure and criteria for selection; and
4. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
5. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

- A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- B. **Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.

RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure has been executed, it will further stipulate and define the RCO's right to inspect and access lands acquired or developed with this funding assistance.

STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

PREFERENCES FOR RESIDENTS

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

ACKNOWLEDGMENT AND SIGNS

- A. **Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.

B. Signs.

1. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and
2. During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.

- C. **Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies.

PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force:

- A. **Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement Entity and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. **Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
1. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.
- C. **Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure (such as landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in this Agreement and any applicable manual as of the effective date of this Agreement and determines the long-term compliance period unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- D. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009", "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.

LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. **Long-Term Obligations.** Sponsor shall comply with the terms of this Agreement.
- B. **Perpetuity.** For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. RCO requires that the project area continue to function as intended after the period of performance in perpetuity.
- C. **Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/ or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policy or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is

subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon the terms of this Agreement, including without limitation all WACs and manuals deemed applicable and all applicable laws.

For acquisition projects that are expressly term limited in the Agreement, such as one involving a lease or a term-limited restoration, renovation or development project or easement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement, any applicable manual or WAC, or any applicable state or federal law.

When a conversion has been determined to have occurred, the Sponsor is required to remedy the conversion per this Agreement and the applicable manuals, WACs and laws, and the RCO may pursue such remedies as the above allows.

CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force for this agreement:

- A. **Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 1. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 2. In a reasonably safe condition for the project's intended use;
 3. Throughout its estimated useful service life so as to prevent undue deterioration;
 4. In compliance with all federal and state nondiscrimination laws, regulations and policies.
- B. **Open to the public.** Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
 1. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 3. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award to the state from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- E. State law (constitution, statute);
- F. Washington Administrative Code;
- G. Applicable RCO manuals.

LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate by writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The Funding Entity (if different from RCO) and RCO relies on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SPECIFIC PERFORMANCE

RCO may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the project as described in this Agreement and /or enforcement of long-term obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

TERMINATION AND SUSPENSION

The RCO will require strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. For Cause.

1. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
2. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
3. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1. The Sponsor was not in default; or
2. Failure to perform was outside Sponsor's control, fault or negligence.

C. Rights of Remedies of the RCO.

1. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
2. In the event this Agreement is terminated by the director , after any portion of the grant amount has been paid to the Sponsor under this Agreement , the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. **Non Availability of Funds.** The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

1. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

DISPUTE HEARING

Except as may otherwise be provided in this Agreement , when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

END OF AGREEMENT

This is the end of the agreement.

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AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT:

Interagency Agreement – Edward Byrne Memorial Justice Grant (JAG) Program JAG Grant Award # 2017-DJ-BX-0496

ATTACHMENTS:

1. Interagency Agreement with City of Seattle (fiscal agent of award)
2. JAG Award Letter provided to City of Seattle.
3. City of Seattle Joint Application Budget & Narrative.
4. City of Des Moines Grant Project: Police Department Reality Based Training.

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Police

DATE SUBMITTED: September 18, 2019

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal *MM*
- Finance *daw*
- Courts
- Police *TK*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this item is to inform the City Council of the Edward Byrne Memorial Justice Grant (JAG) Program and to determine whether the City of Des Moines wants to accept funding under the terms and conditions set forth in this grant agreement. Should the Council desire to accept the grant funding, the recommended motion below would authorize the City Manager to sign the Interagency Agreement with the City of Seattle who is the fiscal agent of the grant award.

It is staff's recommendation for Council to approve acceptance of this grant and authorize the City Manager to sign the Interagency Agreement. The grant provides funding of \$11,122 to provide reality based training to all commissioned police officers. Reality based training is a proven method of training police officers. The grant funds will allow for the purchase of \$466 in safety equipment required for the training.

Suggested Motion

Motion 1: “I move to authorize the City Manager to sign the Interagency Agreement with the City of Seattle for the Edward Byrne Memorial Justice Grant # 2017-DJ-BX-0496 substantially in the form as attached and for the City of Des Moines to accept the \$11,122.00 in federal funds under the terms and conditions listed within the JAG Grant and Interagency Agreement.”

Background

The United States Congress authorized \$657,975 in the Justice Assistance Grant (JAG) program for jurisdictions within King County, Washington. Jurisdictions within King County were required to apply for a JAG Program Award in a single joint application made by the City of Seattle who had been designated as the fiscal agent for the award. The Police Department submitted its application to the City of Seattle to provide funding to provide reality based training to all commissioned staff. The City of Seattle submitted the joint application to request JAG Program funds. Based upon the City of Seattle’s successful application the Bureau of Justice Assistance awarded the City of Seattle the \$657,975 as the identified fiscal agent for this award and to distribute grant funds to the co-applicants. On September 5, 2019, the Police Department was notified that the Seattle City Council has accepted the grant funds and approved grant funds disbursement to the co-applicants. The Police Department received the City of Seattle’s Interagency Agreement authorizing us to accept the grant funds and begin our grant project based upon the scope of work provided within the grant application.

Discussion

City Departments including the police department continue to seek alternative funding sources to assist in augmenting their budgets. Acceptance of this grant award would provide funding to train all commissioned staff using the reality based training model. Reality based training is defined as a method to utilize tools, techniques or methodologies in a training setting to prepare officers for any situation that may occur during the course of their shift.

By the very nature of police work, officers are forced to deal with dangerous, combative, uncooperative subjects or people in crisis. Reality based training places officers into realistic training scenarios that require them to make correct decisions while using the appropriate tactics, de-escalation techniques and if necessary the correct level of force or other tactics based on the totality of the circumstances.

Alternatives

Council can decide not to accept the grant funds and thus not authorize the City Manager to sign the Interagency Agreement with City of Seattle. We do not believe this is an effective alternative since the police department does not currently have the funds within its operating budget to provide this training.

Financial Impact

This grant award will provide funding to the City in the amount of \$11,122 to pay overtime for the department’s reality based training instructors and to backfill any patrol shifts that would have been filled by one of the instructors.

Recommendation

Public safety remains a paramount concern within the community. Acceptance of this award provides additional training based on real life scenarios and situations. By providing this training, it allows the officers to hone their skills in a safe training environment. It is staff's recommendation to approve the Interagency Agreement between the City of Des Moines and the City of Seattle to accept this Edward Byrne Memorial Justice Grant.

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Memorandum of Understanding

Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2017 Local Solicitation

City of Seattle

Department Authorized Representative: Faye Landskov
610 5th Avenue
PO Box 34986
Seattle, WA 98124-4986

and

City of Des Moines, hereinafter referred to as "Subrecipient"

JAG Grant Manager: Commander Doug Jenkins
401 5th Ave, Ste 810
Seattle, WA 98104

IN WITNESS WHEREOF, the parties have executed this Agreement by having their representatives affix their signatures below.

City of Des Moines**City of Seattle**

City Manager Michael Matthias

Mark R. Baird Chief Operating Officer,
Seattle Police Department

Date: _____

Date: _____

Authorized by: *Edward Byrne Memorial Justice Assistance Grant (JAG) Program*

WHEREAS, the Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions; and

WHEREAS, the JAG Program supports all components of the criminal justice system, from multi-jurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives; and

WHEREAS, the United States Congress authorized \$657,975 in the Justice Assistance Grant (JAG) Program for jurisdictions in King County; and

WHEREAS, 11 jurisdictions in King County were required to apply for a JAG Program award with a single, joint application; and

WHEREAS, the City of Seattle ("City"), as the identified Fiscal Agent, submitted the joint application to the Bureau of Justice Assistance on September 5, 2017 to request JAG Program funds; and

WHEREAS, based on the City's successful application, the Bureau of Justice Assistance has awarded \$657,975 to the City from these JAG Program funds; and

WHEREAS, pursuant to the terms of the grant whereby the City, as the identified Fiscal Agent for this award, is to distribute grant funds to co-applicants, the City intends to transfer some of the JAG funds it receives to those co-applicants; and

WHEREAS, the City is not obligated to continue or maintain grant funding levels for the JAG Program once grant funds have lapsed; and

WHEREAS, Subrecipients of JAG funds from the City should not anticipate the City will assume responsibility for any program costs funded by JAG once JAG funds are spent;

NOW THEREFORE, the parties hereto agree as follows:

This Interagency Agreement contains seven Articles:

ARTICLE I: TERM OF AGREEMENT:

The term of this Interagency Agreement shall be in effect from the date it is executed, until September 30, 2020 unless terminated earlier pursuant to the provisions hereof.

ARTICLE II: DESCRIPTION OF SERVICES

The services to be performed under this Agreement shall be conducted for the stated purposes of the Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)). The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to state and local jurisdictions. The JAG Program provides states and units of local governments with critical funding necessary to support a range of program areas including law enforcement; prosecution and court programs; prevention and education programs; corrections and community corrections; drug treatment and enforcement; crime victim and witness initiatives; and planning, evaluation, and technology improvement programs.

ARTICLE III: SPECIAL CONDITIONS

1. Funds are provided by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance solely for the purpose of furthering the stated objectives of the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. The Subrecipient shall use the funds to perform tasks as described in the Scope of Work portion of this Agreement.
2. The Subrecipient acknowledges that because this Agreement involves federal funding, the period of performance described herein will likely begin prior to the City's receipt of appropriated federal funds. The Subrecipient agrees that it will not hold the City or the Department of Justice liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to the City's receipt and distribution of federal funds. In the event that the Department of Justice requires the City to repay awarded funds for failure to comply with Special Conditions 52-56 listed in Attachment A, the Subrecipient will repay the City any funds it received under this Agreement that the City is required to repay to the federal government. Subrecipient further acknowledges and agrees that the City may reject federal funds if it is required to comply with Special Conditions 52-56 as a prerequisite for receiving these funds. Subrecipient will not pursue the City for such funds but may be able to pursue the federal government.
3. This contract is funded with federal grant funds under CFDA 16.738. The grant is FY 2017 Justice Assistance Grant Program Award # 2017-DJ-BX-0496. All federal financial and grant management rules and regulations must be adhered to in the execution of this contract. Exhibit Attachment A is a copy of the federal award documents. All special conditions stated in the award documents apply to the execution of this contract. All Subrecipients are assumed to have read, understood, and accepted the Award as binding.
4. The Subrecipient acknowledges that all allocations and use of funds under this agreement will be in accordance with the Edward Byrne Memorial Justice Assistance

Grant (JAG) Program: FY 2017 Local Solicitation. Allocation and use of grant funding must be coordinated with the goals and objectives included in the Local Solicitation. All Subrecipients are assumed to have read, understood, and accepted the Local Solicitation as binding.

5. Subrecipient agrees to obtain a valid DUNS profile and create an active registration with the Central Contractor Registration (CCR) database no later than the due date of the Subrecipient's first quarterly report after a subaward is made.
6. The Subrecipient shall comply with all applicable laws, regulations, and program guidance. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by the Department of Justice (DOJ) in 2 C.F.R Part 2800 (together, the "Part 200 Uniform Requirements") apply to this 2017 award from the Office of Justice Programs (OJP).
7. The Subrecipient must comply with the most recent version of the Administrative Requirements, Cost Principals, and Audit Requirements.
 - a. Non-Federal entities that expend \$500,000 or more in one fiscal year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Office of Management and Budget (OMB) Circular A-133- Audits of States, Local Governments, and non-Profit Organizations. Non-federal entities that spend less than \$500,000 a year in federal awards are exempt from federal audit requirements for that year, except as noted in Circular No. A-133, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
 - b. Subrecipients required to have an audit must ensure the audit is performed in accordance with Generally Accepted Auditing Standards (GAAS), as found in the Government Auditing Standards (the Revised Yellow Book) developed by the Comptroller General and the OMB Compliance Supplement. The Subrecipient has the responsibility of notifying the Washington State Auditor's Office and requesting an audit.
 - c. The Subrecipient shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any sub-recipients also maintain auditable records.
 - d. The Subrecipient is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report submitted to the Seattle Police Department. The Subrecipient must respond to requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The City reserves the right to recover from the Subrecipient all disallowed costs resulting from the audit.

- e. If applicable, once any single audit has been completed, the Subrecipient must send a full copy of the audit to the City and a letter stating there were no findings, or if there were findings, the letter should provide a list of the findings. The Subrecipient must send the audit and the letter no later than nine months after the end of the Subrecipient's fiscal year(s) to:

Faye Landskov, JAG Program Manager
 Seattle Police Department
 610 5th Avenue
 PO Box 34986
 Seattle, WA 98124-4986
 206-733-9163

- f. In addition to sending a copy of the audit, the Subrecipient must include a corrective action plan for any audit findings and a copy of the management letter if one was received. The Subrecipient shall include the above audit requirements in any subcontracts.
- g. The Subrecipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requirements, including, but not limited to, the provision of any information required for assessment or evaluation of activities within this agreement, and for compliance BJA reporting requirements.
- h. Suspension and Debarment: The Subrecipient certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions by any Federal department or agency. By signing and submitting this Agreement, the Subrecipient is providing the signed certification set out below. The certification this clause is a material representation of fact upon which reliance was placed when this transaction was entered into.

If it is later determined that the Subrecipient rendered an erroneous certification, the Federal Government and City may pursue available remedies, including termination and/or debarment. The Subrecipient shall provide immediate written notice to the City if at any time the Subrecipient learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The Subrecipient agrees by signing this Agreement that it shall not enter into any covered transaction with a person or subcontractor who is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the City. The Subrecipient shall include the requirement in this section in any subcontracts.

ARTICLE IV: SCOPE OF WORK

The Scope of Work of this Agreement and the time schedule for completion of such work is as described in **Attachment B: JAG Budget Worksheet**, as approved by BJA. Attachment B is attached to and made part of this agreement.

The work shall, at all times, be subject to the City's general review and approval. The Subrecipient shall confer with the City periodically during the progress of the Work, and shall prepare and present such information and materials (e.g. a detailed outline of completed work) as may be pertinent, necessary, or requested by the City or BJA to determine the adequacy of the Work or Subrecipient's progress.

ARTICLE V: PAYMENT

1. Compensation

The Subrecipient shall be reimbursed on an actual cost basis. Compensation under this Agreement cannot exceed \$11,122.

The Subrecipient shall incur authorized allowable expenses in accordance with the Project Budget, as detailed in Attachment B.

The Subrecipient may request additional reimbursement up to the amount of interest accrued on their portion of the grant award. The City will provide quarterly statements to the Subrecipient, once the interest balance accrued equals at least \$1,000.

Reimbursements will not be made for interest accrued that is less than \$1,000.

Reimbursements can be requested, up to the total amount of interest accrued, after the initial quarterly statement has been sent, to perform tasks in accordance with the Project Budget, as detailed in Attachment B.

No travel or subsistence costs, including lodging and meals, reimbursed with federal funds may exceed federal maximum rates, which can be found at: <http://www.gsa.gov>.

2. Manner of Payment

The Subrecipient shall submit reimbursement requests not more than monthly, and at least quarterly. After the first quarter, monthly submission is preferred.

Requests are due no later than 30 days after the end of the period in which the work was performed. Reimbursement request forms are provided. Substitute forms are acceptable.

With each reimbursement request, the Subrecipient shall submit:

- Detailed spreadsheet of expenditures by task and related financial documents (timesheets, invoices)
- These documents and invoices must be kept on file by the Subrecipient and be made available upon request by the City or to state or federal auditors, for at least six years after the closure of the grant.

Reimbursement will not be processed without accompanying documentation for the corresponding costs. Once the above conditions are met, payment shall be made by the City to the Subrecipient.

Submit invoicing to	Submit Documentation to
Fiscal Accounts Payable Seattle Police Department 610 5 th Avenue PO Box 34986 Seattle, WA 98124-4986 SPDAP@seattle.gov	Faye Landskov, JAG Program Manager Seattle Police Department 610 5 th Avenue PO Box 34986 Seattle, WA 98124-4986 206-733-9163

Article VI. COOPERATION IN MONITORING AND EVALUATION.

1. SPD Responsibilities:

SPD shall monitor, evaluate and provide guidance and direction to Subrecipient in the conduct of Approved Services performed under this Agreement. SPD has the responsibility to determine whether Subrecipient has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of Subrecipient to ensure that Subrecipient has met such requirements. SPD may require Subrecipient to take corrective action if deficiencies are found. SPD will not monitor Subrecipient's adherence to Special Conditions 52-56 in the Grant Award and Special Conditions documents.

2. Subrecipient Responsibilities.

- a. Subrecipient shall permit SPD to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the applicable Notice of Prime Award, and Subrecipient agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.
- b. Subrecipient shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of SPD, DOJ, the U.S. Government Accountability Office or the Comptroller General of the United States and Subrecipient agrees to ensure to the extent possible the cooperation of its agents, employees and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.

ARTICLE VII: AMENDMENTS

No modification or amendment of the provisions hereof shall be effective unless in writing and signed by authorized representatives of the parties hereto. The parties hereto expressly reserve the right to modify this Agreement, by mutual agreement.

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City of Seattle
Mayor Jenny A. Durkan

May 9, 2019

Mr. Matt Dummermuth
Principal Deputy Assistant Attorney General
U.S. Department of Justice
Bureau of Justice Assistance/Office of Justice Assistance
810 Seventh Street, NW
Washington, DC 20531s

RE: FY 2017 Byrne JAG Award #2017-DJ-BX-0496

Dear Mr. Dummermuth,

The City of Seattle ("City") is resubmitting its Grant Award Document and Certifications Document for the FY 2017 Byrne Justice Assistance Grant (JAG) Award per the guidance provided by the Department of Justice ("DOJ"). In so doing, the City accepts this award but rejects certain conditions, as outlined below.

The City continues to maintain its strong objection to certain conditions, specifically Paragraph 7 of the Certifications and Assurances by the Chief Executive regarding compliance with 8 U.S.C. § 1373 and Conditions 52 through 56, inclusive in the Grant Award and Special Conditions document. Although the City has not modified or crossed out the Special Conditions 52 through 56, please note the prominent disclaimer the City has appended to the text of these documents.

Nothing in Seattle's acceptance of this award shall be construed as a certification of compliance with Paragraph 7 of the certification document or as an acceptance of Award Special Conditions 52, 53, 54, 55, or 56 in the Grant Award and Special Conditions documents. Without waiving any other arguments, claims, or defenses, the City asserts the Special Conditions placed upon the award and disbursement of FY 2017 JAG funds are unlawful, unconstitutional, unenforceable, and ultra vires.

Please do not hesitate to contact me at (206) 684-5452 or via email at Michelle.Chen@Seattle.gov, if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Michelle S. Chen".

Michelle S. Chen
Legal Counsel, Mayor of Seattle

cc: Pete Holmes, Seattle City Attorney
Kenny Pittman, Office of Intergovernmental Relations

U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS

Edward Byrne Justice Assistance Grant Program
FY 2017 Local Solicitation

Certifications and Assurances
by the Chief Executive of the Applicant Government

On behalf of the applicant unit of local government named below, in support of that locality's application for an award under the FY 2017 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 34 U.S.C. § 10153(a)*, I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct: initial

1. I am the chief executive of the applicant unit of local government named below, and I have the authority to make the following representations on my own behalf and on behalf of the applicant unit of local government. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant unit of local government.

2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the unit of local government (e.g., city council or county commission), or to an organization designated by that governing body, not less than 30 days before the date of this certification.

4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.

5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant unit of local government will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require. initial

6. I have carefully reviewed 34 U.S.C. § 10153(a)(5)*, and, with respect to the programs to be funded by the award (if any), I hereby make the certification required by section 10153(a)(5), as to each of the items specified therein. initial

~~7. I have examined the certification entitled "State or Local Government: FY 2017 Certification of Compliance with 8 U.S.C. § 1373* executed by the chief legal officer of the applicant government with respect to the FY 2017 JAG program and submitted in support of the application described above, and I certify that I have no reason to believe that certification to be false or otherwise incorrect. initial~~

Signature of Chief Executive of the Applicant Unit of Local Government

Jenny A. Durkan

Printed Name of Chief Executive

City of Seattle, Washington

Name of Applicant Unit of Local Government

Date of Certification

Mayor

Title of Chief Executive

*Acceptance of Byrne-JAG 2017 funds by Plaintiffs New York, Connecticut, New Jersey, Rhode Island, Washington, and the Commonwealths of Massachusetts and Virginia—and by the political subdivisions of Plaintiff states—shall not be construed as acceptance of Special Conditions ¶¶52-56. Nor shall these conditions be enforced against these grantees given Judge Ramos's ruling in *New York et al., v. U.S. Department of Justice et al.*, 18 Civ. 6471 (ER) (ECF 114 and 122) (S.D.N.Y.) where these disputed conditions were enjoined for the reasons stated therein, including that 8 U.S.C. § 1373 was unconstitutional and not within the purview of "all applicable laws" as referenced in 34 U.S.C. § 10153(a).

initial



U.S. Department of Justice
Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

October 10, 2018

The Honorable Ed Murray
City of Seattle
700 5th Avenue, Suite 5800
Seattle, WA 98124-4708

Dear Mayor Murray:

On behalf of Attorney General Jefferson Sessions III, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation in the amount of \$657,975 for City of Seattle.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Jeffrey S. Felten-Green, Program Manager at (202) 514-8874; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in black ink that reads "Matt Dummermuth".

Matt Dummermuth
Principal Deputy Assistant Attorney General

Enclosures



OFFICE FOR CIVIL RIGHTS

Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531

Tel: (202) 307-0690
TTY: (202) 307-2027
E-mail: askOCR@usdoj.gov
Website: www.ojp.usdoj.gov/ocr

OCR Letter to All Recipients

October 10, 2018

The Honorable Ed Murray
City of Seattle
700 5th Avenue, Suite 5800
Seattle, WA 98124-4708

Dear Mayor Murray:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) comply with the applicable federal civil rights laws. We at the OCR are available to help you and your organization meet the civil rights requirements that come with DOJ funding.

Ensuring Access to Federally Assisted Programs

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at <https://ojp.gov/about/ocr/vawafaqs.htm>.

Enforcing Civil Rights Laws

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal opportunity standards.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <https://www.lep.gov>.

Ensuring Equal Treatment of Faith-Based Organizations and Safeguarding Constitutional Protections Related to Religion

The DOJ regulation, *Partnerships with Faith-Based and Other Neighborhood Organizations*, 28 C.F.R. pt. 38, updated in April 2016, prohibits all recipient organizations, whether they are law enforcement agencies, governmental agencies, educational institutions, houses of worship, or faith-based organizations, from using financial assistance from the DOJ to fund explicitly religious activities. Explicitly religious activities include worship, religious instruction, or proselytization. While funded organizations may engage in non-funded explicitly religious activities (e.g., prayer), they must hold them separately from the activities funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The regulation also makes clear that organizations participating in programs funded by the DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. Funded faith-based organizations must also provide written notice to beneficiaries, advising them that if they should object to the religious character of the funded faith based organization, the funded faith-based organization will take reasonable steps to refer the beneficiary to an alternative service provider. For more information on the regulation, please see the OCR's website at <https://ojp.gov/about/ocr/partnerships.htm>.

SAs and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 34 U.S.C. § 10228(c); the Victims of Crime Act of 1984, as amended, 34 U.S.C. § 20110(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 34 U.S.C. § 11182(b); and VAWA, as amended, 34 U.S.C. § 12291(b)(13), contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

Using Arrest and Conviction Records in Making Employment Decisions

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013)*, available at https://ojp.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf. Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOs) (see below).

Complying with the Safe Streets Act

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEO (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

Meeting the EEOP Requirement

An EEOP is a comprehensive document that analyzes a recipient's relevant labor market data, as well as the recipient's employment practices, to identify possible barriers to the participation of women and minorities in all levels of a recipient's workforce. As a recipient of DOJ funding, you may be required to submit an EEOP Certification Report or an EEOP Utilization Report to the OCR. For more information on whether your organization is subject to the EEOP requirements, see <https://ojp.gov/about/ocr/eeop.htm>. Additionally, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 616-1771 or by e-mail at EEOPforms@usdoj.gov.

Meeting the Requirement to Submit Findings of Discrimination

If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

Ensuring the Compliance of Subrecipients

SAAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see <https://ojp.gov/funding/Explore/StateMethodsAdmin-FY2017update.htm>.

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.

Sincerely,



Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

 <p>U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance</p>		Grant		PAGE 1 OF 21																
1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Seattle 700 5th Avenue, Suite 5800 Seattle, WA 98124-4708		4. AWARD NUMBER: 2017-DJ-BX-0496																		
		5. PROJECT PERIOD: FROM 10/01/2016 TO 09/30/2020 BUDGET PERIOD: FROM 10/01/2016 TO 09/30/2020																		
		6. AWARD DATE 10/10/2018	7. ACTION Initial																	
2a. GRANTEE IRS/VENDOR NO. 916001303	8. SUPPLEMENT NUMBER 00																			
2b. GRANTEE DUNS NO. 790597814	9. PREVIOUS AWARD AMOUNT \$ 0																			
3. PROJECT TITLE FY 2017 Edward Byrne Memorial Justice Assistance (JAG) Grant Formula Program		10. AMOUNT OF THIS AWARD \$ 657,975																		
		11. TOTAL AWARD \$ 657,975																		
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).																				
13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 42 U.S.C. 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U.S.C. 530C(a).																				
14. CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number) 16.738 - Edward Byrne Memorial Justice Assistance Grant Program																				
15. METHOD OF PAYMENT GPRS																				
AGENCY APPROVAL		GRANTEE ACCEPTANCE*																		
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Matt Dummermuth Principal Deputy Assistant Attorney General		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Ed Murray Mayor 																		
17. SIGNATURE OF APPROVING OFFICIAL 		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL 		19A. DATE 5/9/19																
AGENCY USE ONLY																				
20. ACCOUNTING CLASSIFICATION CODES <table border="1"> <thead> <tr> <th>PISCAL YEAR</th> <th>FUND CODE</th> <th>BUD. ACT.</th> <th>DIV. OFC.</th> <th>DIV. REG.</th> <th>SUB.</th> <th>POMS</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>X</td> <td>B</td> <td>DJ</td> <td>80</td> <td>00</td> <td>00</td> <td></td> <td>657975</td> </tr> </tbody> </table>		PISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	DIV. REG.	SUB.	POMS	AMOUNT	X	B	DJ	80	00	00		657975	21. SD/JUGT0007		
PISCAL YEAR	FUND CODE	BUD. ACT.	DIV. OFC.	DIV. REG.	SUB.	POMS	AMOUNT													
X	B	DJ	80	00	00		657975													

initial

initial

initial

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

*Acceptance of Byrne-JAG 2017 funds by Plaintiffs New York, Connecticut, New Jersey, Rhode Island, Washington, and the Commonwealths of Massachusetts and Virginia—and by the political subdivisions of Plaintiff states—shall not be construed as acceptance of Special Conditions ¶¶52-56. Nor shall these conditions be enforced against these grantees given Judge Ramos's ruling in *New York et al., v. U.S. Department of Justice et al.*, 18 Civ. 6471 (ER) (ECF 114 and 122) (S.D.N.Y.) where these disputed conditions were enjoined for the reasons stated therein, including that 8 U.S.C. § 1373 was unconstitutional and not within the purview of "all applicable laws" as referenced in 34 U.S.C. § 10153(a).



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET**
Grant

PAGE 2 OF 21

PROJECT NUMBER 2017-DJ-BX-0496

AWARD DATE 10/10/2018

SPECIAL CONDITIONS

1. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Office of Justice Programs ("OJP") taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. The Department of Justice ("DOJ"), including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 42 U.S.C. 3795a), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

2. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2017 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2017 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2017 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

3. Compliance with DOJ Grants Financial Guide

The recipient agrees to comply with the DOJ Grants Financial Guide as posted on the OJP website (currently, the "2015 DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance.

initial



U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

**AWARD CONTINUATION
SHEET
Grant**

PAGE 3 OF 21

PROJECT NUMBER 2017-DJ-BX-0496

AWARD DATE 10/10/2018

SPECIAL CONDITIONS

4. Required training for Point of Contact and all Financial Points of Contact

Both the Point of Contact (POC) and all Financial Points of Contact (FPOCs) for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

In the event that either the POC or an FPOC for this award changes during the period of performance, the new POC or FPOC must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after-- (1) the date of OJP's approval of the "Change Grantee Contact" GAN (in the case of a new POC), or (2) the date the POC enters information on the new FPOC in GMS (in the case of a new FPOC). Successful completion of such a training on or after January 1, 2016, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

5. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

6. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OYW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.


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<p><i>SPECIAL CONDITIONS</i></p>			
<p>10. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)</p>			
<p>The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.</p>			
<p>The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.</p>			
<p>11. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events</p>			
<p>The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.</p>			
<p>Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "2015 DOJ Grants Financial Guide").</p>			
<p>12. Requirement for data on performance and effectiveness under the award</p>			
<p>The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.</p>			
<p>13. OJP Training Guiding Principles</p>			
<p>Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at https://ojp.gov/funding/ojptrainingguidingprinciples.htm.</p>			
<p>14. Effect of failure to address audit issues</p>			
<p>The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.</p>			
<p>15. Potential imposition of additional requirements</p>			
<p>The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.</p>			


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16. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

17. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

18. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38, specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries. Part 38 of 28 C.F.R., a DOJ regulation, was amended effective May 4, 2016.

Among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of the regulation, now entitled "Partnerships with Faith-Based and Other Neighborhood Organizations," is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

19. Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

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<p style="text-align: center;"><i>SPECIAL CONDITIONS</i></p> <p>20. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2017)</p> <p>The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2017, are set out at https://ojp.gov/funding/Explore/FY17AppropriationsRestrictions.htm, and are incorporated by reference here.</p> <p>Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.</p> <p>21. Reporting Potential Fraud, Waste, and Abuse, and Similar Misconduct</p> <p>The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.</p> <p>Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by-- (1) mail directed to: Office of the Inspector General, U.S. Department of Justice, Investigations Division, 1425 New York Avenue, N.W. Suite 7100, Washington, DC 20530; and/or (2) the DOJ OIG hotline: (contact information in English and Spanish) at (800) 869-4499 (phone) or (202) 616-9881 (fax).</p> <p>Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.</p>		



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22. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.


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23. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

24. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

25. Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

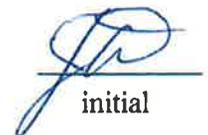
26. FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$25,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

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<p align="center"><i>SPECIAL CONDITIONS</i></p> <p>27. Use of program income</p> <p>Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.</p> <p>28. Justice Information Sharing</p> <p>In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, the recipient (and any subrecipient at any tier) must comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular award. The recipient shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.</p> <p>29. Avoidance of duplication of networks</p> <p>To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.</p> <p>30. Compliance with 28 C.F.R. Part 23</p> <p>With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). The recipient may not satisfy such a fine with federal funds.</p> <p>31. Protection of human research subjects</p> <p>The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.</p> <p>32. Confidentiality of data</p> <p>The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 42 U.S.C. 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.</p>		



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33. Verification and updating of recipient contact information

The recipient must verify its Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

34. Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

35. Required attendance at BJA-sponsored events

The recipient (and its subrecipients at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

36. Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.


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37. Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

a. New construction;

b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

38. Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.


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<p align="center"><i>SPECIAL CONDITIONS</i></p> <p>39. Prohibition on use of award funds for match under BVP program</p> <p>JAG funds may be used to purchase vests for an agency, but they may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.</p> <p>40. Certification of body armor "mandatory wear" policies</p> <p>The recipient agrees to submit a signed certification that all law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.</p> <p>41. Body armor - compliance with NIJ standards</p> <p>Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (https://nij.gov/). In addition, ballistic-resistant and stab-resistant body armor purchased must be American-made. The latest NIJ standard information can be found here: https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx.</p> <p>42. Required monitoring of subawards</p> <p>The recipient must monitor subawards under this JAG award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.</p> <p>43. Reporting requirements</p> <p>The recipient must submit quarterly Federal Financial Reports (SF-425) and semi-annual performance reports through OJP's GMS (https://grants.ojp.usdoj.gov). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.</p> <p>44. Required data on law enforcement agency training</p> <p>Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.</p>		



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45. Prohibited Expenditures List

Award funds may not be used for items that are listed on the Prohibited Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time. The Prohibited Expenditure List may be accessed here: <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

46. Controlled expenditures - prior written approval required

Award funds may not be used for items that are listed on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, without explicit written prior approval from BJA. The Controlled Expenditure List, and instructions on how to request approval for purchase or acquisitions are set out at <https://www.bja.gov/funding/JAGControlledPurchaseList.pdf>

47. Controlled expenditures - incident reporting

If an agency uses award funds to purchase or acquire any item on the Controlled Expenditure List at the time of purchase or acquisition, including as the list may be amended from time to time, the agency must collect and retain (for at least 3 years) certain information about the use of-- (1) any federally-acquired Controlled Equipment in the agency's inventory, and (2) any other controlled equipment in the same category as the federally-acquired controlled equipment in the agency's inventory, regardless of source; and the agency must make that information available to BJA upon request. Details about what information must be collected and retained are set out at <https://ojp.gov/docs/LE-Equipment-WG-Final-Report.pdf>.

48. Sale of items on Controlled Expenditure List

Notwithstanding the provision of the Part 200 Uniform Requirements set out at 2 C.F.R. 200.313, no equipment listed on the Controlled Expenditure List that is purchased with award funds may be transferred or sold to a third party, except as described below:

a. Agencies may transfer or sell any controlled equipment, except riot helmets and riot shields, to a Law Enforcement Agency (LEA) after obtaining prior written approval from BJA. As a condition of that approval, the acquiring LEA will be required to submit information and certifications to BJA as if it were requesting approval to use award funds for the initial purchase of items on the Controlled Expenditure List.

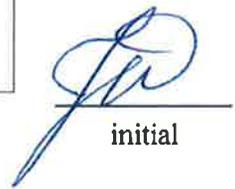
b. Agencies may not transfer or sell any riot helmets or riot shields purchased under this award.

c. Agencies may not transfer or sell any Controlled Equipment purchased under this award to non-LEAs, with the exception of fixed wing aircraft, rotary wing aircraft, and command and control vehicles. Before any such transfer or sale is finalized, the agency must obtain prior written approval from BJA. All law enforcement-related and other sensitive or potentially dangerous components, and all law enforcement insignias and identifying markings must be removed prior to transfer or sale.

The recipient must notify BJA prior to the disposal of any items on the Controlled Expenditure List purchased with award funds, and must abide by any applicable laws (including regulations) in such disposal.

49. Prohibited or controlled expenditures - Effect of failure to comply

Failure to comply with an award condition related to prohibited or controlled expenditures may result in denial of any further approvals of controlled expenditures under this or other federal awards.


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SPECIAL CONDITIONS

50. Controlled expenditures - Standards

Consistent with recommendation 2.1 of Executive Order 13688, a law enforcement agency that acquires controlled equipment with award funds must adopt robust and specific written policies and protocols governing General Policing Standards and Specific Controlled Equipment Standards. General Policing Standards includes policies on (a) Community Policing; (b) Constitutional Policing; and (c) Community Input and Impact Considerations. Specific Controlled Equipment Standards includes policies specifically related to (a) Appropriate Use of Controlled Equipment; (b) Supervision of Use; (c) Effectiveness Evaluation; (d) Auditing and Accountability; and (e) Transparency and Notice Considerations. Upon OJP's request, the recipient must provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols.

51. Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2016

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2016), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via a Grant Adjustment Notice). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through a Grant Adjustment Notice, the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

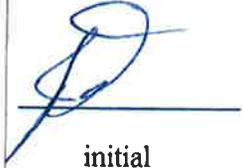
Nothing in this condition shall be understood to authorize the recipient (or any subrecipient at any tier) to use award funds to "supplant" State or local funds in violation of the recipient's certification (executed by the chief executive of the State or local government) that federal funds will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.

52. "Certification of Compliance with 8 U.S.C. 1373" required for valid award acceptance by a unit of local government *

In order validly to accept this award, the applicant local government must submit the required "Certification of Compliance with 8 U.S.C. 1373" (executed by the chief legal officer of the local government). Unless that executed certification either-- (1) is submitted to OJP together with the fully-executed award document, or (2) is uploaded in OJP's GMS no later than the day the signed award document is submitted to OJP, any submission by a unit of local government that purports to accept the award is invalid.

If an initial award-acceptance submission by the recipient is invalid, once the unit of local government does submit the necessary certification regarding 8 U.S.C. 1373, it may submit a fully-executed award document executed by the unit of local government on or after the date of that certification.

For purposes of this condition, "local government" does not include any Indian tribes.


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PROJECT NUMBER 2017-DJ-BX-0496		AWARD DATE 10/10/2018	
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53. Ongoing compliance with 8 U.S.C. 1373 is required *			
<p>1. With respect to the "program or activity" funded in whole or part under this award (including any such "program or activity" of any subrecipient at any tier), throughout the period of performance for the award, no State or local government entity, -agency, or -official may prohibit or in any way restrict-- (1) any government entity or -official from sending or receiving information regarding citizenship or immigration status as described in 8 U.S.C. 1373(a); or (2) a government entity or -agency from sending, requesting or receiving, maintaining, or exchanging information regarding immigration status as described in 8 U.S.C. 1373(b). For purposes of this award, any prohibition (or restriction) that violates this condition is an "information-communication restriction."</p>			
<p>2. Certifications from subrecipients. The recipient may not make a subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the subaward, using the appropriate form available at https://ojp.gov/funding/Explore/SampleCertifications-8USC1373.htm. Similarly, the recipient must require that no subrecipient (at any tier) may make a further subaward to a State or local government or a "public" institution of higher education, unless it first obtains a certification of compliance with 8 U.S.C. 1373, properly executed by the chief legal officer of the jurisdiction or institution that would receive the further subaward, using the appropriate OJP form.</p>			
<p>3. The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.</p>			
<p>4. Allowable costs. Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) that the recipient, or any subrecipient at any tier that is a State or local government or a "public" institution of higher education, incurs to implement this condition.</p>			
<p>5. Rules of Construction</p>			
<p>A. For purposes of this condition:</p>			
<p>(1) "State" and "local government" include any agency or other entity thereof, but not any institution of higher education or any Indian tribe.</p>			
<p>(2) A "public" institution of higher education is one that is owned, controlled, or directly funded by a State or local government.</p>			
<p>(3) "Program or activity" means what it means under title VI of the Civil Rights Act of 1964 (see 42 U.S.C. 2000d-4a).</p>			
<p>(4) "Immigration status" means what it means for purposes of 8 U.S.C. 1373 (Illegal Immigration Reform and Immigrant Responsibility Act of 1996); and terms that are defined in 8 U.S.C. 1101 (Immigration and Nationality Act) mean what they mean under that section 1101, except that the term "State" also shall include American Samoa (cf. 42 U.S.C. 901(a)(2)).</p>			
<p>(5) Pursuant to the provisions set out at (or referenced in) 8 U.S.C. 1551 note ("Abolition ... and Transfer of Functions"), references to the "Immigration and Naturalization Service" in 8 U.S.C. 1373 are to be read as references to particular components of the Department of Homeland Security (DHS).</p>			
<p>B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, any "public" institution of higher education, or any other entity (or individual) to violate any federal law, including any applicable civil rights or nondiscrimination law.</p>			



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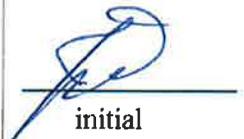


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 <p>U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance</p>	<p align="center">AWARD CONTINUATION SHEET Grant</p>	<p align="right">PAGE 17 OF 21</p>
<p>PROJECT NUMBER 2017-DJ-BX-0496 AWARD DATE 10/10/2018</p>		
<p align="center"><i>SPECIAL CONDITIONS</i></p> <p>IMPORTANT NOTE: Any questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.</p> <p>54. Authority to obligate award funds contingent on compliance with 8 U.S.C. 1373; unallowable costs; obligation to notify ★</p> <p>1. If the recipient is a State or local government--</p> <p>A. The recipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that is funded in whole or in part with award funds is subject to any "information-communication restriction."</p> <p>B. In addition, with respect to any project costs it incurs "at risk," the recipient may not obligate award funds to reimburse itself if -- at the time it incurs such costs -- the "program or activity" of the recipient (or of any subrecipient at any tier that is either a State or unit of local government or a "public" institution of higher education) that would be reimbursed in whole or in part with award funds was subject to any "information-communication restriction."</p> <p>C. Any drawdown of award funds by the recipient shall be considered, for all purposes, to be a material representation by the recipient to OJP that, as of the date the recipient requests the drawdown, the recipient and all subrecipients (regardless of tier) are in compliance with 8 U.S.C. 1373.</p> <p>D. The recipient must promptly notify OJP (in writing) if the recipient, from its requisite monitoring of compliance with award conditions or otherwise, has credible evidence that indicates that the funded "program or activity" of the recipient, or of any subrecipient at any tier that is either a State or a local government or a "public" institution of higher education, may be subject to any "information-communication restriction." In addition, any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must require prompt notification to the entity that made the subaward, should the subrecipient such credible evidence regarding an "information-communication restriction."</p> <p>2. Any subaward (at any tier) to a subrecipient that is either a State or a local government or a "public" institution of higher education must provide that the subrecipient may not obligate award funds if, at the time of the obligation, the "program or activity" of the subrecipient (or of any further such subrecipient at any tier) that is funded in whole or in part with award funds is subject to any "information-communication restriction."</p> <p>3. Absent an express written determination by DOJ to the contrary, based upon a finding by DOJ of compelling circumstances (e.g., a small amount of award funds obligated by the recipient at the time of a subrecipient's minor and transitory non-compliance, which was unknown to the recipient despite diligent monitoring), any obligations of award funds that, under this condition, may not be made shall be unallowable costs for purposes of this award. In making any such determination, DOJ will give great weight to evidence submitted by the recipient that demonstrates diligent monitoring of subrecipient compliance with the requirements set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."</p> <p>4. Rules of Construction</p> <p>A. For purposes of this condition "information-communication restriction" has the meaning set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required."</p> <p>B. Both the "Rules of Construction" and the "Important Note" set out in the award condition entitled "Ongoing compliance with 8 U.S.C. 1373 is required" are incorporated by reference as though set forth here in full.</p>		



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PROJECT NUMBER 2017-DJ-BX-0496

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SPECIAL CONDITIONS

55. Required State-level rules or practices related to aliens; allowable costs *

The following provisions apply to the recipient of this award, if the recipient is a State government, and also apply to any State-government subrecipient at any tier (whether or not the recipient is a State government).

