

**AGENDA**

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

**February 27, 2020 – 7:00 p.m.**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**CORRESPONDENCE**

**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**

**PRESIDING OFFICER’S REPORT**

- POSSIBLE REPORT ON COUNCIL ASSIGNMENTS
- STEVEN J UNDERWOOD MEMORIAL SCHOLARSHIP

**ADMINISTRATION REPORT**

- RECOGNITION OF COURT ADMINISTRATOR OF THE YEAR
- FEDERAL WAY LINK EXTENSION SOUND TRANSIT UPDATE
- INTRODUCTION OF NEW STAFF
- FINANCE UPDATE
- WRIA 9 UPDATE
- UPDATE ON StART

Page 5

**CONSENT CALENDAR**

Page 19      Item 1:

**APPROVAL OF VOUCHERS**

Motion is to approve for payment vouchers and payroll transfers through February 20, 2020 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#160170-160261	\$ 612,619.41
Electronic Wire Transfers	# 1399 - 1412	\$ 703,115.71
Payroll Checks	# 19357-19360	\$ 3,843.31
Payroll Direct Deposit	# 80001-80186	\$ 379,761.49

Total Checks and Wires for A/P and Payroll:      \$1,699,399.92

- Page 21      Item 2:      APPROVAL OF MINUTES  
Motion is to approve the January 9, January 23, February 13, 2020 City Council Regular Meetings, the January 23, 2020 Special Meeting, and the February 6, 2020 Study Session Minutes.
- Page 41      Item 3:      DSHS – INTERLOCAL DATASHARE AGREEMENT  
Motion is to approve the Interlocal Datashare Agreement with DSHS for benefits verification system and authorize the City Manager to sign the Agreement substantially in the form as attached.
- Page 69      Item 4:      DRAFT ORDINANCE 20-016: INCREASING IMPREST CASH FUNDS  
Motion 1 is to suspend Rule 26(a) in order to enact Draft Ordinance No. 20-016 on first reading.  
  
Motion 2 is to adopt Draft Ordinance No. 20-016, amending DMMC 3.60.010 to increase the imprest cash funds from \$8,000 to \$14,000.
- Page 73      Item 5:      INTERFUND LOAN FOR THE PURCHASE OF THE IN-CAR “DASHBOARD” CAMERA SYSTEMS  
Motion 1 is to suspend Rule 26(a) in order to enact Draft Ordinance No. 20-014 on first reading.  
  
Motion 2 is to enact Draft Ordinance No. 20-014 authorizing an interfund loan of \$104,650 from the Equipment Rental Replacement Fund to the General Fund for the purchase of In-Car “Dashboard” Camera Systems.
- Page 77      Item 6:      PUBLIC DEFENSE SERVICE CONTRACT ASSIGNMENT AND EXTENSION  
Motion is to approve the contract assignment and extension for indigent public defense services and to authorize the City Manager to sign the contact substantially in the form as attached.
- Page 97      Item 7:      INTERAGENCY AGREEMENT WITH HIGHLINE COLLEGE FOR THE SMALL BUSINESS DEVELOPMENT CENTER  
Motion is to approve the Interagency Agreement with Highline College for support of the Small Business Development Center, and authorize the City Manager to sign the agreement substantially in the form as submitted.

Page 103      Item 8:      DRAFT ORDINANCE NO. 20-013: ESTABLISHING A CUSTODIAL FUND AND AN AFFORDABLE HOUSING SALES TAX FUND IN TITLE 3  
Motion 1 is to suspend Rule 26(a) in order to enact Draft Ordinance No. 20-013 on first reading.

Motion 2 is to adopt Draft Ordinance No. 20-013, establishing a Custodial Fund and an Affordable Housing Sales Tax Fund in Title 3.

**EXECUTIVE SESSION**

**NEXT MEETING DATE**

March 5, 2020 City Council Study Session

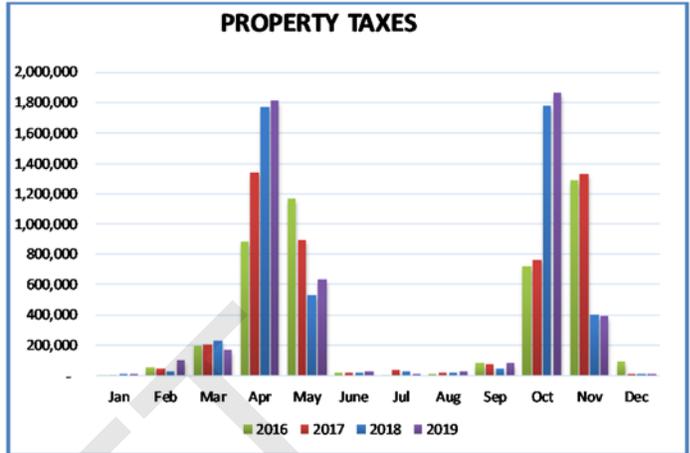
**ADJOURNMENT**

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## MAJOR REVENUE TRENDS (CASH BASIS)