1. Requirements

With respect to the "program or activity" that is funded (in whole or in part) by this award, as of the date the recipient accepts this award, and throughout the remainder of the period of performance for the award--

A. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that agents of the United States acting under color of federal law in fact are given to access any State (or State-contracted) correctional facility for the purpose of permitting such agents to meet with individuals who are (or are believed by such agents to be) aliens and to inquire as to such individuals' right to be or remain in the United States.

B. A State statute, or a State rule, -regulation, -policy, or -practice, must be in place that is designed to ensure that, when a State (or State-contracted) correctional facility receives from DHS a formal written request authorized by the Immigration and Nationality Act that seeks advance notice of the scheduled release date and time for a particular alien in such facility, then such facility will honor such request and -- as early as practicable (see para. 4.B. of this condition) -- provide the requested notice to DHS.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with the requirements of this condition.

3. Allowable costs

Compliance with these requirements is an authorized and priority purpose of this award. To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated (including for authorized reimbursements) for the reasonable, necessary, and allocable costs (if any) of-- (1) developing and putting into place statutes, rules, regulations, policies, and practices to satisfy this condition, and (2) permitting access as described in para. 1.A. above, and (3) honoring any request from DHS that is encompassed by para. 1.B. above.

4. Rules of construction

A. For purposes of this condition--

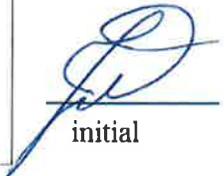
(1) the term "alien" means what it means under section 101 of the Immigration and Nationality Act (see 8 U.S.C. 1101(a)(3)).

(2) the term "correctional facility" means what it means under the Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (see 42 U.S.C. 3791(a)(7)).

B. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, any State or local government, or any other entity or individual to maintain (or detain) any individual in custody beyond the date and time the individual would have been released in the absence of this condition.

Current DHS practice is ordinarily to request advance notice of scheduled release "as early as practicable (at least 48 hours, if possible)." (See DHS Form I-247A (3/17)). In the event that (e.g., in light of the date DHS made such request) the scheduled release date and time for an alien are such as not to permit the advance notice that DHS has requested, it shall not be a violation of this condition to provide only as much advance notice as practicable.


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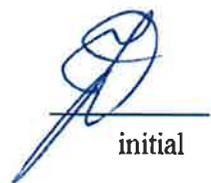
62. Withholding of funds: Memorandum of Understanding

The recipient may not obligate, expend, or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and a Grant Adjustment Notice (GAN) has been issued to remove this condition.

63. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.



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U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File
From: Orbin Terry, NEPA Coordinator
Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Seattle

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

 <p>U.S. Department of Justice Office of Justice Programs Bureau of Justice Assistance</p>	GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY Grant	
	PROJECT NUMBER 2017-DJ-BX-0496	PAGE 1 OF 1
This project is supported under FY17(BJA - JAG State and JAG Local) Title I of Pub. L. No. 90-351 (generally codified at 42 U.S.C. 3711 - 3797ff-5), including subpart 1 of part E (codified at 42 U.S.C. 3750 - 3758); see also 28 U.S.C. 530C(a).		
1. STAFF CONTACT (Name & telephone number) Jeffrey S. Felten-Green (202) 514-8874	2. PROJECT DIRECTOR (Name, address & telephone number) Diane Pilon Strategic Advisor 610 5th Avenue P.O. Box 34986 Seattle, WA 98124-4986 (206) 386-1996	
3a. TITLE OF THE PROGRAM BJA FY 17 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation	3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)	
4. TITLE OF PROJECT FY 2017 Edward Byrne Memorial Justice Assistance (JAG) Grant Formula Program		
5. NAME & ADDRESS OF GRANTEE City of Seattle 700 5th Avenue, Suite 5800 Seattle, WA 98124-4708	6. NAME & ADDRESS OF SUBGRANTEE	
7. PROGRAM PERIOD FROM: 10/01/2016 TO: 09/30/2020	8. BUDGET PERIOD FROM: 10/01/2016 TO: 09/30/2020	
9. AMOUNT OF AWARD \$ 657,975	10. DATE OF AWARD 10/10/2018	
11. SECOND YEAR'S BUDGET	12. SECOND YEAR'S BUDGET AMOUNT	
13. THIRD YEAR'S BUDGET PERIOD	14. THIRD YEAR'S BUDGET AMOUNT	
15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse) The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of criminal justice related activities based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; 7) crime victim and witness programs (other than compensation); and 8) mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams. This Local JAG award will be shared by the County and one or more jurisdictions identified as disparate within the current Fiscal Year eligibility list (www.bja.gov/jag). JAG funding will be used to support criminal justice initiatives that fall under one or more of the allowable program areas above. Any		

OJP FORM 4000/2 (REV. 4-88)


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equipment purchases or funded initiatives such as overtime, task forces, drug programs, information sharing, etc. will be aimed at reducing crime and/or enhancing public/officer safety.

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FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative

A. Personnel**CITY OF SEATTLE:**

Name/Position	Computation			Cost
Crime Prevention Coordinator Salary (3 positions)	weekly salary	# of weeks	# of positions	
	\$1,731	38	3	\$197,334

TOTAL:	\$197,334
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B. Fringe Benefits**CITY OF SEATTLE:**

Name/Position	Computation			Cost
Crime Prevention Coordinator Salary (3 positions)	weekly benefits	# of weeks	# of positions	
	\$480.90	38	3	\$54,823

TOTAL:	\$54,823
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Seattle SubTotal:	\$252,157
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G. Consultants/Contracts**CITY OF AUBURN:**

Purpose	OT Rate	# of Hours	Cost
Teen Late Night Program Officer OT	\$86.18	47	\$4,050
Citizen's Police Academy Program Officer OT	\$86.18	29	\$2,499
Fireworks Emphasis Program Officer OT	\$86.18	278	\$23,958
Misc. Supplies for Teen Late Night	vendor estimate		\$60

Auburn SubTotal:	\$30,568
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CITY OF BELLEVUE:

Purpose	Location	Item	Computation	Cost
Officer Safety Training		Airfare	8 x \$500 each	\$4,000.00
Officer Safety Training		Lodging	8 x \$400 each	\$3,200.00
Officer Safety Training		Per Diem	8 x \$250 each	\$2,000.00
Officer Safety Training		Conf. fee	8 x \$500 each	\$4,000.00
Officer Safety Training		Misc. Travel	8 x 114.75 each	\$918.00

Bellevue SubTotal:	\$14,118
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CITY OF BURIEN:

Purpose	Location	Computation	Cost
WSSO SRO Annual Conf. Registration	WA State	1 SRO x \$350	\$350
WSSO Conference Travel	WA State	500 miles x .56/mile	\$280
WSSO Conference Hotel/Per Diem	WA State	4 days x \$175/day	\$700
Bicycle Repair School Registration		1 Officer x \$250	\$250
Overtime for Training		40 hours x \$90/hour	\$3,600
Security Cameras and Installation for City Hall/Library		4 cameras x \$2,500/each	\$10,000
Less Lethal Shotguns		7 @ \$600 each	\$4,200

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative

Bicycle Racks	3 @ \$250 each	\$750
Misc. Police Equipment		\$948
Burien SubTotal:		\$21,078

CITY OF DES MOINES:

Item	Computation	Cost
One (1) Sergeant Instructor Overtime	24 hours x \$82	\$1,968
One (1) Sergeant Backfill Overtime	24 hours x \$82	\$1,968
Two (2) Officer Instructor Overtime	96 hours x \$70	\$6,720
Reality Based Officer Safety Equipment	vendor estimate	\$466
Des Moines SubTotal:		\$11,122

CITY OF FEDERAL WAY:

Item	Computation	Cost
Temporary IT Support	(average hourly rate) \$18 x 1907 Hours	\$34,331
Federal Way SubTotal:		\$34,331

CITY OF KENT:

Item	Computation	Cost
Officer OT - Racer Emphasis/Hot Spot Policing - 2018	\$65 x 72 hours	\$4,680
Officer OT - Racer Emphasis/Hot Spot Policing - 2019	\$67 x 72 hours	\$4,824
Social Security (OT)	\$9636 x .0765	\$736
Retirement (OT)	\$9636 x .065	\$626
Microsoft Surface Pro Tablets for use by FTOs	\$1,000 x 4 tablets	\$4,000
Civil Disturbance Team Upper Body Protective Equipment	vendor estimate	\$5,132
Enhancements to FATS Use of Force Training Simulator	vendor estimate	\$12,000
Graffiti Removal Kits	\$100 x 20 Kits	\$2,000
Kent SubTotal:		\$33,998

KING COUNTY:

Item	Computation	Cost
Patty Noble-Desy - Salary	75% of grant	\$150,848
Recidivism Reduction/Reentry Coordinator (Senior Project Manager)		
Patty Noble-Desy - Benefits	25% of grant	\$50,283
Recidivism Reduction/Reentry Coordinator (Senior Project Manager)		
King County SubTotal:		\$201,131

CITY OF RENTON:

Purpose	Computation	Cost
End Violence Against Women Conf Registration	Dallas TX 6 ofc x \$250	\$1,500
End Violence Against Women Annual Conf Travel	Dallas TX 6 @ 391	\$2,346

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative

End Violence Against Women Conf Hotel/PerDiem	WA State	5 days x \$175/day	\$5,250
Technology Training		Registration 1 @ 3500	\$3,500
Purchase of airfare and taxi voucher	WA State	40 @ \$25	\$1,000
Gift Cards (emergency groceries, supplies, and clothing)		80 @ 25	\$2,000
Hotel Vouchers for Victims		10 @ 100	\$1,000
Human Trafficking investigations (hotel rooms, Web access)		2 @ 500	\$1,000
Human Trafficking Victim Support - Transportation to and from Court		40 trips x \$12.50 each	\$500
Technology equipment – improvements and purchase new hardware		2@ 2224	\$4,448
Technology improvements (Software – New forensics program)		1@ 4000	\$3,192
Miscellaneous Supplies			\$404

Renton SubTotal:	\$26,140
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CITY OF SEATAC:

Item	Computation	Cost
Police Officer Overtime	\$100 per hour x 140 hours	\$14,000
Ballistic Blankets	2 @ \$1,500 each	\$3,000
Training Development/Implementation Supplies	415	\$415

SeaTac SubTotal:	\$17,415
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CITY OF TUKWILA:

Items	Computation	Cost
Leadership Training	3 @ \$1,667 (Location TBD)	\$5,001
Treadmill	1 @ \$5,916	\$5,916
Monitor and mount	1 @ \$1,000	\$1,000
Clothing ensemble for Firearms Instructors	2 @ \$2,000	\$4,000

Tukwila SubTotal:	\$15,917
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GRAND TOTAL	\$657,975
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BUDGET SUMMARY
Overall Summary

Budget Category	Total Budget
A. Personnel	\$197,334
B. Fringe Benefits	\$54,823
C. Travel	\$0
D. Equipment	\$0
E. Supplies	\$0

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative

F. Construction	\$0
G. Contractual	\$405,818
H. Other	\$0
Total Direct Costs:	<u><u>\$657,975</u></u>
TOTAL PROJECT COSTS:	\$657,975
TOTAL JOINT ALLOCATION:	\$657,975

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative

Budget Narrative

A. Personnel (\$197,334)

A request of \$197,334 is included for City of Seattle for salary costs associated with preservation of 3 Crime Prevention Coordinator Positions in the Seattle Police Department. This amount will pay for 38 weeks in 2018.

B. Fringe Benefits (\$54,823)

A request of \$54,823 is included for City of Seattle for fringe benefit costs associated with preservation of 3 Crime Prevention Coordinator Positions in the Seattle Police Department. Fringe benefits are City of Seattle standard fringe benefits for civilian personnel, and include FICA, Health Care Medicare, Life Insurance, Retirement, Workers Comp, EAP, Disability Insurance, and Death Benefits, and are calculated at a rate of approximately 28% of base salary.

G. Consultants/Contracts (\$405,818)

As the fiscal agent, City of Seattle will enter into Interagency Agreements with all of the sub-agencies listed below. Sub-Agencies will be required to spend their funds, and then request reimbursement from City of Seattle. Therefore, we are listing all of the costs associated with their programs under Consultants/Contracts:

City of Auburn (\$30,568)

A request of \$30,568 will cover Auburn Police Officer overtime costs associated with three programs requested by City of Auburn: Teen Late Night, Citizen's Police Academy, and Fireworks Emphasis Patrols. At an average overtime rate of \$86.18 per hour, approximately 354 hours of overtime will be worked. Additionally, \$60 is requested for miscellaneous office supplies for Teen Late Night.

City of Bellevue (\$14,118)

All of the proposed Bellevue allocation of \$14,118 shall be allocated to Travel/Training for the Investigations Unit, to include Special Operations Group and Crime Analysis as well. Costs will be expended in the traditional categories—Airfare, lodging, conference fees, per diem, and miscellaneous travel (baggage, transportation to/from airport, etc.). All trips shall be used toward conferences/courses that emphasis Officer Safety/Wellness.

City of Burien (\$21,078)

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative

Training/Travel (\$1,580): Besides basic academy and ongoing required training, the City of Burien has no budget dedicated towards the enhanced training of its officers. Having the ability to send officers to enhanced training will make our officers more effective towards reducing crime and improving officer safety. Travel costs are included if the annual class is not located nearby. Training classes proposed include school resource officer training, and a bicycle repair class so repairs to the 2 new police bikes can be done in-house, rather than sent to a bicycle shop.

Overtime for training (\$3,600): In addition, our total number of officers generally only allows us to meet minimum staffing requirements. Overtime backfill is required most of the time when we send officers to training, and funds from this grant would be used to fulfill our staffing requirements when sending officers to important training.

Security cameras and installation (\$10,000): Increased social disorder crimes are occurring in the downtown Town Square area near the City Hall/Library. Security cameras and installation are proposed as a way to help manage these crimes.

Less lethal shotguns (\$4,200): Less lethal shotguns are proposed as a potential way to handle escalated incidents from longer distance than Taser guns allow.

Bicycle Racks/Misc. Police Equipment (\$1,698): Two new police bikes were purchased with an earlier JAG grant, so bicycle racks and other miscellaneous bicycle/police equipment is proposed.

City of Des Moines (\$11,122)

Funds from the JAG Grant will allow the Des Moines Police Department to pay instructor overtime to provide reality-based training utilizing simulations as a means to optimize future performance and enhance officer safety. In addition, the grant funds will allow the department to pay overtime to backfill a sergeant position thus allowing the sergeant instructor to conduct the training during his scheduled work day.

There will be at least 4-12 hour long days of instruction requiring three (3) instructors for each day. The participant officers attending this training will be on their normal duty time.

Reality-Based / Officer Safety Training Program

One (1) Sergeant Instructor Overtime: 24 hours x \$82.00 = \$1,968

One (1) Sergeant Backfill Overtime: 24 hours x \$82.00 = \$1,968

Two (2) Officer Instructor Overtime: 96 hours x \$70.00 = \$6,720

Total Overtime Cost \$10,656

Funds from the JAG Grants will allow the Des Moines Police Department the ability to purchase necessary safety equipment to assure the participant officers and scenario actors are safe. This safety equipment includes headgear, gloves, eyewear or other protective equipment.

Reality-Based / Officer Safety Equipment = \$466

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative

City of Federal Way (\$34,331)

Funds are requested to provide temporary support personnel in the Information Technology Department to support GIS improvement for address verification and enhanced GIS mapping. The salary is based upon an average overtime rate of \$18 per hour and 1,907 hours worked.

City of Kent (\$33,998)

2017 JAG funds will include a total of \$9,504 in overtime wages. On the budget worksheet, each year is divided out – 2018 we estimate 72 hours of overtime at an average overtime rate of \$65 per hour. We increase the overtime rate for 2019 rates to include collective bargaining contracts wage increases. In 2018 we estimate 72 hours of overtime at a rate of \$67 per hour.

We included fringe benefits for the overtime. Fringe benefits include Social Security calculated at .0765 and Retirement calculated at .065.

We estimate the Microsoft Surface Pro Laptops/Tablets to cost \$1,000 each based upon the quote given to us from our Information Technology Department. We are requested four of these for a total of \$4,000.

We will use \$5,132 to purchase upper body protective equipment for members of our Civil Disturbance team. These items will include elbow pads, thinner less combative looking vests. We will work with our department uniform distributor to get the best pricing possible at the time these JAG funds become available. We will use \$12,000 to purchase technology which will enhance our Fire Arms Training Simulator. We will work with the vendor to get the best pricing possible at the time these JAG funds become available.

We budgeted \$2,000 to equip 20 additional graffiti removal kits with a cost of \$100 per kit. These kits include spray paint, roller pads, rollers, and graffiti wipes and are used by volunteers and community groups for graffiti clean-up.

King County (\$201,131)

Patty Noble-Desy: Recidivism Reduction/Reentry Coordinator (Senior Project Manager)
75% of grant: \$150,848 (Salary Costs)

Patty Noble-Desy: Recidivism Reduction/Reentry Coordinator (Senior Project Manager)
25% of grant: \$50,283 (Benefit Costs)

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative**City of Renton (\$26,140)**

Training is an ongoing challenge for all small police agencies. Finding the best and most relevant training can be a struggle. This agency has a history of insuring members of the organization receive the best possible training. However, since training can be costly, officer who attend outside training are required to bring this information back to their respective workgroups. Additionally, any new tactics or technics for investigating a crime are put into department wide training and regularly implemented department wide. This is the best way to maximize the use of this training money, effectively more than tripling its effectiveness. Funds will also be utilized to send Renton Police personnel to Technology related Training. Funds allocated for Training: \$12,596

Equipment funds will primarily be used for technological advances for the department. The added advantage here is that the Renton Police Department is utilizing its new expertise to our smaller law enforcement partners. This prevents them from having to ask larger, already overworked, agencies for their help. Additionally, we purchase updated investigative equipment that are often used to assist our partners in regional investigations such as our Valley Investigative Team, a regional use of force investigations group. Funds allocated for Equipment: \$7,640

Our projects require a certain amount of regular and ongoing supplies to keep them working. Such supplies include training and educational materials, printing materials, public display materials and repair or replacement materials for prints, copiers and fax systems. Funds in the supply category are additionally requested to support services for victims and for investigative supplies. Funds allocated for Supplies: \$5,904

City of SeaTac (\$17,415)

A request of \$14,000 is included for officer overtime. At an average overtime rate of approximately \$100 per hour, 140 hours of overtime will be worked. SeaTac Police will use the \$14,000 for 140 hours of overtime to develop /implement training and education programs related to In-Progress Violence Response Training and Education for first responders and community members; Law Enforcement Programs; Multiple-Assault Counter Terrorism Action Capability (MACTAC) Training; Civilian Response to Active Shooter Events (CRASE). This will include overtime for course/program development and implementation and backfill overtime while officers are in training.

A request of \$3,000 is included for the purchase of Ballistic Blankets. At \$1,500 each, two blankets will be purchased.

A request of \$415 is included for training development and implementation supplies. Supplies will be purchased to assist with development, implementation and maintenance of the training/education efforts.

FY 2017 JAG City of Seattle Joint Application – Budget Worksheet & Narrative**City of Tukwila (\$15,917)****Training and Professional Development: \$5001**

The Tukwila Police Department will use these funds to send department members to professional leadership development courses, such as the Leadership in Police Organizations course offered by the IACP. The Tukwila Police Department's strategic plan includes providing leadership training department wide, and the LPO course is one of nationally sought training courses due to the content and value of what is provided in the cost of the training. The cost for each attendee is \$1667 per attendee, for a three-week training course that is conducted one week at a time over three month time period.

Gym Equipment: \$5916

The Tukwila Police Department will use these funds to purchase a treadmill for the city owned gym facility. Our agency has identified an officer as a leader regarding employee health and physical fitness; this officer has conducted research to determine the most cost and quality effective treadmill that can be purchased with these funds.

Firearms Training Cadre Equipment: \$1,000

The Tukwila Police Department will use these funds to purchase a monitor and mount for the trailer that is used by the Firearms Cadre. A Firearms Cadre Instructor has conducted research to determine the size of monitor needed to maximize training efficiency, to include the corresponding sized mount. The cost for these two items is \$1,000.

Additionally, as our agency has grown, so has the size of our Firearms Instructor Cadre. Currently, there are two instructors who need to be fully outfitted with an instructor's uniform and corresponding gear. The cost for these two instructors to be fully outfitted is \$2,000 per instructor, for a total of \$4,000 to outfit both instructors. The uniform for each instructor will include: two pairs of range pants (\$250), two polo shirts (\$150), two pairs of shorts (\$150), cold weather gear (\$350), rain gear (\$350), equipment/armorer bags (\$150), storage containers (\$200), range vest carriers (\$400)

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Agency: Des Moines Police Department	
Contact Name: Assistant Chief Bob Bohl	Contact Phone: 206 870-7602

FY 2017 JAG Purpose Areas

Permissible uses of JAG Funds – In general

In general, JAG funds awarded to a unit of local government under this FY 2017 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice, including for any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams

Under the JAG Program, units of local government may use award funds for broadband deployment and adoption activities as they relate to criminal justice activities.

BJA areas of emphasis (Please see full descriptions in 2017 Local Solicitation):

BJA recognizes that there are significant pressures on local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. As a component of OJP, BJA intends to focus much of its work on the areas of emphasis described below, and encourages each unit of local government recipient of an FY 2017 JAG award to join us in addressing these challenges:

- *Reducing Gun Violence*
- *National Incident-Based Reporting System (NIBRS)*
- *Officer Safety and Wellness*
- *Border Security*
- *Collaborative Prosecution*

Evidence-Based Programs or Practices

OJP strongly emphasizes the use of data and evidence in policy making, program development, and program implementation in criminal justice, juvenile justice, and crime victim services. OJP is committed to:

- Improving the quantity and quality of evidence OJP generates
- Integrating evidence into program, practice, and policy decisions within OJP and the field
- Improving the translation of evidence into practice

Project Name: Reality-Based / Officer Safety Training Program	Project Cost: 11,122
Project Description: The Des Moines Police Department will use these grant funds to provide reality-based training utilizing realistic simulations as a means for optimizing future performance and enhance officer safety. Total cost of this training is \$10,656 which covers the overtime costs for our officer instructor overtime as well as sergeant instructor backfill overtime to conduct the training while participant officers are on duty. A request of \$466 is included to purchase additional safety equipment to conduct the reality-based training.	
Goals, Objectives, and Deliverables - In general, the FY 2017 JAG Program is designed to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. The JAG Local Program is designed to assist units of local government with respect to criminal justice: <ol style="list-style-type: none"> 1. The Des Moines Police Department's reality-based instructors will develop at least two (2) separate training scenarios. 2. Three (3) instructors will coordinate at least two (2) training days – twelve (12) hours for each reality-based training scenarios. These twelve (12) hours of training will cover both the AM & PM Patrol Teams thus allowing our officers to participate in the training while on-duty. Having the two (2) training days for each scenario will allow each of the four (4) patrol teams to participate in the two (2) separate reality-based training scenarios to optimize future performance in stress related use of force situations as well as providing additional officer safety instruction. 3. The Department will also purchase additional safety equipment to be used during this training. 	
Statement of the Problem - Identify the unit of local government's strategy/funding priorities for the FY 2017 JAG funds and a description of the programs to be funded over the grant period. Units of local government are strongly encouraged to prioritize the funding on evidence-based projects: <p>Over the past few years, the budget the City of Des Moines had to prioritize programs and make adjustments to balance the operating budget. Therefore, there were only sufficient funds for the Police Department to provide in-service training to maintain certification per the Washington State Criminal Justice Training Commission and to maintain State Accreditation. Due to the lack of additional in-service training funds the police department had to eliminate any type of reality-based training due to the overtime costs associated. During these times of law enforcement public scrutiny relating to the use of force it is essential departments provide realistic simulations as a means for optimizing future performance as well as enhance officer safety. These JAG Grant funds will be used to cover the overtime costs for our reality-based instructors and sergeant shift coverage allowing our officers to attend the training during their normal shifts. In addition, we will purchase safety gear and/or supplies to ensure our offices and actors are safe during the reality-based training.</p>	

Project Design and Implementation – Describe the unit of local government’s strategic planning process, if any, that guides its priorities and funding strategy. This should include a description of how the local community is engaged in the planning process and the data and analysis utilized to support the plan; it should identify the stakeholders currently participating in the strategic planning process, the gaps in the needed resources for criminal justice purposes, and how JAG funds will be coordinated with State and related justice funds:

The Des Moines Police Departments establishes yearly goals which guides our Mission of providing quality, professional law enforcement services. As the department prepares these goals it obtains valuable input from the established Police Departments Citizen’s Advisory Board consisting of community members who are business owners, from educational institutions and local residents. This Advisory Board assists in establishing our priorities based upon the needs of our community. Several of the established Goals and Objectives align with this Reality-Based / Officer Safety Training Program:

GOAL #3

Recognize and utilize the expert staff within our own agency to build a stronger foundation of professionalism and a process for effective succession planning for the future.

Objectives

- 3.2: Increase the use of in-house instructors for necessary basic officer skills and training.
- 3.3: Incorporate additional in-service training opportunities.

GOAL #7

Enhance department member safety and wellness.

Objectives

- 7.2 Research and identify additional equipment needs.
- 7.3 Explore alternative funding sources for overall safety and wellness efforts.

This Reality-Based / Officer Safety Training Program is designed to only use the funds from the JAG Grant to cover the overtime cost for our department instructors and sergeant backfill overtime since our lead reality-based instructor is a sergeant. All other officer salary costs associated with this training will be covered by the Department’s current operating budget. Without these funds to support the costs associated with the instructor overtime we would be unable to provide this training.

Capabilities and Competencies – Describe any additional strategic planning/coordination efforts in which the units of local government participates with other criminal justice criminal/juvenile justice agencies in the State:

- Department has active members of the Washington State Sheriffs and Police Chiefs Association.
- Active member of the King County Police Chiefs Association.
- Active participant of the Regional Gang & Gun Violence initiative which is a collaborate effort from all the local jurisdictions in the South King County to include Seattle and the King County Superior Court Prosecutors to deal with the increase in violence in our communities.
- Inter-local Agreement with the Seattle Police Department who is the Fiscal Agent of our 2016 JAG Grant funds which supports our PD Efficiency & Internal Accountability Project.

- Inter-local Agreement with the Washington State Department of Corrections to provide office space within the police department building to support our partnership.
- Inter-local Agreement with the Highline School District to provide a School Resource Officer in Mt. Rainier High School.
- Memorandum of Understanding with the Highline College to support law enforcement functions.

Plan for Collecting the Data Required for this Solicitation's Performance Measures –

BJA does not require applicants to submit performance measures data with their application. Performance measures are included as an alert that BJA will require successful applicants to submit specific data as part of their reporting requirements. For the application, applicants should indicate an understanding of these requirements and provide the applicant's plan for collection of performance measures that pertain to their proposed program:

This Reality-Base / Officer Safety Training Program will identify other specific use of force and/or officer safety techniques for future in-service training.

The instructors will video record the participant officer in each scenario thus capturing use of force tactics and/or officer safety concerns thus providing immediate feedback during the participant officer de-brief. Also, during the scenarios, the instructor will assure the participant officer will eventually complete the scenario using appropriate use of force and officer safety techniques to reinforce a positive outcome.

Applicants must identify between 1 and 5 Project Identifiers that would be associated with proposed project activities.

The list of identifiers can be found at www.bja.gov/funding/JAGIdentifiers.pdf.

- Excessive Use of Force
- Officer Safety
- Training - Use of Force
- Training - De-Escalation

This Reality-Based / Officer Safety Training Program will provide valuable training to our commission staff using realistic scenarios to enhance his/her decision making relating to the use of force, de-escalation techniques and improve officer safety.

BUDGET:

Budget Worksheet: Please use Attached Budget Worksheet Template

Budget Narrative: The Budget Narrative should thoroughly and clearly describe every category of expense listed in the proposed Budget Detail Worksheet. OJP expects proposed budgets to be complete, cost effective, and allowable (e.g., reasonable, allocable, and necessary for project activities). This narrative should include a full description of all costs, including administrative costs (if applicable).

An applicant should demonstrate in its Budget Narrative how it will maximize cost effectiveness of award expenditures. Budget narratives should generally describe cost effectiveness in relation to potential alternatives and the goals of the project. For example, a budget narrative should detail why planned in-person meetings are necessary, or how technology and collaboration with outside organizations could be used to reduce costs, without compromising quality.

The Budget Narrative should be mathematically sound and correspond clearly with the information and figures provided in the Budget Detail Worksheet. The narrative should explain how the applicant estimated and calculated all costs, and how those costs are necessary to the completion of the proposed project. The narrative may include tables for clarification purposes, but need not be in a spreadsheet format. As with the Budget Detail Worksheet, the Budget Narrative should describe costs by year.

Please indicate the project's compliance with federal grant criteria and briefly explain any affirmative responses.

No JAG funds may be expended outside of the JAG purpose areas. Even within these purpose areas, however, JAG funds cannot be used directly or indirectly for security enhancements or equipment to nongovernmental entities not engaged in criminal justice or public safety. Nor may JAG funds be used directly or indirectly to provide for any of the following matters unless BJA certifies that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order:

- *Vehicles, vessels, or aircraft*
- *Luxury items*
- *Real estate*
- *Construction projects, other than penal or correctional institutions*
- *Any similar matters*

Is there anything in your project that could be interpreted as inconsistent with this requirement?

No, there is nothing in this proposed project which could be interpreted as inconsistent with JAG Funding requirements.

Federal funds must be used to supplement existing funds for program activities and cannot replace or supplant nonfederal funds that have been appropriated for the same purpose

Is there anything in your project that could be interpreted as inconsistent with this requirement?

No, there is nothing that could be interpreted as inconsistent with JAG funding requirements. Currently, there are no non-federal funds available to use to pay the instructor overtime costs associated with this project. Without the JAG Grant funding we would not have the ability to provide this Reality-Based / Officer Safety Training.

Applicant Disclosure of Pending Applications

Applicants are to disclose whether they have pending applications for federally funded grants or subgrants (including cooperative agreements) that include requests for funding to support the same project being proposed under this solicitation and will cover the identical cost items outlined in the budget narrative and worksheet in the application under this solicitation. The disclosure should include both direct applications for federal funding (e.g., applications to federal agencies) and indirect applications for such funding (e.g., applications to state agencies that will subaward federal funds).

OJP seeks this information to help avoid any inappropriate duplication of funding. Leveraging multiple funding sources in a complementary manner to implement comprehensive programs or projects is encouraged and is not seen as inappropriate duplication.

Applicants that have pending applications as described above are to provide the following information about pending applications submitted within the last 12 months:

- the federal or state funding agency
- the solicitation name/project name
- the point of contact information at the applicable funding agency.

Please use table below for any pending applications:

Federal or State Funding Agency	Solicitation Name/Project Name	Name/Phone/E-mail for Point of Contact at Funding Agency
N/A		

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Draft Ordinance No. 19-060 –
Refunding and refinancing SCORE bonds and
amending the Interlocal Agreement (ILA)

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: September 18, 2019

ATTACHMENTS:

1. Draft Ordinance No. 19-060 – Refunding and refinancing SCORE bonds and amending the ILA
2. Amended and Restated ILA
3. Amended and Restated ILA (red-lined)

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal *MA*
- Finance *Baw*
- Courts _____
- Police _____

APPROVED BY CITY MANAGER
FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is for the City Council to consider Draft Ordinance No. 19-060 which authorizes the refunding and refinancing of the South Correctional Entity (SCORE) capital bonds and amends the Interlocal Agreement to include the City of Des Moines as a Member City.

Suggested Motion

Motion 1: “I move to suspend Rule 26(a) to enact Draft Ordinance No. 19-060 on first reading.”

Motion 2: “I move to enact Draft Ordinance No. 19-060 authorizing the refunding and refinancing of SCORE capital bonds and approving amendments to the Interlocal Agreement to include Des Moines as a Member City.”

Background

South Correctional Entity (SCORE) is a governmental administrative agency whose primary responsibility has been to meet the misdemeanor jail needs for seven owner/host cities — Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac, and Tukwila.

In 2009, these cities joined together under the authority of the Interlocal Cooperation Act (RCW 39.34) to establish Washington’s first regional jail. The SCORE Public Development Authority (PDA) was also created as a funding vehicle to issue bonds to provide long-term construction financing. At the time, the City of Des Moines was unable to join in the bond issuance due to the City’s low credit score and was therefore designated as the “Host City” instead of a “Member City.” Des Moines was still responsible for its proportionate share of the bond issuance and had pledged the City’s full faith and credit toward its proportionate share of the debt.

SCORE Jail opened in September 2011, housing misdemeanor inmates for its member cities and host City, and today also contracts with over 40 other agencies for jail services, which includes providing on-site medical and mental health services.

In 2018, citing increased costs, the city of Federal Way provided formal notice that they would be leaving SCORE at the end of 2019. As a result, the remaining cities were forced to take a number of actions to increase revenues for the jail while at the same time cutting expenses in order to reduce the overall impact of the departure of Federal Way.

Discussion

The proposed Draft Ordinance accomplishes a number of objectives to reduce costs to member cities as well as to update the ILA to reflect the future composition of member cities.

1. **Refunding the Bonds:** The Draft Ordinance provides the authority to refund and refinance the existing bonds on the facility. Through this process, it is anticipated that the SCORE cities will save approximately \$500,000 per year.
2. **Adding Des Moines as a Member City:** As a result of the City’s vastly improved financial situation and credit increase, Des Moines has now been invited to participate in the bond issuance as a Member City. There will be no increased cost for the City to be a Member City as Des Moines was paying its share of capital costs to the other cities and its allocable portion of costs of maintenance and operation of the SCORE facility through a Host City Agreement. This Host City Agreement will be terminated as a result of Des Moines becoming a Member City.
3. **As mentioned above,** the City of Federal Way provided notice that they will no longer be participating in SCORE as of January 1, 2020. The updated ILA removes references to the City of Federal Way. Federal Way will be required to pay off their share (17%) of the overall capital cost of the facility and is doing that through a separate bond issuance. This will amount to roughly \$21 million dollars.
4. **Updating voting requirements:** The updated ILA provides the Administrative Board with the authority to change the methodology used for calculating the Maintenance and Operation costs for Member Cities upon the vote of a supermajority. Previously, the unanimous

approval of all Member Cities City Council's was required. This high standard prevented some actions from being taken that could have provided greater budgeting certainty to Member Cities.

Alternatives

1. Approve the Draft Ordinance and ILA as presented.
2. Provide amendments to be negotiated with SCORE and other ILA parties.
3. Decline to approve the ILA. Provide additional direction to staff.

Financial Impact

The Amended and Restated ILA terminates the 'Host City Agreement' and the City of Des Moines becomes a member city. There will be no increased cost for the City of Des Moines to become a Member City as Des Moines was paying its share of capital costs to the other cities through a Host City Agreement. Per the Host City Agreement, the City of Des Moines would not have an equity position until all debts issued were paid; now the City of Des Moines will now have an equity position in SCORE. The savings estimated to be \$500,000 per year from the refunding of the bonds will reduce debt service costs for all member cities. The City of Des Moines will receive its proportionate share of this savings.

Recommendation

Approve the Draft Ordinance and ILA as submitted.

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CITY ATTORNEY'S FIRST DRAFT 9/19/2019**DRAFT ORDINANCE No. 19-060**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, REGARDING THE CITY'S PARTICIPATION IN THE SOUTH CORRECTIONAL ENTITY (SCORE); AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED INTERLOCAL AGREEMENT RELATING TO SCORE; APPROVING THE CITY'S CAPITAL CONTRIBUTION RELATED TO REFUNDING BONDS TO BE ISSUED TO REFINANCE THE SCORE FACILITY; AND APPROVING OTHER MATTERS RELATED THERETO.

WHEREAS, the City of Des Moines, Washington (the "City") is authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare; and

WHEREAS, pursuant to an ordinance adopted by the City Council and chapter 39.34 RCW, the Interlocal Cooperation Act, the City entered into a SCORE Interlocal Agreement with the other parties thereto dated February 25, 2009 and subsequently amended and restated on October 1, 2009 (as amended and restated, the "Original Interlocal Agreement"), to form a separate governmental administrative agency known as the South Correctional Entity ("SCORE"); and

WHEREAS, the South Correctional Entity Facility Public Development Authority (the "Authority"), a public corporation chartered by the City of Renton, pursuant to RCW 35.21.730 through 35.21.757, issued its Bonds, Series 2009A (the "2009A Bonds") and Bonds, Series 2009B (Taxable Build America Bonds—Direct Payment) (the "2009B Bonds," and together with the 2009A Bonds, the "2009 SCORE Bonds") on November 4, 2009, in the aggregate principal amount of \$86,235,000; and

WHEREAS, proceeds of the 2009 SCORE Bonds were used to finance a portion of the costs of acquiring, constructing, developing, equipping and improving a regional misdemeanor correctional facility located in Des Moines, Washington (the "SCORE Facility"), operated by SCORE; and

WHEREAS, pursuant to an ordinance adopted by the City Council, the City pledged its full faith and credit toward the payment of its allocable proportion of the debt service due on the 2009 SCORE Bonds issued by the Authority; and

WHEREAS, the 2009 SCORE Bonds are subject to defeasance and/or redemption prior to their stated maturity dates; and

WHEREAS, after due consideration it appears to the Board of Directors of the Authority that the 2009 SCORE Bonds may be defeased and/or redeemed prior to maturity by proceeds of refunding bonds (the "Refunding Bonds") and other legally available funds for overall debt service savings; and

WHEREAS, the City now desires to pledge its full faith and credit to the City's allocable portion of the Refunding Bonds and to amend and restate the Original Interlocal Agreement to provide for such refunding and other matters as provided herein;

THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1. Definitions. Terms defined in the recitals of this resolution are incorporated as if fully set forth herein. Terms not otherwise defined in this resolution shall have the meanings set forth in the Interlocal Agreement (defined in Section 2).

Section 2. Approval of Interlocal Agreement. The City hereby approves the Amended and Restated SCORE Interlocal Agreement substantially in the form attached hereto as Exhibit A and incorporated herein by this reference (the "Interlocal Agreement"). The City Manager is hereby authorized and directed to execute the Interlocal Agreement, on behalf of the City, with such changes as determined to be appropriate by such representative and in the best interest of the City. On the Effective Date, the Interlocal Agreement shall amend and restate, in its entirety, the Original Interlocal Agreement.

The City Manager is hereby designated, together with his or her designee, as the "Designated Representative" for purposes of the Interlocal Agreement. The Interlocal Agreement may be further amended from time to time as provided therein. The City hereby authorizes and confirms the authority vested in the Administrative Board as provided in the Interlocal Agreement.

Section 3. City Contributions. The Authority has proposed to issue one or more series of refunding bonds (the "Refunding Bonds"), the proceeds of which will be used, together with other legally available funds, to refund the outstanding 2009 SCORE Bonds for overall debt service savings.

The City hereby irrevocably covenants and agrees to pay its capital contribution in the percentage provided for in the Interlocal Agreement, which is equal to the City's allocated owner percentage as shown in the following chart (the "Owner Percentage"), to pay debt service on the Refunding Bonds as the same shall become due and payable and to pay administrative expenses of the Authority with respect to the Refunding Bonds (the "Capital Contribution").

The Owner Percentage allocated to the City is as follows:

<u>Owner City</u>	<u>Owner Percentage</u>
Auburn	34.94%
Renton	40.96
Tukwila	9.64
Des Moines	6.02
Burien	4.82
SeaTac	3.62
Total	100.00%

The authorization contained in this ordinance is conditioned upon the issuance of Refunding Bonds not exceeding the aggregate principal amount of \$56,000,000 without obtaining additional Council approval.

The City recognizes that it is not obligated to pay the Capital Contribution of any other Member City; the Capital Contribution of the City shall be limited to its Owner Percentage allocable share of such obligations; all such payments shall be made by the City without regard to the payment or lack thereof by any other jurisdiction; and the City shall be obligated to budget for and pay its Capital Contribution unless relieved of such payment in accordance with the Interlocal Agreement.

The City's obligation to pay its Capital Contribution shall be an irrevocable full faith and credit obligation of the City, payable from property taxes levied within the constitutional and statutory authority provided to cities without a vote of the qualified electors on all of the taxable property within the City and other sources of revenues available therefor. The City hereby obligates itself and commits to budget for and pay its Capital Contribution and to set aside and include in its calculation of outstanding nonvoted general obligation indebtedness an amount equal to the principal component of its

Capital Contribution for so long as any Refunding Bonds issued by the Authority remain outstanding.

All payments with respect to the Refunding Bonds shall be made to SCORE in its capacity as administrator and servicer of the Refunding Bonds to be issued by the Authority.

Section 4. General Authorization; Ratification. The City Manager, the City Finance Director, the City Clerk, and other appropriate officers of the City are authorized and directed to undertake all action necessary for the prompt execution and delivery of the Interlocal Agreement and the issuance of the Refunding Bonds by the Authority, and to execute all closing certificates, agreements, contracts and documents required to effect the closing and delivery of the Refunding Bonds, the implementation of the Interlocal Agreement, and the withdrawal of Federal Way as a Member City of SCORE effective December 31, 2019. Such documents may include, but are not limited to, an undertaking to provide ongoing disclosure in connection with Securities and Exchange Commission Rule 15c2-12 (the "Rule") under the Securities Exchange Act of 1934, as amended; any disclosure documents delivered for purposes of the Rule in connection with the issuance of the Refunding Bonds and pertaining to the City; and documents regarding the tax status of any Refunding Bonds issued on a tax-exempt basis under the Internal Revenue Code of 1986, as amended. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

Section 5. Effective Date. This ordinance shall take effect and be in force from and after passage and publication as provided by law.

PASSED by the City Council of the City of Des Moines, this ____ day of _____, 2019, and signed in authentication of its passage this ____ day of _____, 2019.