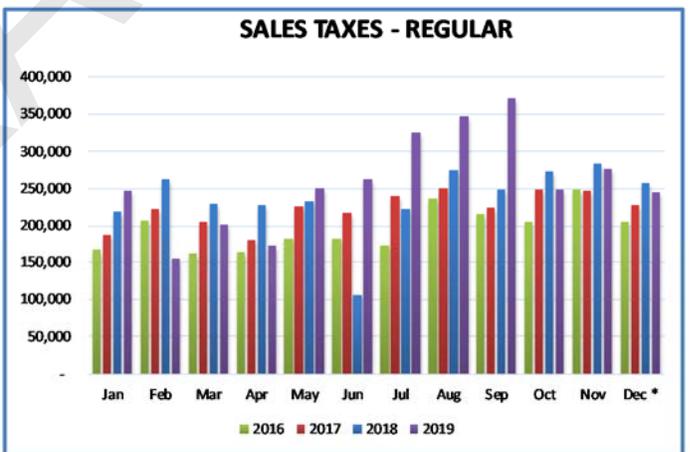
This DRAFT financial report provides a summary budget vs. actual comparisons of revenues and expenditures as of December 31, 2019. This financial report is a snapshot of fund activity prior to the generation and formal audit of the final year-end financial statements.

<b>2019 YTD Compared to 2018 YTD:</b>		<b>253,297</b>	<b>5.2%</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>
Jan	13,860	16,419	10,191	9,718	0.3%
Feb	104,282	36,447	52,372	62,078	1.1%
Mar	167,779	232,292	207,664	192,691	5.8%
Apr	1,810,494	1,766,445	1,341,941	884,255	41.7%
May	630,874	530,338	892,976	1,172,679	52.5%
June	34,067	24,549	22,136	24,323	53.0%
Jul	18,767	32,153	45,386	8,130	53.7%
Aug	33,071	27,125	22,470	19,914	54.2%
Sep	82,238	50,170	78,305	87,561	55.2%
Oct	1,866,328	1,781,413	757,497	721,023	91.4%
Nov	391,916	404,598	1,334,765	1,292,382	99.7%
Dec	17,570	16,001	20,037	92,696	100.0%
<b>Totals</b>	<b>5,171,247</b>	<b>4,917,950</b>	<b>4,785,740</b>	<b>4,567,450</b>	
<b>2019 YTD Compared to Budget:</b>		<b>5,111,000</b>	<b>101.2%</b>		



Property Taxes represent the largest source of revenue for the General Fund. Year-to-date the City has received \$5,171,247 or 101.2% of property taxes levied.

<b>2019 YTD Compared to 2018 YTD:</b>		<b>261,253</b>	<b>9.2%</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>
Jan	246,986	219,835	188,813	166,482	7.7%
Feb	154,730	263,849	222,214	207,580	17.0%
Mar	202,822	230,669	206,184	162,512	25.1%
Apr	171,750	228,365	180,327	162,783	33.1%
May	250,525	234,241	225,772	183,308	41.4%
Jun	262,694	105,465	218,517	182,542	45.1%
Jul	326,926	222,961	240,702	172,341	52.9%
Aug	346,280	274,972	251,535	236,926	62.6%
Sep	371,330	249,032	225,110	216,225	71.3%
Oct	249,688	274,171	248,661	205,441	80.9%
Nov	277,923	283,547	248,226	248,392	90.9%
Dec *	245,437	258,734	228,030	206,295	100.0%
<b>Totals</b>	<b>3,107,094</b>	<b>2,845,841</b>	<b>2,684,092</b>	<b>2,350,827</b>	
<b>2019 YTD Compared to Budget:</b>		<b>2,922,000</b>	<b>106.3%</b>		

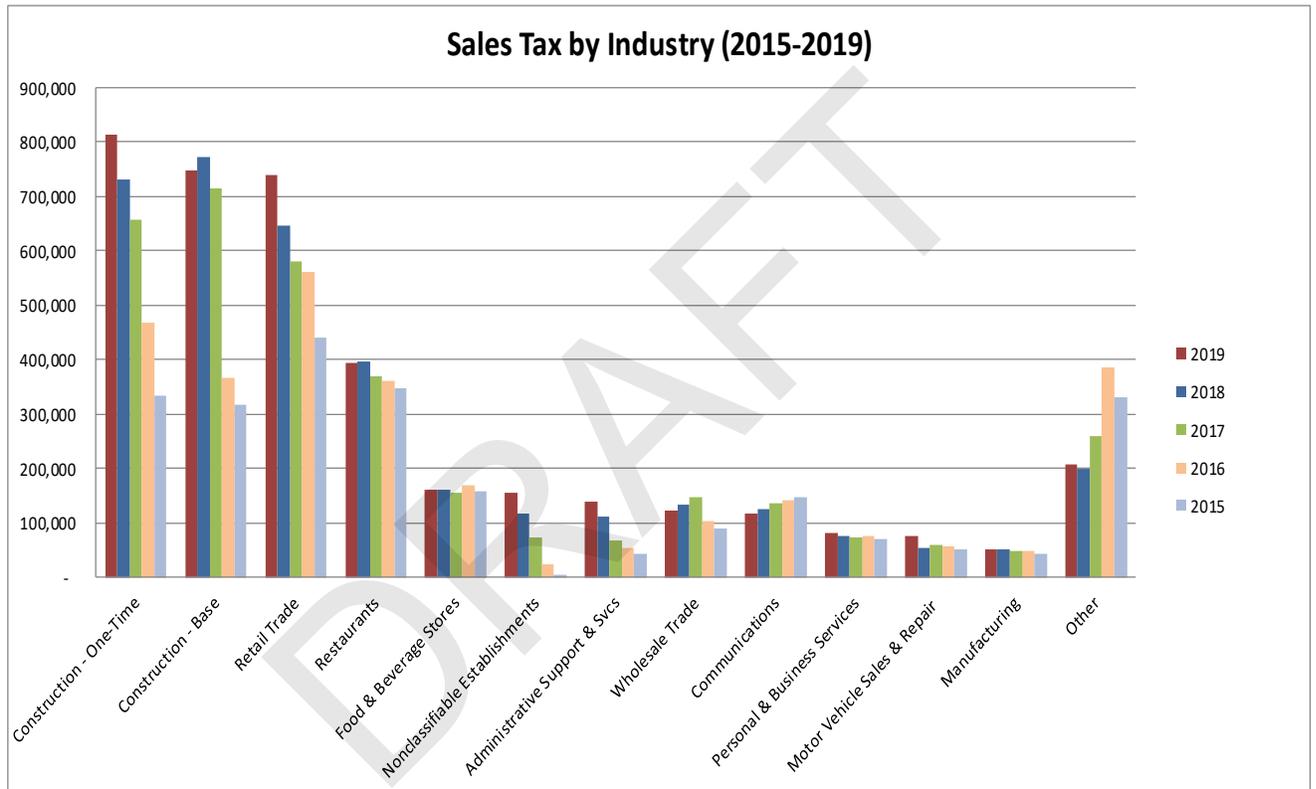


\* One-time sales tax not recorded for Dec

Sales tax-regular budgeted for 2019 is 22.2% of unrestricted tax revenue in the General Fund. The amount received to date is 9.2% higher than the amount received in 2018. Sales tax-regular is currently projected to exceed both the current year budget and the amount received in the previous year.

Industry (Category)	YTD	Fiscal Year				
	2019	2018	2017	2016	2015	
Construction - One-Time	814,984	731,105	657,386	468,080	334,694	
Construction - Base	748,890	773,445	713,638	365,726	316,290	
Retail Trade	740,885	647,489	581,065	561,544	441,690	
Restaurants	395,461	395,916	368,997	362,289	347,482	
Food & Beverage Stores	161,051	162,298	156,416	168,681	158,304	
Nonclassifiable Establishments	156,745	115,902	72,112	24,723	4,990	
Administrative Support & Svcs	138,084	112,638	66,631	52,816	43,467	
Wholesale Trade	121,769	134,124	146,801	104,798	88,477	
Communications	116,988	124,333	135,193	140,595	148,014	
Personal & Business Services	80,327	75,305	74,182	74,762	70,156	
Motor Vehicle Sales & Repair	77,307	54,092	60,209	57,894	51,653	
Manufacturing	52,117	50,744	48,375	49,899	41,846	
Other	206,329	199,556	260,082	386,847	330,755	