M A Y O R

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk

Published: _____

Effective Date: _____

EXHIBIT A

**Form of Amended and Restated SCORE Interlocal Agreement
(attached)**

AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT

among

CITY OF AUBURN,

CITY OF BURIEN,

CITY OF DES MOINES,

CITY OF RENTON,

CITY OF SEATAC,

AND

CITY OF TUKWILA, WASHINGTON

Dated as of _____, 2019

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AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT

THIS AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT is effective as of the date written below and is by and among the Cities of Auburn, Burien, Des Moines, Renton, SeaTac and Tukwila, Washington, all of which are municipal corporations under the laws and statutes of the State of Washington:

RECITALS:

WHEREAS, the Member Cities (as defined herein) are authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare; and

WHEREAS, chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes municipalities in Washington to enter into agreements for the joint undertaking of certain projects as provided therein; and

WHEREAS, in 2009 the Member Cities formed a separate governmental administrative agency pursuant to an interlocal agreement and RCW 39.34.030(3) known as the South Correctional Entity (“SCORE”) to establish and maintain a consolidated correctional facility to be located in the City of Des Moines (the “SCORE Facility”) to serve the Member Cities and federal and state agencies and other local governments that may contract with SCORE in the future to provide correctional services essential to the preservation of the public health, safety and welfare; and

WHEREAS, the Member Cities now desire to amend and restate the formation interlocal agreement as provided herein;

NOW THEREFORE, it is hereby agreed and covenanted among the undersigned as follows:

Section 1. Definitions. Capitalized terms used in this SCORE Interlocal Agreement shall have the meanings given such terms in the recitals hereof and as follows:

“Administrative Board” means the governing board of SCORE created pursuant to Section 5 of this SCORE Interlocal Agreement.

“Bonds” mean bonds, notes or other evidences of borrowing issued by the SCORE Facility Public Development Authority to finance and/or refinance the SCORE Facility and for any other SCORE purpose.

“Budget” means the budget prepared by the Facility Director in consultation with the Operations Board, and submitted to the Administration Board for its approval in accordance with Section 5 and Section 9 of this SCORE Interlocal Agreement, which budget shall set forth (a) an estimate of the costs of capital improvements required to be

made to the SCORE Facility within the applicable year, (b) on a line item basis, all anticipated revenues and expenses for the operation and maintenance of the SCORE Facility for the applicable year, and (c) any information required by policies adopted by the Administrative Board pursuant to Section 9(b) of this SCORE Interlocal Agreement.

“Capital Contribution” means, for each Owner City, that Owner City’s Owner Percentage multiplied by the principal of and interest on Bonds as the same shall become due and payable.

“Code” means the Internal Revenue Code of 1986, as amended.

“Costs of Maintenance and Operation” means all reasonable expenses incurred by SCORE in causing the SCORE Facility to be operated and maintained in good repair, working order and condition, and all costs of administering SCORE.

“Designated Representative” means the Mayor or the City Manager, as selected by each Member City, or his or her designee.

“Effective Date” has the meaning set forth in Section 19 of this Agreement.

“Facility Director” means the director of the SCORE Facility selected by the Administrative Board pursuant to Section 7 of this SCORE Interlocal Agreement.

“Finance Committee” means the committee formed pursuant to Section 6 of this SCORE Interlocal Agreement.

“Host City” means the City of Des Moines, Washington.

“Host City Agreement” means the Host City Agreement among the cities of Renton, Federal Way, Auburn and Des Moines and SCORE dated as of October 1, 2009.

“Member Cities” mean the Owner Cities and, until the date provided for in Section 20, the City of Federal Way.

“Operations Board” means the board formed pursuant to Section 6 of this SCORE Interlocal Agreement.

“Owner Cities” mean the Cities of Auburn, Burien, Des Moines, Renton, SeaTac and Tukwila, Washington.

“Owner Percentage” means the percentage assigned to each Owner City, as follows:

<u>Owner City</u>	<u>Owner Percentage</u>
Auburn	34.94%
Renton	40.96
Tukwila	9.64
Des Moines	6.02
Burien	4.82
SeaTac	3.62
Total	100.00%

“Presiding Officer” means the member of the Administrative Board selected pursuant to Section 5 of this SCORE Interlocal Agreement.

“SCORE” means the governmental administrative agency established pursuant to RCW 39.34.030(3) by the Member Cities.

“SCORE Facility” means the consolidated correctional facility acquired, constructed, improved, equipped, maintained and operated by SCORE.

“SCORE Facility Public Development Authority” means the South Correctional Entity Facility Public Development Authority chartered by the City of Renton, Washington.

“SCORE Interlocal Agreement” or **“SCORE Formation Interlocal Agreement”** means this Amended and Restated SCORE Interlocal Agreement among the Member Cities, as amended from time to time.

“Subscribing Agencies” mean the federal and state agencies, municipal corporations, and other local governments, other than the Member Cities, that contract with SCORE for correctional services at the SCORE Facility pursuant to the terms of this SCORE Interlocal Agreement.

“2009 SCORE Bonds” mean the SCORE Facility Public Development Authority Bonds, Series 2009A and Bonds, Series 2009B (Taxable Build America Bonds—Direct Payment) issued on November 4, 2009, in the aggregate principal amount of \$86,235,000.

Section 2. SCORE Facility; Authority.

(a) Administrative Agency. There is hereby established a governmental administrative agency pursuant to RCW 39.34.030(3) to be known as the South Correctional Entity (“SCORE”). SCORE shall consist of the Member Cities.

(b) Powers of SCORE. SCORE shall have the power to acquire, construct, own, operate, maintain, equip, and improve a correctional facility known as the “SCORE Facility” and to provide correctional services and functions incidental thereto, for the purpose of detaining arrestees and sentenced offenders in the furtherance of public safety and emergencies within the jurisdiction of the Member Cities. The SCORE Facility may serve the Member Cities and Subscribing Agencies which are in need of correctional facilities. Any agreement with a Subscribing Agency shall be in writing and approved by SCORE as provided herein.

(c) Administrative Board. The affairs of SCORE shall be governed by the Administrative Board formed pursuant to Section 5 of this SCORE Interlocal Agreement. The Administrative Board shall have the authority to:

- (1) Recommend action to the legislative bodies of the Member Cities;
- (2) Approve the Budget, adopt financial policies and approve expenditures;
- (3) Establish policies for investing funds and incurring expenditures of Budget items for the SCORE Facility;
- (4) Review and adopt a personnel policy for the SCORE Facility;
- (5) Establish a fund, or special funds, as authorized by chapter 39.34 RCW for the operation of the SCORE Facility;
- (6) Conduct regular meetings as may be designated by the Administrative Board;
- (7) Determine what services shall be offered at the SCORE Facility pursuant to the powers of SCORE and under what terms they shall be offered;
- (8) Enter into agreements with third parties for goods and services necessary to fully implement the purposes of this SCORE Interlocal Agreement;
- (9) Establish rates for services provided to members, subscribers or participating agencies;
- (10) Direct and supervise the activities of the Operations Board and the Facility Director;
- (11) Enter into an agreement with a public corporation or otherwise to incur debt;
- (12) Make purchases or contract for services necessary to fully implement the purposes of this SCORE Interlocal Agreement;

(13) Enter into agreements with and receive and distribute funds from any federal, state or local agencies;

(14) Receive and account for all funds allocated to the SCORE Facility from its members;

(15) Purchase, take, receive, lease, take by gift, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, in the name of the SCORE Facility;

(16) Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of property and assets;

(17) Sue and be sued, complain and defend, in all courts of competent jurisdiction in its name;

(18) Make and alter bylaws for the administration and regulation of its affairs;

(19) Enter into contracts with Subscribing Agencies to provide correctional services;

(20) Employ employees as necessary to accomplish the terms of this SCORE Interlocal Agreement;

(21) Establish policies and procedures for adding new parties to this SCORE Interlocal Agreement; and

(22) Engage in any and all other acts necessary to further the goals of this SCORE Interlocal Agreement.

Section 3. Duration of Agreement.

The initial duration of this SCORE Interlocal Agreement (commencing from February 25, 2009, the date of the original interlocal agreement relating to SCORE) shall be for a period of ten (10) years and, thereafter, shall automatically extend for additional five (5) year periods unless terminated as provided in this SCORE Interlocal Agreement. Notwithstanding the foregoing, this SCORE Interlocal Agreement shall not terminate until all Bonds issued by the SCORE Facility Public Development Authority as provided in Section 15 of this SCORE Interlocal Agreement are no longer outstanding.

Section 4. Withdrawal and Termination.

(a) Subject to Section 4(g) below, any Member City may withdraw its membership and terminate its participation in this SCORE Interlocal Agreement by providing written notice and serving that notice on the other Member Cities on or before

December 31 in any one-year. After providing appropriate notice as provided in this Section, that Member City's membership withdrawal shall become effective on the last day of the year following delivery and service of appropriate notice to all other Member Cities.

(b) Subject to Section 3 above, four (4) or more Member Cities may, at any one time, by written notice provided to all Member Cities, call for a termination of SCORE and this SCORE Interlocal Agreement. Upon an affirmative supermajority vote (majority plus one) by the Administrative Board, SCORE shall be directed to terminate business, and a date will be set for final termination, which shall be at least one (1) year from the date of the vote to terminate this SCORE Interlocal Agreement. Upon the final termination date, this SCORE Interlocal Agreement shall be fully terminated.

(c) Subject to Section 4(g) below, in the event any Member City fails to budget for or provide its applicable annual funding requirements for SCORE as provided in Section 15 hereof, the remaining Member Cities may, by majority vote, immediately declare the underfunding City to be terminated from this SCORE Interlocal Agreement and to have forfeited all its rights under this SCORE Interlocal Agreement as provided in Section 4(e). The remaining Member Cities may, at their option, withdraw SCORE's correctional services from that City, or alternatively, enter into a Subscribing Agency agreement with that City under terms and conditions as the remaining Member Cities deem appropriate.

(d) Time is of the essence in giving any termination notice.

(e) If an individual Owner City withdraws its membership in SCORE, the withdrawing City will forfeit any and all rights it may have to SCORE's real or personal property, or any other ownership in SCORE, unless otherwise provided by the Administrative Board.

(f) Upon termination of this SCORE Interlocal Agreement, all property acquired during the life of this SCORE Interlocal Agreement shall be disposed of in the following manner:

(1) All real and personal property acquired pursuant to this SCORE Interlocal Agreement shall be distributed to the Owner Cities based on the Owner Percentages; and

(2) All unexpected funds or reserve funds shall be distributed based on the percentage of average daily population at the SCORE Facility for the last three (3) years prior to the termination date of those Member Cities still existing on the day prior to the termination date.

(g) Notwithstanding any of the other rights, duties or obligations of any Member City under this Section 4, the withdrawal of any Owner City from this SCORE

Interlocal Agreement shall not discharge or relieve the Owner City that has withdrawn pursuant to Section 4(a) or been terminated pursuant to Section 4(c) of its obligation to pay debt service on Bonds issued by the SCORE Facility Public Development Authority. An Owner City may be relieved of its obligation under this SCORE Interlocal Agreement to make payments with respect to its Capital Contribution if the Administrative Board, by supermajority vote (majority plus one), authorizes such relief based on a finding that such payments are not required to pay debt service on Bonds issued by the SCORE Facility Public Development Authority.

Section 5. Administrative Board.

(a) **Formation.** An Administrative Board composed of the Designated Representative from each Member City shall govern the affairs of SCORE.

(b) **Allocation of Votes.** Each Board member shall have an equal vote and voice in all Board decisions.

(c) **Voting Requirements.** Votes regarding (1) debt; (2) approval of the Budget; (3) employment of the Facility Director; (4) cost allocations made prior to the issuance of Bonds; and (5) approval of labor contracts, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities, two (2) of which shall have the highest and the second highest average daily population in the SCORE Facility for the 12-month period ending June 30 (or other such date as the Administrative Board shall determine as set forth in its financial policies) of the preceding year.

Votes regarding (1) the conveyance of real property; (2) the addition of additional services pursuant to this SCORE Interlocal Agreement not directly incidental to correctional services (such as providing court services); and (3) matters addressed in Sections 4(b) and (g) and Section 15(d)(2)(iv) of this SCORE Interlocal Agreement, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities.

(d) **Parliamentary Authority.** Unless otherwise provided, Robert's Revised Rules of Order (newly revised) shall govern all procedural matters relating to the business of the Administrative Board.

(e) **Officers of the Administrative Board.** Members of the Administrative Board shall select a Presiding Officer from its members, together with such other officers as a majority of the Administrative Board may determine. Subject to the control of the Administrative Board, the Presiding Officer shall have general supervision, direction and control of the business and affairs of SCORE. On matters decided by the Administrative Board, the signature of the Presiding Officer alone is sufficient to bind SCORE.

(f) **Meetings of the Administrative Board.** There shall be a minimum of two (2) meetings each year. Unless otherwise designated by the Presiding Officer, the first

meeting shall be held on the second Tuesday of February of each year to review the prior years' service. The second meeting shall be on the second Tuesday of September of each year to consider and adopt a Budget for the following fiscal year. Other meetings may be held upon request of the Presiding Officer or any two members. All meetings shall be open to the public to the extent required by chapter 42.30 RCW.

Prior to January 1, 2020, five (5) members, and from and after January 1, 2020, four (4) members of the Administrative Board must be present at any meeting of the Administrative Board to comprise a quorum, and for the Administrative Board to transact any business. Proxy voting shall not be allowed. Members of the Administrative Board may participate in a meeting through the use of any means of communication by which all members and members of the public participating in such meeting can hear each other during the meeting. Any members of the Administrative Board participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

(g) Bylaws. The Administrative Board shall be authorized to establish bylaws that govern procedures of the Administrative Board and the SCORE Facility's general operations.

(h) Administrative Board Review. A general or particular authorization or review and concurrence of the Administrative Board by majority vote shall be necessary for all capital expenditures or contracts in excess of \$50,000.

Section 6. Operations Board; Finance Committee; Other Committees.

(a) Operations Board. There is established an Operations Board which shall be advisory to the Facility Director, staff and Administrative Board on operational matters of SCORE. The Administrative Board shall establish the specific purpose and duties of the Operations Board.

The Operations Board shall consist of up to nine (9) members selected as provided in this paragraph. One (1) member shall be designated by each of the Member Cities, and up to three (3) at-large members shall be selected, by majority vote, by the Subscribing Agencies to represent the police departments of the Subscribing Agencies. At the time set for election of the at-large members, only the representatives of the Subscribing Agencies, then in attendance, will participate in the election. The Member Cities' Operations Board representatives shall not participate in the at-large member elections. The at-large members shall serve one-year terms, unless otherwise determined by majority vote of the Operations Board. Each member of the Operations Board shall have an equal vote in all Operations Board decisions. The Operations Board shall be authorized to establish bylaws and/or procedures that govern its operations. The Operations Board shall elect a presiding officer from its members and shall determine the time and place of its meetings. All meetings shall be open to the public if and to the extent required by chapter 42.30 RCW.

(b) Finance Committee. There is established a Finance Committee, which shall be advisory to the Facility Director, staff and Administrative Board on finance matters of SCORE. The Administrative Board shall establish the specific purpose and duties of the Finance Committee. The Finance Committee shall consist of the finance directors or managers of each of the Member Cities. Each member of the Finance Committee shall have an equal vote in all Finance Committee decisions. The Finance Committee shall be authorized to establish bylaws and/or procedures that govern its operations. The Finance Committee shall elect a presiding officer from its members and shall determine the time and place of its meetings. All meetings shall be open to the public if and to the extent required by chapter 42.30 RCW.

(c) Standing or Temporary Committees. The Administrative Board may, from time to time, establish permanent and/or temporary committees to assist in its operations and operations of the SCORE Facility.

Section 7. Facility Director.

Day to day operations of SCORE and the SCORE Facility shall be administered by a Facility Director, who shall be appointed by the Administrative Board after receiving the recommendation of the Operations Board. The Administrative Board may accept or reject the Operations Board recommendation. Such Facility Director shall be responsible to the Administrative Board, shall develop the Budget in consultation with the Operations Board and shall take other appropriate means in order to fully implement the purposes of this SCORE Interlocal Agreement. The Facility Director shall administer SCORE and the SCORE Facility in its day-to-day operations consistent with the policies adopted by the Administrative Board. Such Facility Director shall have experience in technical, financial and administrative fields, and such appointment shall be on the basis of merit only.

Section 8. Personnel Policies.

(a) The Operations Board shall from time to time submit proposed personnel policies or proposed amendments to existing personnel policies to the Administrative Board for their approval, rejection or modification. All of such modifications or revisions shall be subject to the final approval of the Administrative Board.

(b) Such personnel policies shall provide for the initial appointment to the SCORE Facility's staff from the personnel presently, permanently appointed or assigned as corrections officers in the Member Cities. Additional employees shall be appointed by the Facility Director upon meeting the qualifications established by the Operations Board and adopted by the Administrative Board. None of such employees shall be commissioned members of any emergency service, but may be eligible for membership under the Public Employees Retirement Systems (PERS), or Public Safety Employees Retirement System (PSERS), as provided by law.

Section 9. Budget, Policies and Operations.

(a) The Facility Director shall distribute a proposed Budget to the Operations Board on or before August 1 of each year, which Budget, including any amendments by the Operations Board thereto, shall then be provided to the Administrative Board no later than September 1 of such year. Thereafter, the Member Cities shall be advised of the programs and objectives as contained in said Budget, and of the required financial participation for the ensuing year.

(b) The Administrative Board shall develop financial policies for SCORE as part of the budgetary process. Such policies may include, but are not limited to, (1) items to be provided for in the Budget, (2) a minimum contribution amount for each Member City to pay for Costs of Maintenance and Operation, (3) the process for allocating unexpended amounts paid by the Member Cities for Costs of Maintenance and Operation and assessing the Member Cities in the event of cost overruns, (4) establishing and maintaining reserve accounts, if any, and (5) the process for adding a new party to this SCORE Interlocal Agreement.

(c) The allocation of prorated financial participation among the Member Cities shall be calculated as provided in Section 15 hereof. Each Member City shall be unconditionally obligated to provide its allocable share of costs as provided in this SCORE Interlocal Agreement.

Section 10. Contracts and Support Services.

(a) The Administrative Board (or the Operations Board or the Facility Director, if so designated by the Administrative Board) shall, as necessary, contract with local governments for the use of space for its operations, auxiliary services including but not limited to records, payroll, accounting, purchasing, and data processing, and for staff prior to the selection of a Facility Director for the SCORE Facility.

(b) The Member Cities hereby agree to furnish legal assistance, from time to time, as approved by the Administrative Board. The Administrative Board may contract with the City Attorney of a Member City, other local government, or independent legal counsel as necessary.

Section 11. Policy and System Evaluation.

The Facility Director shall actively and continually consider and evaluate all means and opportunities toward the enhancement of operations effectiveness for correctional services so as to provide maximum and ultimate benefits to the members of the general public. The Facility Director shall present his or her recommendations to the Operations

Board from time to time. Any substantive change or deviation from established policy shall be subject to the prior approval of the Administrative Board.

Section 12. Additional Services Authorized.

The Administrative Board shall evaluate and determine the propriety of including additional correctional services for local governments, whenever so required, and shall determine the means of providing such services, together with its costs and effects. These additional services may include, but shall not be limited to the following: alternatives to incarceration, inmate transportation systems, and consolidated court services.

Section 13. Inventory and Property.

(a) Equipment and furnishings for the operation of the SCORE Facility shall be acquired by SCORE as provided by law. If any Member City furnishes equipment or furnishings for SCORE's use, title to the same shall remain with the respective local entity unless that equipment is acquired by SCORE.

(b) The Facility Director shall, at the time of preparing the proposed Budget for the ensuing year, submit to the Operations Board a complete inventory together with current valuations of all equipment and furnishings owned by, leased or temporarily assigned to SCORE. In case of dissolution of SCORE, such assigned or loaned items shall be returned to the lending governmental entity and all other items, including real property, or funds derived from the sale thereof, shall be distributed in accordance with Section 4(f) above.

(c) Title to real property purchased or otherwise acquired shall be held in the name of SCORE; provided however, that for valuable consideration received, SCORE may convey ownership of any real property as may be approved by supermajority vote (majority plus one) of the Administrative Board.

Section 14. Local Control.

Each Member City and Subscribing Agency shall retain the responsibility and authority for the operation of its police departments, and for such equipment and services as are required at its place of operation to utilize the SCORE Facility.

Section 15. SCORE Facility Financing and Construction; SCORE Facility Public Development Authority.

(a) SCORE Facility. In order to provide necessary services for the Member Cities and the Subscribing Agencies, SCORE has and/or shall acquire, construct, improve, equip, maintain and operate the SCORE Facility. The SCORE Facility is currently located in the City of Des Moines, Washington.

(b) Contracts for the SCORE Facility. The Administrative Board shall authorize, and the Presiding Officer of the Administrative Board, or his or her approved designee, will execute contracts for the development, improvement and maintenance of the SCORE Facility. These contracts may include, without limitation, contracts for architectural design and engineering, project management services, real estate acquisition, and construction.

(c) SCORE Facility Public Development Authority. In order to finance and refinance costs of acquiring, constructing, improving and equipping the SCORE Facility, the City of Renton has chartered the SCORE Facility Public Development Authority. The purpose of the SCORE Facility Public Development Authority is to issue Bonds to finance and refinance the acquisition, construction, improvement and equipping of the SCORE Facility and for any other SCORE purpose. The Administrative Board shall serve *ex officio* as the Board of Directors of the SCORE Facility Public Development Authority as further provided in the Authority's organizational charter. Upon issuance of Bonds by the SCORE Facility Public Development Authority, Bond proceeds shall be deposited on behalf of SCORE and used for the purposes set forth herein. SCORE shall be obligated to make payments to the SCORE Facility Public Development Authority at the time and in the amounts required to pay principal of and interest on the Bonds and any administrative costs of the SCORE Facility Public Development Authority.

(d) SCORE Facility Financing.

(1) *Capital Contributions.* Each Owner City shall be obligated to pay an amount equal to its Capital Contribution without regard to the payment or lack thereof by any other Owner City. No Owner City shall be obligated to pay the Capital Contribution of any other Owner City, and each Owner City shall be obligated to budget for and pay its Capital Contribution. The obligation of each Owner City to pay its Capital Contribution shall be an irrevocable full faith and credit obligation of such Owner City, payable from property taxes levied within the constitutional and statutory authority provided without a vote of the electors of the Owner City on all of the taxable property within the Owner City and other sources of revenues available therefor. Each Owner City has or will set aside and include in its calculation of outstanding nonvoted general obligation indebtedness an amount equal to the principal component of its Capital Contribution for so long as Bonds remain outstanding, unless relieved of such payment in accordance with Section 4(g). Each Owner City's obligation to pay the Capital Contribution shall not be contingent on the receipt of any revenues from other sources, including but not limited to Subscribing Agencies or any Member Cities.

An Owner City may prepay its Capital Contribution in a manner that is consistent with the authorizing documents for the Bonds; provided, however, that any such prepayment of one or more Owner Cities shall not affect the Capital Contribution of the

remaining Owner Cities. Any Owner City that elects to prepay its Capital Contribution shall be responsible for paying all costs associated with such prepayment.

(2) *Costs of Maintenance and Operation.* Subject to the terms of the financial policies established by the Administrative Board, each Member City shall be obligated to pay its allocable portion of Costs of Maintenance and Operation of the SCORE Facility, including any debt issued to finance such costs, as determined in this subsection.

(i) Until the end of the first calendar year of operations of the SCORE Facility (estimated to be December 31, 2012), the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation in such year shall be equal to the Member City's 2007 average daily population in all correctional facilities (as provided in the SCORE financial policies) multiplied by the Costs of Maintenance and Operation.

(ii) Commencing with the calendar year following the first calendar year of operations, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall be based on the Member City's average daily population in the SCORE Facility, as supplemented as necessary with the average daily population allocable to the Member Cities in all correctional facilities, for the 12-month period ending June 30 of the preceding year.

(iii) Commencing with the third calendar year of operations, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall be based on the Member City's average daily population in the SCORE Facility for the 12-month period ending June 30 (or other such date as the Administrative Board shall determine as set forth in its financial policies) of the preceding year.

(iv) Commencing with the calendar year beginning January 1, 2020, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall either (A) be based on the Member City's average daily population in the SCORE Facility for the 12-month period ending June 30 (or other such date as the Administrative Board shall determine as set forth in its financial policies) of the preceding year, or (B) be based on the methodology approved by an affirmative vote of a supermajority (majority plus one) of the Member Cities.

(e) Billing and Allocation of Revenues. Each Member City shall be billed for its Capital Contribution and its portion of Costs of Maintenance and Operation, as applicable, on a semiannual basis, or more frequently as determined by the Administrative Board, calculated as provided above. Revenues received in a calendar year from

Subscribing Agencies or from sources other than the contributions described above shall be allocated among the Member Cities either as set forth in the SCORE financial policies or as follows: (i) each Member City shall receive a credit against its obligation to pay Costs of Maintenance and Operation based on that Member City's proportional average daily population as calculated as provided above, and (ii) each Owner City shall receive a credit against its Capital Contribution based on that Owner City's proportional Owner Percentage.

(f) Host City. Pursuant to RCW 35.21.740, the City of Des Moines, as the Host City, hereby authorizes the City of Renton to operate the SCORE Facility Public Development Authority within the corporate limits of the City of Des Moines in a manner consistent with the terms of this SCORE Interlocal Agreement.

(g) Tax-Exemption. The Member Cities shall not (1) make any use of the proceeds from the sale of Bonds issued on a tax-exempt basis or any other money or obligations of the SCORE Facility Public Development Authority or the Member Cities that may be deemed to be proceeds of such Bonds pursuant to Section 148(a) of the Code that will cause such Bonds to be "arbitrage bonds" within the meaning of said Section and said regulations, or (2) act or fail to act in a manner that will cause such Bonds to be considered obligations not described in Section 103(a) of the Code.

(h) Additional Financing. Notwithstanding anything to the contrary in this SCORE Interlocal Agreement, bonds, notes or other evidences of borrowing may be issued from time to time by the SCORE Facility Public Development Authority or another issuer pursuant a separate agreement between one or more Member Cities and other entities to provide additional financing for the SCORE Facility on terms as agreed upon by the parties thereto.

(i) Special Facility Designation. The SCORE Facility, including all equipment, furnishings, and fixtures is critical to the ability of the Member Cities and the Subscribing Agencies to provide necessary and secure correctional services and assure public safety. Consequently, the SCORE Facility is essential to the preservation of the public health, safety, and welfare. As a result, the SCORE Facility's equipment, furnishings, and fixtures are special facilities subject to unique standards. Accordingly, based on the facts presented in this subsection, it is hereby resolved that the established policy of the Member Cities is that the SCORE Facility constitutes a "special facility" under RCW 39.04.280(1)(b), and all purchases of any kind or nature for the SCORE Facility shall be exempt from competitive bidding requirements as prescribed by Washington State statute but shall be governed by the procurement policy established by the Administrative Board as amended from time to time.

Section 16. Compliance with Continuing Disclosure Requirements.

To the extent necessary to meet the conditions of paragraph (d)(2) of United States Securities and Exchange Commission Rule 15c2-12 (the “Rule”), as applicable to a participating underwriter or remarketing agent for the Bonds, each Owner City will enter into an undertaking in a form acceptable at the time to the participating underwriter or remarketing agent, as the case may be.

Section 17. Miscellaneous.

(a) Interlocal Agreement. The Member Cities agree:

(1) This SCORE Interlocal Agreement is intended to create a separate administrative entity within the meaning of RCW 39.34.030(3) and not a “joint board” within the meaning of RCW 39.34.030(4)(a);

(2) The Designated Representative of each Member City is appointed as the “administrator” within the meaning of RCW 39.34.030(4)(a) responsible for administering the Member City’s rights and duties set forth in this SCORE Interlocal Agreement; and

(3) The Parties will file or post this Agreement as required by RCW 39.34.040.

(b) Governing Law. This SCORE Interlocal Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If any dispute arises between the Member Cities under any of the provisions of this SCORE Interlocal Agreement, resolution of that dispute shall be available only through the jurisdiction, venue and rules of the King County Superior Court, King County, Washington.

(c) Non-Waiver of Breach. The failure of any Member City to insist upon strict performance of any provision of this SCORE Interlocal Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this SCORE Interlocal Agreement.

(d) Compliance with all Laws. SCORE and the Member Cities shall comply with all federal, state and local laws, rules, regulations, resolutions and ordinances applicable to the performance of this SCORE Interlocal Agreement.

(e) Continuation of Performance. In the event that any dispute or conflict arises between the Member Cities while this SCORE Interlocal Agreement is in effect, the Member Cities hereto agree that, notwithstanding such dispute or conflict, they shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.

Section 18. Severability.

If any part, paragraph, section or provision of this SCORE Interlocal Agreement is adjudged to be invalid by any court of competent jurisdiction such adjudication shall not affect the validity of any remaining section, part or provision of this SCORE Interlocal Agreement.

Section 19. Effective Date; Amend and Replace Original Interlocal Agreement.

This SCORE Interlocal Agreement shall become effective on _____, 2019, the date of defeasance (the “Effective Date”) of all of the outstanding 2009 SCORE Bonds. On the Effective Date, this SCORE Interlocal Agreement shall amend and restate, in its entirety, the Amended and Restated SCORE Interlocal Agreement effective October 1, 2009.

Section 20. Federal Way Refunding Bonds; Agreement Between SCORE and Federal Way.

The City of Federal Way (“Federal Way”) and SCORE will enter into an agreement (the “SCORE/Federal Way Agreement”) to be dated the date of defeasance of all of the outstanding 2009 SCORE Bonds. Pursuant to the SCORE/Federal Way Agreement: (a) Federal Way acknowledges that the parties hereto will enter into this SCORE Interlocal Agreement; (b) until the effective date of its withdrawal from SCORE (December 31, 2019), Federal Way will be considered a “Member City” for purposes of this SCORE Interlocal Agreement, but shall not be considered an “Owner City” and shall not in any way be responsible for paying any share of any Bonds or other debt obligations of SCORE or the SCORE Facility Public Development Authority; (c) Federal Way agrees to issue bonds and to use the proceeds thereof to repay its capital contribution with respect to the 2009 SCORE Bonds (the “Federal Way Refunding Bonds”); and (d) for as long as the Federal Way Refunding Bonds, and any bonds issued to refund such bonds, issued on a tax-exempt basis are outstanding (which as of their date of issuance are scheduled to mature on January 1, 2039), SCORE covenants that it will not provide to nongovernmental persons special legal entitlements to use the SCORE Facility in a manner that will adversely impact the tax-exempt status of any such bonds. SCORE shall monitor the use of the SCORE Facility to ensure that it complies with the terms of the SCORE/Federal Way Agreement for so long as such Federal Way Refunding Bonds, or any bonds issued to refund such bonds, are outstanding. The parties hereto approve SCORE entering into the SCORE/Federal Way Agreement.

Section 21. Termination of Host City Agreement.

Pursuant to Section 5 of the Host City Agreement, the parties hereto agree that the Host City Agreement shall terminate as of the Effective Date of this SCORE Interlocal

Agreement. As of the Effective Date of this SCORE Interlocal Agreement, Des Moines shall be an Owner City of SCORE with the same rights and privileges as the other Owner Cities as provided herein.

Section 22. Execution and Amendment.

This SCORE Interlocal Agreement shall be executed on behalf of each party hereto by its Designated Representative, or other authorized officer, and pursuant to an appropriate motion, resolution or ordinance of such party.

This SCORE Interlocal Agreement may not be effectively amended, changed, modified or altered, except by an instrument in writing duly executed by the Designated Representative, or other authorized officer, of each party hereto and pursuant to an appropriate motion, resolution or ordinance of such party. Notwithstanding the foregoing, so long as the Bonds are outstanding, any such amendment, in the opinion of the SCORE Facility Public Development Authority or its counsel, shall not materially adversely affect the owners of the Bonds or affect the tax-exempt status of the interest paid on the Bonds.

Section 23. Third Party Beneficiaries.

The SCORE Facility Public Development Authority and the holders from time to time of the Bonds shall be third party beneficiaries hereof and the commitments made in Section 15 herein shall be for their further benefit.

Section 24. Hold Harmless.

The parties to this SCORE Interlocal Agreement shall defend, indemnify and save one another harmless from any and all claims arising out of the performance of this SCORE Interlocal Agreement, except to the extent that the harm complained of arises from the sole negligence of one of the participating members. Any loss or liability resulting from the negligent acts errors or omissions of the Administrative Board, Operations Board, Finance Committee, Facility Director and or staff, while acting within the scope of their authority under this SCORE Interlocal Agreement shall be borne by SCORE exclusively.

Section 25. Counterparts

This SCORE Interlocal Agreement may be executed in any number of counterparts, each of whom shall be an original, but those counterparts will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this SCORE Interlocal Agreement as of the day and year first written above.

[execution pages to follow]

AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT

among

CITY OF AUBURN,

CITY OF BURIEN,

CITY OF DES MOINES,

~~CITY OF FEDERAL WAY,~~

CITY OF RENTON,

CITY OF ~~TUKWILA,~~

~~CITY OF BURIEN~~SEATAAC,

AND

CITY OF ~~SEATACT~~TUKWILA, WASHINGTON

Dated as of ~~October 1, 2009~~ _____, 2019

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AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT

THIS AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT ~~amends and restates the SCORE Interlocal Agreement, dated~~ is effective as of ~~February 25, 2009 (the “Original Interlocal Agreement”~~ the date written below and is by and ~~as amended and restated hereby, the “SCORE Formation Interlocal Agreement”~~), and ~~is entered into this October 1, 2009~~ among the Cities of Auburn, Burien, Des Moines, ~~Federal Way~~, Renton, SeaTac and Tukwila, ~~Burien and SeaTac~~, Washington ~~(the “Member Cities”)~~, all of which are municipal corporations under the laws and statutes of the State of Washington:

RECITALS:

WHEREAS, the Member Cities (as defined herein) are authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare; and

~~WHEREAS, the Member Cities currently contract with other local governments within the State of Washington for correctional services at a great expense to the City; and~~

WHEREAS, chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes municipalities in Washington to enter into agreements for the joint undertaking of certain projects as provided therein; and

WHEREAS, in 2009 the Member Cities ~~entered into~~ formed a ~~SCORE Interlocal Agreement, effective February 25, 2009 (the “Original Interlocal Agreement”)~~, to ~~form a separate~~ governmental administrative agency pursuant to RCW an interlocal agreement and RCW 39.34.030(3) known as the South Correctional Entity (“SCORE”) to establish and maintain a consolidated correctional facility to be located in the City of Des Moines (the “SCORE Facility”) to serve the Member Cities and federal and state agencies and other local governments that may contract with SCORE in the future to provide correctional services essential to the preservation of the public health, safety and welfare; and

~~WHEREAS, the Member Cities have determined that the SCORE Facility will provide improved correctional facilities within the boundaries of the consolidated service areas at a lower total cost to the participating Member Cities than currently available alternatives or than the participating Member Cities could individually provide; and~~

~~WHEREAS, financing for the acquisition, construction, equipping, and improvement of the SCORE Facility will be provided by bonds issued by the South Correctional Entity Facility Public Development Authority (the “SCORE Facility Public Development Authority”), a public development authority chartered by the City of Renton pursuant to RCW 35.21.730 through 35.21.755 and secured by the full faith and credit of the Cities of Renton, Auburn, Federal Way, SeaTac, Tukwila, and Burien (the “Owner Cities”); and~~

WHEREAS, the Member Cities now desire to amend ~~the Original Interlocal Agreement to allocate the proportion of debt service on bonds issued by the SCORE Facility Public Development Authority to each of the Owner Cities and to designate the City of Des Moines and restate the formation interlocal agreement as the host city; and provided herein;~~

~~WHEREAS, the establishment and maintenance of the SCORE Facility will be of substantial benefit to the Member Cities and the public in general;~~

NOW THEREFORE, it is hereby agreed and covenanted among the undersigned as follows:

Section 1. Definitions. Capitalized terms used in this SCORE ~~Formation~~ Interlocal Agreement shall have the ~~following meanings given such terms in the recitals hereof and as follows:~~

“Administrative Board” means the governing board of SCORE created pursuant to Section 5 of this SCORE ~~Formation~~-Interlocal Agreement.

“Bonds” mean, ~~collectively,~~ bonds, notes or other evidences of borrowing issued by the SCORE Facility Public Development Authority to ~~provide interim finance and permanent financing for /or refinance~~ the SCORE Facility and thereafter, ~~to finance or refinance equipment, completion, expansion and for any other capital improvements essential to maintain the SCORE Facility’s functionality. purpose.~~

“Budget” means the budget prepared by the Facility Director in consultation with the Operations Board, and submitted to the Administration Board for its approval in accordance with Section 5 and Section 9 of this SCORE ~~Formation~~-Interlocal Agreement, which budget shall set forth (a) an estimate of the costs of capital improvements required to be made to the SCORE Facility within the applicable year, (b) on a line item basis, all anticipated revenues and expenses for the operation and maintenance of the SCORE Facility for the applicable year, and (c) any information required by policies adopted by the Administrative Board pursuant to Section 9(b) of this SCORE ~~Formation~~-Interlocal Agreement.

“Capital Contribution” means, for each Owner City, that Owner City’s Owner Percentage multiplied by the principal of and interest on Bonds as the same shall become due and payable.

“Code” means the Internal Revenue Code of 1986, as amended.

“Costs of Maintenance and Operation” means all reasonable expenses incurred by SCORE in causing the SCORE Facility to be operated and maintained in good repair, working order and condition, and all costs of administering SCORE.

“**Designated Representative**” means the Mayor or the City Manager, as selected by each Member City, or his or her designee.

“Effective Date” has the meaning set forth in Section 19 of this Agreement.

“**Facility Director**” means the director of the SCORE Facility selected by the Administrative Board pursuant to Section 7 of this SCORE ~~Formation~~ Interlocal Agreement.

“Finance Committee” means the committee formed pursuant to Section 6 of this SCORE Interlocal Agreement.

“**Host City**” means the City of Des Moines, Washington.

“Host City Agreement” means the Host City Agreement among the cities of Renton, Federal Way, Auburn and Des Moines and SCORE dated as of October 1, 2009.

“**Member Cities**” mean the Owner Cities and, until the Hostdate provided for in Section 20, the City of Federal Way.

“**Operations Board**” means the board formed pursuant to Section 6 of this SCORE ~~Formation~~ Interlocal Agreement.

“**Owner Cities**” mean the Cities of Auburn, ~~Renton, Federal Way, Tukwila, Burien and, Des Moines, Renton, SeaTac and Tukwila,~~ Washington.

“**Owner Percentage**” means the percentage assigned to each Owner City, as follows:

- ~~(a) — Auburn — thirty one (31%)~~
- ~~(b) — Federal Way — eighteen (18%)~~

<u>Owner City</u>	<u>Owner Percentage</u>
<u>Auburn</u>	<u>34.94%</u>
<u>Renton</u>	<u>40.96</u>
<u>Tukwila</u>	<u>9.64</u>
<u>Des Moines</u>	<u>6.02</u>
<u>Burien</u>	<u>4.82</u>
<u>SeaTac</u>	<u>3.62</u>
<u>Total</u>	<u>100.00%</u>

- ~~(c) — Renton — thirty six (36%)~~
- ~~(d) — Tukwila — eight (8%)~~
- ~~(e) — Burien — four (4%)~~
- ~~(f) — SeaTac — three (3%)~~

“**Presiding Officer**” means the member of the Administrative Board selected pursuant to Section 5 of this SCORE ~~Formation~~ Interlocal Agreement.

“**SCORE**” means the governmental administrative agency established pursuant to RCW 39.34.030(3) by the Member Cities.

“**SCORE Facility**” means the consolidated correctional facility acquired, constructed, improved, equipped, maintained and operated by SCORE.

“**SCORE Facility Public Development Authority**” means the South Correctional Entity Facility Public Development Authority chartered by the City of Renton, Washington.

“**SCORE Interlocal Agreement**” or “**SCORE Formation Interlocal Agreement**” means this Amended and Restated SCORE Interlocal Agreement among the Member Cities, as amended from time to time.

“**Subscribing Agencies**” mean the federal and state agencies, municipal corporations, and other local governments, other than the Member Cities, that contract with SCORE for correctional services at the SCORE Facility pursuant to the terms of this SCORE ~~Formation~~ Interlocal Agreement.

“2009 SCORE Bonds” mean the SCORE Facility Public Development Authority Bonds, Series 2009A and Bonds, Series 2009B (Taxable Build America Bonds—Direct Payment) issued on November 4, 2009, in the aggregate principal amount of \$86,235,000.

Section 2. SCORE Facility; Authority.

(a) **Administrative Agency.** There is hereby established a governmental administrative agency pursuant to RCW 39.34.030(3) to be known as the South Correctional Entity (“SCORE”). SCORE shall ~~initially~~ consist of the Member Cities.

(b) **Powers of SCORE.** SCORE shall have the power to acquire, construct, own, operate, maintain, equip, and improve a correctional facility known as the “SCORE Facility” and to provide correctional services and functions incidental thereto, for the purpose of detaining arrestees and sentenced offenders in the furtherance of public safety and emergencies within the jurisdiction of the Member Cities. The SCORE Facility may serve the Member Cities and Subscribing Agencies which are in need of correctional facilities. Any agreement with a Subscribing Agency shall be in writing and approved by SCORE as provided herein.

(c) **Administrative Board.** The affairs of SCORE shall be governed by the Administrative Board formed pursuant to Section 5 of this SCORE ~~Formation~~ Interlocal Agreement. The Administrative Board shall have the authority to:

- (1-) Recommend action to the legislative bodies of the Member Cities;
- (2-) Approve the Budget, adopt financial policies and approve expenditures;
- (3-) Establish policies for investing funds and incurring expenditures of Budget items for the SCORE Facility;
- (4-) Review and adopt a personnel policy for the SCORE Facility;
- (5-) Establish a fund, or special funds, as authorized by chapter 39.34 RCW for the operation of the SCORE Facility;
- (6-) Conduct regular meetings as may be designated by the Administrative Board;
- (7-) Determine what services shall be offered at the SCORE Facility pursuant to the powers of SCORE and under what terms they shall be offered;
- (8-) Enter into agreements with third parties for goods and services necessary to fully implement the purposes of this SCORE ~~Formation~~-Interlocal Agreement;
- (9-) Establish rates for services provided to members, subscribers or participating agencies;
- (10-) Direct and supervise the activities of the Operations Board and the Facility Director;
- (11-) Enter into an agreement with a public corporation or otherwise to incur debt;
- (12-) Make purchases or contract for services necessary to fully implement the purposes of this SCORE ~~Formation~~-Interlocal Agreement;
- (13-) Enter into agreements with and receive and distribute funds from any federal, state or local agencies;
- (14-) Receive and account for all funds allocated to the SCORE Facility from its members;
- (15-) Purchase, take, receive, lease, take by gift, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, in the name of the SCORE Facility;

~~(16.)~~ Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of property and assets;

~~(17.)~~ Sue and be sued, complain and defend, in all courts of competent jurisdiction in its name;

~~(18.)~~ Make and alter bylaws for the administration and regulation of its affairs;

~~(19.)~~ Enter into contracts with Subscribing Agencies to provide correctional services;

~~(20.)~~ Employ employees as necessary to accomplish the terms of this SCORE ~~Formation~~-Interlocal Agreement;

~~(21.)~~ Establish policies and procedures for adding new ~~cities as~~ parties to this SCORE ~~Formation~~-Interlocal Agreement; and

~~(22.)~~ Engage in any and all other acts necessary to further the goals of this SCORE ~~Formation~~-Interlocal Agreement.