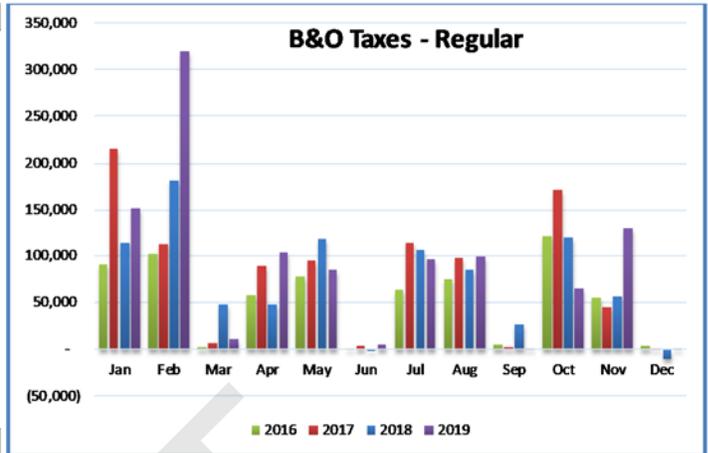
TOTAL 3,810,937 3,576,947 3,341,087 2,818,655 2,377,818



The above amounts reflect both Regular and One-Time sales tax collections.

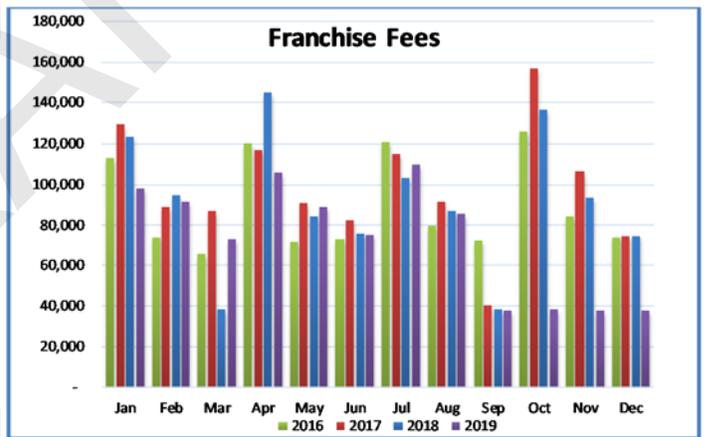
## MAJOR REVENUE TRENDS (Cash Basis -Continued)

<b>2019 YTD Compared to 2018 YTD:</b>					<b>176,007</b>	<b>19.7%</b>
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>	
Jan	151,817	114,329	216,324	89,942	12.8%	
Feb	320,145	181,623	112,795	101,825	33.2%	
Mar	10,607	48,000	6,291	3,106	38.6%	
Apr	103,594	48,450	89,260	58,292	44.0%	
May	84,751	118,467	94,829	78,035	57.3%	
Jun	5,206	(2,120)	3,205	1,262	57.0%	
Jul	95,757	106,022	114,496	63,661	68.9%	
Aug	99,602	84,875	97,730	74,863	78.4%	
Sep	874	25,957	2,767	5,211	81.4%	
Oct	65,324	120,989	171,216	122,095	94.9%	
Nov	130,096	56,044	44,658	55,292	101.2%	
Dec	74	(10,796)	1,400	4,217	100.0%	
<b>Totals</b>	<b>1,067,847</b>	<b>891,840</b>	<b>954,972</b>	<b>657,801</b>		
<b>2019 YTD Compared to Budget:</b>					<b>1,100,000</b>	<b>97.1%</b>



Business and occupation (B&O) taxes are imposed on all business activity occurring within the Des Moines city limits. Revenue received year-to-date is higher than the City’s projections.

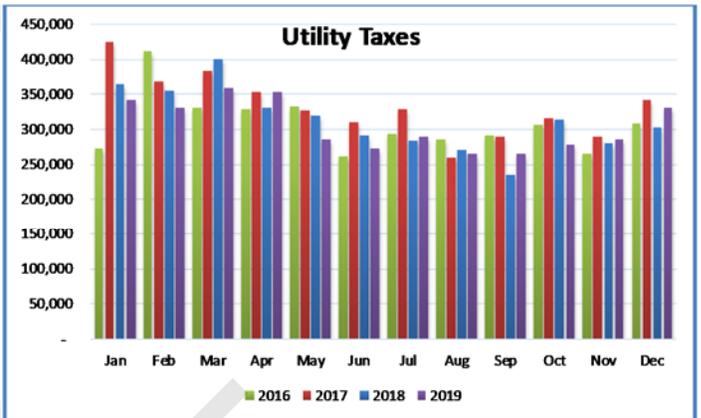
<b>2019 YTD Compared to 2018 YTD:</b>					<b>(215,832)</b>	<b>-19.7%</b>
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>	
Jan	98,411	123,726	129,401	113,463	11.3%	
Feb	91,424	94,879	89,045	73,834	19.9%	
Mar	72,505	38,037	87,325	65,347	23.4%	
Apr	106,009	145,331	116,973	120,207	36.7%	
May	89,027	84,654	91,363	71,583	44.4%	
Jun	75,646	75,876	82,575	72,626	51.3%	
Jul	109,784	103,551	115,316	121,248	60.8%	
Aug	85,899	87,305	91,478	79,804	68.7%	
Sep	37,710	38,146	40,214	72,099	72.2%	
Oct	38,367	136,538	156,940	126,141	84.7%	
Nov	37,803	93,389	106,415	84,251	93.2%	
Dec	37,809	74,794	74,885	73,899	100.0%	
<b>Totals</b>	<b>880,394</b>	<b>1,096,226</b>	<b>1,181,930</b>	<b>1,074,502</b>		
<b>2019 YTD Compared to Budget:</b>					<b>1,110,000</b>	<b>79.3%</b>



Franchise fees are collected monthly and the year-to-date amount is \$880,394 or 79.3% of budget.

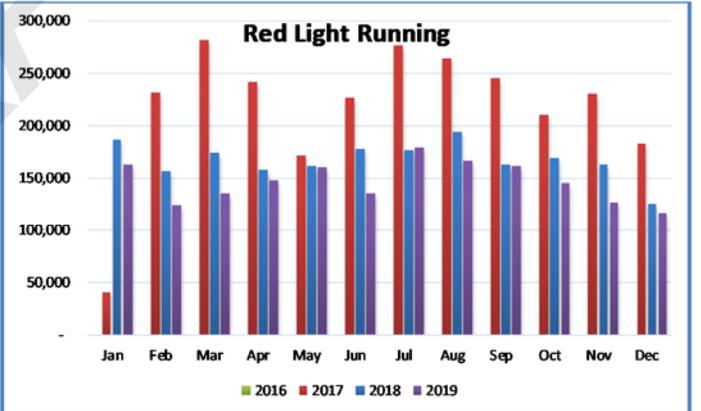
## MAJOR REVENUE TRENDS (Cash Basis -Continued)

<b>2019 YTD Compared to 2018 YTD:</b>					
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>
Jan	343,389	364,526	424,753	273,337	9.7%
Feb	331,231	356,373	369,100	410,967	19.2%
Mar	359,176	401,190	384,143	332,039	29.9%
Apr	352,907	331,071	354,597	329,815	38.7%
May	286,910	319,357	326,610	333,168	47.2%
Jun	272,764	291,360	311,295	262,684	55.0%
Jul	289,744	283,591	330,214	293,988	62.6%
Aug	266,484	270,950	259,947	286,311	69.8%
Sep	266,438	236,382	289,489	292,324	76.1%
Oct	278,817	314,663	315,656	306,464	84.5%
Nov	285,724	279,898	289,793	266,326	91.9%
Dec	330,565	302,618	342,218	308,003	100.0%
<b>Totals</b>	<b>3,664,147</b>	<b>3,751,979</b>	<b>3,997,816</b>	<b>3,695,425</b>	
<b>2019 YTD Compared to Budget:</b>				<b>3,756,885</b>	<b>97.5%</b>



Utility taxes are the second largest source of General Fund revenue, comprising 28.6% of unrestricted tax revenue in the General Fund. Utility taxes are levied on the gross income derived from the sales of electricity, natural gas, solid waste collection, cable television, telephone, and stormwater services provided within city limits and are collected monthly. There is a 2.3% decline from 2018 taxes collected. We anticipated an increase in these revenues based on the development of the business park; as a result, the city has started a utility tax audit in 2019.