Section 3. Duration of Agreement.

The initial duration of this SCORE ~~Formation~~-Interlocal Agreement (~~commencing from February 25, 2009, the date of the original interlocal agreement relating to SCORE~~) shall be for a period of ten (10) years ~~from its effective date~~ and, thereafter, shall automatically extend for additional five (5) year periods unless terminated as provided in this SCORE ~~Formation~~-Interlocal Agreement. Notwithstanding the foregoing, this SCORE ~~Formation~~ Interlocal Agreement shall not terminate until all Bonds issued by the SCORE Facility Public Development Authority as ~~provide~~provided in Section 15 of this SCORE ~~Formation~~ Interlocal Agreement are no longer outstanding.

Section 4. Withdrawal and Termination.

(a) Subject to Section 4(g) below, any Member City may withdraw its membership and terminate its participation in this SCORE ~~Formation~~-Interlocal Agreement by providing written notice and serving that notice on the other Member Cities on or before December 31 in any one-year. After providing appropriate notice as provided in this Section, that Member City's membership withdrawal shall become effective on the last day of the year following delivery and service of appropriate notice to all other Member Cities.

(b) Subject to Section 3 above, four (4) or more Member Cities may, at any one time, by written notice provided to all Member Cities, call for a termination of SCORE and this SCORE ~~Formation~~-Interlocal Agreement. Upon an affirmative supermajority vote (majority plus one) by the Administrative Board, SCORE shall be directed to terminate

business, and a date will be set for final termination, which shall be at least one (1) year from the date of the vote to terminate this SCORE ~~Formation~~-Interlocal Agreement. Upon the final termination date, this SCORE-~~Formation~~ Interlocal Agreement shall be fully terminated.

(c) Subject to Section 4(g) below, in the event any ~~Owner City or the Host Member~~ City fails to budget for or provide its applicable annual funding requirements for SCORE as provided in Section 15 hereof, the remaining Member Cities may, by majority vote, immediately declare the underfunding City to be terminated from this SCORE ~~Formation~~-Interlocal Agreement and to have forfeited all its rights under this SCORE ~~Formation~~-Interlocal Agreement as provided in Section 4(e). The remaining Member Cities may, at their option, withdraw SCORE's correctional services from that City, or alternatively, enter into a Subscribing Agency agreement with that City under terms and conditions as the remaining Member Cities deem appropriate.

(d) Time is of the essence in giving any termination notice.

(e) If an individual Owner City withdraws its membership in SCORE, the withdrawing City will forfeit any and all rights it may have to SCORE's real or personal property, or any other ownership in SCORE, unless otherwise provided by the Administrative Board.

(f) Upon termination of this SCORE ~~Formation~~-Interlocal Agreement, all property acquired during the life of this SCORE-~~Formation~~ Interlocal Agreement shall be disposed of in the following manner:

~~(1.)~~ All real and personal property acquired pursuant to this SCORE ~~Formation~~ Interlocal Agreement shall be distributed to the Owner Cities based on the Owner Percentages; and

~~(2.)~~ All unexpected funds or reserve funds shall be distributed based on the percentage of average daily population at the SCORE Facility for the last three (3) years prior to the termination date of those Member Cities still existing on the day prior to the termination date.

(g) Notwithstanding any of the other rights, duties or obligations of any Member City under this Section 4, the withdrawal of any Owner City from this SCORE ~~Formation~~ Interlocal Agreement shall not discharge or relieve the Owner City that has withdrawn pursuant to Section 4(a) or been terminated pursuant to Section 4(c) of its obligation to pay debt service on Bonds issued by the SCORE Facility Public Development Authority. An Owner City may be relieved of its obligation under this SCORE-~~Formation~~ Interlocal Agreement to make payments with respect to its Capital Contribution if the Administrative Board, by supermajority vote (majority plus one), authorizes such relief based on a finding

that such payments are not required to pay debt service on Bonds issued by the SCORE Facility Public Development Authority.

Section 5. Administrative Board.

(a) Formation. An Administrative Board composed of the Designated Representative from each Member City shall govern the affairs of SCORE.

(b) Allocation of Votes. Each Board member shall have an equal vote and voice in all Board decisions.

(c) Voting Requirements. Votes regarding (1) debt; (2) approval of the Budget; (3) employment of the ~~Facilities~~ Facility Director; (4) cost allocations made prior to the issuance of Bonds ~~pursuant to Section 16 of this SCORE Formation Interlocal Agreement;~~ and (5) approval of labor contracts, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities, two (2) of which shall have the highest and the second highest average daily population in the SCORE Facility for the 12-month period ending June 30 (or other such date as the Administrative Board shall determine as set forth in its financial policies) of the preceding year.

Votes regarding (1) the conveyance of real property; (2) the addition of additional services pursuant to ~~Section 11 of this SCORE Formation~~ Interlocal Agreement not directly incidental to correctional services (such as providing court services); and (3) matters addressed in Sections 4(b) and (g) and Section 15(d)(2)(iv) of this SCORE ~~Formation~~ Interlocal Agreement, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities.

(d) Parliamentary Authority. Unless otherwise provided, Robert's Revised Rules of Order (newly revised) shall govern all procedural matters relating to the business of the Administrative Board.

(e) Officers of the Administrative Board. Members of the Administrative Board shall select a Presiding Officer from its members, together with such other officers as a majority of the Administrative Board may determine. Subject to the control of the Administrative Board, the Presiding Officer shall have general supervision, direction and control of the business and affairs of SCORE. On matters decided by the Administrative Board, the signature of the Presiding Officer alone is sufficient to bind SCORE.

(f) Meetings of the Administrative Board. There shall be a minimum of two (2) meetings each year, ~~and not less than fifteen (15) days notice shall be given to all members prior to any such meeting.~~ Unless otherwise designated by the Presiding Officer, the first meeting shall be held on the second Tuesday of February of each year to review the prior ~~year's~~ years' service. The second meeting shall be on the second Tuesday of September of each year to consider and adopt a Budget for the following fiscal year. Other meetings may

be held upon request of the Presiding Officer or any two members. All meetings shall be open to the public to the extent required by chapter 42.30 RCW.

~~Five (5)~~Prior to January 1, 2020, five (5) members, and from and after January 1, 2020, four (4) members of the Administrative Board must be present at any meeting of the Administrative Board to comprise a quorum, and for the Administrative Board to transact any business. Proxy voting shall not be allowed. Members of the Administrative Board may participate in a meeting through the use of any means of communication by which all members and members of the public participating in such meeting can hear each other during the meeting. Any members of the Administrative Board participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

(g) Bylaws. The Administrative Board shall be authorized to establish bylaws that govern procedures of ~~that~~the Administrative Board and the SCORE Facility's general operations.

(h) Administrative Board Review. A general or particular authorization or review and concurrence of the Administrative Board by majority vote shall be necessary for all capital expenditures or contracts in excess of \$50,000.

Section 6. Operations Board; Finance Committee; Other Committees.

(a) ~~Formation-Operations Board.~~ There is ~~further~~ established an Operations Board which ~~shall be advisory to the Facility Director, staff and Administrative Board on operational matters of SCORE. The Administrative Board shall establish the specific purpose and duties of the Operations Board.~~

The Operations Board shall consist of up to nine (9) members selected as provided in this paragraph. One (1) member shall be designated by each of the Member Cities, and up to ~~two (2)~~three (3) at-large members shall be selected, by majority vote, by the Subscribing Agencies to represent the police departments of the Subscribing Agencies. At the time set for election of the at-large members, only the representatives of the Subscribing Agencies, then in attendance, will participate in the election. The Member Cities' Operations Board representatives shall not participate in the at-large member elections. The at-large members shall serve one-year terms, unless otherwise determined by majority vote of the Operations Board. ~~The purpose and duties of the Operations Board shall be established by the Administrative Board.~~

~~(b) Voting and Meetings of the Operations Board.~~ Each member of the Operations Board shall have an equal vote in all Operations Board decisions. The Operations Board shall be authorized to establish bylaws and/or procedures that govern its ~~procedures.~~ ~~Unless otherwise provided, Robert's Revised Rules of Order shall govern all procedural matters relating to the business of the Operations Board.~~ operations. The Operations Board

shall elect a presiding officer from its members and shall ~~likewise~~ determine the time and place of its meetings; ~~at least one (1) regular meeting shall be held each month at a time and place designated by the presiding officer or a majority of its members. Special meetings may be called by the presiding officer or any two (2) members upon giving all other members not less than 24 hours prior written notice (electronic or facsimile notice acceptable). In an emergency, the Operations Board may dispense with written notice requirements for special meetings, but must, in good faith, implement best efforts to provide fair and reasonable notice to all of the members of the Operations Board.~~ All meetings shall be open to the public if and to the extent required by chapter 42.30 RCW.

(b) Finance Committee. There is established a Finance Committee, which shall be advisory to the Facility Director, staff and Administrative Board on finance matters of SCORE. The Administrative Board shall establish the specific purpose and duties of the Finance Committee. The Finance Committee shall consist of the finance directors or managers of each of the Member Cities. Each member of the Finance Committee shall have an equal vote in all Finance Committee decisions. The Finance Committee shall be authorized to establish bylaws and/or procedures that govern its operations. The Finance Committee shall elect a presiding officer from its members and shall determine the time and place of its meetings. All meetings shall be open to the public if and to the extent required by chapter 42.30 RCW.

~~(c) A majority of the members of the Operations Board must be present at any meeting of the Operations Board to comprise a quorum, and for the Operations Board to transact any business. Proxy voting shall not be allowed. Members of the Operations Board may participate in a meeting through the use of any means of communication by which all members and members of the public participating in such meeting can hear each other during the meeting. Any members of the Operations Board participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.~~

Standing or Temporary Committees. The Administrative Board may, from time to time, establish permanent and/or temporary committees to assist in its operations and operations of the SCORE Facility.

Section 7. Facility Director.

~~Not later than one hundred eighty (180) days priorDay to the completionDay operations of SCORE and the SCORE Facility, the Operations Board shall recommend to be administered by a Facility Director, who shall be appointed by the Administrative Board a person to act as the Facility Director after receiving the recommendation of the Operations Board.~~ The Administrative Board may accept or reject the Operations Board recommendation. Such Facility Director shall be responsible to the Administrative Board, shall develop the Budget in consultation with the Operations Board and shall take other appropriate means in order to fully implement the purposes of this SCORE ~~Formation~~ Interlocal Agreement. The Facility Director shall administer SCORE and the

~~program~~SCORE Facility in its day-to-day operations consistent with the policies adopted by the Administrative Board. Such Facility Director shall have experience in technical, financial and administrative fields, and such appointment shall be on the basis of merit only.

Section 8. Personnel PolicyPolicies.

(a) The Operations Board shall ~~from time to time~~ submit proposed personnel policies or proposed amendments to existing personnel policies to the Administrative Board ~~within one hundred eighty (180) days prior to the completion of the SCORE Facility, a proposed personnel policy for the SCORE Facility for its~~their approval, rejection or modification. All of such modifications or revisions shall be subject to the final approval of the Administrative Board.

(b) Such personnel ~~policy~~policies shall provide for the initial appointment to the SCORE Facility's staff from the personnel presently, permanently appointed or assigned as corrections officers in the Member Cities. Additional employees shall be appointed by the Facility Director upon meeting the qualifications established by the Operations Board and adopted by the Administrative Board. None of such employees shall be commissioned members of any emergency service, but may be eligible for membership under the Public Employees Retirement Systems (PERS), or Public Safety Employees Retirement System (PSERS), as provided by law.

Section 9. Budget, Policies and Operations.

(a) The Facility Director shall distribute a proposed Budget to the Operations Board on or before August 1 of each year, which Budget, including any amendments by the Operations Board thereto, shall then be provided to the Administrative Board no later than September 1 of such year. Thereafter, the Member Cities shall be advised of the programs and objectives as contained in said ~~proposed~~Budget, and of the required financial participation for the ensuing year.

(b) The Administrative Board shall develop financial policies for SCORE as part of the budgetary process. Such policies may include, but are not limited to, (1) items to be provided for in the Budget, (2) a minimum contribution amount for each Member City to pay for Costs of Maintenance and Operation, (3) the process for allocating unexpended amounts paid by the Member Cities for Costs of Maintenance and Operation and assessing the Member Cities in the event of cost overruns, (4) establishing and maintaining reserve accounts, if any, and (5) the process for adding a new party to this SCORE ~~Formation~~ Interlocal Agreement.

(c) The allocation of prorated financial participation among the Member Cities shall be calculated as provided in Section 15 hereof. Each Member City shall be unconditionally obligated to provide its allocable share of costs as provided in this SCORE ~~Formation~~ Interlocal Agreement.

Section 10. Contracts and Support Services.

(a) The Administrative Board (or the Operations Board or the Facility Director, if so designated by the Administrative Board) shall, as necessary, contract with local governments for the use of space for its operations, auxiliary services including but not limited to records, payroll, accounting, purchasing, and data processing, and for staff prior to the selection of a Facility Director for the SCORE Facility.

(b) The Member Cities hereby agree to furnish legal assistance, from time to time, as approved by the Administrative Board. The Administrative Board may contract with the City Attorney of a Member City, other local government, or independent legal counsel as necessary.

Section 11. Policy and System Evaluation.

The Facility Director shall actively and continually consider and evaluate all means and opportunities toward the enhancement of operations effectiveness for correctional services so as to provide maximum and ultimate benefits to the members of the general public. The Facility Director shall present his or her recommendations to the Operations Board from time to time. Any substantive change or deviation from established policy shall be subject to the prior approval of the Administrative Board.

Section 12. Additional Services Authorized.

The Administrative Board shall evaluate and determine the propriety of including additional correctional services for local governments, whenever so required, and shall determine the means of providing such services, together with its costs and effects. These additional services may include, but shall not be limited to the following: alternatives to incarceration, inmate transportation systems, and consolidated court services.

Section 13. Inventory and Property.

(a) Equipment and furnishings for the operation of the SCORE Facility shall be acquired by SCORE as provided by law. If any Member City furnishes equipment or furnishings for SCORE's use, title to the same shall remain with the respective local entity unless that equipment is acquired by SCORE.

(b) The Facility Director shall, at the time of preparing the proposed Budget for the ensuing year, submit to the Operations Board a complete inventory together with current valuations of all equipment and furnishings owned by, leased or temporarily assigned to SCORE. In case of dissolution of SCORE, such assigned or loaned items shall be returned to the lending governmental entity and all other items, including real property, or funds derived from the sale thereof, shall be distributed in accordance with Section 4(f) above.

(c) Title to real property purchased or otherwise acquired shall be held in the name of SCORE; provided however, that for valuable consideration received, SCORE may convey ownership of any real property as may be approved by supermajority vote (majority plus one) of the Administrative Board.

Section 14. Local Control.

Each Member City and Subscribing Agency shall retain the responsibility and authority for the operation of its police departments, and for such equipment and services as are required at its place of operation to utilize the SCORE Facility.

Section 15. SCORE Facility Financing and Construction; SCORE Facility Public Development Authority.

(a) SCORE Facility. In order to provide necessary services for the Member Cities and the Subscribing Agencies, SCORE ~~has and/or~~ shall acquire, construct, improve, equip, maintain and operate the SCORE Facility. The SCORE Facility is ~~expected to be~~ currently located in the City of Des Moines, Washington.

(b) Contracts for the SCORE Facility. The Administrative Board shall authorize, and the Presiding Officer of the Administrative Board, or his or her approved designee, will execute contracts for the development, improvement and maintenance of the SCORE Facility. These contracts ~~shall~~ may include, without limitation, contracts for architectural design and engineering, project management services, real estate acquisition, and construction.

(c) SCORE Facility Public Development Authority. In order to finance and refinance costs of acquiring, constructing, improving and equipping the SCORE Facility, the City of Renton has chartered the SCORE Facility Public Development Authority. The purpose of the SCORE Facility Public Development Authority is to issue Bonds to finance and refinance the acquisition, construction, improvement and equipping of the SCORE Facility, and for any other SCORE purpose. The Administrative Board shall serve *ex officio* as the Board of Directors of the SCORE Facility Public Development Authority as further provided in the Authority's organizational charter. Upon issuance of Bonds by the SCORE Facility Public Development Authority, Bond proceeds shall be deposited on behalf of SCORE and used for the purposes set forth herein. SCORE shall be obligated to make payments to the SCORE Facility Public Development Authority at the time and in the amounts required to pay principal of and interest on the Bonds and any administrative costs of the SCORE Facility Public Development Authority.

(d) SCORE Facility Financing.

(1) *Capital Contributions.* Each Owner City shall be obligated to pay an amount equal to its Capital Contribution without regard to the payment or lack thereof by any other Owner City. No Owner City shall be obligated to pay the Capital Contribution of any other Owner City, and each Owner City shall be obligated to budget for and pay its Capital Contribution. The obligation of each Owner City to pay its Capital Contribution shall be an irrevocable full faith and credit obligation of such Owner City, payable from property taxes levied within the constitutional and statutory authority provided without a vote of the electors of the Owner City on all of the taxable property within the Owner City and other sources of revenues available therefor. Each Owner City has or will set aside and include in its calculation of outstanding nonvoted general obligation indebtedness an amount equal to the principal component of its Capital Contribution for so long as Bonds remain outstanding, unless relieved of such payment in accordance with Section 4(g). Each Owner City's obligation to pay the Capital Contribution shall not be contingent on the receipt of any revenues from other sources, including but not limited to Subscribing Agencies or the ~~Host City~~any Member Cities.

An Owner City may prepay its Capital Contribution in a manner that is consistent with the authorizing documents for the Bonds; provided, however, that any such prepayment of one or more Owner Cities shall not affect the Capital Contribution of the remaining Owner Cities. Any Owner City that elects to prepay its Capital Contribution shall be responsible for paying all costs associated with such prepayment.

(2) *Costs of Maintenance and Operation.* Subject to the terms of the financial policies established by the Administrative Board ~~pursuant to Section 9(b) of this SCORE Formation Interlocal Agreement,~~ each Member City shall be obligated to pay its allocable portion of Costs of Maintenance and Operation of the SCORE Facility, including any debt issued to finance such costs, as determined in this subsection.

(i) Until the end of the first calendar year of operations of the SCORE Facility (estimated to be December 31, 2012), the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation in such year shall be equal to the Member City's 2007 average daily population in all correctional facilities (as provided in the SCORE financial policies) multiplied by the Costs of Maintenance and Operation.

(ii) Commencing with the calendar year following the first calendar year of operations, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall be based on the Member City's average daily population in the SCORE Facility, as supplemented as necessary with the average daily population allocable to the Member Cities in all correctional facilities, for the 12-month period ending June 30 of the preceding year.

(iii) Commencing with the third calendar year of operations, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall be based on the Member City's average daily population in the SCORE Facility for the 12-month period ending June 30 (or other such date as the Administrative Board shall determine as set forth in its financial policies) of the preceding year.

(iv) Commencing with the calendar year beginning January 1, 2020, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall either (A) be based on the Member City's average daily population in the SCORE Facility for the 12-month period ending June 30 (or other such date as the Administrative Board shall determine as set forth in its financial policies) of the preceding year, or (B) be based on the methodology approved by an affirmative vote of a supermajority (majority plus one) of the Member Cities.

(e) Billing and Allocation of Revenues. Each Member City shall be billed for its Capital Contribution and its portion of Costs of Maintenance and Operation, as applicable, on a semiannual basis, or more frequently as determined by the Administrative Board, calculated as provided ~~for in Section 15(d)~~ above. Revenues received in a calendar year from Subscribing Agencies or from sources other than the contributions described ~~in Section 15(d)~~ above shall be allocated among the Member Cities either as set forth in the SCORE financial policies or as follows: (i) each Member City shall receive a credit against its obligation to pay Costs of Maintenance and Operation based on that Member City's proportional average daily population as calculated ~~in Section 15(d)(2) as provided~~ above, and (ii) each Owner City shall receive a credit against its Capital Contribution based on that Owner City's proportional Owner Percentage.

(f) Host City. Pursuant to RCW 35.21.740, the City of Des Moines, as the Host City, hereby authorizes the City of Renton to operate the SCORE Facility Public Development Authority within the corporate limits of the City of Des Moines in a manner consistent with the terms of this SCORE ~~Formation Interlocal Agreement. The Host City shall enter into a written agreement with SCORE and any of the Owner Cities, as applicable, to establish a host city fee to be paid in exchange for the availability of the SCORE Facility.~~ Interlocal Agreement.

(g) Tax-Exemption. The Member Cities shall not (1) make any use of the proceeds from the sale of Bonds issued on a tax-exempt basis or any other money or obligations of the SCORE Facility Public Development Authority or the Member Cities that may be deemed to be proceeds of ~~thesuch~~ Bonds pursuant to Section 148(a) of the Code that will cause ~~thesuch~~ Bonds to be "arbitrage bonds" within the meaning of said Section and said regulations, or (2) act or fail to act in a manner that will cause ~~thesuch~~ Bonds to be considered obligations not described in Section 103(a) of the Code.

(h) Additional Financing. Notwithstanding anything to the contrary in this SCORE-~~Formation~~ Interlocal Agreement, bonds, notes or other evidences of borrowing may be issued from time to time by the SCORE Facility Public Development Authority or another issuer pursuant a separate agreement between one or more Member Cities and other entities to provide additional financing for the SCORE Facility on terms as agreed upon by the parties thereto.

(i) Special Facility Designation. The SCORE Facility, including all equipment, furnishings, and fixtures is critical to the ability of the Member Cities and the Subscribing Agencies to provide necessary and secure correctional services and assure public safety. Consequently, the SCORE Facility is essential to the preservation of the public health, safety, and welfare. As a result, the SCORE Facility's equipment, furnishings, and fixtures are special facilities subject to unique standards. Accordingly, based on the facts presented in this subsection, it is ~~herby~~hereby resolved that the established policy of the Member Cities is that the SCORE Facility constitutes a "special facility" under RCW 39.04.280(1)(b), and all purchases of any kind or nature for the SCORE Facility shall be exempt from competitive bidding requirements as prescribed by Washington State statute but shall be governed by the procurement policy established by the Administrative Board as amended from time to time.

Section 16. Preliminary Costs of the SCORE Facility; Bellevue Property

~~The Administrative Board shall allocate costs associated with the design, acquisition, construction, improvement and equipping of the SCORE Facility prior to the issuance of the Bonds by the SCORE Facility Public Development Authority among the Member Cities by an affirmative vote of a supermajority (majority plus one) of the of the Member Cities, two (2) of which shall have the highest and the second highest average daily population in the SCORE Facility for the 12-month period ending June 30 of the preceding year. Any costs of the SCORE Facility paid by a Member City pursuant to this section may be reimbursed out of proceeds of Bonds to the extent permitted by law.~~

~~The Member Cities hereby agree that any net proceeds received from the sale of the property located at 1440 116th Avenue NE, Bellevue, Washington and 1412 116th Avenue NE, Bellevue, Washington (estimated to be approximately \$3,180,000) shall be deposited with SCORE and used to finance costs associated with the design, acquisition, construction, improvement and equipping of the SCORE Facility.~~

Section 17. Compliance with Continuing Disclosure Requirements.

To the extent necessary to meet the conditions of paragraph (d)(2) of United States Securities and Exchange Commission Rule 15c2-12 (the "Rule"), as applicable to a participating underwriter or remarketing agent for the Bonds, each Owner City will enter into an undertaking in a form acceptable at the time to the participating underwriter or remarketing agent, as the case may be.

~~Section 18. Filing of Agreement~~~~Section 17. Miscellaneous.~~

~~Upon execution, (a) Interlocal Agreement. The Member Cities agree:~~

~~(1) This SCORE Interlocal Agreement is intended to create a separate administrative entity within the meaning of RCW 39.34.030(3) and not a "joint board" within the meaning of RCW 39.34.030(4)(a);~~

~~(2) The Designated Representative of each Member City is appointed as the "administrator" within the meaning of RCW 39.34.030(4)(a) responsible for administering the Member City's rights and duties set forth in this SCORE Formation Interlocal Agreement; and~~

~~(3) The Parties will file or post this Agreement as required by RCW 39.34.040.~~

~~(b) Governing Law. This SCORE Interlocal Agreement shall be filed as required in RCW 39.34.040 governed by and construed in accordance with the laws of the State of Washington. If any dispute arises between the Member Cities under any of the provisions of this SCORE Interlocal Agreement, resolution of that dispute shall be available only through the jurisdiction, venue and rules of the King County Superior Court, King County, Washington.~~

~~(c) Non-Waiver of Breach. The failure of any Member City to insist upon strict performance of any provision of this SCORE Interlocal Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this SCORE Interlocal Agreement.~~

~~(d) Compliance with all Laws. SCORE and the Member Cities shall comply with all federal, state and local laws, rules, regulations, resolutions and ordinances applicable to the performance of this SCORE Interlocal Agreement.~~

~~(e) Continuation of Performance. In the event that any dispute or conflict arises between the Member Cities while this SCORE Interlocal Agreement is in effect, the Member Cities hereto agree that, notwithstanding such dispute or conflict, they shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities.~~

Section 18. ~~Section 19.~~ Severability.

If any part, paragraph, section or provision of this SCORE-~~Formation~~ Interlocal Agreement is adjudged to be invalid by any court of competent jurisdiction such adjudication shall not affect the validity of any remaining section, part or provision of this SCORE ~~Formation~~-Interlocal Agreement.

Section 19. Effective Date; Amend and Replace Original Interlocal Agreement.

This SCORE Interlocal Agreement shall become effective on _____, 2019, the date of defeasance (the "Effective Date") of all of the outstanding 2009 SCORE Bonds. On the Effective Date, this SCORE Interlocal Agreement shall amend and restate, in its entirety, the Amended and Restated SCORE Interlocal Agreement effective October 1, 2009.

Section 20. Federal Way Refunding Bonds; Agreement Between SCORE and Federal Way.

The City of Federal Way ("Federal Way") and SCORE will enter into an agreement (the "SCORE/Federal Way Agreement") to be dated the date of defeasance of all of the outstanding 2009 SCORE Bonds. Pursuant to the SCORE/Federal Way Agreement: (a) Federal Way acknowledges that the parties hereto will enter into this SCORE Interlocal Agreement; (b) until the effective date of its withdrawal from SCORE (December 31, 2019), Federal Way will be considered a "Member City" for purposes of this SCORE Interlocal Agreement, but shall not be considered an "Owner City" and shall not in any way be responsible for paying any share of any Bonds or other debt obligations of SCORE or the SCORE Facility Public Development Authority; (c) Federal Way agrees to issue bonds and to use the proceeds thereof to repay its capital contribution with respect to the 2009 SCORE Bonds (the "Federal Way Refunding Bonds"); and (d) for as long as the Federal Way Refunding Bonds, and any bonds issued to refund such bonds, issued on a tax-exempt basis are outstanding (which as of their date of issuance are scheduled to mature on January 1, 2039), SCORE covenants that it will not provide to nongovernmental persons special legal entitlements to use the SCORE Facility in a manner that will adversely impact the tax-exempt status of any such bonds. SCORE shall monitor the use of the SCORE Facility to ensure that it complies with the terms of the SCORE/Federal Way Agreement for so long as such Federal Way Refunding Bonds, or any bonds issued to refund such bonds, are outstanding. The parties hereto approve SCORE entering into the SCORE/Federal Way Agreement.

Section 21. Termination of Host City Agreement.

Pursuant to Section 5 of the Host City Agreement, the parties hereto agree that the Host City Agreement shall terminate as of the Effective Date of this SCORE Interlocal

Agreement. As of the Effective Date of this SCORE Interlocal Agreement, Des Moines shall be an Owner City of SCORE with the same rights and privileges as the other Owner Cities as provided herein.

Section 22. Execution and Amendment.

This SCORE ~~Formation~~ Interlocal Agreement shall be executed on behalf of each ~~Member City~~ party hereto by its Designated Representative, or other authorized officer ~~of the Member City~~, and pursuant to an appropriate motion, resolution or ordinance of ~~each Member City~~. This SCORE ~~Formation Interlocal Agreement shall be deemed adopted upon the date of execution by the last so Designated Representative or other authorized officer such party.~~

This SCORE ~~Formation~~ Interlocal Agreement may not be effectively amended, changed, modified or altered, except by an instrument in writing duly executed by the Designated Representative, or other authorized officer, of each ~~Member City~~ party hereto and pursuant to an appropriate motion, resolution or ordinance of ~~each Member City~~ such party. Notwithstanding the foregoing, so long as the Bonds are outstanding, any such amendment ~~does, in the opinion of the SCORE Facility Public Development Authority or its counsel, shall~~ not materially adversely affect the owners of the Bonds or affect the tax-exempt status of the interest paid on the Bonds. ~~If the Bonds issued by the SCORE Facility Public Development Authority are rated by a rating agency, then no amendment that adds or removes an Owner City from this SCORE Formation Interlocal Agreement or revises Section 15 of this SCORE Formation Interlocal Agreement shall be permitted unless the SCORE Facility Public Development Authority has received written confirmation from the rating agency that such amendment will not result in a reduction or withdrawal of the rating on the Bonds. If the Bonds are not rated by a rating agency, then no such amendment as described in the preceding sentence will be permitted unless in the opinion of the SCORE Facility Public Development Authority such amendment will not materially adversely affect the owners of the Bonds.~~

Section 2123. Third Party Beneficiaries.

The SCORE Facility Public Development Authority and the holders from time to time of the Bonds shall be third party beneficiaries hereof and the commitments made in Section 15 herein shall be for their further benefit.

Section 2224. Hold Harmless.

The parties to this SCORE-Formation Interlocal Agreement shall defend, indemnify and save one another harmless from any and all claims arising out of the performance of this SCORE Formation-Interlocal Agreement, except to the extent that the harm complained of arises from the sole negligence of one of the participating members. Any loss or liability resulting from the negligent acts errors or omissions of the Administrative Board, Operations Board, Finance Committee, Facility Director and or staff, while acting within the scope of their authority under this SCORE-Formation Interlocal Agreement shall be borne by SCORE exclusively.

Section 2325. Counterparts

This SCORE-Formation Interlocal Agreement may be executed in any number of counterparts, each of whom shall be an original, but those counterparts will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this SCORE-Formation Interlocal Agreement as of the day and year first written above.

CITY OF AUBURN

CITY OF RENTON

By: _____

By: _____

CITY OF DES MOINES

CITY OF TUKWILA

By: _____

By: _____

CITY OF FEDERAL WAY

CITY OF BURIEN

By: _____

By: _____

CITY OF SEATAC

By: _____

[execution pages to follow]

A G E N D A I T E M

BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Recycling Rate Adjustment –
Recology CleanScapes, Inc. Contract Amendment

ATTACHMENTS:

1. Amendment #2 to Comprehensive Garbage, Recyclables and Compostables Collection Agreement between the City of Des Moines and Recology CleanScapes, Inc.

FOR AGENDA OF: September 26, 2019

DEPT. OF ORIGIN: Community Development

DATE SUBMITTED: September 19, 2019

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: _____

- Legal *TG*
 Finance _____
 Courts _____
 Police _____

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

Purpose and Recommendation

The purpose of this agenda item is to request Council approval of an amendment to the contract with Recology CleanScapes, Inc. to incorporate a recycling rate adjustment and an expanded education and promotion plan. In addition, Council concurrence is requested to extend the term of the contract for the final two year extension until October 31, 2022.

Suggested Motions

Motion 1: “I move to approve Amendment #2 to the Comprehensive Garbage, Recyclables and Compostables Collection Agreement between the City of Des Moines and Recology CleanScapes, Inc. and authorize the City Manager to sign the amendment substantially in the form as submitted.”

Motion 2: “I move to exercise the option to extend the contract term to October 31, 2022 and direct staff to notify Recology of the extension.”

Background

Starting in 2017, policy changes in China and other countries have impacted global recycling markets by changing material specifications, import bans, tariffs and other restrictions. Collection companies have been faced with decreasing prices for recycled materials and increasing costs for processing and shipping.

On August 13, 2018, the City received a request from Recology CleanScapes, Inc. for a recycling rate adjustment to address rising costs in equipment, employees, education and outreach. The City coordinated with other Recology contract cities with a goal of creating a consistent approach and draft contract amendment template. While there were many areas of agreement, a variety of independent actions were taken, ranging from no action to contract amendments with variations in approaches.

As of September 2019, three Recology cities have adopted contract amendments: SeaTac, Burien, and Shoreline. At the August 1, 2019 and September 5, 2019 City Council Ad Hoc Franchise Committee meetings, City and Recology staff discussed the different approaches. Pursuant to those discussions, the draft contract amendment changes follow those adopted by the City of Shoreline with the exception of single family monitoring and enforcement:

- \$1.35/month collection fee component for single family;
- \$2.25/cubic yard for multi-family and commercial;
- Contractor to implement robust education and promotion plan; and
- Contamination monitoring and enforcement protocol for multi-family and commercial submitted annually for review.

Discussion

It is the intent for the recycling rate adjustment to take effect on January 1, 2020, which would be concurrent with the annual inflation adjustment as provided in the current contract. On August 28, 2019, Recology submitted the 2020 inflation rate calculations for the City's review. The formula for annual adjustments is contained in Section 3.3 of the contract and is comprised of three weighted indices: Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for the Seattle-Tacoma-Bremerton area, Northwest Pipeline Corporation, Canadian Border (SUMAS) monthly index, Employment Cost Index (ECI) for Private Industry. The 2020 inflation adjustment is 13.41%. The adjustment is only applied to the non-disposal component of rates and not to King County's disposal system fees. The adjustment is higher than in previous years due primarily to a significant increase in natural gas prices related to the pipeline explosion in British Columbia in October 2018. Previous years: 2019 1.52%, 2018 5.49%, 2017 -0.22%. The inflation rate adjustment was found to be consistent with the formula contained in the contract. While Des Moines solid waste rates are adjusted annually based on inflation indices, the additional increase related to changes in international recycling markets reflects a one-time rate adjustment that will carry through to the end of the contract term.

The City's 2011 solid waste collection agreement with Recology provided for collection services through October 31, 2018. The first of two 2-year extensions was authorized by the City Council, extending service through October 31, 2020. Staff recommends exercising the second 2-year extension option to October 31, 2022 concurrently with this contract amendment. The notice of intent assumes continued compliance with the contract performance standards. Recology's performance to date and coordination with the City have been exemplary. The entirety of the contract may be viewed at: <http://www.desmoineswa.gov/172/Planning-Building>.

Alternatives

1. The City Council may authorize the City Manager to sign Amendment #2 to the May 13, 2011 Comprehensive Garbage, Recyclables and Compostables Collection Agreement between the City of Des Moines and Recology King County.
2. The City Council may not authorize the City Manager to sign Amendment #2 to the May 13, 2011 Comprehensive Garbage, Recyclables and Compostables Collection Agreement between the City of Des Moines and Recology King County. Only the annual inflation adjustment will take effect on January 1, 2020.
3. The City Council may continue this agenda item and request that staff provides additional information on the proposed amendments.

Financial Impact

The proposed amendment will increase single-family residential collection rates by \$1.35 per month and multi-family and commercial collection rates by \$2.10 per yard of garbage collected monthly. Per the current contract conditions, the City receives a monthly 13% administrative fee based on gross receipts which will increase accordingly.

Recommendation

Staff recommends that the City Council authorize the City Manager to sign the draft contract amendment and contract extension with rate changes to take effect January 1, 2020 with the annual inflation adjustment.

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**AMENDMENT #2
TO COMPREHENSIVE GARBAGE, RECYCLABLES AND COMPOSTABLES
COLLECTION AGREEMENT
BETWEEN THE CITY OF DES MOINES
AND
RECOLOGY CLEANSAPES INC.**

This Amendment #2 to Comprehensive Garbage, Recyclables and Compostables Collection Agreement is entered into as of September __, 2019 by and between the City of Des Moines, a Washington municipal corporation (“City”), and Recology CleanScapes Inc., a Washington corporation (“Contractor”).

WHEREAS, City and Contractor are parties to a Comprehensive Garbage, Recyclables and Compostables Collection Agreement dated May 13, 2011 (the “Contract”); and

WHEREAS, the international and domestic markets for the recyclables collected from residents and businesses by Contractor have undergone significant adverse changes since the Contract was developed; and

WHEREAS, some materials are no longer feasibly recyclable, and the existing levels of contaminants in the collected recyclables and changes in market acceptance standards now require changes to the City’s recycling collection and education programs; and

WHEREAS, the parties desire to amend certain terms and conditions of the Contract related to adjusting to changing market conditions for recyclables materials;

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

1. Effective Date. This Amendment shall take effect January 1, 2020.
2. Rate Adjustment. Certain customer rates set forth on Attachment B of the Contract shall be adjusted to reflect the Contractor’s increased cost of processing recyclable materials due to changes in the commodity market and the cost of re-educating customers as to new preparation requirements. The Collection Fee (i.e. non-Disposal Fee) component of all regular (i.e. monthly or weekly) container collection rates shall be increased by \$1.35 per month for single-family residential customers and increased by \$2.25 per cubic yard of garbage collected monthly for multifamily and commercial customers, effective January 1, 2020. This increase in the Collection Fee component of those rates shall be subject to the CPI adjustments set forth in Section 3.3.1 of the Contract effective January 1, 2021 and each January 1 thereafter. This special rate adjustment shall not apply to ancillary services, extra units, container rental, and other such fees. In addition, a new fee shall be added for collection of contaminated recycling or compost containers as garbage from multifamily and commercial Customers. Such fee shall initially be \$25.00 per cubic yard of container size (or per cart, for cart customers). Attachment B (Contractor Rates) of the Contract is

hereby deleted and replaced with Attachment B to this Amendment, which reflects the foregoing adjustments as well as the CPI adjustment effective January 1, 2020.

3. Amendment of Main Contract. Sections 2.1.12 (Requirement to Recycle and Compost), 2.2.2.1 (Single-Family Residence Recyclables Collection – Subject Materials), 2.3.4.2 (Monthly Reports), 2.3.4.3 (Annual Reports), and 2.3.5 (Promotion and Education) of the Contract are hereby amended to read in their entirety as set forth below. Underlining and strikethrough are intended to show additions to and deletions from (respectively) the existing contract language.

2.1.12 Requirement to Recycle and Compost

The contractor shall recycle or compost all loads of Source-Separated Recyclables and Compostables collected, unless express prior written permission is provided by the City. The disposal of contaminants separated during processing is acceptable to the extent that it is unavoidable and consistent with industry standards. The Contractor's residuals from the overall processing operations at the facility (including both City and non-City material) shall not exceed 5%. Recyclables in residual stream shall not exceed 2% of the inbound Recyclables. If more than 5% of inbound materials are found to be contaminants, the Contractor will develop a plan to determine which Customers are adding contaminants in their Recyclables and then provide a public education program to remedy the situation. The City's goal is to maintain an inbound contamination level of no greater than 5% by volume for collected Recyclables and no greater than 3% by volume (Inbound Contamination Levels) for collected Compostables.

The Contractor shall use facilities that:

- Process materials to a high standard to maximize the recovery and recycling of all marketable recyclable and compostable materials;
- Are operated to minimize cross-contamination of materials that would result in otherwise Recyclable or Compostable materials being misdirected to a market or disposed where they would not be recovered;
- Are designed and operated to minimize the residual stream of otherwise Recyclable or Compostable materials destined for disposal; and
- Have sufficient pre-process screening staff and equipment to ensure that otherwise recoverable materials do not cross-contaminate other separated Recyclable materials that are incompatible for the intended market consumer, rendering materials non-recyclable.

The Contractor shall process Recyclables in such a manner as to meet market specifications and to minimize out-throws and prohibitives in baled material. Out-throws shall be less than 8%, prohibitives less than 1%-2% by weight of outgoing materials. The Contractor shall remove 90% or more of the inbound contaminants for disposal.

City staff shall be provided access to the Contractor's processing facilities at any time for the purposes of periodically monitoring the facilities' performance under this Section. Monitoring may include, but not limited to, taking samples of unprocessed Recyclables, breaking selected bales and measuring the out-throws and prohibitives by weight, taking samples of processed glass and metals, reviewing actual markets and use of processed materials, and other activities to ensure the Contractor's performance under this Section and to ensure that misdirected Recyclables and contamination are minimized.

Obvious contaminants included with either Source-Separated Recyclables or Compostables shall not be collected, and shall be left in the Customer's Container with a prominently displayed notification tag (per Section 2.1.10) explaining the reason for rejection.

The Contractor shall immediately implement activities outlined in the annual education and promotion plan, per Section 2.3.5. By November 1 of each year, the Contractor shall submit an annual contamination monitoring protocol and enforcement procedure for commercial and multifamily customers for approval by the City Manager or his or her designee. The annual contamination monitoring protocol and enforcement procedure for commercial and multifamily customers shall include the following elements: regular contamination monitoring and documentation; timely customer notification of contamination occurrences; and progressive enforcement including warning letters or phone calls, fees for collection of contaminated recycling or compost containers as garbage, and the potential removal of services.

The Contractor must inform customers of the contamination monitoring protocol and enforcement procedure at least 90 days before implementation. If the Contractor chooses to charge a fee for collection of contaminated recycling or compost containers as garbage for commercial and multifamily customers, such fees shall not be charged prior to January 1, 2020, and may only be implemented if monthly pad inspections along City routes show that aggregate data does not meet inbound contamination levels. Any fee for collection of contaminated recycling or compost containers as garbage for commercial and multifamily customers must be in accordance with the annual contamination monitoring protocol and enforcement procedure and Attachment B.

Notwithstanding the foregoing or any other provisions of this Agreement, the Contractor shall not provide any information to the City regarding the contents of any individual residential customer's container.