<b>2019 YTD Compared to 2018 YTD:</b>					
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>
Jan	162,826	186,912	41,052	-	1.6%
Feb	124,681	157,163	232,138	-	10.5%
Mar	135,971	174,355	281,581	-	21.3%
Apr	148,371	158,143	242,435	-	30.5%
May	160,197	162,501	172,049	-	37.1%
Jun	136,007	178,283	227,114	-	45.8%
Jul	179,257	176,829	277,288	-	56.5%
Aug	166,795	195,111	264,954	-	66.6%
Sep	162,479	163,580	245,831	-	76.0%
Oct	146,326	169,926	210,839	-	84.1%
Nov	127,347	162,918	230,840	-	93.0%
Dec	117,418	126,092	183,507	-	100.0%
<b>Totals</b>	<b>1,767,675</b>	<b>2,011,813</b>	<b>2,609,628</b>	<b>-</b>	
<b>2019 YTD Compared to Budget:</b>				<b>1,800,000</b>	<b>98.2%</b>



The Red Light Running program has two elements; structural on-going revenue which is \$1.5M and one-time revenue \$300,000 of the \$1.8M revised budget. Year-to-date collection is 98.2% of the budget and is lower than anticipated. The City closely monitors the activity for this program.

## MAJOR REVENUE TRENDS (CASH BASIS - Continued)

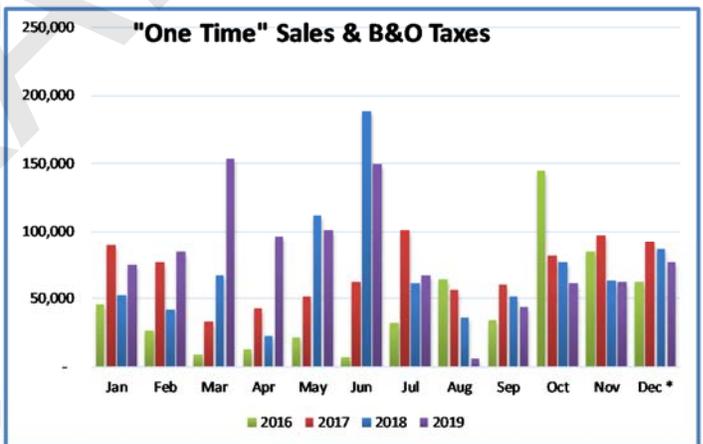
### CIP FUNDING SOURCES

<b>2019 YTD Compared to 2018 YTD:</b>					<b>(137,835)</b>	<b>-6.5%</b>
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>	
Jan	-	100,179	296,469	93,909	4.7%	
Feb	186,376	218,634	64,190	109,153	15.1%	
Mar	153,182	94,383	78,233	80,623	19.5%	
Apr	77,867	92,064	95,642	86,005	23.9%	
May	117,781	184,602	132,598	84,072	32.6%	
Jun	143,243	111,822	152,999	99,166	37.9%	
Jul	507,720	134,460	448,867	163,905	44.3%	
Aug	164,873	114,749	173,469	90,084	49.7%	
Sep	266,579	137,688	136,573	116,119	56.2%	
Oct	68,453	91,501	118,772	91,603	60.5%	
Nov	96,496	77,299	132,237	109,682	64.2%	
Dec	195,080	758,105	105,037	91,594	100.0%	
<b>Totals</b>	<b>1,977,651</b>	<b>2,115,486</b>	<b>1,935,085</b>	<b>1,215,915</b>		
<b>2019 YTD Compared to Budget:</b>					<b>1,840,000</b>	<b>107.5%</b>



The City collected \$1,977,651 in Real Estate Excise Tax (REET) revenue year-to-date and the amount is higher than the amount budgeted. Collections to-date are lower than prior year by 6.5%

<b>2019 YTD Compared to 2018 YTD:</b>					<b>117,365</b>	<b>113.6%</b>
	<b>2019</b>	<b>2018</b>	<b>2017</b>	<b>2016</b>	<b>PY YTD</b>	
Jan	75,168	53,243	89,266	46,556	6.2%	
Feb	85,159	42,028	76,783	27,195	11.0%	
Mar	153,397	67,676	33,370	9,428	18.9%	
Apr	96,901	22,899	42,775	13,465	21.5%	
May	101,124	112,228	52,185	22,165	34.5%	
Jun	150,207	188,990	62,293	7,770	56.4%	
Jul	67,573	61,955	101,589	32,666	63.5%	
Aug	6,503	36,798	56,915	64,376	67.8%	
Sep	44,223	51,661	60,445	34,407	73.8%	
Oct	61,252	76,662	82,400	144,643	82.6%	
Nov	62,904	63,324	97,018	84,923	89.9%	
Dec*	77,294	86,876	92,746	62,874	100.0%	
<b>Totals</b>	<b>981,704</b>	<b>864,339</b>	<b>847,785</b>	<b>550,468</b>		
<b>2019 YTD Compared to Budget:</b>					<b>800,000</b>	<b>122.7%</b>



\* One-time sales tax not recorded for Dec

All "one-time" sales and B&O tax revenues are designated for capital improvements.