2.2.2 Single-Family Residence Recyclables Collection

2.2.2.1 Subject Materials

The defined list of Residential Recyclables shall be collected from all participating Single-Family Residences as part of basic Garbage collection services, without

extra charge. The Contractor shall collect all Residential Recyclables from Single-Family Residences that are placed in Contractor owned Carts or are boxed or placed in a paper bag next to the Customer's Recycling Cart. Recyclables containing obvious amounts of Compostables or Garbage shall not knowingly be collected and instead prominently tagged with a notice informing the Customer of Recyclables contamination. Customers shall be contacted and provided the opportunity to either remove the contamination and have the materials collected the following collection cycle or, alternatively, have the materials collected as Garbage at the regular extra fee. Recyclables must be prepared as follows and uncontaminated with food or other residues:

Aluminum Cans:	All clean aluminum cans, pie "tins", and foil that are placed in the Recycling Cart.
Corrugated Cardboard:	All corrugated cardboard boxes smaller than three (3) feet square, and placed in or next to the Customer's Recycling Cart. Corrugated cardboard boxes larger than three (3) feet square must be flattened by Customer prior to collection.
Fats, Oils, Grease (FOG):	Up to three gallons of used cooking oil and kitchen grease that is free from contaminants and placed in clear screw-top plastic containers, labeled with the Customer's address and placed next to the Customer's Recycling Cart.
Fluorescent Tubes and CFLs:	Unbroken fluorescent tubes wrapped in paper and unbroken CFLs bulbs sealed in a Ziploc bag and placed on top of the Customer's Recycling Cart.
Glass Containers:	All colored or clear jars and bottles that are rinsed and have lids removed. Incandescent light bulbs, ceramics and window glass are excluded.
Household Batteries:	Button, alkaline, and rechargeable batteries sealed in small Ziploc baggies and placed on top of the Customer's Recycling Cart.
Mixed Paper:	All Mixed Paper
Motor Oil:	Up to three gallons of motor oil that is free from contaminants and placed in clear screw-top plastic jugs, labeled with the Customer's address and placed next to the Customer's Recycling Cart.
Newspaper:	All newspaper and advertising supplements that are delivered.
Coated paper:	All clean paper cups, milk cartons, other coated food packaging, and Tetra Paks/aseptic container placed in the Recycling Cart.
Plastic Bags:	All clean dry plastic bags, (shopping, newspaper, and dry-cleaning bags) bagged together and placed in the Recycling Cart.
Plastic Containers:	All plastic bottles, cups, jugs and tubs. Other plastics, automotive or other hazardous product Containers, and lids are excluded.

Other Plastic:	Clean plastic food containers and trays, clean LDPE stretch plastic film such as Saran Wrap, Polypropylene and PET plastic soda and water bottles; Polycarbonate water bottles such as Nalgene; Polystyrene such as grocery meat trays, plastic buckets such as 5g paint pails emptied of paint; clean Plant pots, CD cases with paper booklet removed; and household plastic items such as laundry baskets, large plastic containers; plastic furniture, and plastic toys.
Polycoated Cartons and Boxes:	All plastic coated cartons and boxes that are flattened.
PVC pipe:	All thicknesses of white PVC pipe, no longer than length of Recycling Cart.
Scrap Metal:	All ferrous and non-ferrous Scrap Metal that has no more than market-acceptable levels of wood, plastic, rubber and/or other contaminants; and meets the size requirements defined for Scrap Metals.
Tin Cans:	All food and beverage tin cans with labels removed.
Garbage Cans:	The Contractor shall also collect and recycle unwanted Garbage Cans from Customer. Customers shall label unwanted cans with a "Take" label and the Contractor shall collect those empty unwanted Garbage Cans on its Recycling collection route.

2.3.4.2 Monthly Reports

On a monthly basis, by the 15th of each month, the Contractor shall provide a report containing information for the previous month. Reports shall be submitted in electronic format approved by the City and shall be certified to be accurate by the Contractor. At a minimum, reports shall include:

- 1) A log of complaints and resolutions for all collection services and sectors. At a minimum, the complaint log shall include Customer name and/or business name, Customer's service address, contact telephone number, date of complaint, a description of the complaint, a description of how the complaint was resolved, the date of recovery/resolution and any additional driver's notes or comments.
- 2) A tabulation of the number of single family, commercial and multi-family accounts by service level/Container size and service frequency.
- 3) A compilation of program participation statistics including: a summary of multi-family and commercial participation in recycling programs, set-out statistics for Residential Garbage, Compostables and Recyclables collection services, and log of bulky items.

- 4) A compilation of total monthly and year-to-date summaries of Garbage, Recyclables and Compostables quantities by collection sector.
- 5) A summary of Recyclables quantities by collection sector and by commodity, including processing residues disposed and market prices.
- 6) A summary of disposal or tipping facility locations and associated quantities for Garbage, Recyclables and Compostables as well as any changes in processing procedures, locations or tipping fees.
- 7) A list of dates, Customer names and addresses for whom a free special recycling collection has been made (Section 2.2.2.3).
- 8) A description of any vehicle accidents infractions, or insurance claims against Contractor.
- 9) A description of any changes to collection routes, Containers, vehicles (including the identification of back-up vehicles not meeting contract standards with the truck number and date of use), customer service or other related activities affecting the provision of services; and
- 10) Call Center performance as outlined in Section 2.3.2.2.
- 11) A summary of contamination reduction efforts during the previous month.

If collection vehicles are used to service more than one Customer sector or jurisdiction, the Contractor shall develop an apportioning methodology that allows the accurate calculation and reporting of collection quantities. The apportioning methodology shall be subject to prior review and approval by the City and shall be periodically verified through field testing by the Contractor.

2.3.4.3 Annual Reports

On an annual basis, by the last working day of January, the Contractor shall provide an electronic report containing the following information:

- 1) A consolidated summary and tabulation of the monthly reports, described above.
- 2) A discussion of highlights and other noteworthy experiences, along with measures taken to resolve problems, increase efficiency, and increase participation in Compostables and Recyclables collection programs.
- 3) A discussion of promotion and education efforts and accomplishments.
- 4) An inventory of current collection, delivery, spare and other major equipment, including make, model, year, and accumulated miles.

- 5) A list of multi-family and commercial recycling sites pursuant to Section 2.3.5.
- 6) Recyclable and compostable market conditions report.

2.3.5 Promotion and Education

The Contractor shall have primary responsibility for providing service oriented information and outreach to Customers and implementing on going recycling promotion, at the direction of the City. The Contractor shall also incorporate general waste reduction, minimization and reuse elements in to its promotion and education program.

Each December, the City and Contractor shall jointly plan the Contractor's specific promotion and education program for the following year, including adjustments in materials and/or targeted audiences. This Annual Education and Promotion Plan (Education Plan) must include items included in Attachment D, as the same may be adjusted from time to time by the City Manager or his or her designee. Contractor's changes to the Education Plan from year to year should include education targeted to address issues raised through the date of the previous year's monthly contamination reports. The Education Plan will be updated annually and reported upon in the monthly and annual reporting, as outlined in sections 2.3.4.1 and 2.3.4.2 of this Contract. The Contractor shall develop a 2019-2020 Education Plan no later than November 1, 2019 that, in addition to the activities listed in this contract and Attachment D, will inform and educate all Des Moines customers of the need for good recycling practices, updated service guidelines, recyclable material list changes, recycling tips and other educational and recycling resources.

The Contractor shall maintain a complete list of all Multi-Family Complex sites within the City Service Area, and the status of each site's participation in Contractor-provided services. The Contractor shall annually contact, by telephone or site visit, the manager or owner of each site to encourage participation and inform the manager or owner of all available services and ways to decrease Garbage generation. Printed informational materials discussing waste prevention and recycling service options shall be prepared and distributed to support contact with Multi-Family Complex and Commercial Customer sites. This contact shall be coordinated with City and King County promotional efforts. The Contractor shall include with its annual report the list of Multi-Family Complex and Commercial Customer sites; Garbage, recycling and Compostables status; Container sizes, service frequency, and types; Customer contact dates and outcome of such contacts; and suggestions for increasing participation or other program improvements.

The Contractor shall keep the public informed of programs and encourage participation through an Annual Service Update. Each fall, the Contractor shall provide an Annual Service Update for each service sector, the format, content and timeframe of which shall be subject to prior review and approval by the City. The Annual Service Update shall be mailed to all Customers and, at a minimum, shall include an informational brochure indicating rates, all services available,

preparation and other service requirements, contact information, inclement weather and other policies, a collection schedule calendar applicable to each recipient's routes and other useful Customer information.

The Contractor shall develop, print, periodically update and maintain sufficient quantities of new Customer information materials, the format and content of which shall be subject to prior review and approval by the City. Upon approval, materials shall be mailed to every new Customer prior to the Customer's first billing and shall, at a minimum, include a statement of applicable rules and service policies, rates, services and preparation requirements, collection days in calendar format, Contractor customer service information and City contact information. Contractor's materials shall be TTY accessible and Contractor shall provide alternative language formats upon request.

The Contractor shall permit the City to insert, at no charge, single-sheet information bulletins into Customer bills. When the insert is beyond one page and increases Contractor cost, the City shall pay the incremental difference. The City and Contractor shall work cooperatively for timely inclusion of such materials.

4. Addition of Attachment D. The Contract is hereby amended to add Attachment D to this Amendment as Attachment D to the Contract.

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IN WITNESS WHEREOF, the parties have entered into this Amendment #2 to Comprehensive Garbage, Recyclables and Compostables Collection Agreement as of the date first written above.

CITY OF DES MOINES

RECOLOGY CLEANSCAPES INC.

By: _____

By: _____

Name: _____

Name: Michael J. Sangiacomo

Its: _____

Its: President & CEO

ATTEST:

Name: _____

Its: _____

APPROVED AS TO FORM:

Name: _____

Its: _____

Attachments:

Attachment B – Contractor Rates (as of January 1, 2020)

Attachment D – Enhanced Promotion and Education Program Requirements

City of Des Moines
2020 Amended Solid Waste Rate Schedule

Attachment B (2020 Amended Rates prepared 9.19.19)					
	Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	2020 Amended Total Service Fee
Monthly Weekly Residential Curbside Service	One 32/35 gallon Garbage Cart	22.22	\$ 1.57	\$ 9.32	\$ 40.89 12.24
	One 10 gallon Garbage Microcan	5.13	\$ 1.57	\$ 9.32	\$ 40.89 12.24
	One 20 gallon Garbage Cart	12.08	\$ 3.69	\$ 12.86	\$ 46.55 17.90
	One 32/35 gallon Garbage Cart	19.32	\$ 5.89	\$ 16.30	\$ 22.19 23.54
	One 60/64 gallon Garbage Cart	38.64	\$ 11.79	\$ 21.92	\$ 33.74 35.06
	One 90/96 gallon Garbage Cart	57.96	\$ 17.68	\$ 27.52	\$ 46.29 46.55
	Garbage Extras (32 gallon equivalent)				\$ 5.58
EOW Residential Recycling Only Service	One 32/35 gallon Recycling Cart		\$ -	\$ 8.15	\$ 8.15
	One 60/64 gallon Recycling Cart		\$ -	\$ 10.96	\$ 10.96
	One 90/96 gallon Recycling Cart		\$ -	\$ 13.76	\$ 13.76
	Recycle Extras (32 gallon equivalent)				\$ -
Miscellaneous Fees:					
	EoW Yard Debris service				\$ 10.39
	Yard Debris/Foodwaste Extras (32 gallon equivalent)				\$ 2.71
	96 Gallon Extra Yard Waste Cart Rental				\$ 2.21
	Return Trip				\$ 8.83
	Carry-out Charge, per 25 ft, per month				\$ 5.89
	Drive-in Charge, per month				\$ 8.83
	Overweight/Oversize container (per p/u)				\$ 5.00
	Redelivery of containers				\$ 14.72
	Cart Cleaning (per cart per event)				\$ 14.72
	Sunken Can Surcharge per month				\$ 11.03
On-Call Bulky Waste Collection	White Goods, except refrigerators		\$ 23.45	\$ 48.05	\$ 71.50
	Refrigerators/Freezers		\$ 23.45	\$ 48.05	\$ 71.50
	Sofas, Chairs		\$ 23.45	\$ 48.05	\$ 71.50
	Mattresses		\$ 23.45	\$ 48.05	\$ 71.50
	Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	Total Service Fee
Weekly Commercial/MF and Multi-Family Can and Cart	One 20 gallon Garbage Cart	11.68	\$ 3.76	\$ 25.31	\$ 29.07 30.04
	One 32/35 gallon Garbage Cart	18.69	\$ 6.02	\$ 26.42	\$ 32.44 34.09
	One 60/64-gallon Garbage Cart	37.39	\$ 12.03	\$ 32.29	\$ 44.33 47.44
	One 90/96-gallon Garbage Cart	56.08	\$ 18.05	\$ 37.36	\$ 55.44 59.79
	Garbage Extras (32 gallon equivalent)				\$ 6.32
Weekly Commercial/MF YW/ Only Service	One 96 gallon Yard Debris/Foodwaste service, 1 pickup/week				\$ 19.53
	One 96 gallon Yard Debris/Foodwaste cart, 2 pickups/week				\$ 39.07
	One 96 gallon Yard Debris/Foodwaste cart, 3 pickups/week				\$ 58.59
	One 96 gallon Yard Debris/Foodwaste cart, 4 pickups/week				\$ 78.13
	One 96 gallon Yard Debris/Foodwaste cart, 5 pickups/week				\$ 97.66
	Yard Debris/Foodwaste Extras (32 gallon equivalent)				\$ 2.56
Miscellaneous Fees:					
	Return Trip				\$ 8.83
	Carry-out Charge, per 25 ft, per p/u				\$ -
	Drive-in Charge, per month (per p/u)				\$ 8.83
	Gate and/or unlock fee (per p/u)				\$ -
	Container roll-out, >10 feet (per p/u)				\$ -
	Overweight/Oversize container (per p/u)				\$ 5.00
	Redelivery of container				\$ 14.72
	Cart Cleaning (per cart per event)				\$ 14.72

City of Des Moines
2020 Amended Solid Waste Rate Schedule

	Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	Total Service Fee
Commercial/MF Detachable Container (compacted)	1 Cubic Yard, 1 pickup/week (Compacted)	354.00	\$ 108.00	\$ 84.12	\$ 192.12 221.35
	1 Cubic Yard, 2 pickups/week (Compacted)	708.00	\$ 215.99	\$ 168.23	\$ 384.22 442.68
	1 Cubic Yard, 3 pickups/week (Compacted)	1,062.00	\$ 323.99	\$ 252.35	\$ 576.34 664.02
	1 Cubic Yard, 4 pickups/week (Compacted)	1,416.00	\$ 432.00	\$ 336.45	\$ 768.45 885.36
	1 Cubic Yard, 5 pickups/week (Compacted)	1,770.00	\$ 539.99	\$ 420.57	\$ 960.57 1,106.70
	1.5 Cubic Yard, 1 pickup/week (Compacted)	531.00	\$ 162.00	\$ 120.55	\$ 282.55 326.39
	1.5 Cubic Yard, 2 pickups/week (Compacted)	1,062.00	\$ 323.99	\$ 241.11	\$ 565.11 652.79
	1.5 Cubic Yard, 3 pickups/week (Compacted)	1,593.00	\$ 485.99	\$ 361.66	\$ 847.65 979.17
	1.5 Cubic Yard, 4 pickups/week (Compacted)	2,124.00	\$ 647.99	\$ 482.22	\$ 1,130.21 1,305.58
	1.5 Cubic Yard, 5 pickups/week (Compacted)	2,655.00	\$ 809.99	\$ 602.77	\$ 1,412.76 1631.97
	2 Cubic Yard, 1 pickups/week (Compacted)	708.00	\$ 215.99	\$ 153.24	\$ 369.23 427.69
	2 Cubic Yard, 2 pickups/week (Compacted)	1,416.00	\$ 432.00	\$ 306.49	\$ 738.50 855.41
	2 Cubic Yard, 3 pickups/week (Compacted)	2,124.00	\$ 647.99	\$ 459.73	\$ 1,107.72 1,283.09
	2 Cubic Yard, 4 pickups/week (Compacted)	2,832.00	\$ 863.98	\$ 612.98	\$ 1,476.96 1,710.78
	2 Cubic Yard, 5 pickups/week (Compacted)	3,540.00	\$ 1,079.97	\$ 766.22	\$ 1,846.19 2,138.47
	3 Cubic Yard, 1 pickup/week (Compacted)	1,062.00	\$ 323.99	\$ 218.62	\$ 542.61 630.29
	3 Cubic Yard, 2 pickups/week (Compacted)	2,124.00	\$ 647.99	\$ 437.24	\$ 1,085.24 1,260.60
	3 Cubic Yard, 3 pickups/week (Compacted)	3,186.00	\$ 971.98	\$ 655.85	\$ 1,627.83 1,890.88
	3 Cubic Yard, 4 pickups/week (Compacted)	4,248.00	\$ 1,295.98	\$ 874.47	\$ 2,170.45 2,521.18
	3 Cubic Yard, 5 pickups/week (Compacted)	5,310.00	\$ 1,619.97	\$ 1,093.10	\$ 2,713.07 3,151.48
	4 Cubic Yard, 1 pickup/week (Compacted)	1,416.00	\$ 432.00	\$ 298.12	\$ 730.13 847.04
	4 Cubic Yard, 2 pickups/week (Compacted)	2,832.00	\$ 863.98	\$ 596.24	\$ 1,460.22 1,694.04
	4 Cubic Yard, 3 pickups/week (Compacted)	4,248.00	\$ 1,295.98	\$ 894.36	\$ 2,190.34 2,541.07
	4 Cubic Yard, 4 pickups/week (Compacted)	5,664.00	\$ 1,727.96	\$ 1,192.49	\$ 2,920.45 3,388.09
	4 Cubic Yard, 5 pickups/week (Compacted)	7,080.00	\$ 2,159.96	\$ 1,490.62	\$ 3,650.58 4,235.13
	6 Cubic Yard, 1 pickup/week (Compacted)	2,124.00	\$ 647.99	\$ 392.27	\$ 1,040.26 1,215.63
	6 Cubic Yard, 2 pickups/week (Compacted)	4,248.00	\$ 1,295.98	\$ 784.55	\$ 2,080.53 2,431.26
	6 Cubic Yard, 3 pickups/week (Compacted)	6,372.00	\$ 1,943.96	\$ 1,176.83	\$ 3,120.79 3,646.88
	6 Cubic Yard, 4 pickups/week (Compacted)	8,496.00	\$ 2,591.94	\$ 1,569.11	\$ 4,161.06 4,862.52
	6 Cubic Yard, 5 pickups/week (Compacted)	10,620.00	\$ 3,239.93	\$ 1,961.38	\$ 5,201.31 6,078.14
	Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	Total Service Fee
Commercial and Multi-Family Detachable Container (loose)	1 Cubic Yard, 1 pickup/week	118.00	\$ 36.00	\$ 65.95	\$ 101.95 111.69
	1 Cubic Yard, 2 pickups/week	236.00	\$ 72.00	\$ 131.88	\$ 203.88 223.37
	1 Cubic Yard, 3 pickups/week	354.00	\$ 108.00	\$ 197.83	\$ 305.83 335.06
	1 Cubic Yard, 4 pickups/week	472.00	\$ 144.00	\$ 263.78	\$ 407.78 446.75
	1 Cubic Yard, 5 pickups/week	590.00	\$ 180.00	\$ 329.73	\$ 509.74 558.45
	1.5 Cubic Yard, 1 pickup/week	177.00	\$ 54.00	\$ 94.23	\$ 148.23 162.84
	1.5 Cubic Yard, 2 pickups/week	354.00	\$ 108.00	\$ 188.46	\$ 296.46 325.69
	1.5 Cubic Yard, 3 pickups/week	531.00	\$ 162.00	\$ 282.70	\$ 444.70 488.54
	1.5 Cubic Yard, 4 pickups/week	708.00	\$ 215.99	\$ 376.93	\$ 592.92 651.38
	1.5 Cubic Yard, 5 pickups/week	885.00	\$ 270.00	\$ 471.17	\$ 741.17 814.24
	2 Cubic Yard, 1 pickups/week	236.00	\$ 72.00	\$ 119.39	\$ 191.39 210.88
	2 Cubic Yard, 2 pickups/week	472.00	\$ 144.00	\$ 238.80	\$ 382.80 421.77
	2 Cubic Yard, 3 pickups/week	708.00	\$ 215.99	\$ 358.18	\$ 574.17 632.63
	2 Cubic Yard, 4 pickups/week	944.00	\$ 287.99	\$ 477.58	\$ 765.58 843.52
	2 Cubic Yard, 5 pickups/week	1,180.00	\$ 359.99	\$ 596.98	\$ 956.97 1,054.40
	3 Cubic Yard, 1 pickup/week	354.00	\$ 108.00	\$ 169.72	\$ 277.72 306.95
	3 Cubic Yard, 2 pickups/week	708.00	\$ 215.99	\$ 339.46	\$ 555.45 613.91
	3 Cubic Yard, 3 pickups/week	1,062.00	\$ 323.99	\$ 509.18	\$ 833.18 920.86
	3 Cubic Yard, 4 pickups/week	1,416.00	\$ 432.00	\$ 678.91	\$ 1,110.91 1,227.82
	3 Cubic Yard, 5 pickups/week	1,770.00	\$ 539.99	\$ 848.64	\$ 1,388.63 1,534.77
	4 Cubic Yard, 1 pickup/week	472.00	\$ 144.00	\$ 213.81	\$ 357.81 396.78
	4 Cubic Yard, 2 pickups/week	944.00	\$ 287.99	\$ 427.61	\$ 715.60 793.54
	4 Cubic Yard, 3 pickups/week	1,416.00	\$ 432.00	\$ 641.42	\$ 1,073.42 1,190.33
	4 Cubic Yard, 4 pickups/week	1,888.00	\$ 575.99	\$ 855.25	\$ 1,431.24 1,587.12

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	4 Cubic Yard, 5 pickups/week	2,360.00	\$ 719.99	\$ 1,069.05	\$ 1,789.05 1,983.90
	6 Cubic Yard, 1 pickup/week	708.00	\$ 215.99	\$ 301.99	\$ 517.98 576.44
	6 Cubic Yard, 2 pickups/week	1,416.00	\$ 432.00	\$ 603.95	\$ 1,035.96 1,152.87
	6 Cubic Yard, 3 pickups/week	2,124.00	\$ 647.99	\$ 905.93	\$ 1,553.92 1,729.29
	6 Cubic Yard, 4 pickups/week	2,832.00	\$ 863.98	\$ 1,207.91	\$ 2,071.89 2,305.71
	6 Cubic Yard, 5 pickups/week	3,540.00	\$ 1,079.97	\$ 1,509.88	\$ 2,589.85 2,882.13
	8 Cubic Yard, 1 pickup/week	944.00	\$ 287.99	\$ 377.66	\$ 665.65 743.59
	8 Cubic Yard, 2 pickups/week	1,888.00	\$ 575.99	\$ 755.30	\$ 1,331.30 1,487.18
	8 Cubic Yard, 3 pickups/week	2,832.00	\$ 863.98	\$ 1,132.95	\$ 1,996.93 2,230.75
	8 Cubic Yard, 4 pickups/week	3,776.00	\$ 1,151.97	\$ 1,510.62	\$ 2,662.59 2,974.35
	8 Cubic Yard, 5 pickups/week	4,720.00	\$ 1,439.97	\$ 1,888.27	\$ 3,328.24 3,717.94
	Garbage Extra (loose cubic yard), per pickup				\$ 13.59
	Dumpster Miscellaneous Fees (per occurrence):				
	Return Trip				\$ 14.72
	Roll-out Container over 10 feet (per p/u)				\$ -
	Unlock Container (per p/u)				\$ -
	Gate Opening (per p/u)				\$ -
Commercial and Multi-Family Garbage On- Call Extra Service (add-on to a recurring service)	One 20 gallon Garbage Cart	11.68	\$ 0.83	\$ 7.18	\$ 8.01
	One 32/35 gallon Garbage Cart	18.69	\$ 1.32	\$ 7.58	\$ 8.90
	One 60/64 gallon Garbage Cart	37.39	\$ 2.64	\$ 9.46	\$ 12.11
	One 90/96 gallon Garbage Cart	56.08	\$ 3.95	\$ 11.14	\$ 15.09
	1 Cubic Yard Container (Compacted)	354.00	\$ 24.94	\$ 28.24	\$ 53.18
	1.5 Cubic Yard Container (Compacted)	531.00	\$ 37.41	\$ 40.80	\$ 78.21
	2 Cubic Yard Container (Compacted)	708.00	\$ 49.89	\$ 52.33	\$ 102.22
	3 Cubic Yard Container (Compacted)	1,062.00	\$ 74.83	\$ 75.37	\$ 150.20
	4 Cubic Yard Container (Compacted)	1,416.00	\$ 99.77	\$ 102.34	\$ 202.11
	6 Cubic Yard Container (Compacted)	2,124.00	\$ 149.66	\$ 138.29	\$ 287.95
	1 Cubic Yard Container	118.00	\$ 8.31	\$ 19.91	\$ 28.22
	1.5 Cubic Yard Container	177.00	\$ 12.47	\$ 28.58	\$ 41.06
	2 Cubic Yard Container	236.00	\$ 16.63	\$ 36.37	\$ 53.00
	3 Cubic Yard Container	354.00	\$ 24.94	\$ 51.98	\$ 76.92
	4 Cubic Yard Container	472.00	\$ 33.25	\$ 65.82	\$ 99.07
	6 Cubic Yard Container	708.00	\$ 49.89	\$ 93.54	\$ 143.43
	8 Cubic Yard Container	944.00	\$ 66.51	\$ 117.80	\$ 184.31
	Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	Total Service Fee
Commercial and Multi-Family Recycling On- Call Extra Service (add-on to a recurring service)	One 32/35 gallon Recycling Cart	10.30	\$ -	\$ 7.58	\$ 7.58
	One 60/64 gallon Recycling Cart	20.60	\$ -	\$ 9.46	\$ 9.46
	One 90/96 gallon Recycling Cart	30.89	\$ -	\$ 11.14	\$ 11.14
	1 Cubic Yard Container (Compacted)	195.00	\$ -	\$ 28.24	\$ 28.24
	1.5 Cubic Yard Container (Compacted)	292.50	\$ -	\$ 40.80	\$ 40.80
	2 Cubic Yard Container (Compacted)	390.00	\$ -	\$ 52.33	\$ 52.33
	3 Cubic Yard Container (Compacted)	585.00	\$ -	\$ 75.37	\$ 75.37
	4 Cubic Yard Container (Compacted)	780.00	\$ -	\$ 102.34	\$ 102.34
	6 Cubic Yard Container (Compacted)	1,170.00	\$ -	\$ 138.29	\$ 138.29
	1 Cubic Yard Container	65.00	\$ -	\$ 19.91	\$ 19.91
	1.5 Cubic Yard Container	97.50	\$ -	\$ 28.58	\$ 28.58
	2 Cubic Yard Container	130.00	\$ -	\$ 36.37	\$ 36.37
	3 Cubic Yard Container	195.00	\$ -	\$ 51.98	\$ 51.98
	4 Cubic Yard Container	260.00	\$ -	\$ 65.82	\$ 65.82
6 Cubic Yard Container	390.00	\$ -	\$ 93.54	\$ 93.54	
8 Cubic Yard Container	520.00	\$ -	\$ 117.80	\$ 117.80	
	Service Level (based on pick ups)	Daily Rent	Monthly Rent	Delivery Fee	Haul Charge
Commercial and Multi-family Drop-box	Non-compacted 10 cubic yard Drop-box	\$ 7.37	\$ 73.75	\$ 132.45	\$ 206.63
	Non-compacted 15 cubic yard Drop-box	\$ 7.37	\$ 88.51	\$ 132.45	\$ 221.75
	Non-compacted 20 cubic yard Drop-box	\$ 7.37	\$ 103.25	\$ 132.45	\$ 236.64

City of Des Moines
2020 Amended Solid Waste Rate Schedule

Collection		\$	\$	\$	\$
	Non-compacted 25 cubic yard Drop-box	7.37	117.99	132.45	251.66
	Non-compacted 30 cubic yard Drop-box	7.37	132.74	132.45	266.66
	Non-compacted 40 cubic yard Drop-box	7.37	147.49	132.45	296.69
	Compacted 10 cubic yard Drop-box			147.17	243.41
	Compacted 15 cubic yard Drop-box			147.17	258.42
	Compacted 20 cubic yard Drop-box			147.17	273.43
	Compacted 25 cubic yard Drop-box			147.17	288.45
	Compacted 30 cubic yard Drop-box			147.17	303.46
	Compacted 40 cubic yard Drop-box			147.17	333.48
	Drop-box dry run				61.31

	Service Level	Pounds Per Unit	Disposal Fee	Collection Fee	Haul Charge
Temporary Collection Hauling	4 Yard detachable container	520.00	\$ 36.63	\$ 137.33	\$ 173.96
	6 Yard detachable container	780.00	\$ 54.96	\$ 139.74	\$ 194.71
	8 Yard detachable container	1,040.00	\$ 73.28	\$ 142.16	\$ 215.44
	Non-compacted 10 cubic yard Drop-box				\$ 265.04
	Non-compacted 20 cubic yard Drop-box				\$ 265.04
	Non-compacted 30 cubic yard Drop-box				\$ 265.04
	Non-compacted 40 cubic yard Drop-box				\$ 265.04
	Service Level		Daily Rental	Monthly Rental	Delivery Fee
Temporary Collection Container Rental and Delivery	4 Yard detachable container		\$ 5.90	\$ 58.86	\$ 103.02
	6 Yard detachable container		\$ 5.90	\$ 58.86	\$ 103.02
	8 Yard detachable container		\$ 5.90	\$ 58.86	\$ 103.02
	Non-compacted 10 cubic yard Drop-box		\$ 7.37	\$ 73.59	\$ 132.45
	Non-compacted 20 cubic yard Drop-box		\$ 7.37	\$ 103.02	\$ 132.45
	Non-compacted 30 cubic yard Drop-box		\$ 7.37	\$ 132.45	\$ 132.45
	Non-compacted 40 cubic yard Drop-box		\$ 7.37	\$ 147.17	\$ 132.45
	Miscellaneous Fees:				Per Event
	Return Trip				\$ 36.79
	Stand-by Time (per minute)				\$ 2.36
	Drop-box turn around charge				\$ 14.72
	Service				Per Hour
Hourly Rates	Rear/Side-load packer + driver				\$ 183.95
	Front-load packer + driver				\$ 183.95
	Drop-box truck + driver				\$ 183.95
	Additional Labor (per person)				\$ 73.59

ATTACHMENT D

Enhanced Promotion and Education Program Requirements

The program below outlines minimum requirement that must be included in Recology's Annual Education and Promotion Plan. These requirements are in addition to the promotion and education activities that may be found in the current contract provisions. Recology will provide translation service on an as needed basis in conjunction with all promotion, education and outreach efforts. The goal of this program is to reduce contamination in customers' Recyclables and Compostables Container to a level of no greater than five percent (5%) by volume of collected Recyclables and no greater than three percent (3%) of volume by collected Compostables.

Promotion and Education Program Requirements: Ongoing

- Quarterly presentations to community groups, businesses and organizations regarding recycling and composting best practices, program materials and quality standards.
- Quarterly presentations to Des Moines residents and multifamily property owners/managers at The Recology Store, or on-site as requested for large commercial and multifamily properties, to raise awareness of recycling and composting best management practices.
- Quarterly outreach to school and community organizations to offer educational resources and summary information regarding specific site contamination issues.
- Monthly communications to raise awareness of recycling and composting best management practices and promote community presentations and events, such as the "Where Does It Go Workshops" via channels such as Facebook, Recology's Beyond Waste Bulletin, the City Currents newsletter and invoice messages.
- Monthly Load Level Monitoring of Recycle Contamination Levels.
 - Visual inspections of aggregate truck contents from City routes (i.e., a "pad inspection" where recycle material from a truck is emptied on a pad and an assessment of the contamination is made). These will occur once a month targeting different routes.
 - Monthly reporting regarding contamination reduction efforts and aggregate contamination data that is collected and maintained by Recology. (Recology will not provide information to City regarding the contents of any individual Customer's Container).
 - Based on pad inspection results, Recology will conduct targeted route-level outreach to customers on City routes found to have contamination in excess of acceptance standards. Outreach will take the form of route-level direct mailings to highlight common contaminants and provide instruction on proper disposal.
- Annual involvement and education presence at two additional City-sponsored events per year, as directed by the City, with the purpose of promoting good recycling practices.

- An annual schedule of scheduled on-site visits for commercial and multifamily customers will be offered, along with free educational resources (posters, signage, websites/links etc.) and staff trainings.
- Participation in regional and State programs – such as those listed below – to coordinate recycling market development and educational efforts.
 - Washington State Recycling Association
 - Washington Refuse & Recycling Association
 - Metropolitan Solid Waste Management Advisory Committee
 - Solid Waste Advisory Committee

Enhanced Outreach: October 1, 2019 – December 31, 2019

In addition to the requirements outlined above, Recology will implement the following actions from October 1, 2019 – December 31, 2019:

- Send updated service guides to all customers. Service guides will include recycling program changes, an updated accepted materials list, and information about new contamination standards and compliance efforts.
- Utilize social media and online platforms to communicate changes to accepted materials list, new contamination standards and recycling best practices with all Shoreline customers (such as via weekly social media posts, online images and graphics, etc.).
- Host at least two (2) presentations for Des Moines residents and multifamily properties, or on-site as requested for large Commercial and Multifamily properties, to raise awareness of recycling and composting best management practices.
- Provide outreach to at least two (2) school and community organization administrators or contacts to offer educational resources and summary information regarding specific site contamination issues.

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WELCOME
to the
DES MOINES
MARINA

WAGGONER MARINA SERVICES

WAGGONER CRUISING GUIDE



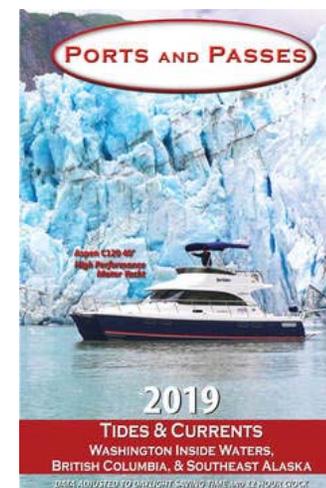
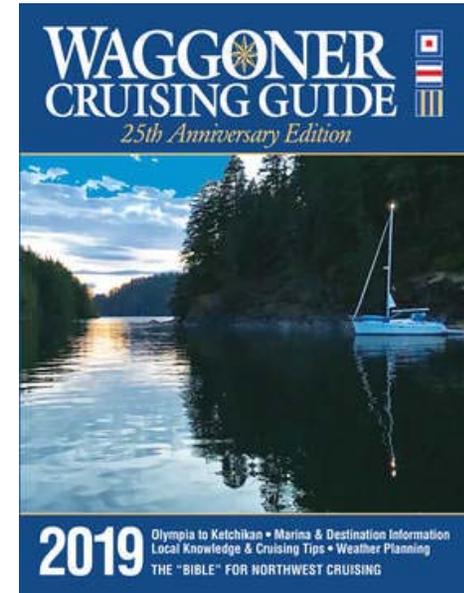
Waggoner Marina Services

- ❑ Marina Studies
- ❑ Recommendations
- ❑ Evaluations
- ❑ From a Boaters Perspective



The “Waggoner” Name

- ❑ Waggoner Cruising Guide
- ❑ Ports & Passes Tides & Currents
- ❑ Cruisers College
- ❑ Boat Show University
- ❑ Flotillas
- ❑ Fine Edge Publishing
- ❑ Nautical Magazine and Publication Authors



The Des Moines Marina Challenges and Opportunities



The Cruising Market Opportunity

There are 36,000 cruising boats in the NW and Inside Passage area including WA, BC & SE Alaska according to consulting firm Grant Thornton

- About 1/3 or 12,000 are serious cruising boats that go out every summer for 2 to 12 weeks
- Boats range from 26 foot cabin cruisers to 85 foot yachts and larger.
- Boat owners spend \$300 - \$500 per day or more at a destination on:
 - Moorage
 - Destination Marinas and Restaurant Experiences
 - Fuel, Maintenance, Parts and Accessories
 - New Electronics
 - Provisions and Liquor
 - Tours, Attractions and Fishing Charters



Boater Expectations

Boaters increasingly expect to find destination resort level facilities.

- Marinas today are more than a place to park boats. They want **a destination**.
- Cruising public expects to find resort/hotel grade facilities and services throughout.
- Cruising boaters are willing to pay the price.
- Tenant boaters want a safe, secure, convenient place to house their boat when not out cruising.

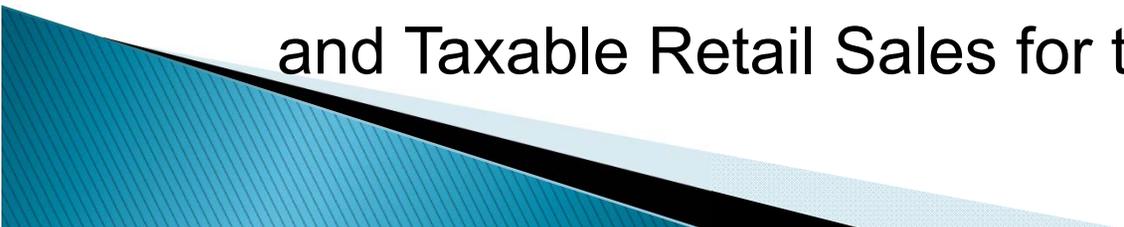


Opportunities for the City of Des Moines Marina

- The Marina is an economic generator with moorage and other services.
- It is also a popular amenity with access to the water for people to enjoy, go fishing, participate in water sports like kayaking and boating.
- It is very busy on a pleasant weekend with people strolling the waterfront and enjoying Beach Park.
- Located very close to SeaTac Airport, the Marina has opportunities to host fly-in marina tenants. The Pacific Northwest has been discovered.
- The Marina has uplands that can be better utilized and can form a link to the Marina District.
- Ranger Tug/Cutwater and the Marine Trades value the Des Moines Marina and can make better use of this asset. More Taxable Retail Sales?



There are also many Challenges ahead:

- The Marina infrastructure - seawall, docks, electrical systems – need a plan for replacement.
 - The mix and configuration of the docks need to be reset to meet the different needs of the market for larger slips.
 - Upland marina support amenities need to be rebuilt. This includes bathrooms, laundry and storage areas.
 - There are development opportunities to improve the marina floor area and increase lease revenue and Taxable Retail Sales for the City.
- 

Phase 2 - Challenges Ahead:

- How to pay for the millions in investment for renovation and replacement of the marina facilities.
 - Moorage Fees will need to increase.
 - Covered moorage is very expensive to build and maintain.
- Develop a responsible plan that meets the needs of the citizens, tenants and the market.
- Work out a schedule for the re-development that works around environmental issues and the logistics of moving existing tenants around.



Phase 2:

- Draft Plan for Marina Renovation and Rebuild
- Draft Plan to Renovate and Develop the Foreshore
- Project Future Revenue, Costs and Investment Models
- Draft a multi-stage plan over the next 10-15 years. The plan will evolve every 5 years or so during development.
- Consider different business models such as a Public-Private Partnership for the marina
- What are the preferred amenities to make Des Moines an attractive Marina Destination?



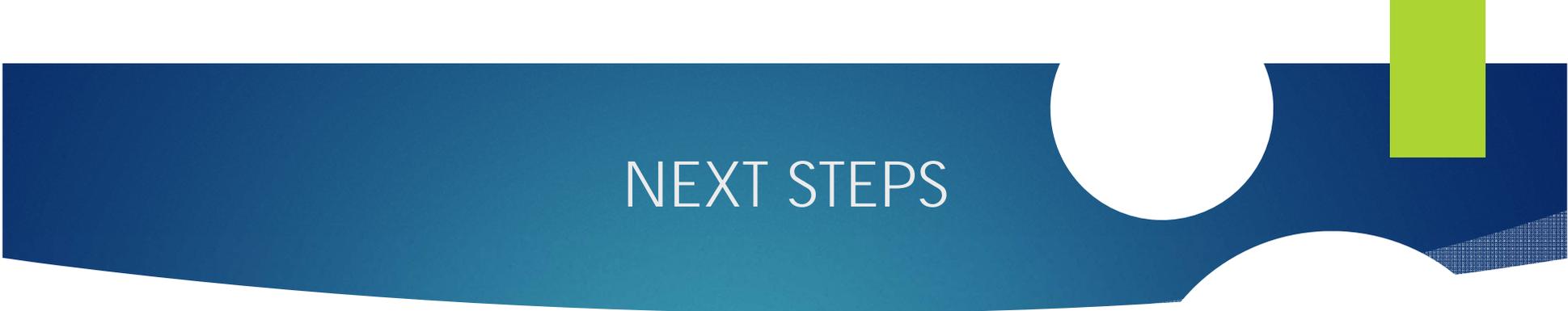
Phase 2:

- Gather information from tenants, the community, and the city on the future vision
- Gather information from industry sources and vendors
- Create an extensive budget model behind projected plans
- Report back to the City Council and Staff
- Participate in community meetings to report out the results of the Phase 2 study.
- Create recommendations to the City and staff for the marinas future plans



**We Believe the
Des Moines Marina
Has a Bright Future as an
Economic Generator
But, This Will Require
Careful Planning and New
Business Development**





NEXT STEPS

- ▶ Suggested Motion
 - ▶ “I move to direct staff to prepare and issue a Request for Qualifications (RFQ) for a private developer for Marina Redevelopment.”



DES MOINES, WA
MARINA STEPS

SEPTEMBER 26, 2019

skylab PLACE

Project Overview

← TO DES MOINES CREEK BUSINESS PARK

TO LANDMARK ON THE SOUND →



MARINE VIEW DR

DES MOINES THEATER

WALLY'S CHOWER HOUSE BROILER

THE ADRIANA

7TH AVE S

LIMITED PEDESTRIAN CONNECTION
EXISTING HILL CLIMB STAIR

6TH AVE S

MARINA PARK

223RD ST
DOWNTOWN PEDESTRIAN CONNECTOR

DOCK ST

PARKING FOR SLIP ACCESS

PROPOSED MARINA STEPS

OVERLOOK PARK 1

PARCEL B

FUTURE DEVELOPMENT

EXISTING BOATYARD
(34,000 SF)

ANTHONY'S HOME PORT

OVERLOOK PARK 2

PARCEL A

EXISTING MARINA BUILDING

POSSIBLE GREEN SPACE

OVERLOOK HOUSE

REPURPOSE BUILDING

BEACH PARK

PUBLIC FISHING PIER

How to build a **successful and sustainable waterfront?**

- _CENTRAL PUBLIC SPACE
- _URBAN INTEGRATION
- _ACCESS TO WATER
- _UNIVERSAL ACCESSIBILITY
- _CREATE A DESTINATION
- _CIVIC PROGRAM (MARINE HOSPITAL)

URBAN DESIGN

LANDSCAPE

- _BIG PICTURE
- _ECOLOGICAL APPROACH
- _STORM WATER STRATEGY
- _NATIVE ECOSYSTEMS



integrated design

ARCHITECTURE

- _PUBLIC/PRIVATE DEVELOPMENT
- _DIVERSE PROGRAM
- _PHASING DEVELOPMENT
- _ICONIC ARCHITECTURE / IDENTITY

How to build a **successful and sustainable waterfront?**

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- _DIVERSE PROGRAM
- _PHASING DEVELOPMENT
- _ICONIC ARCHITECTURE / IDENTITY

Existing Creek System



- The creeks perform as natural filters.
- As of right now, most of the storm water collected in the area is being dumped untreated to the creeks

Existing Creek System



**Economic and
Social Value**



**Ecological and
Environmental
Benefits**



Storm Water Drainage System



- Looking at the current storm water shed, 50% of the water is being discharged into creeks, and 50% is being discharged directly into the ocean.
- 60 acres of untreated storm water is discharging into the marina through 223rd Street.