## GENERAL FUND 001

	2019 REVISED BUDGET			2019 Year to Date ACTUAL				
	ANNUAL 12 MONTHS			DECEMBER				
	REVENUES	EXPENDITURES	NET	REVENUES	%**	EXPENDITURES	%**	NET
<b>BEGINNING FUND BALANCE</b>			<b>5,743,219</b>					<b>5,743,219</b>
<b><u>Unrestricted Revenues</u></b>								
Unrestricted Taxes	13,144,885		13,144,885	13,133,181	100%			
One Time Sales/B&O Taxes	800,000		800,000	981,704	123%			
Unrestricted Franchise Fees	1,110,000		1,110,000	1,060,801	96%			
Business Licenses	294,000		294,000	282,066	96%			
State/City Assistance	100,000		100,000	113,863	114%			
Miscellaneous	144,200		144,200	114,394	79%			
Total Unrestricted Revenues	15,593,085		15,593,085	15,686,009	101%			15,686,009 101%
<b><u>Policy &amp; Support Services</u></b>								
Support Services Chargebacks	2,773,291	-	2,773,291	2,995,839	108%	-	-	2,995,839 108%
City Council	-	93,766	(93,766)	-	-	66,238	71%	(66,238) 71%
City Manager	31,890	2,148,607	(2,116,717)	36,141	113%	1,921,545	89%	(1,885,405) 89%
Financial Services	65,000	1,326,617	(1,261,617)	46	0%	1,248,947	94%	(1,248,900) 99%
Technology Services	774,185	948,176	(173,991)	704,729	91%	889,563	94%	(184,834) 106%
* Legal	12,000	752,934	(740,934)	10,273	86%	704,973	94%	(694,700) 94%
Bldg & Facility Maint	-	370,489	(370,489)	-	-	379,996	103%	(379,996) 103%
Total Policy & Support Services	3,656,366	5,640,589	(1,984,223)	3,747,027	102%	5,211,261	92%	(1,464,234) 74%
<b><u>Public Safety Services</u></b>								
Restricted - Public Safety	3,389,838	-	3,389,838	3,443,894	102%	-	-	3,443,894 102%
Court	148,150	1,410,340	(1,262,190)	133,147	90%	1,414,405	100%	(1,281,259) 102%
Probation	67,000	227,713	(160,713)	148,067	221%	226,073	99%	(78,006) 49%
EMS/Fire/Jail/Public Defender:	41,932	1,179,606	(1,137,674)	39,789	95%	1,152,553	98%	(1,112,764) 98%
Police	291,323	11,358,366	(11,067,043)	360,779	124%	11,256,787	99%	(10,896,007) 98%
Total Public Safety Services	3,938,243	14,176,025	(10,237,782)	4,125,675	105%	14,049,818	99%	(9,924,143) 97%
<b><u>Community Services</u></b>								
Planning & Bldg (NonFee Based)	-	593,610	(593,610)	-	-	553,282	93%	(553,282) 93%
Engineering (NonFee Based)	-	271,515	(271,515)	-	-	324,511	120%	(324,511) 120%
Subtotal	-	865,125	(865,125)	-	-	877,793	101%	(877,793) 101%
Park Maintenance	36,413	1,133,289	(1,096,876)	13,946	38%	1,063,283	94%	(1,049,337) 96%
Parks & Community Relations	9,895	249,181	(239,286)	10,480	106%	181,941	73%	(171,461) 72%
Arts Program	9,500	64,188	(54,688)	9,752	103%	61,928	96%	(52,176) 95%
Senior & Human Services	184,610	694,583	(509,973)	238,563	129%	665,467	96%	(426,904) 84%
Recreation Programs	1,096,440	1,397,506	(301,066)	1,076,823	98%	1,288,530	92%	(211,708) 70%
Beach Park Rentals	291,700	625,061	(333,361)	233,513	80%	565,688	91%	(332,175) 100%
Subtotal	1,628,558	4,163,808	(2,535,250)	1,583,076	97%	3,826,836	92%	(2,243,760) 89%
Total Community Services	1,628,558	5,028,933	(3,400,375)	1,583,076	97%	4,704,629	94%	(3,121,553) 92%
<b><u>Transfers Out</u></b>								
Capital & Debt	-	412,974	(412,974)	-	-	240,368	58%	(240,368) 58%
One Time Sales/ B&O Tax	-	800,000	(800,000)	-	-	892,281	112%	(892,281) 112%
Total Transfers	-	1,212,974	(1,212,974)	-	-	1,132,649	93%	(1,132,649) 93%
<b>TOTAL GENERAL FUND</b>	<b>24,816,252</b>	<b>26,058,521</b>	<b>(1,242,269)</b>	<b>25,141,789</b>	<b>101%</b>	<b>25,098,358</b>	<b>96%</b>	<b>43,431 -3%</b>
<b>ENDING FUND BALANCE</b>			<b>4,500,950</b>					<b>5,786,650</b>
** December is month 12 of 12 = 100%								
16.67% Minimum Ending Fund Balance			4,343,955					22.2%