Consequences of Untreated Runoff

Decline of Marine Ecosystems



Soil and Water Pollution

Uncontrolled Algae Blooming



Erosion

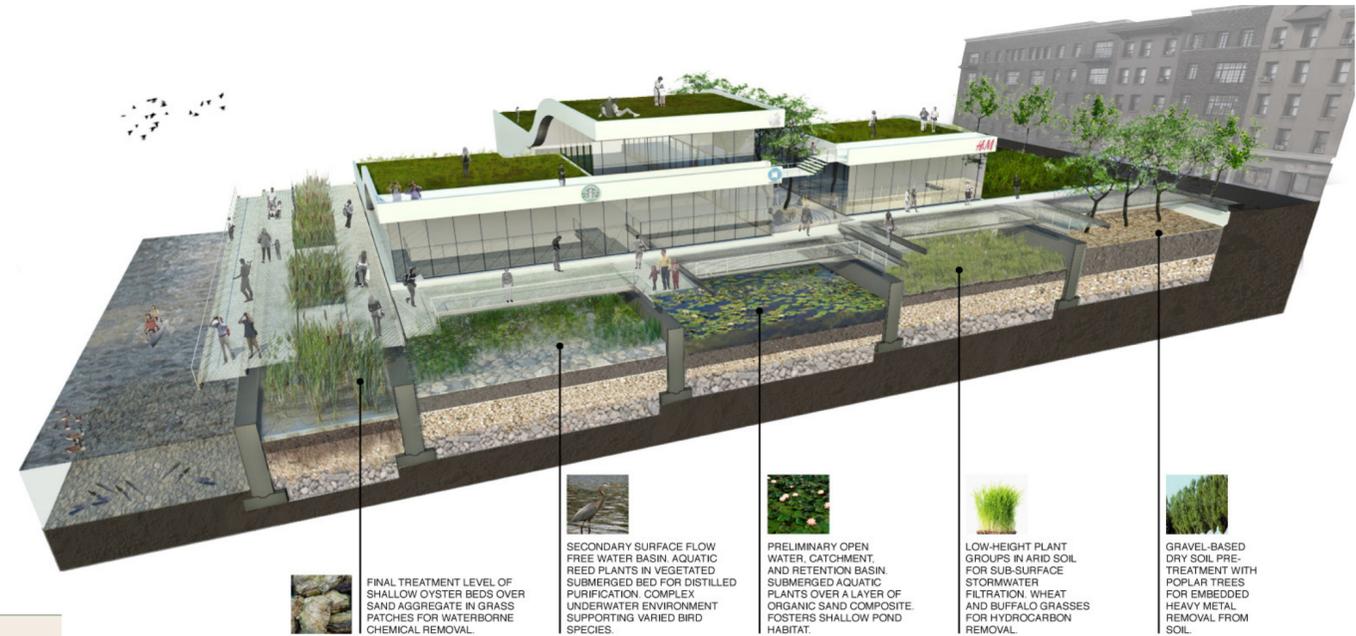
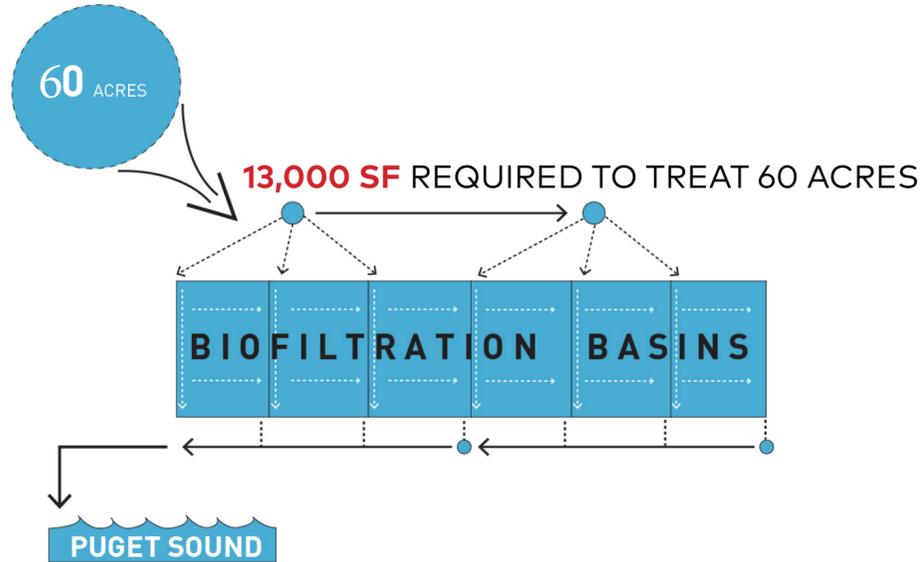


Environmental Opportunity

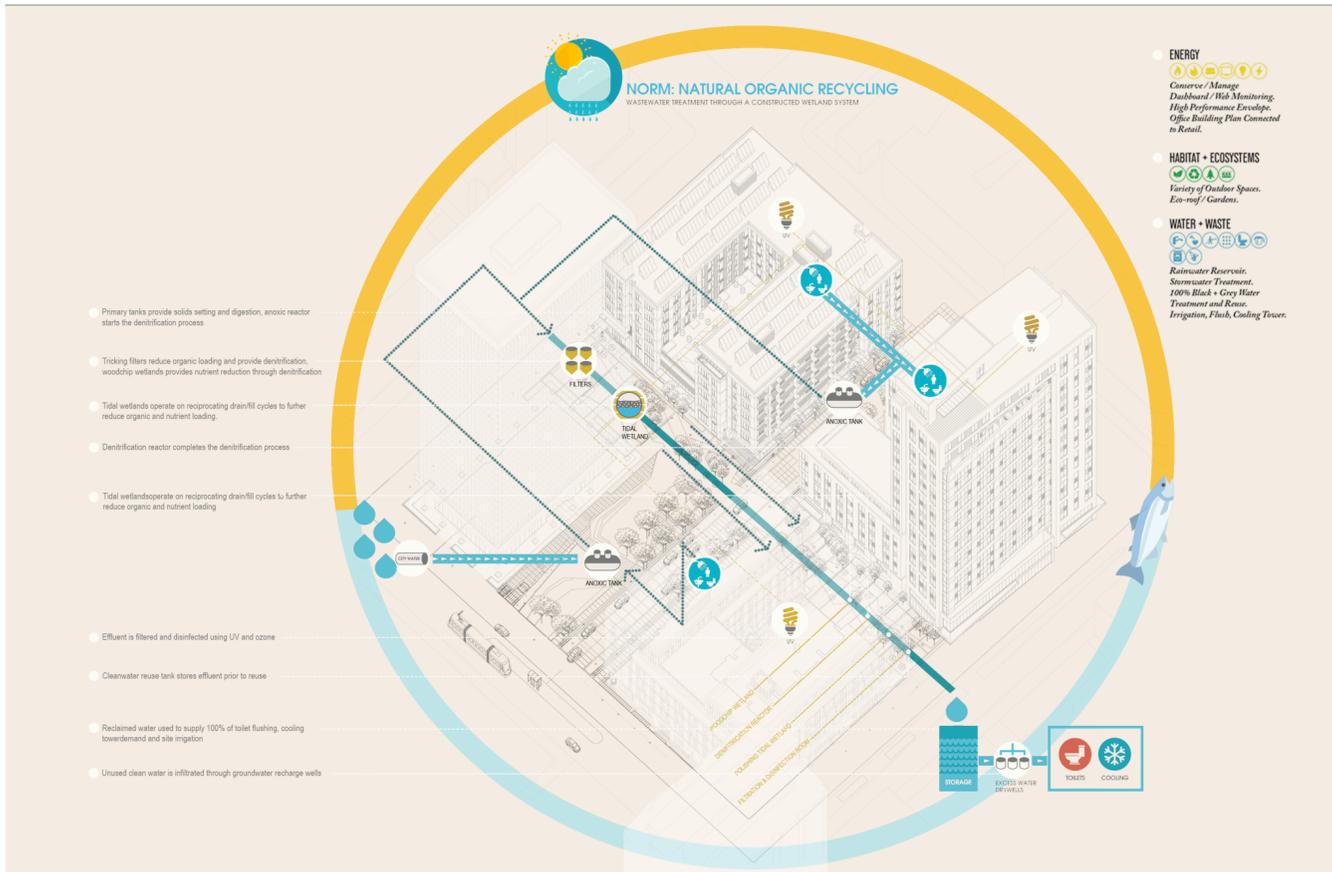


Can we turn 223rd Street into an **URBAN CREEK?**

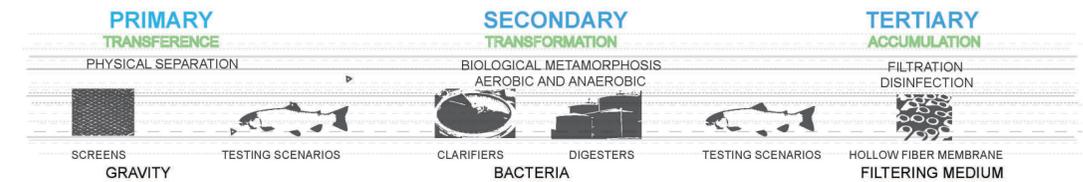
Technical Water Treatment Precedents



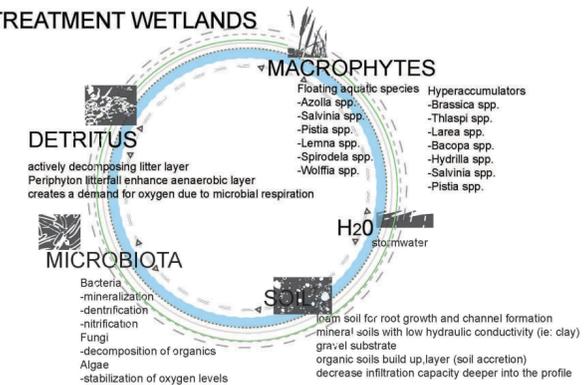
DRAWING CREDIT: DCP ARCHITECTURE



MECHANICAL PROCESS: WASTEWATER TREATMENT PLANT



ECOLOGICAL PROCESS: TREATMENT WETLANDS



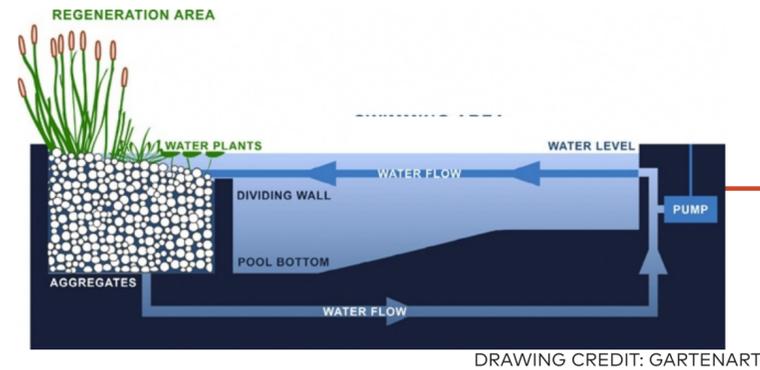
DRAWING CREDIT: ERIN DIBOS AND JIU LIU

Water Treatment Implementation

PHASE 1 - TERRACED VEGETATION TREATMENT



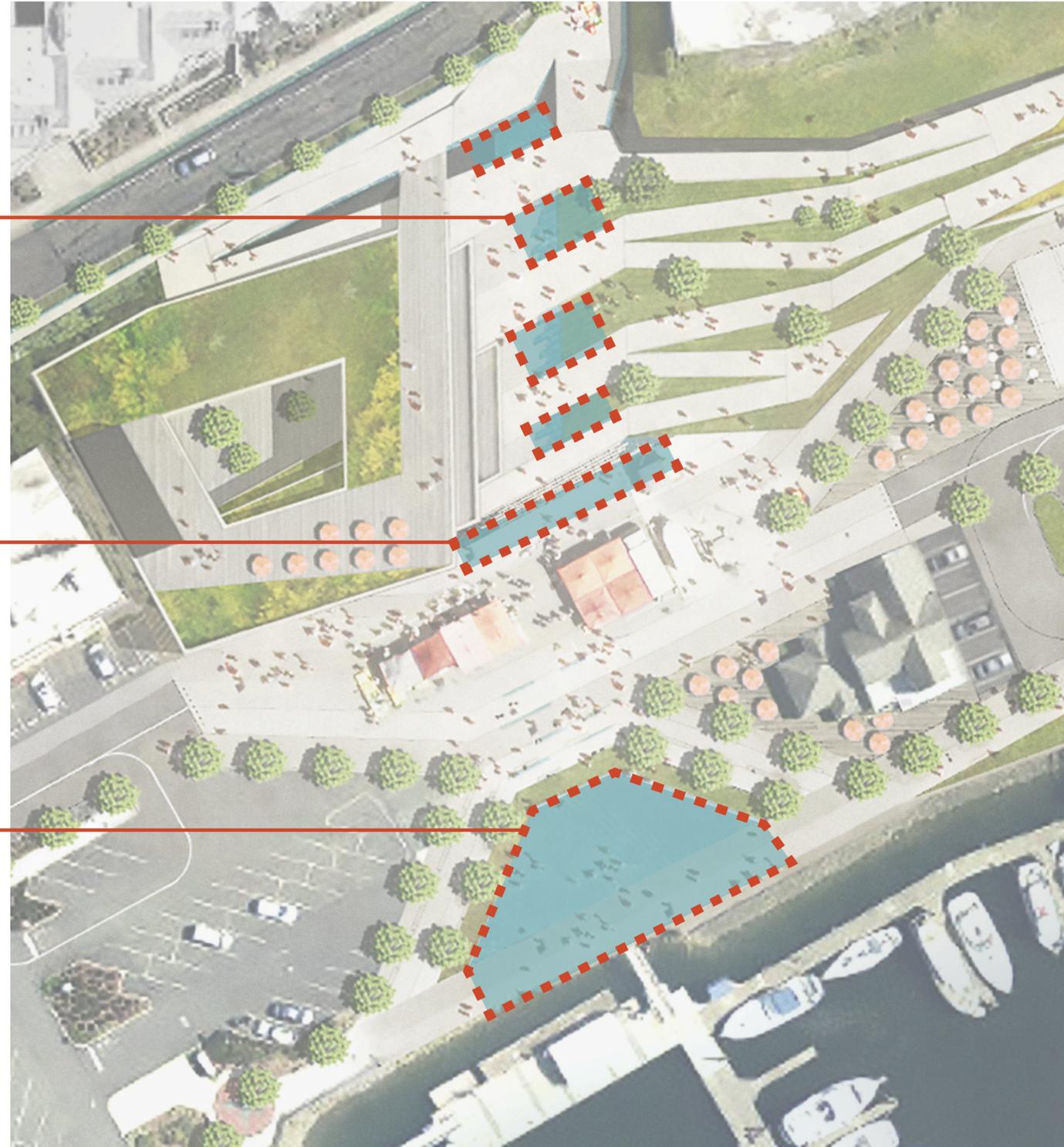
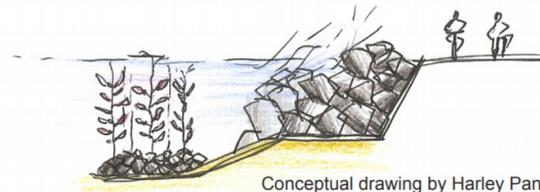
PHASE 2 - RECYCLED WATER REGENERATION WATER FEATURE



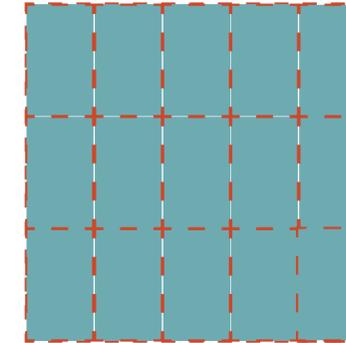
PHASE 3 - HYBRID SHORELINE RESTORATION

Restoring the Shoreline

- Salmon habitat restoration – sloped seawall (3-level underwater slope)
- 1st level- large rocks to break waves
- 2nd level- flat “bench” to recreate an intertidal zone
- Lower level covered with small rocks to attract sea life and large kelp.



12,000 SF | 90-100% TREATED



- This type of approach is known as SUDS (Sustainable Urban Drainage System).
- It has been successfully implemented in the past.
- It can be fine tuned to adapt to several scenarios and budgets.
- Space-wise, this approach can even work on just the project site, but it would work better and more effectively if extended to 223rd street.

How to build a **successful and sustainable waterfront?**

- _CENTRAL PUBLIC SPACE
- _URBAN INTEGRATION
- _ACCESS TO WATER
- _UNIVERSAL ACCESSIBILITY
- _CREATE A DESTINATION

URBAN DESIGN

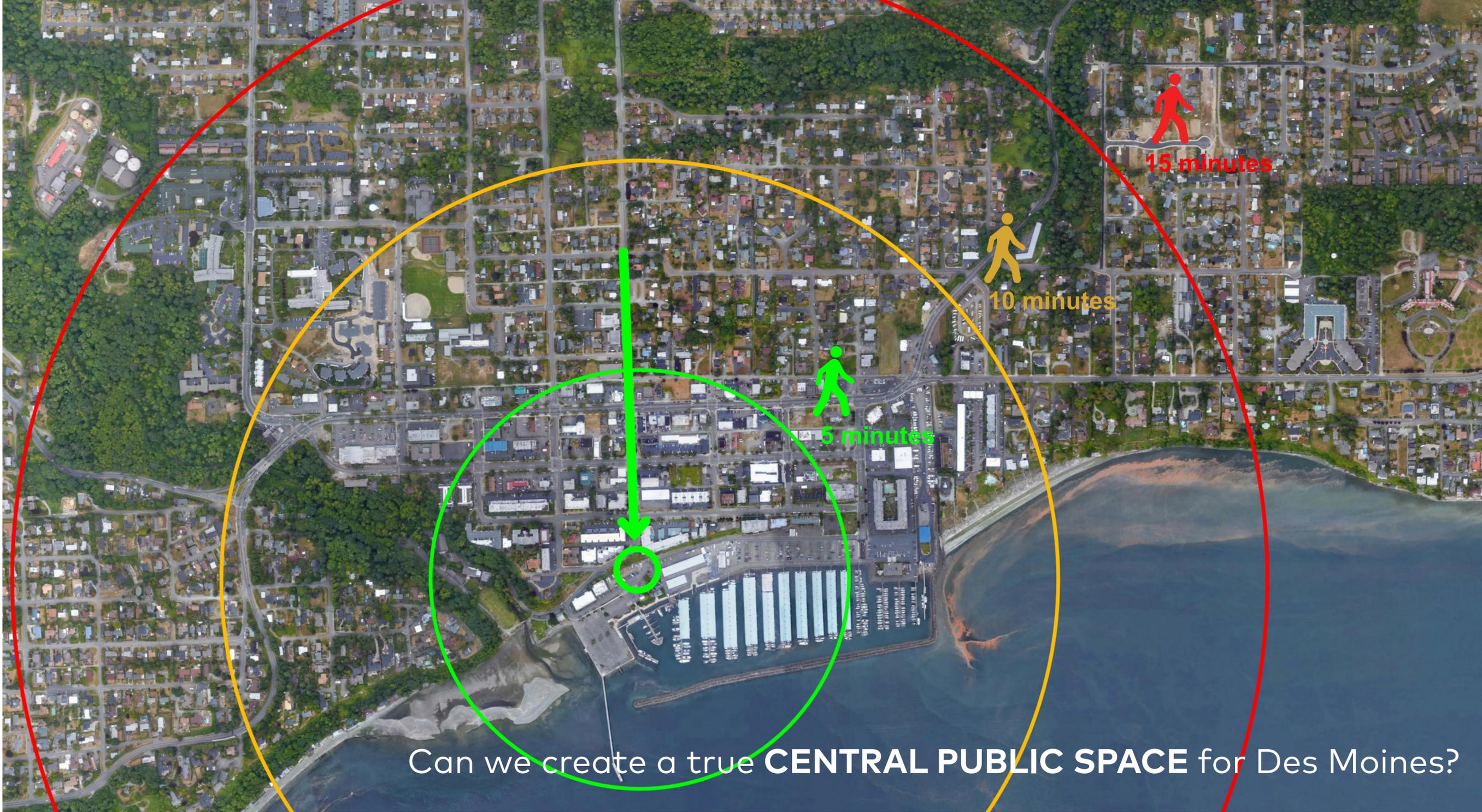
LANDSCAPE

- _BIG PICTURE
- _ECOLOGICAL APPROACH
- _STORM WATER STRATEGY
- _NATIVE ECOSYSTEMS

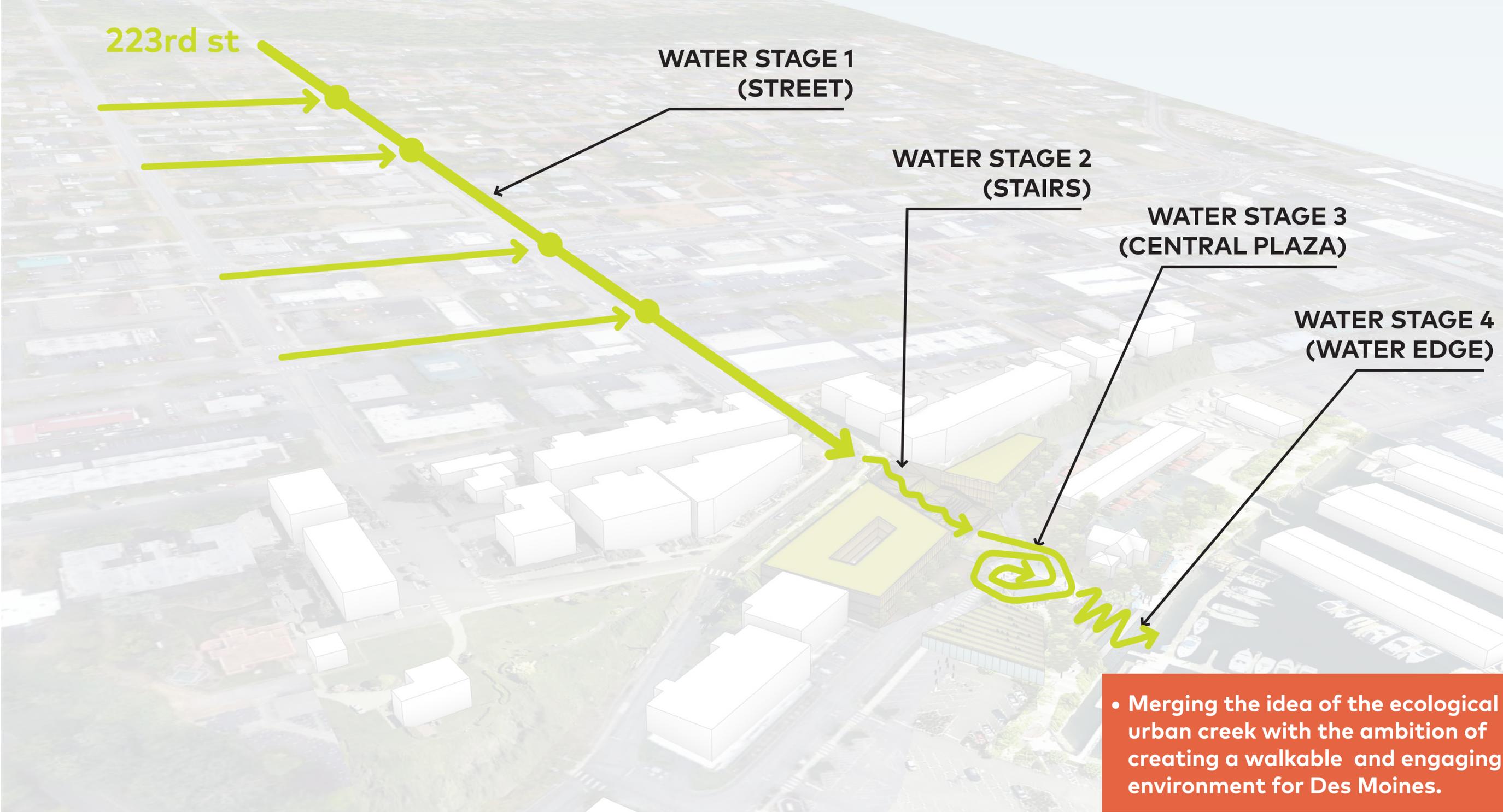
ARCHITECTURE

- _PUBLIC/PRIVATE DEVELOPMENT
- _DIVERSE PROGRAM
- _PHASING DEVELOPMENT
- _ICONIC ARCHITECTURE / IDENTITY

Urban Opportunity

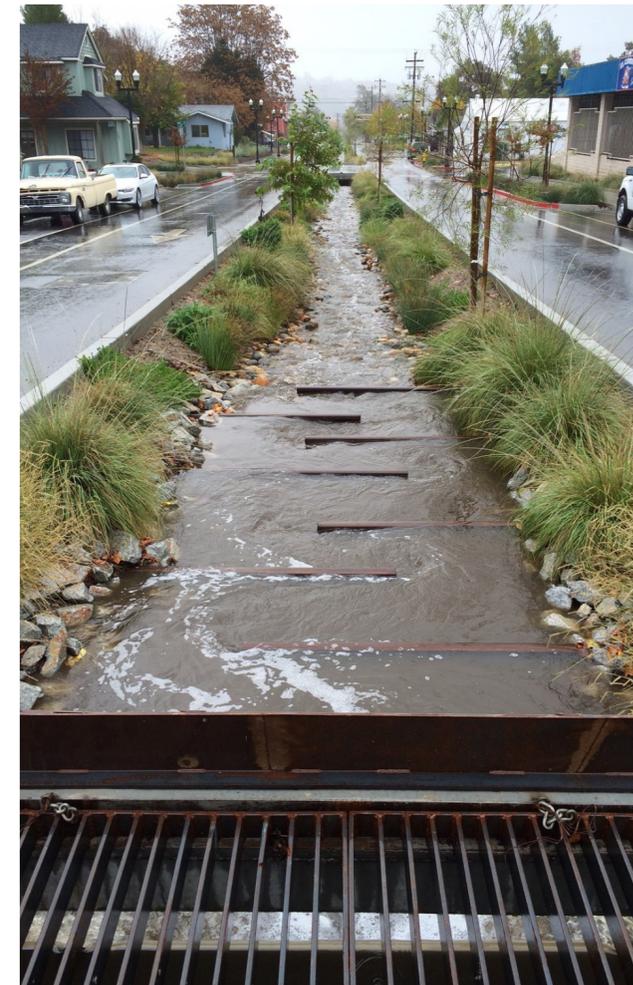
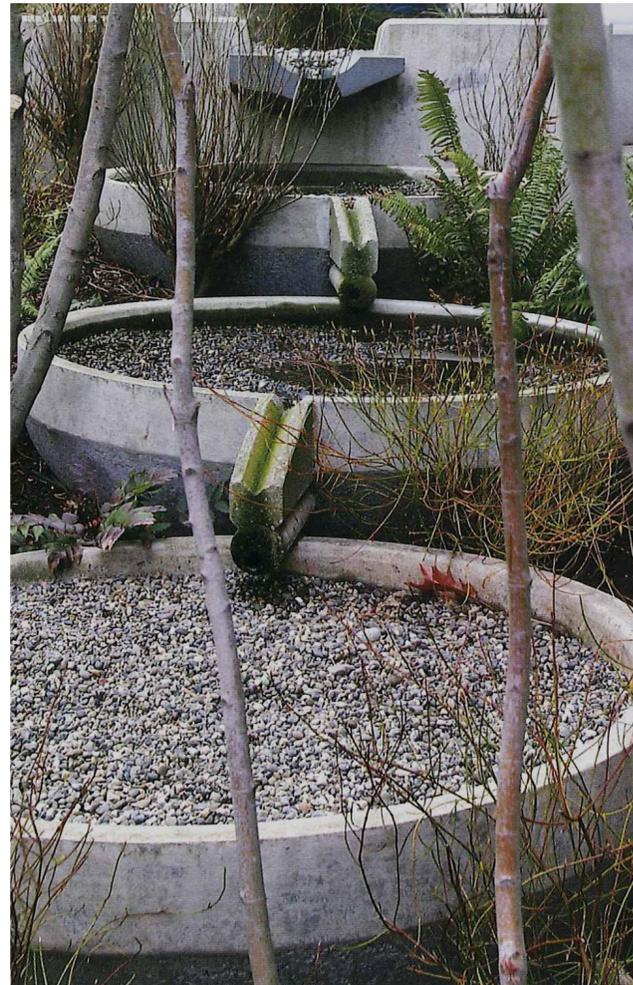


Urban-Natural Sequence to the Marina

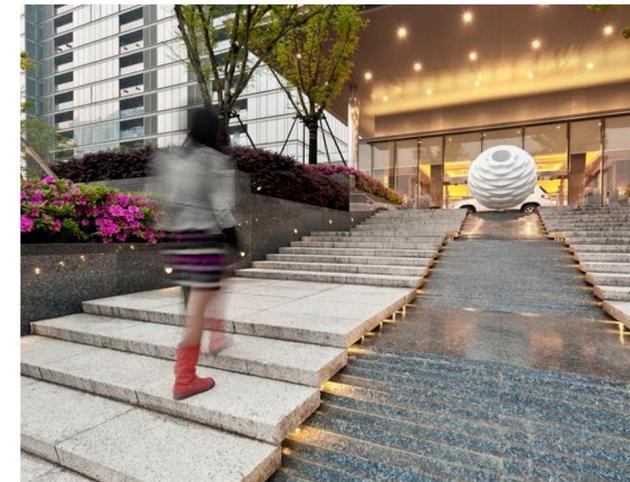
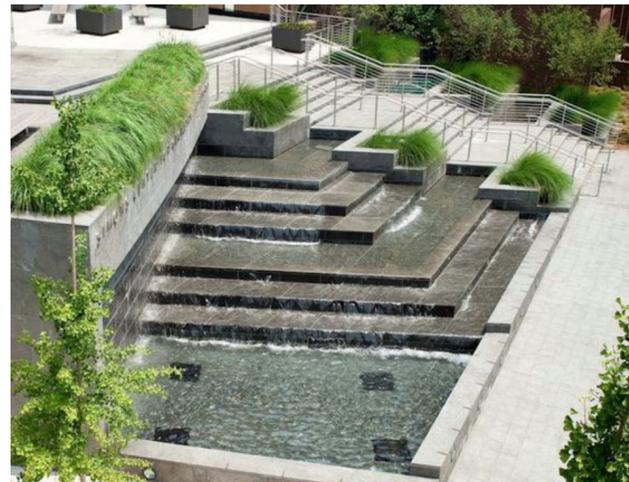


• Merging the idea of the ecological urban creek with the ambition of creating a walkable and engaging urban environment for Des Moines.

Street Urban Experience



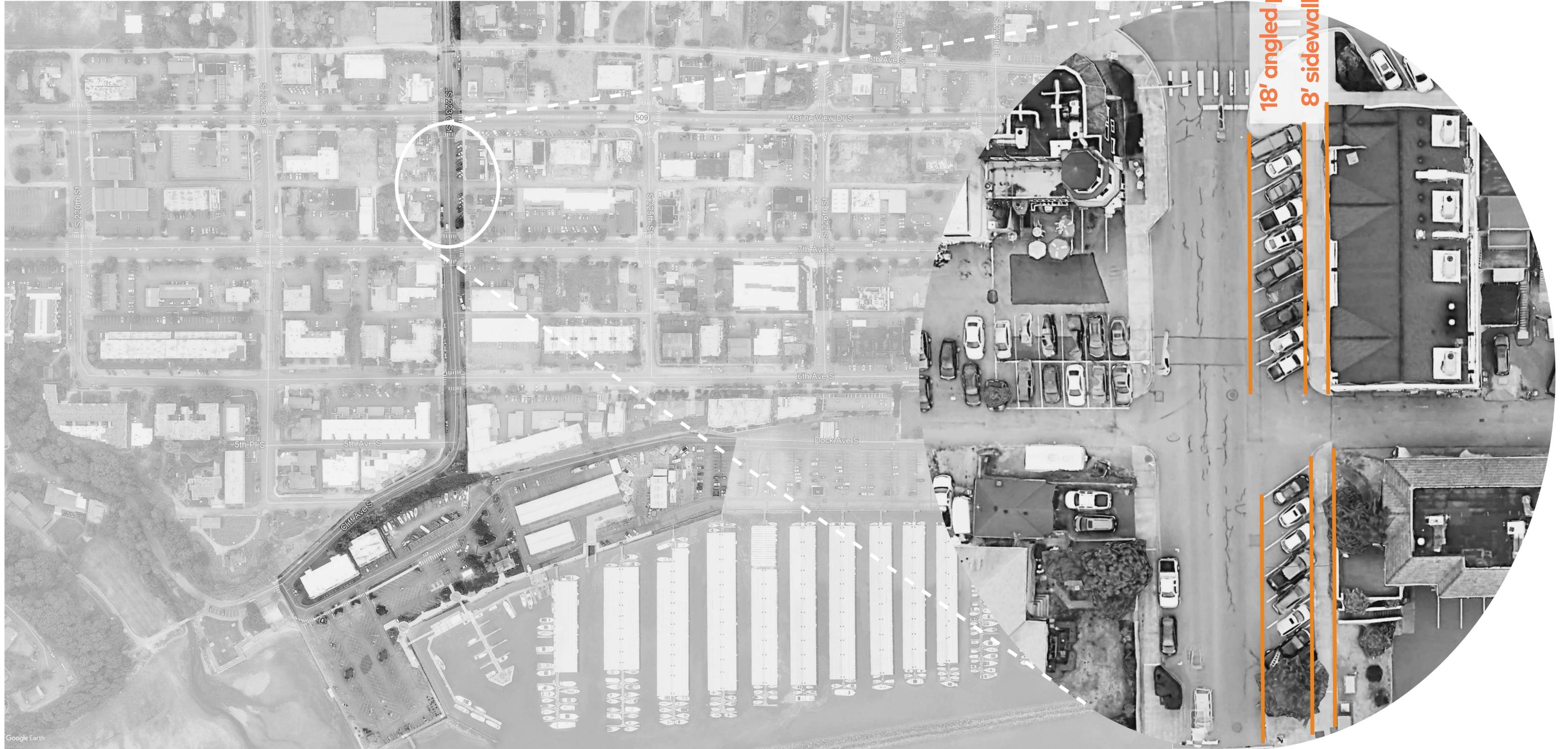
Stairs Urban Experience



Central Plaza Urban Experience

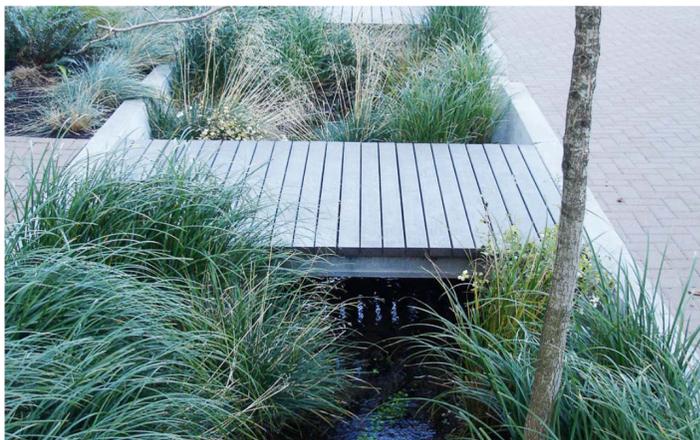


Streetscape_Existing Conditions

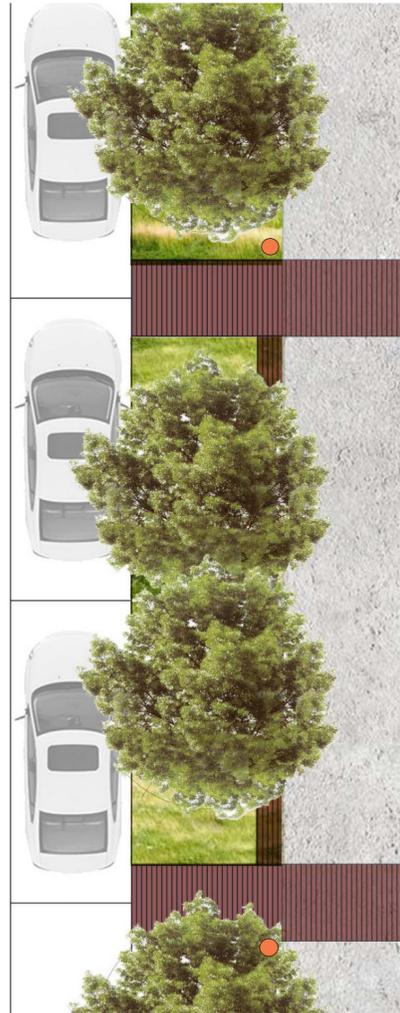


Streetscape_Proposed Conditions

8' parallel parking
 +/-10' amenities + stormwater
 8' sidewalk



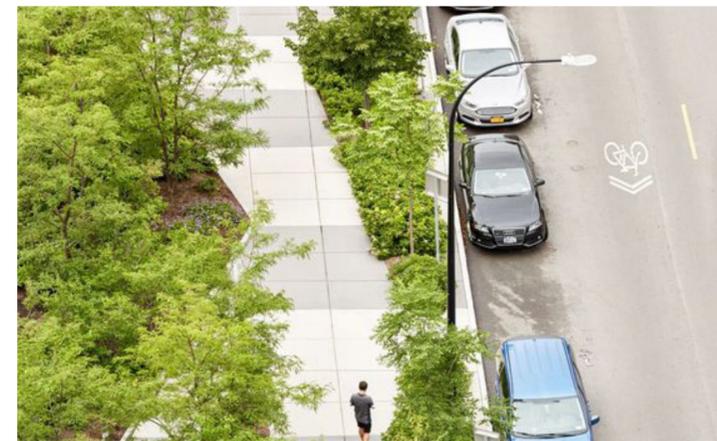
option 1



+/-18' angled parking + stormwater
 8' sidewalk



option 2



Streetscape_Proposed Conditions

- Implement the Urban Creek without compromising the functionality of the streets and the need for parking.



How to build a **successful and sustainable waterfront?**

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_URBAN INTEGRATION
_ACCESS TO WATER
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_CREATE A DESTINATION

URBAN DESIGN

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_BIG PICTURE
_ECOLOGICAL APPROACH
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ARCHITECTURE

_PUBLIC/PRIVATE DEVELOPMENT
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_ICONIC ARCHITECTURE / IDENTITY

Phasing Development

How can we phase development so that it serves the people of Des Moines throughout the life of the project?

Phase 0_Existing



- Opportunity to enhance the connection between Marine View Dr. and the Marina.
- 223rd st. is the main connector to the Marina for pedestrians and cars.

Phase 1_223rd as Urban Creek



PARKING IMPACT

EXISTING	-0
NEW	+0
NET	-0

- Turning 223rd St. into and Urban Creek from Marine View Dr. to Overlook Park.
- Reimagine Overlook Park.

Phase 2_Stair Connector



- The Urban Creek continues down an ADA accessible stair/ramp with meandering plazas. For all to enjoy.
- Wide ramps and landings allow for mixed outdoor use like a sculpture park or food/beverage stands.
- Re-route roundabouts and fire access road to accommodate stair and future development parcels.

PARKING IMPACT	
EXISTING	-32
NEW	+41
NET	+9

Phase 3_Plaza Destination



PARKING IMPACT	
EXISTING	-79
NEW	+91
NET	+12

- Add the Plaza—create a destination at the end of the stairs.
- Create a spot to gather. It could be a water feature, amphitheater, or maybe even both!
- This is the new heart of the Marina.

Phase 4_North and South Development



- Potential for public program in South Building (i.e. all-weather market, marine animal hospital, new harbor master facility, etc.)
- Potential for private development in North Building (i.e. hotel, office, ground floor retail, etc.)
- Potential for rooftop amenity and public elevators in North Building.

PARKING IMPACT	
EXISTING	-97
NEW	+98
NET	+1

What About More Parking?

POTENTIAL
BELOW GRADE PARKING
(+150 ADDITIONAL SPACES)

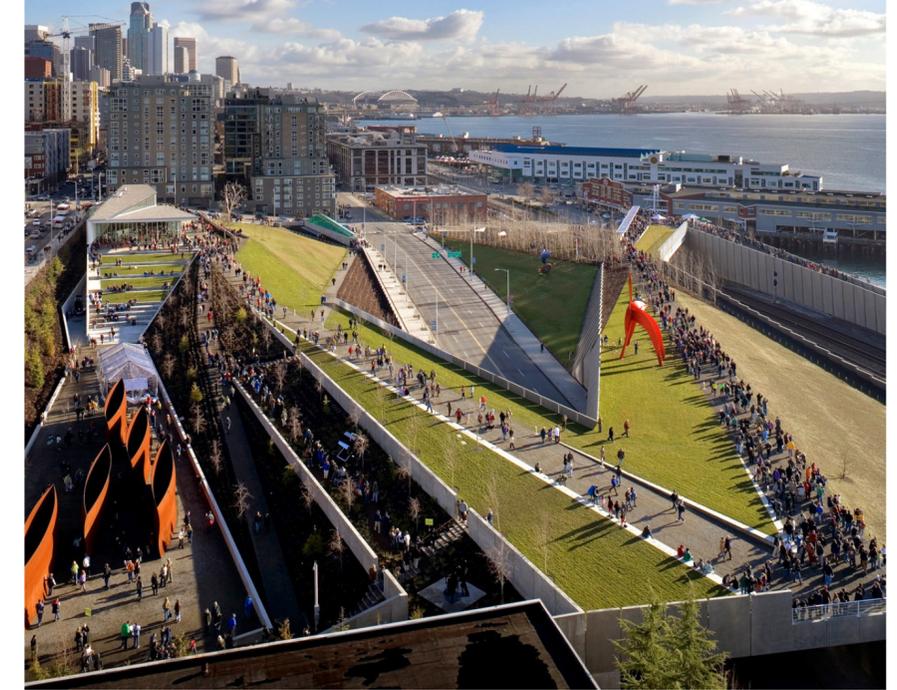
ACCESS

PARKING IMPACT

SURFACE NET	+1
BELOW GRADE	+150
TOTAL NET	+151

- Potential to add parking under the stair and adjacent developments.

Inspiration



LONG OCCUPIABLE RAMPS (SEATTLE SCULPTURE PARK)



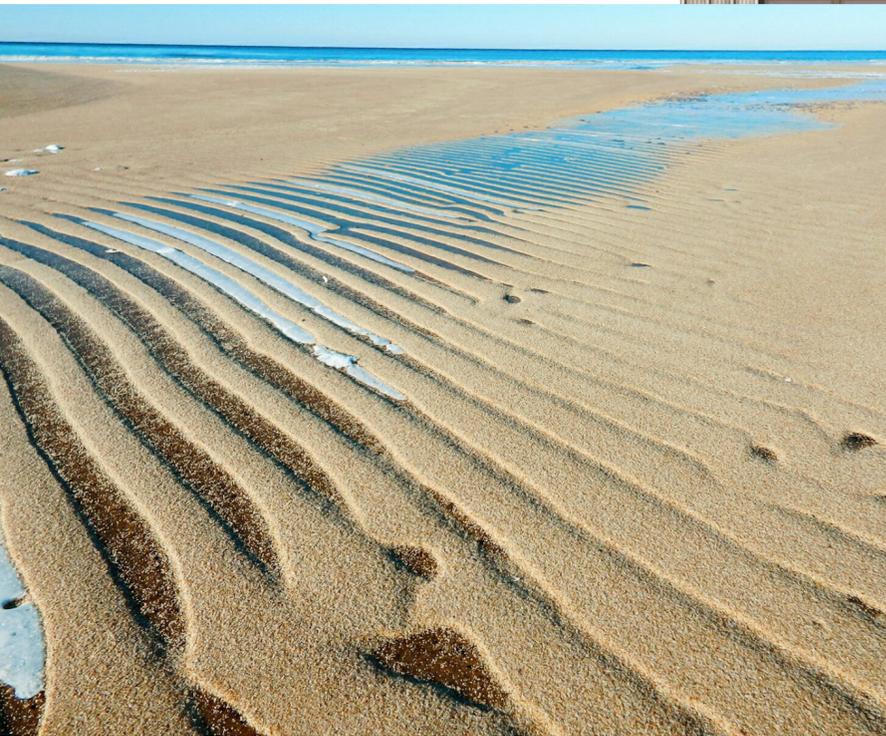
INTEGRATED DEVELOPMENT (PIKE PLACE EXPANSION)



MARKET BY THE MARINA

Option 1_Tides

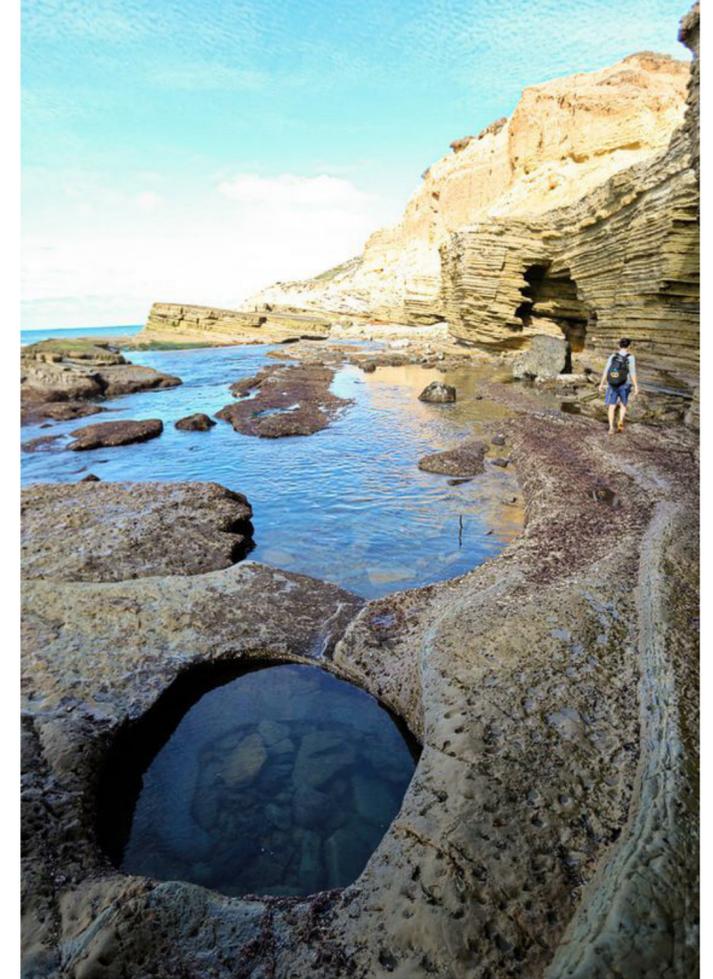
Option 1_Tides Concept



LAYERED TEXTURE



TIDES



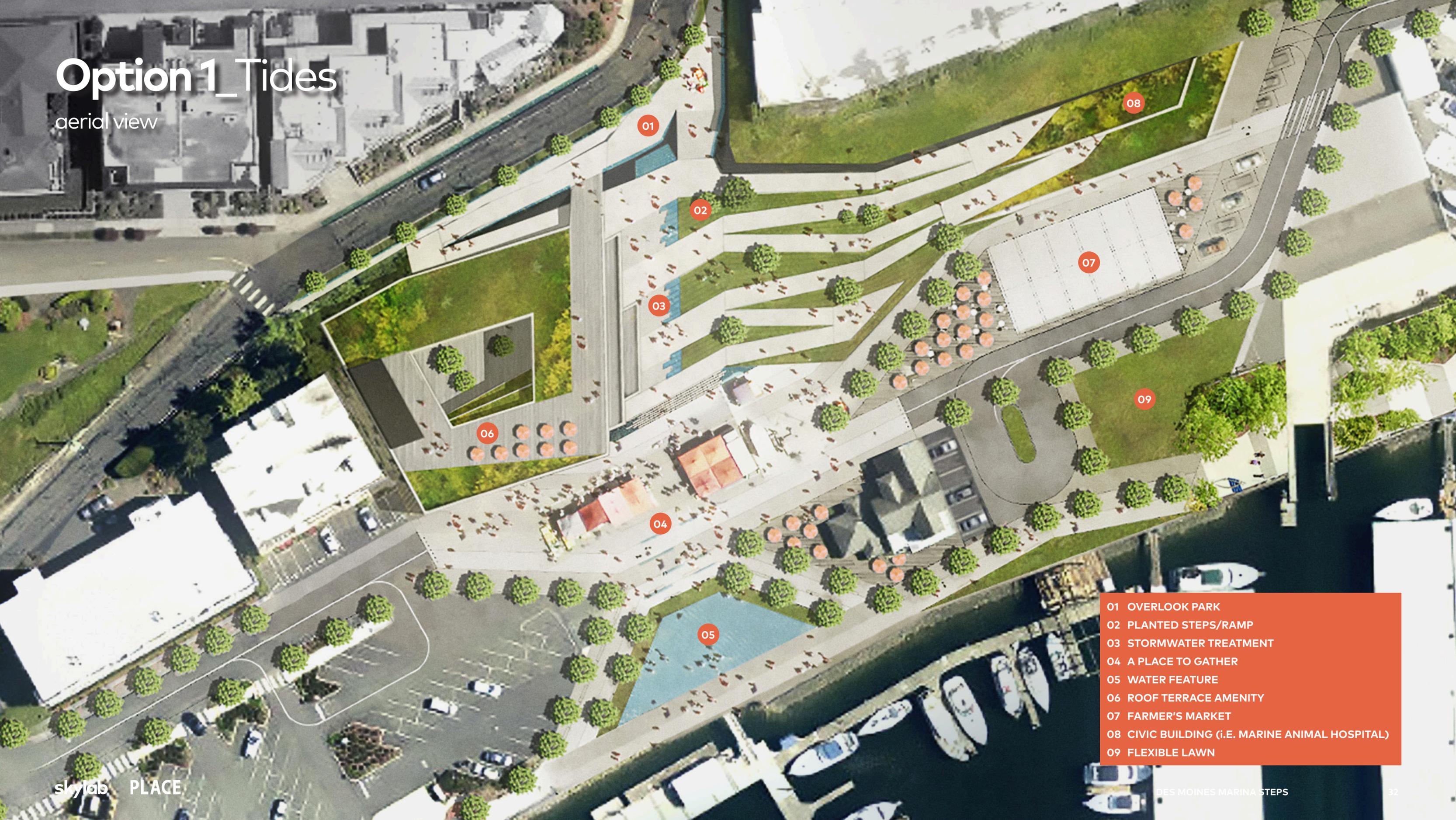
TIDE POOLS



SHIFTING LAYERS

Option 1_Tides

aerial view



- 01 OVERLOOK PARK
- 02 PLANTED STEPS/RAMP
- 03 STORMWATER TREATMENT
- 04 A PLACE TO GATHER
- 05 WATER FEATURE
- 06 ROOF TERRACE AMENITY
- 07 FARMER'S MARKET
- 08 CIVIC BUILDING (i.e. MARINE ANIMAL HOSPITAL)
- 09 FLEXIBLE LAWN

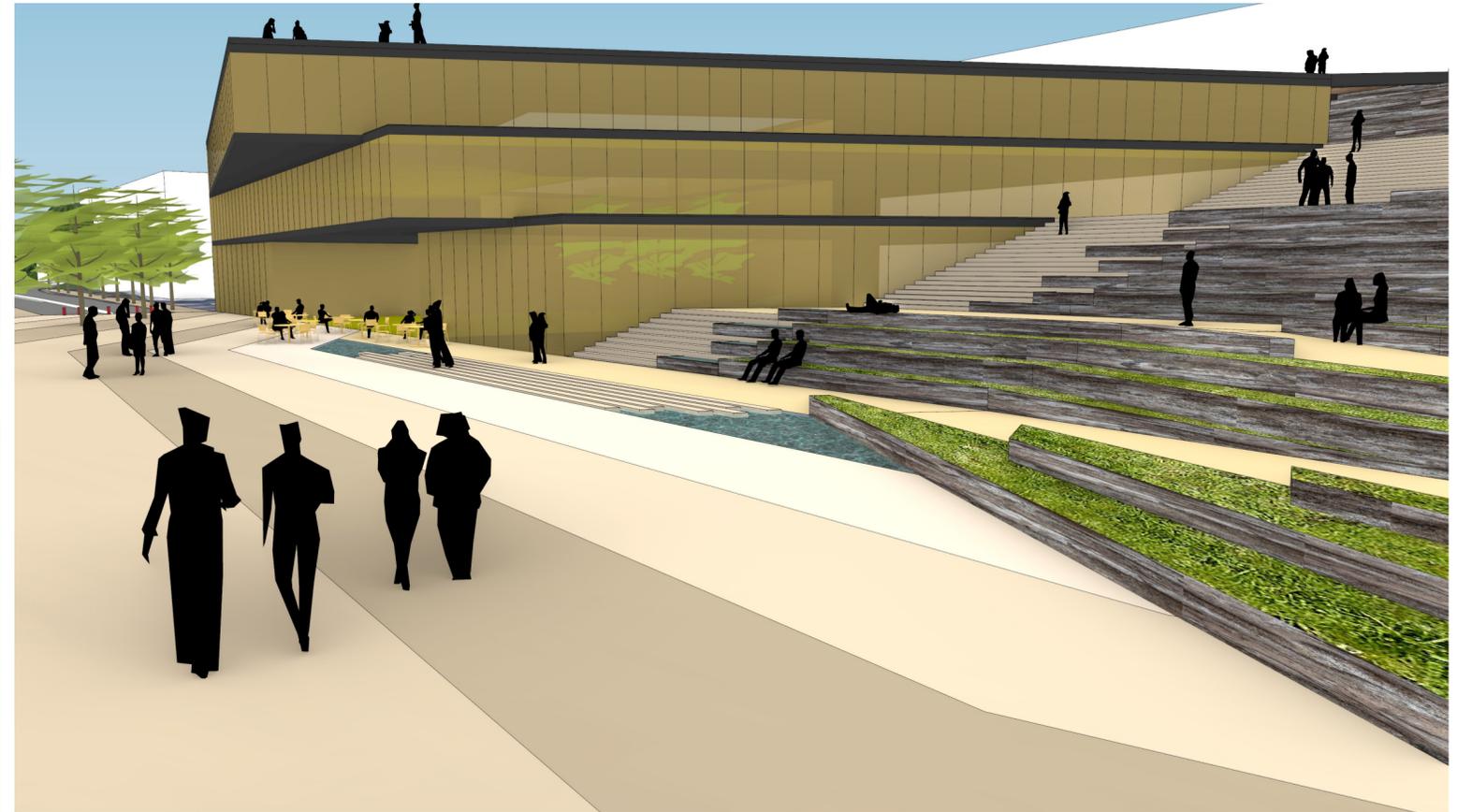
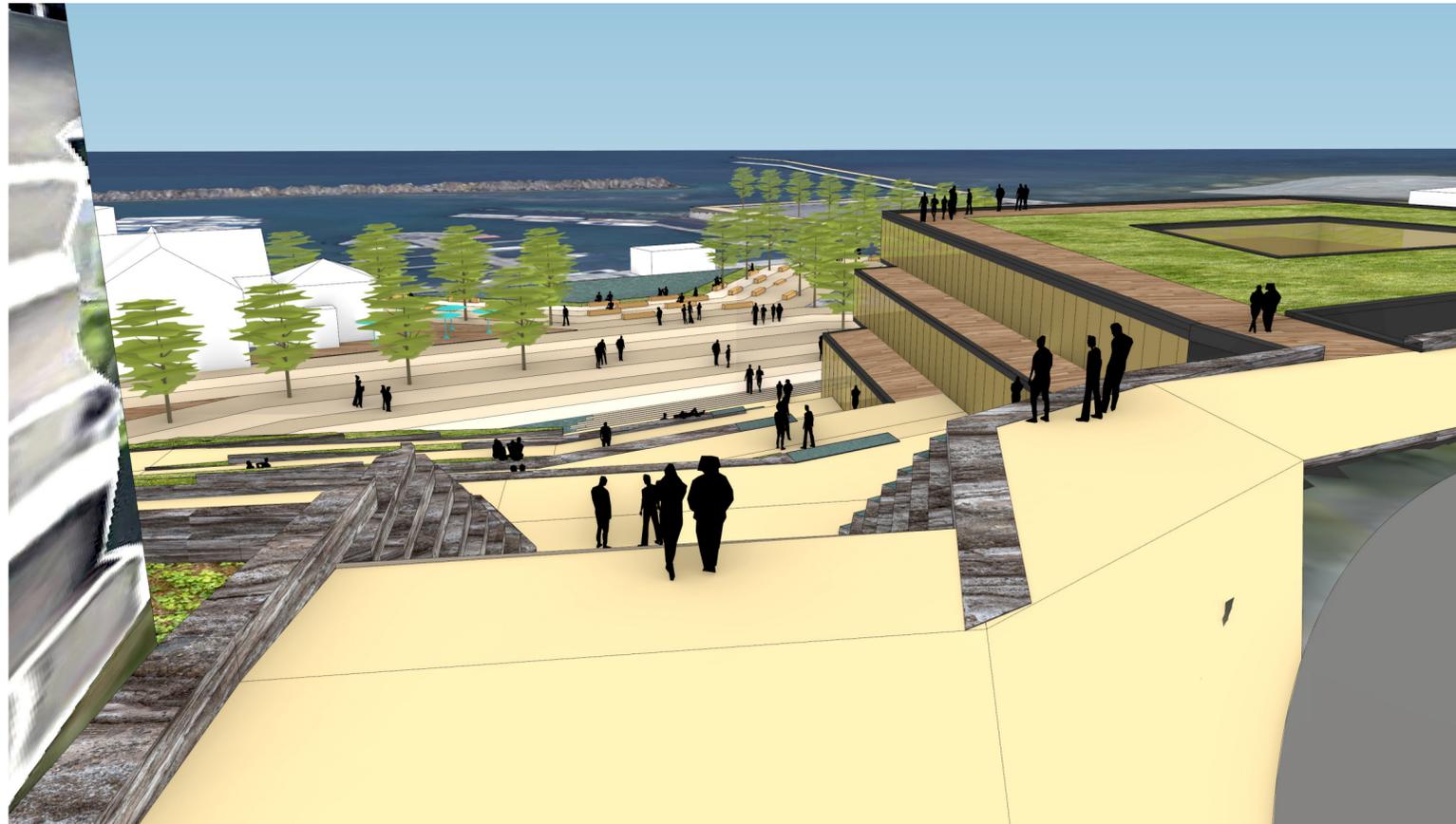
Option 1_Tides

view from the steps



Option 1_Tides

experiential views



Option 2_Pier

Option 2_Pier Concept



LOOK OUT



PIER LANGUAGE



WEATHERED WOOD



ROOF TOP AMENITY

Option 2_Pier

aerial view



- 01 OVERLOOK PARK
- 02 PLANTED STEPS/RAMP
- 03 STORMWATER TREATMENT
- 04 A PLACE TO GATHER
- 05 WATER FEATURE
- 06 ROOF TERRACE AMENITY
- 07 FARMER'S MARKET
- 08 CIVIC BUILDING (i.e. MARINE ANIMAL HOSPITAL)
- 09 FLEXIBLE LAWN

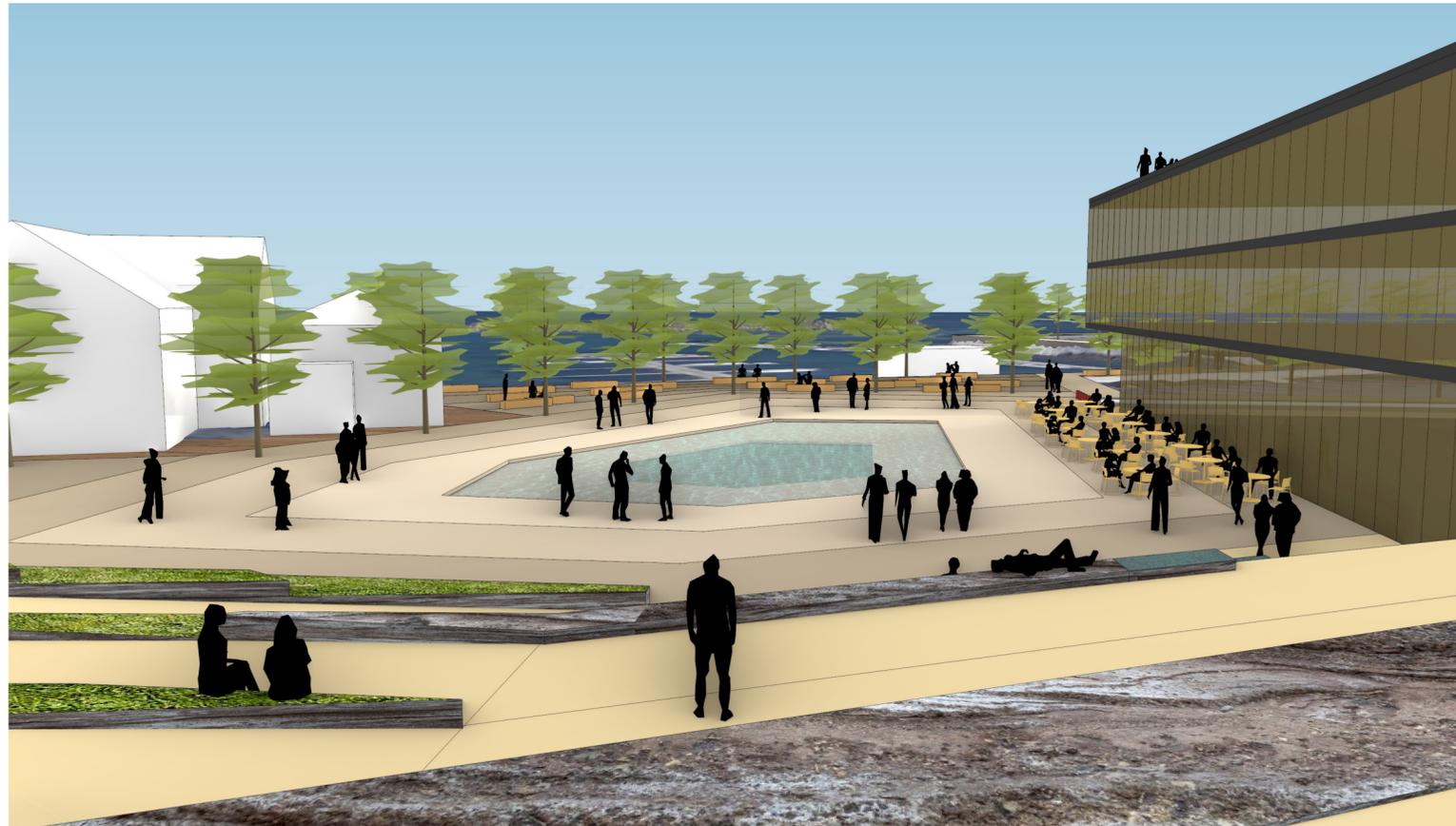
Option 2_Pier

view at the top of the steps



Option 2_Pier

experiential views



Option 1_Tides



Option 2_Pier



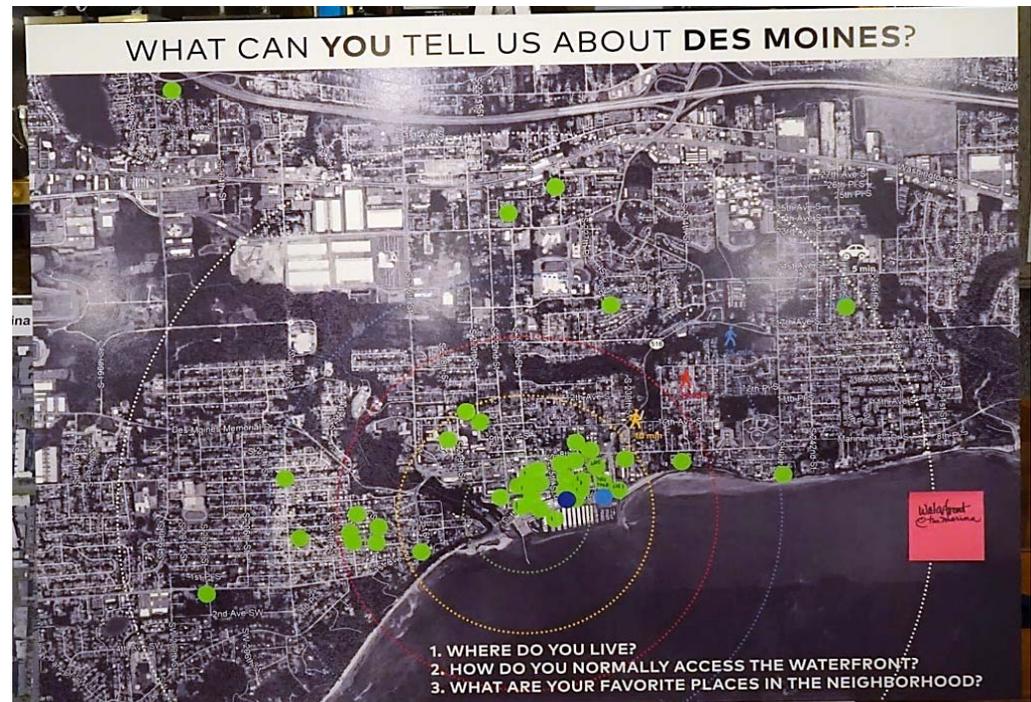
Thank You

PROCESS

Multiple boards – attendees placed dots on preferred design features.

September 19, 2019

- One board asked for attendees to identify:
 - Where they lived.
 - How they normally access the waterfront.
 - What are their favorite places in the neighborhood.



TIDES AND PIER – COMMON THEMES

Value of accessible ramp design.

Walking areas.

Gathering spaces (covered and uncovered seating areas, open space/park, water feature).

Roof top amenities.

Natural landscaping.

Integrated stormwater treatment.

All weather farmer's market facility.



DESIGN FEATURES WITH HIGHEST POSITIVE RESPONSES – THE TIDES

Accessible ramp design.

Boardwalk – similar to the existing promenade.

Rooftop promenade/terrace.

Water's edge park.

All weather farmer's market facility.

Seating areas.

Grass/sedge water treatment.

Play space.



DESIGN FEATURES WITH HIGHEST POSITIVE RESPONSES – THE PIER

Accessible ramp design.

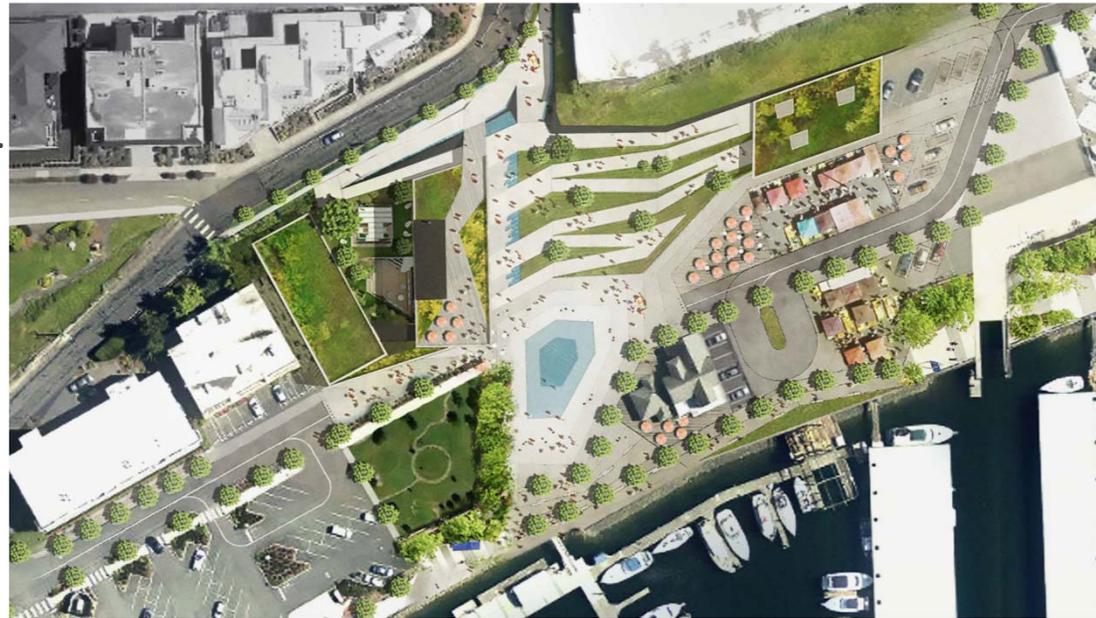
Central plaza.

Roof top amenities (walkway, plaza, dining).

Ground floor amenities (seating, dining, retail).

Seating areas:

- Integrated amphitheater.
- Covered terrace.



ADDITIONAL COMMENTS

Positive comments about the concept of urban creek and stormwater treatment.
Traffic and parking will need to be addressed, within the development and 223rd and Cliff Avenue.
Views should be protected.
Incorporate a full walking loop, accommodate pedestrians throughout.
Farmer's market needs a permanent structure, commercial kitchen, parking.
Hotel at north end is great, hotel not a good idea.
Accommodate the Marina tenants needs in the redevelopment.
Play area for children.
Consider position of the sun in design so that stairs receive summer sun.
Prefer the "Tides" concept.
Concerns about crime, activity at night.
Roof top restaurant good idea.
Question whether we need more retail space since there are vacancies now.
Conceptual drawings very impressive.
Use the ramp space for building space.



THG_{LLC}

THE
CONCORD
GROUP

skylab



DES MOINES MARINA PHASE III WORK UPDATE

PRESENTATION TO:

DES MOINES CITY COUNCIL / September 26, 2019

THG / The Concord Group / Skylab

AGENDA

Review current status

Discuss RFQ process

Next steps

AGENDA

Review current status

Discuss RFQ process

Next steps

TIMELINE



PRIOR RECOMMENDATIONS

- Utilize Marina Steps as catalyst to incentivize private development
- Allow for use of existing shared parking for private development concepts
- Find interested private developer to partner with on design and development of steps and adjacent parcels
- Fill 'gap' to build Steps:
 - Public Private Partnership
 - Other

PRIOR “NEXT STEPS” STATUS

- ✓ Determine allowable uses - **DONE**
- ✓ Identify preferred development strategy (**DONE**) and potential partners (**ONGOING**)
- ✓ Design Marina Steps (refine costs, constructability) – **IN PROCESS (w/SKYLAB)**
- ✓ Prepare Requests for Qualifications (proactively work with users/tenants and developers) – **IN PROCESS (w/THG/TCG)**
- ✓ Draft sources and uses/finance plan - **IN PROCESS**
- ✓ Waterside analysis – **PHASE I DONE (WAGGONER)**
- ✓ Workplan timeline with assigned responsibilities - **IN PROCESS**

MARKET UPDATE

- Employment growth
- Home prices and rents
- Light rail
- Landmark
- Hotel developments
- Telecommuting/co-working trends

AGENDA

Review current status

Discuss RFQ process

Next steps

OVERVIEW

- RFQ overview
- Key assumptions
- Intended outcomes
- Timeline

RFQ OVERVIEW

RFQ = Request for Qualifications

- Target = developers, business owners
- Time commitment for developers = moderate
- Goals
 - Communicate the opportunity
 - Spark interest
 - Gauge interest
 - Review qualifications of interested parties
 - Engage with a group or groups that will continue discussions on the site

RFQ CONSIDERATIONS

- Target lists
- Clearly identifying the opportunity and the City's role
- Marina Steps design
- Key assumptions
- Selling the 'vision'
- Timing

RFQ TARGETS

Who?

- Developers
- Business owners
- Public partners

How?

- Outreach
- Tours
- Local/regional network
- Existing DM businesses

RFQ KEY ASSUMPTIONS

- **Parcel definitions** - Need to clearly define
- **Building heights**
- **Zoning and allowed uses**
 - Residential – not allowed
 - Commercial – allowed
- **Marina Steps**
- **City's role**
- **Parking/incentives**
 - Incorporated into Steps design
 - Existing surface lots

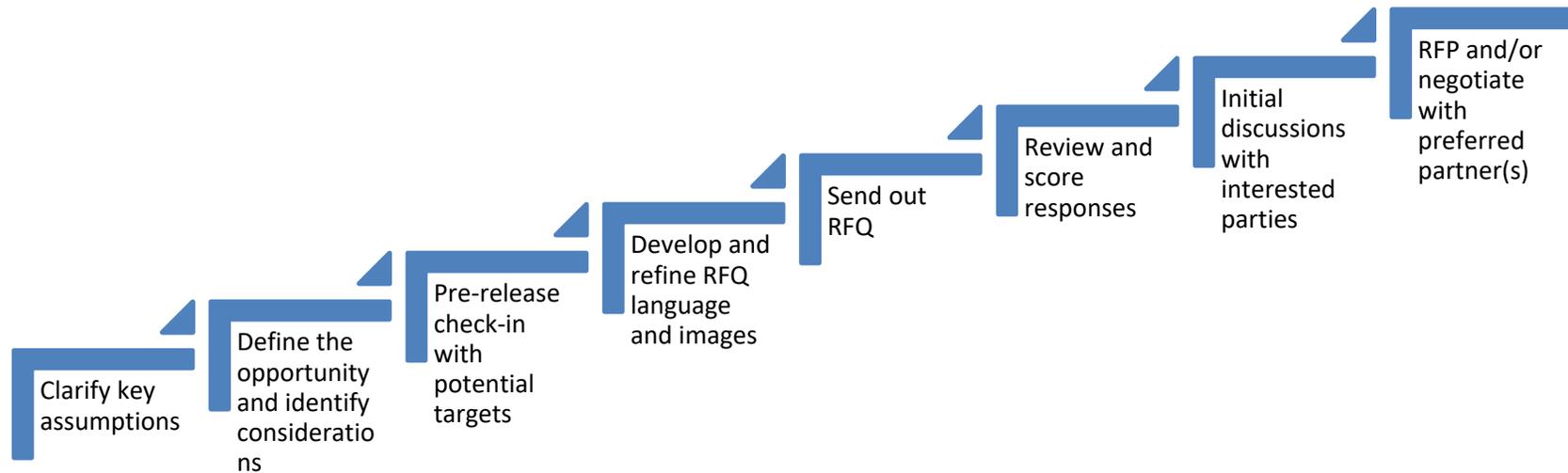
RFQ KEY ASSUMPTIONS

<u>Land Use</u>	<u>Allowed?</u>	<u>Notes</u>
Apartments	No	Potential for small amount as part of m/u project
Condos	No	Potential for small amount as part of m/u project
Retail	Yes	
Restaurants	Yes	
Hotel	Yes	
Office	Yes	Includes co-working, medical
Light industrial	Yes	Includes 'makers spaces', marina-oriented uses

RFQ “VISION”

- Marina Steps
- Connection to downtown
- Stormwater integration and sustainability
- Rooftop access
- Mixed-use
- Waterway improvements
- Farmers market
- Regional destination

RFQ TIMELINE



AGENDA

Review current status

Discuss RFQ process

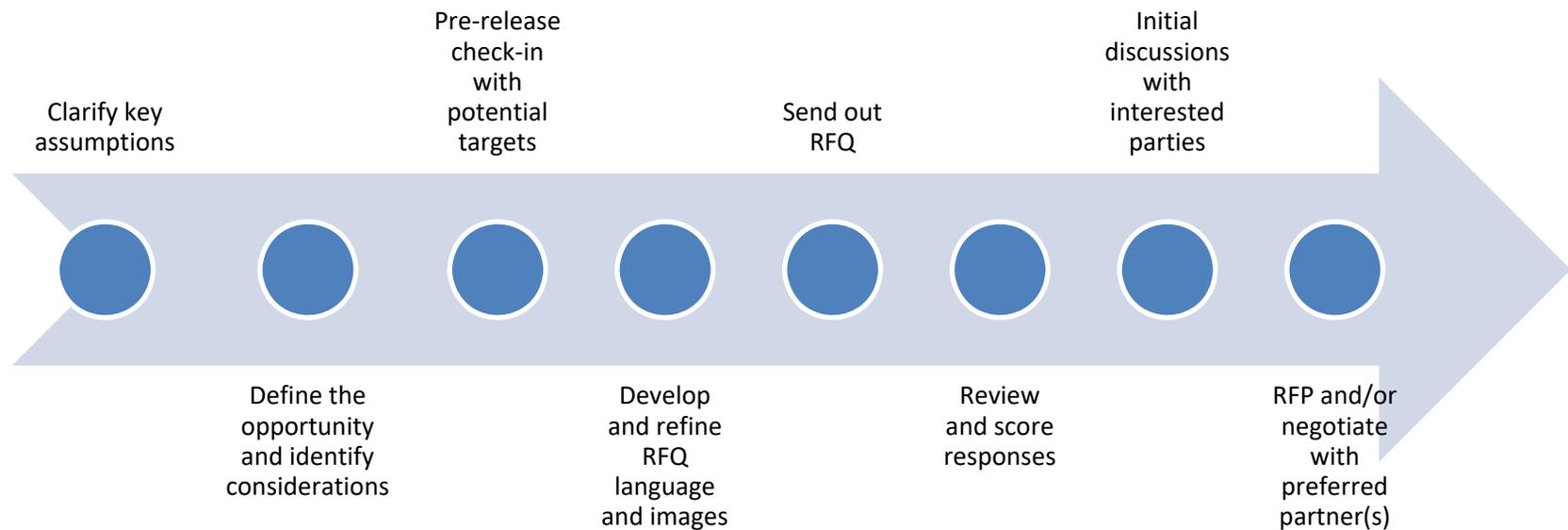
Next steps

NEXT STEPS

- Finalize core Marina Steps designs
- Clarify key assumptions
- Draft RFQ
- Determine timing for release
- Developer reach-out pre-release
- Soils analysis

OLD STUFF

RFQ TIMELINE



RFP OVERVIEW

- RFP = Request for Proposals
 - Target = developers, business owners
 - Time commitment for developers = significant
 - Can be utilized after RFQ process

AGENDA

Team introduction and scope of work

Review key findings

Discuss development strategies

Next steps

Q&A/open discussion

OVERVIEW

PROJECT PARTNERSHIP

- Port of Seattle
- City of Des Moines

THE PROJECT TEAM

- THG
- The Concord Group
- Skylab

SCOPE OF WORK

- Update land use market analysis
- Develop concept plans for Marina Steps public amenity
- Financial feasibility analysis
- Identify strategy for Phase I development

AGENDA

Team introduction and scope of work

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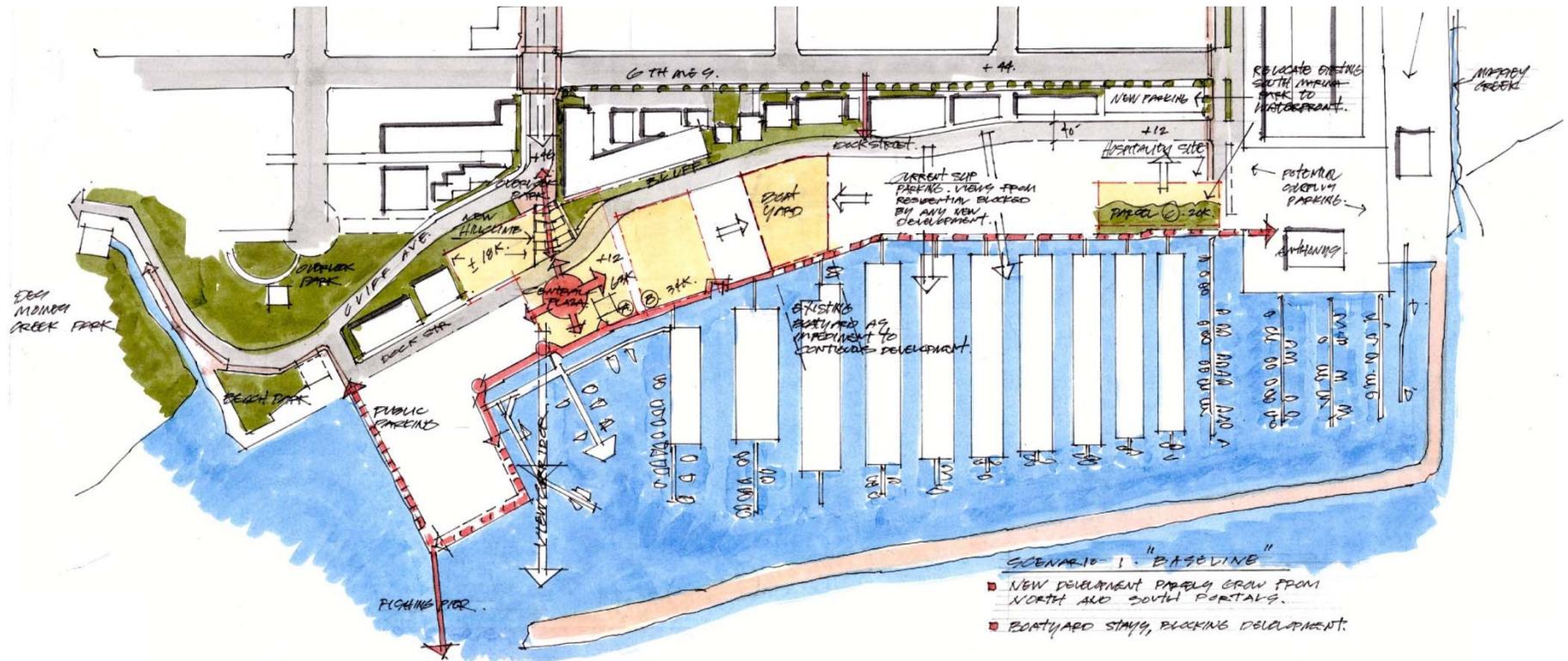
PHASE I WORK: KEY TAKEAWAYS

- Opportunity to develop various land uses given demand and supply trends, site location
 - Strong regional trends for residential and hotel
 - Tukwila hotel/apartments, SeaTac hotels
- Some constraints to development, including building height restriction (35') and minimizing impact on view corridors
- Potential to incorporate public amenities (i.e. Marina Steps, enhanced plaza) into development plans
 - Opportunity to enhance connectivity between Marina, downtown, Beach Park

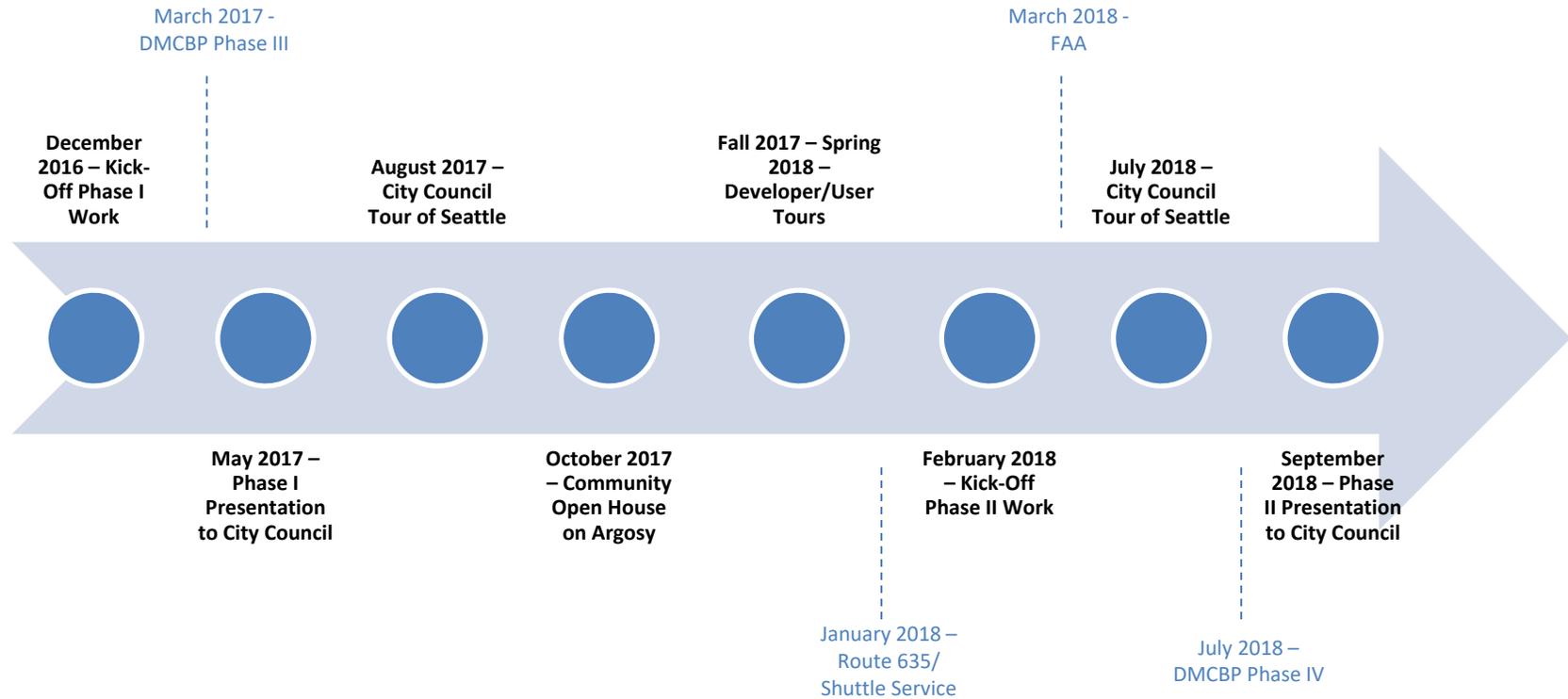
PHASE I WORK: DEVELOPMENT SCENARIOS

BASELINE	NORTH CONCENTRATION	MULTI-NODAL
<ul style="list-style-type: none">• Development concentrated in north, potential parcel on south end• Boatyard remains in current location• Up to 240,000 developable square feet	<ul style="list-style-type: none">• Development in contiguous zone entirely in north end• Boatyard moves to south end• Up to 240,000 developable square feet	<ul style="list-style-type: none">• Development concentrated on both ends• Boatyard remains in current location• Up to 330,000 developable square feet

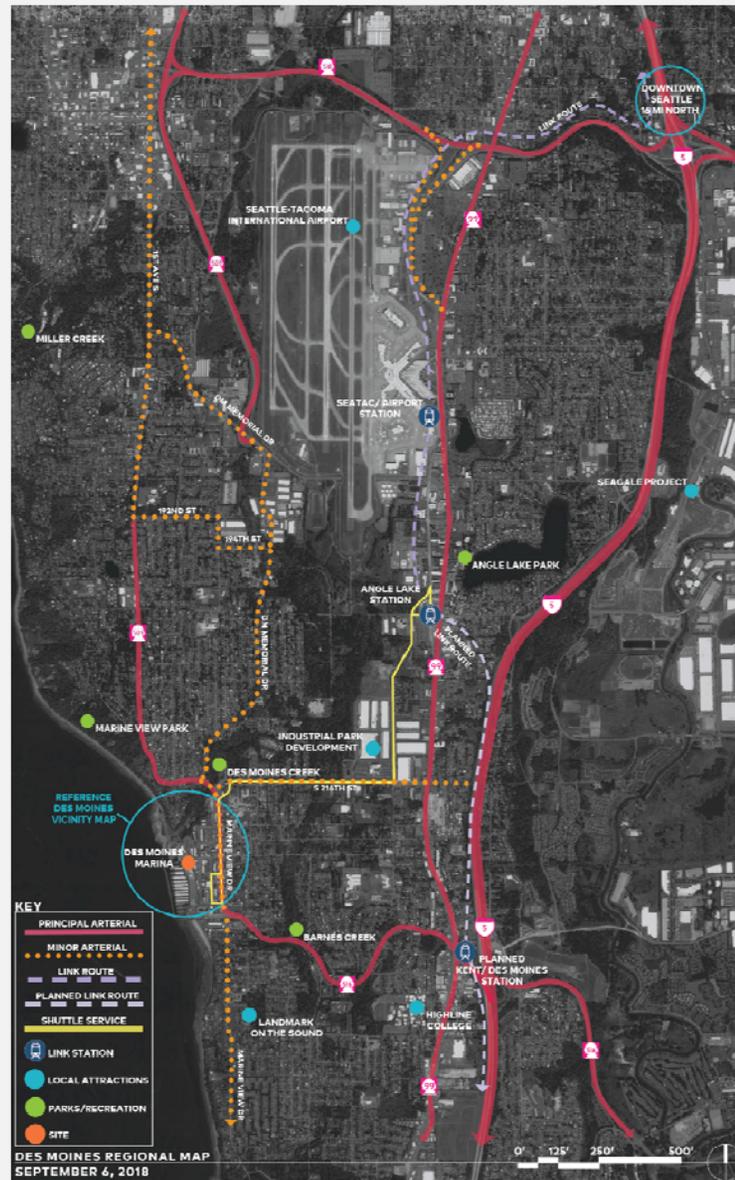
PHASE I WORK: BASELINE SCENARIO



PHASE I WORK: TIMELINE SINCE LAST MEETING



REGIONAL CONTEXT



KEY REGIONAL TRENDS

Significant development activity in the metro area

SEATTLE NEWS SEATTLE CONSTRUCTION NEWS

Seattle remains the crane capitol of the US

Seattle's been No. 1 for a minute

By Sarah Anne Lloyd | @sarahannelloyd | Jul 24, 2018, 11:15am PDT

f t SHARE



Oksana Perkins/Shutterstock

KEY REGIONAL TRENDS

One of the strongest housing markets in the country

[Business](#) | [Local News](#) | [Real Estate](#)

Seattle-area home-price growth from current boom has surpassed last decade's bubble

Originally published April 24, 2018 at 6:39 am | Updated May 8, 2018 at 2:30 pm



 **1 of 2** *Single-family home costs across the metro area grew 12.7 percent in February from the year before. Pictured here is the south end of Seattle's Beacon Hill neighborhood, looking toward downtown. (Steve Ringman/The Seattle Times)*

Single-family home prices in the Seattle metro area have grown faster than anywhere else in the country for the last year and a half, with no sign of slowing even though prices have been surging for six years.

KEY REGIONAL TRENDS

And one of the top real estate investment areas in the country

URBANLAND

INDUSTRY SECTORS

CAPITAL MARKETS

TRENDS

SUSTAINABILITY

DEVELOPMENT

PLANNING

Urban Land > Market Trends > Emerging Trends 2018: Seattle Is Top Market for Investment, Development

Emerging Trends 2018: Seattle Is Top Market for Investment, Development

By Leslie Braunstein
October 26, 2017

Text Size: **A A A**

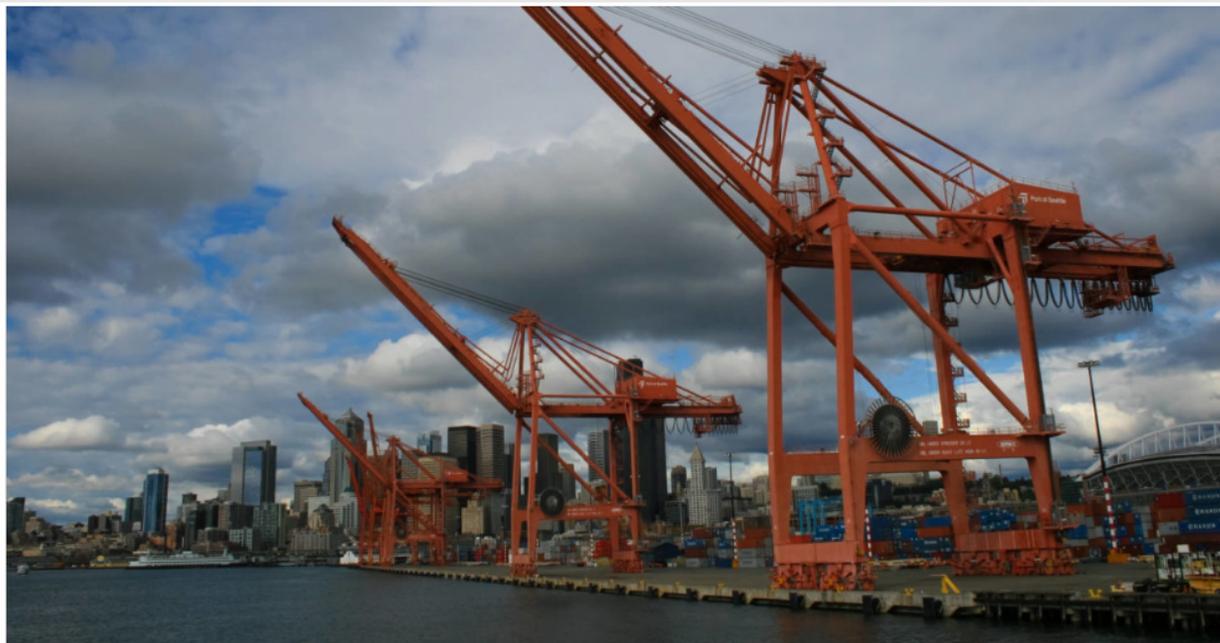
Print Email Share Facebook LinkedIn Twitter

U.S. Markets to Watch: Overall Real Estate Prospects

	Investment	Development		Investment	Development
1 Seattle (2, 1)	3.74	3.74	40 New York—other boroughs (43, 35)	3.29	3.14
2 Austin (3, 2)	3.69	3.61	41 Palm Beach (45, 36)	3.28	3.14
3 Salt Lake City (1, 10)	3.79	3.42	42 Chicago (35, 49)	3.34	3.03
4 Raleigh/Durham (4, 4)	3.65	3.56	43 Long Island (56, 33)	3.15	3.18
5 Dallas/Fort Worth (6, 5)	3.62	3.52	44 Columbus (53, 37)	3.21	3.13
6 Fort Lauderdale (16, 3)	3.54	3.57	45 Richmond (48, 41)	3.25	3.08
7 Los Angeles (8, 8)	3.61	3.45	46 New York—Manhattan (37, 55)	3.33	3.00
8 San Jose (11, 9)	3.60	3.43	47 Sacramento (42, 51)	3.29	3.01
9 Nashville (5, 13)	3.63	3.41	48 Washington, DC—MD suburbs (40, 56)	3.30	2.99
10 Boston (9, 14)	3.61	3.38	49 Birmingham (50, 42)	3.22	3.07
11 Miami (18, 6)	3.53	3.46	50 Westchester, NY/Fairfield, CT (46, 58)	3.26	2.94
12 Charlotte (12, 16)	3.59	3.37	51 Jacksonville (59, 45)	3.09	3.05
13 Portland, OR (7, 20)	3.62	3.33	52 Cape Coral/Fort Myers/Naples (60, 47)	3.07	3.06
14 Charleston (17, 12)	3.54	3.41	53 St. Louis (49, 65)	3.24	2.87

KEY REGIONAL TRENDS

Supported by one of the nation's fastest-growing economies



Cargo transportation was among the various regional industries driving wage and employment growth in King County. Photo via PxHere

LABOR

King County Employment Continues to Rise

KEY REGIONAL TRENDS

Attracting more and more in-migration



Gene Balk / FYI Guy f | t

Seattle just one of 5 big metros last year that had more people move here than leave, census data show

Originally published March 26, 2018 at 6:00 am | Updated March 27, 2018 at 5:13 pm



Growth in Seattle's South Lake Union, Amazon's corporate headquarters, has fueled a job and population boom here. (Erika Schultz / The Seattle Times)

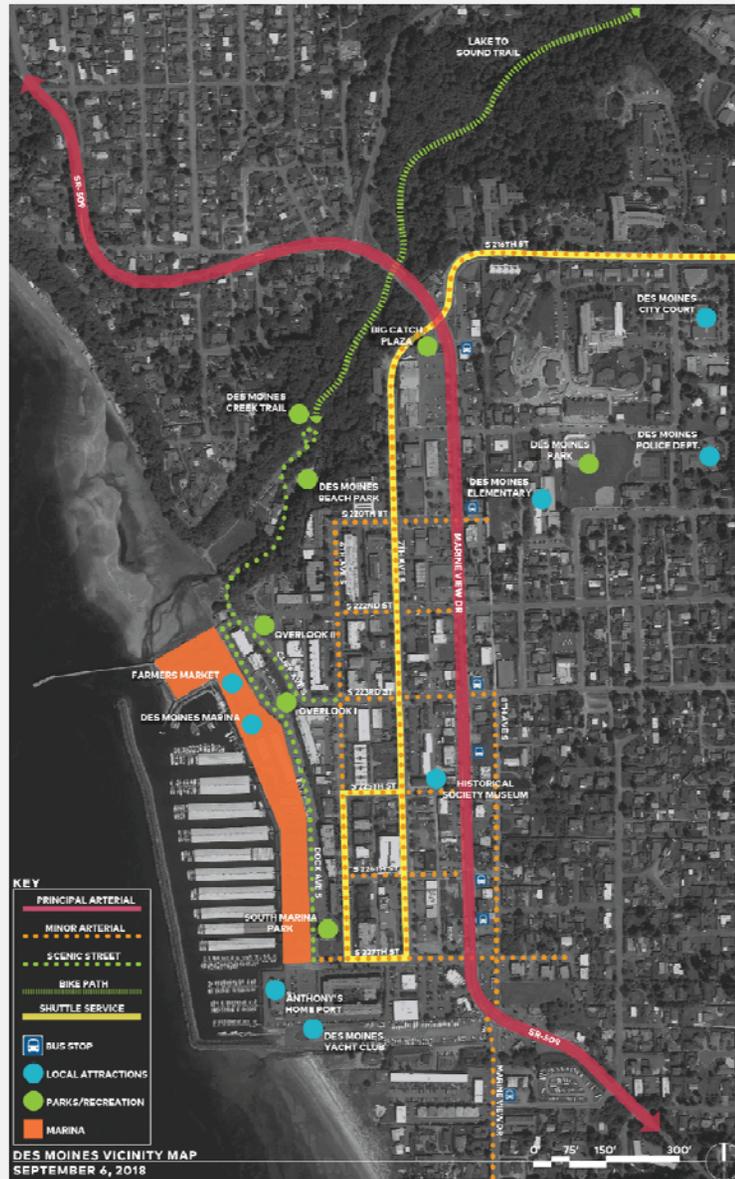
Seattle is the only metro area outside of the Sunbelt that had more people move in from other parts of the country than move away. San Francisco was among the metros that carried a net loss of 24,000 domestic movers.

KEY REGIONAL TRENDS

With relatively good access to major employment nodes



LOCAL CONTEXT



KEY LOCAL TRENDS

DMCBP Phase IV fully leased – over net new 3,500-4,000 direct jobs expected



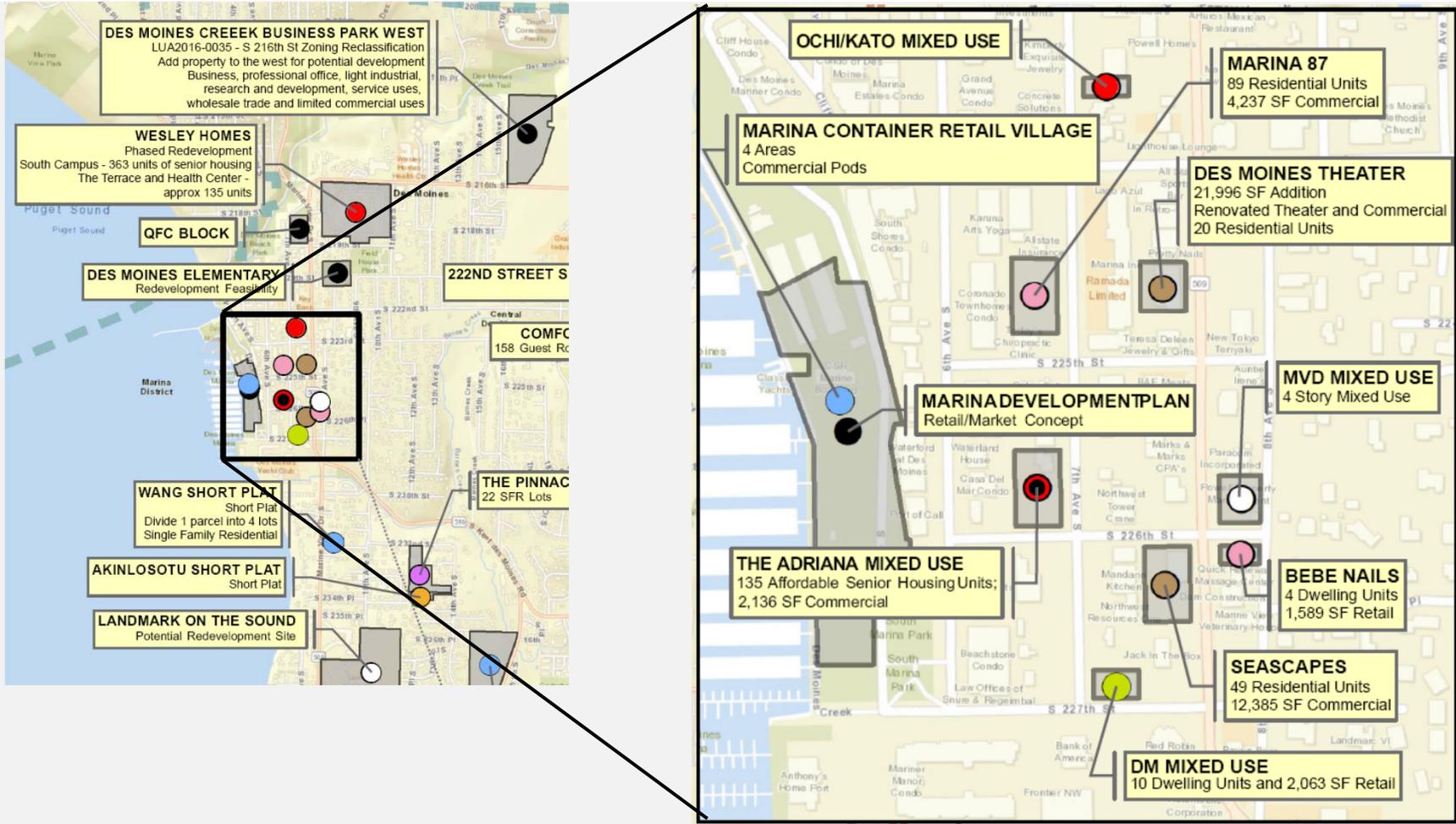
KEY LOCAL TRENDS

Potential redevelopment of Landmark on the Sound



KEY LOCAL TRENDS

And development activity in and around downtown



COMMUNITY INPUT

- October 2017 Open House – 200+ attendees
- Support for various uses on Marina floor, especially an all-weather market, casual dining, and brew pub
- Interest for development clustered around north end of Marina/Harbormaster House
- Followed up with tours with City Council



DEVELOPER INPUT

- Toured 12+ developers around City and Marina
- Public connector such as the Marina Steps would be catalyst to interest private developers
- Readily available interest for residential development (as function of regional market demand)
- Potential interest from hotel developer looking at new small-scale 'inn' concept
- Potential interest from brewpub
- Potential interest from mixed-use developers

MARKET ANALYSIS SUMMARY

	Residential (Attached)		Commercial (Lease)		
	Rental	For-Sale	Office	Retail	Hotel
Regional Trends (last 5 years)	Very Strong	Strong	Moderate	Moderate/Weak	Strong
Des Moines Market (current supply)	Dated product, mostly 1970s/1980s vintage	Dated product, mostly 1970s/1980s vintage	Dated product, small tenants	Dated product, small centers	Mostly dated product, new Sheraton
Key Demand Drivers	Employment growth; Millennial and empty nester preferences; amenities	Pent-up demand, especially from move-down/empty nesters; site-specific opportunities	Office-using employment growth; executive preferences	Household and income growth; consumer preferences	Employment growth; leisure trends; airport traffic; visibility
Pipeline - Supply Forecast (future supply)	Moderate supply	Minimal supply	Moderate supply, some large conceptual projects	Minimal supply, some large conceptual projects	Significant supply

SITE OPPORTUNITIES

- Water
- Views
- Parking options
- Large parcel, contiguous City ownership
- Proximity to downtown, Beach Park

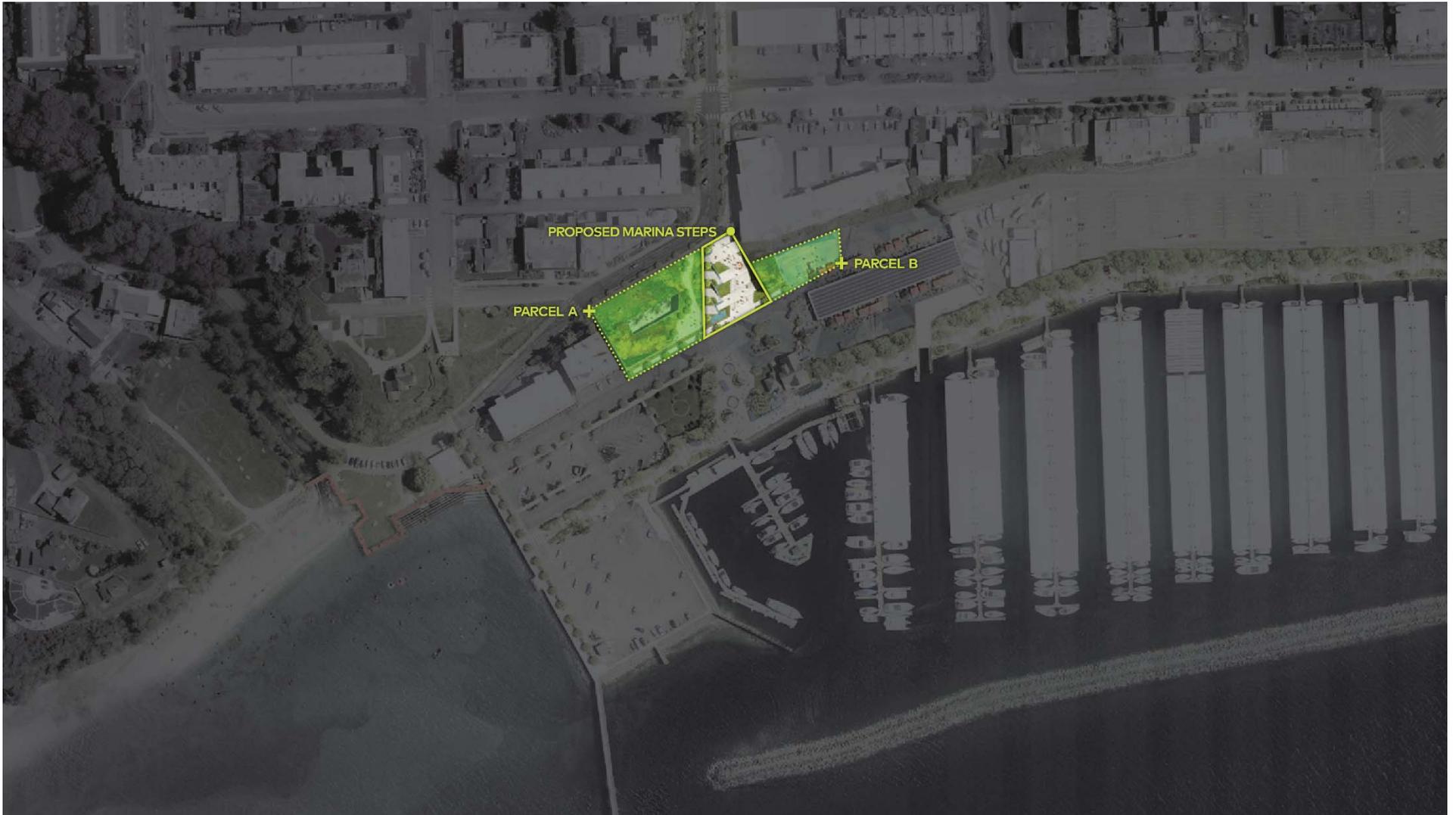
SITE ANALYSIS: MARINA



POTENTIAL PUBLIC AMENITIES



POTENTIAL PUBLIC AMENITIES: MARINA STEPS



POTENTIAL PUBLIC AMENITIES: MARINA STEPS

Why build the Steps?

- ✓ Connects waterfront with Downtown
- ✓ Public amenity
- ✓ Attracts locals and tourists
- ✓ Catalyst for private investment and development
- ✓ Could be integrated with other community-desired aspects, such as food/beverage options with unique location, Marina parking

POTENTIAL PUBLIC AMENITIES: MARINA STEPS

Potential Design

- Team worked through various designs in consultation with City staff
- Chose design that could be built as a stand-alone amenity or be integrated with simultaneous private development
- Worked with Geotech and cost estimator consultants to understand foundation requirements and costs

POTENTIAL PUBLIC AMENITIES: MARINA STEPS



POTENTIAL PUBLIC AMENITIES: MARINA STEPS



POTENTIAL PUBLIC AMENITIES: ROOF GARDENS



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Team introduction and scope of work

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Q&A/open discussion

ISSUES TO CONSIDER

- City's goals
 - Public access
 - Working marina
 - Revenue-generating
 - Mix of uses
 - Human scale
 - Assets for the community
 - Destination location
- Market-based demand
 - Current vs future
- Site constraints and strengths
- Phasing/timing
- Early phase successes
- Critical mass / activate

DEVELOPMENT STRATEGY

- Create vision
- Identify early-phase focus
- Determine how to best leverage City assets
- Parking strategy and other elements that can help catalyze private development
- Identify tenants and partners

DEVELOPMENT: EARLY-PHASE OPPORTUNITY



DEVELOPMENT: MARINA STEPS

- Engaged cost estimator
- Cost estimates (assume 30% soft costs on hard costs):
 - Option 1 – without elevator: \$2.5 - \$3.0 million
 - Option 2 – with elevator: \$3.5 - \$4.1 million

DEVELOPMENT: EARLY-PHASE OPPORTUNITY

- Marina Steps creates opportunity for private development parcels to north and south of stairs
 - North parcel (A) – 18,000 s.f. (with potential to increase if go into right of way)
 - South parcel (B) – 13,000 s.f. (with potential to increase southwards)
- At 2.5 FAR, up to 78,000 s.f. of developable space
 - Up to 35' tall, wouldn't block existing views
 - Could be integrated into design/development of Steps

DEVELOPMENT: EARLY-PHASE OPPORTUNITY



DEVELOPMENT STRATEGIES

SELL SPECIFIC PARCEL

- Marina includes +/-29 acres, possible sale of no more than 1-2 acres
 - First phase opportunity is currently boat storage
- Likely to attract most developer interest
- Sales proceeds can help pay for Marina Steps and/or other public amenities

GROUND LEASE LAND

- Likely to reduce developer interest
- More common for some land uses (i.e. hotel)
- Many different options, can get complicated
- Payments can help to offset debt costs for public amenities

PUBLIC-PRIVATE PARTNERSHIP

- Won't interest all developers
- Can take many different forms, can get complicated
- City brings land, regulatory authority, and bonding capacity, private developers bring their expertise in getting things financed and built

DEVELOPMENT POTENTIAL BY LAND USE

	Residential (Attached)		Commercial (Lease)		
	Rental	For-Sale	Office	Retail	Hotel
Site Potential	Strong	Strong	Moderate	Moderate	Moderate
Likely Type	Flats Mixed-Use	Condo (flats) Townhome (2-3 story) Live/Work	Finance/insurance/ real estate (FIRE) Professional services Medical Co-working	Boat-oriented shop Restaurant Coffee Destination	Extended stay Boutique
Rent/Sales Range	\$2.25-\$2.50/s.f. (mo.)	\$450-\$600/s.f.	\$20-\$30/s.f. NNN (ann)	\$20-\$30/s.f. NNN (ann)	\$140-\$160/night (ADR)
<u>Financial Model - Key Assumptions</u>					
Avg Rent/Price	\$2.25/s.f. (mo.)	\$525/s.f.	\$25/s.f. NNN (ann)	\$25/s.f. NNN (ann)	\$150/night (ADR)
Avg Occupancy (stabilized)	95%	n/a	90%	90%	70%
Cap Rate	5.00%	n/a	6.00%	6.50%	7.00%
Total Construction Cost per Net S.F. (Hard, Soft, Finance)	\$292	\$325	\$258	\$219	\$379
Density/FAR	70.0	40.0	2.5	0.7	100.0

DEVELOPMENT STRATEGY: SELL SPECIFIC PARCEL

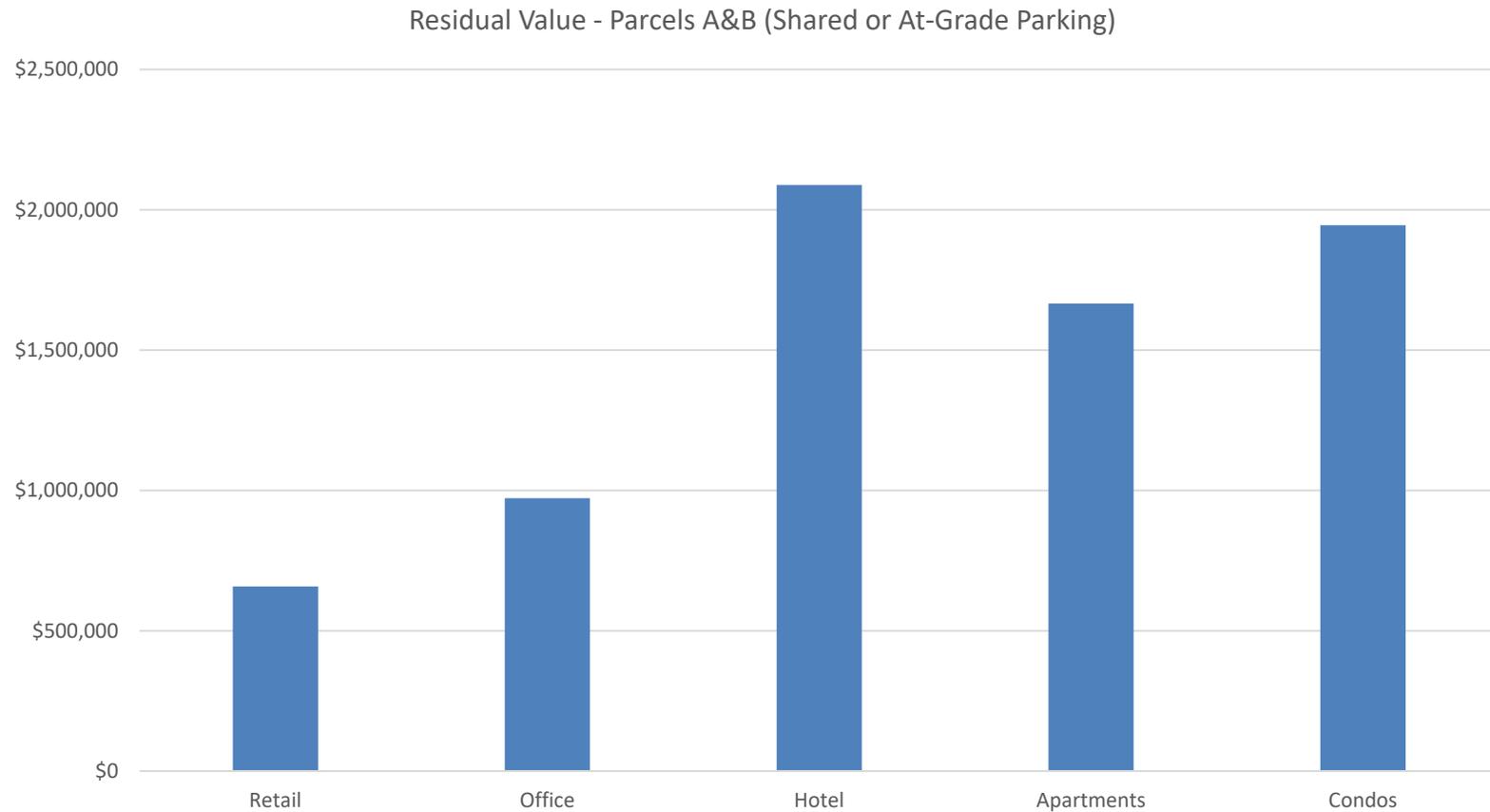
Values depend on many factors, including:

- Land use and resulting lease/sales values
- Development capacity based on zoning and other constraints
- Construction costs
- Parking
- Investor interest
- Market norms and trends

DEVELOPMENT STRATEGY: SELL SPECIFIC PARCEL

- Depending on resulting densities, land uses under consideration projected to yield between \$900,000 – \$2.9 million per acre
- Highest values for hotel and residential uses
- Land values highly sensitive to assumptions
- Parking is significant component – these values assume either shared parking with Marina or at-grade/tuck-under parking
 - Below-grade or other structured parking would introduce significant cost increase and resulting lower land values (and potentially negative land values)
- At 0.72 acres for 2 parcels next to stairs = potential combined land value of between \$660,000 and \$2.1 million

DEVELOPMENT STRATEGY: SELL SPECIFIC PARCEL



DEVELOPMENT STRATEGY: GROUND LEASE LAND

- Ground leases not common for many development deals
 - Most commonly associated with hotel development
- Developers and their capital partners will typically want long timeframes (i.e. 99 years)
- Leases don't typically begin until revenue earned (and often ramped up in initial phase)
- Need to consider time value of money (i.e. discount future payments)

DEVELOPMENT STRATEGY: GROUND LEASE LAND

- Ground leases can be determined on basis of:
 - % of determined/appraised land value
 - % of revenue
 - Other fixed rent amount or hybrid method
- At 5% of land value and discount rate of 6%, would take approximately 30 years to equal current sales values

DEVELOPMENT STRATEGY: PUBLIC-PRIVATE PARTNERSHIP

- Opportunity to leverage City assets and capabilities with private-sector development expertise
- Can take many different forms
- Can include modest or incremental incentives

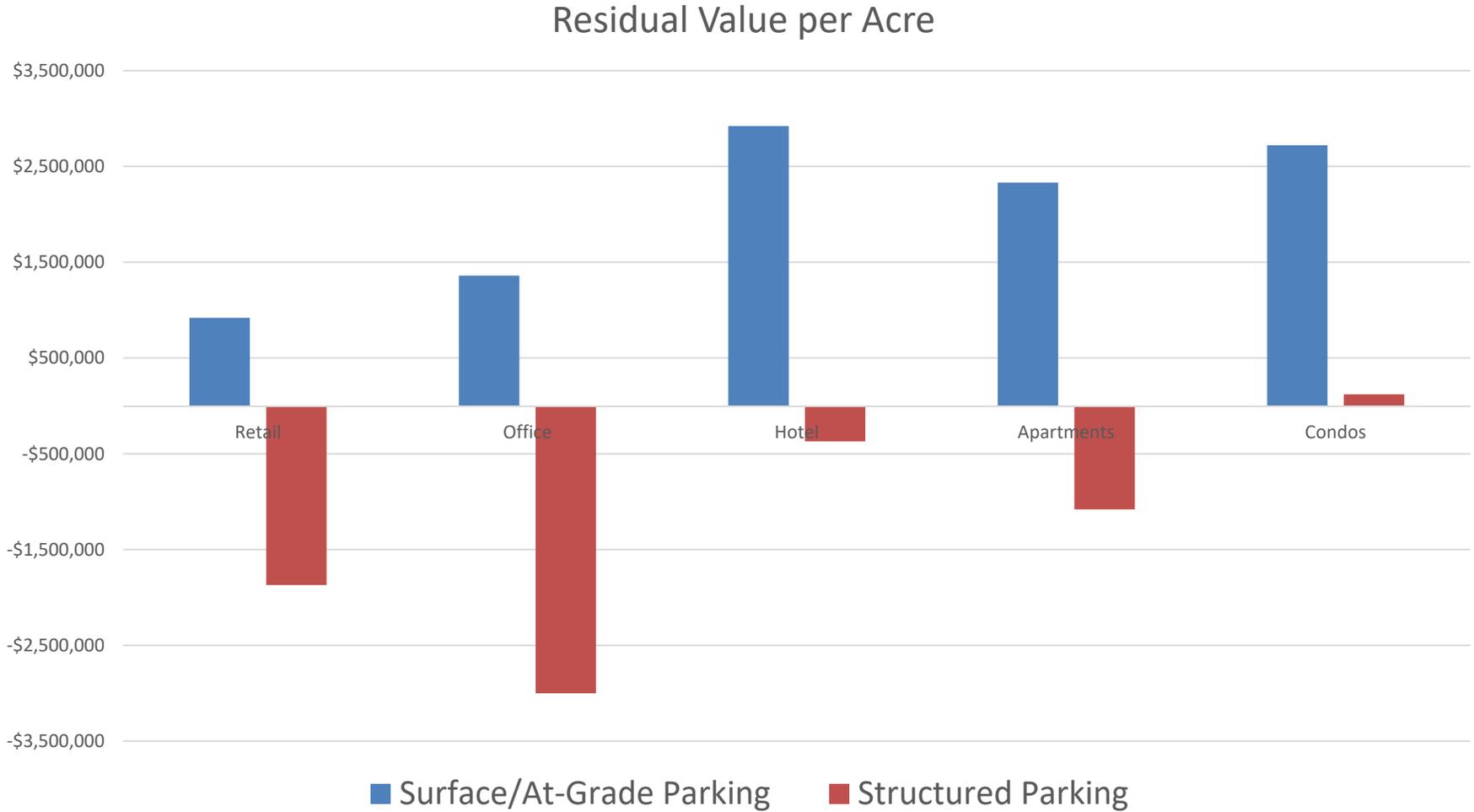
Example: City provides land, private developer builds Marina Steps and adjacent private development

- City gets public amenity potentially at reduced out-of-pocket cost
- Developer gets control of larger site and ability to better integrate uses and leverage development costs

DEVELOPMENT: PARKING STRATEGY

- No existing parking spaces taken out for siting early-phase development
- Utilize existing surface parking to help incentivize early-phase development
- Parking costs can kill development deals – typical cost per stall is ~\$30,000 for above-ground and ~\$50,000 for below-grade
- Parking on small sites can also leave too little leasable/saleable space left over
- Look into integrating parking into Marina Steps development
- Potential to build structured parking later on as Marina is developed
- Financial partners often will require developers to have dedicated parking – they don't want their investments to be under-parked

DEVELOPMENT: PARKING STRATEGY



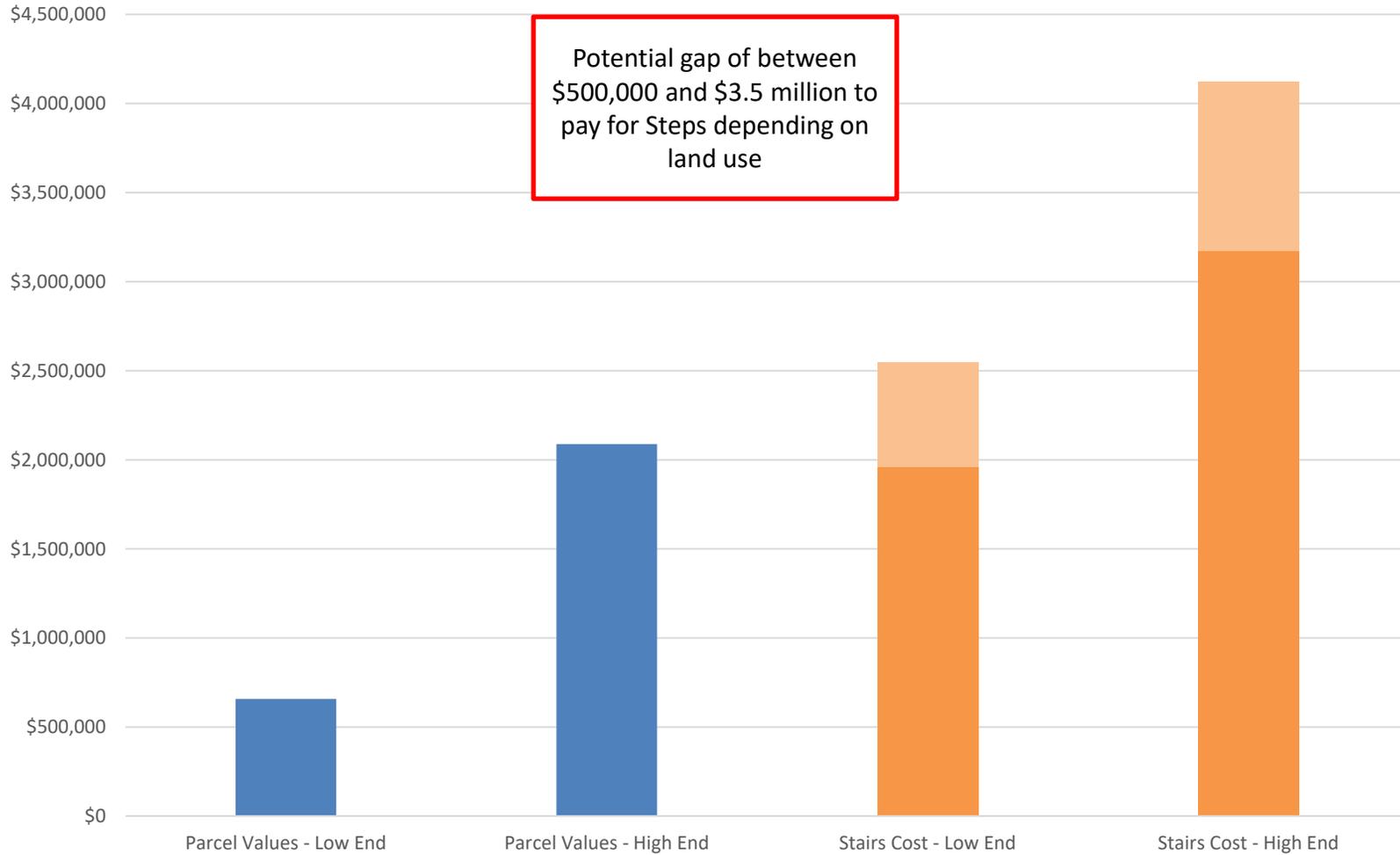
DEVELOPMENT: PARKING STRATEGY



DEVELOPMENT: IDENTIFY TENANTS AND PARTNERS

- Office users (i.e. GSA, Port, co-working)
- Brewpub
- Hotel/Inn developer

DEVELOPMENT STRATEGY: FINANCIAL



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Q&A