**SPECIAL REVENUE FUND 105 (DEVELOPMENT - FEE BASED)**

	2019 REVISED BUDGET			2019 Year to Date ACTUAL				
	ANNUAL 12 MONTHS			DECEMBER				
	REVENUES	EXPENDITURES	NET	REVENUES**	% **	EXPENDITURES	%**	NET
<b>BEGINNING FUND BALANCE</b>			<b>4,699,442</b>					<b>4,699,441</b>
<i>Community Services (PBPW Fee Based)</i>								
Interest Earnings	40,000	-	40,000	44,676	112%	-	-	44,676 112%
Planning (Fee Based)	146,800	618,895	(472,095)	275,275	188%	626,616	101%	(351,341) 74%
Recycle Grant	40,122	45,923	(5,801)	38,738	97%	39,571	86%	(833) 14%
Building & Permits (Fee Based)	997,550	979,026	18,524	1,193,363	120%	983,406	100%	209,957 1133%
Minor Home Repair Grant	32,000	31,660	340	23,441	73%	24,413	77%	(972) -286%
Engineering (Fee Based)	676,937	1,146,875	(469,938)	611,640	90%	952,839	83%	(341,198) 73%
<b>TOTAL PBPW Fee Based</b>	<b>1,933,409</b>	<b>2,822,379</b>	<b>(888,970)</b>	<b>2,187,133</b>	<b>113%</b>	<b>2,626,844</b>	<b>93%</b>	<b>(439,711) 49%</b>
<b>ENDING FUND BALANCE</b>			<b>3,810,472</b>					<b>4,259,730</b>

\*\* December is month 12 of 12 = 100%

\*\*ACTUAL Revenues include "One-Time Development Revenues" when received. No "One-Time" in Revenue Budgets.

<b>Fund Activity</b>				
<b>Year-to-Date through December 31, 2019</b>				
<b>Fund</b>	<b>Beginning Fund Balance</b>	<b>Revenues &amp; Transfers-In</b>	<b>Expenditures &amp; Transfers-Out</b>	<b>Ending Fund Balance</b>
<b>Special Revenue Funds:</b>				
Street	748,129	1,714,518	1,614,092	848,554
Arterial Pavement	1,172,531	755,940	49,183	1,879,287
Police Drug Seizure	22,040	428	-	22,468
Hotel-Motel Tax	21,375	131,879	78,577	74,677
Redondo Zone	38,607	91,387	106,334	23,661
Waterfront Zone	50,589	215,066	154,254	111,402
PBPW Automation Fee	314,976	145,490	90,881	369,584
Urban Forestry	-	-	-	-
Abatement	42,307	5,968	-	48,275
Automated Speed Enforcement (ASE)	370,517	265,587	270,890	365,215
Transport Benefit District	170,233	933,318	929,573	173,978
<b>Debt Service Funds:</b>				
REET 1 Eligible Debt Service	19,331	13,148	16,369	16,110
REET 2 Eligible Debt Service	73,310	236,312	274,472	35,150
2018 LTGO & Refunding Bonds	1,988,952	264,817	2,140,925	112,843
<b>Capital Project Funds:</b>				
REET 1	1,554,876	1,084,034	147,004	2,491,907
REET 2	1,336,103	1,021,713	337,346	2,020,470
Park Levy	8,310	66,280	62,000	12,591
Park in Lieu	620,281	210,038	12,568	817,751
One-Time Sales & B&O Tax Revenues	2,075,828	935,618	84,290	2,927,156
Municipal Capital Improvements	1,525,911	2,992,062	2,233,173	2,284,800
Transportation Capital Improvements	1,576,617	4,758,115	6,266,624	68,108
Traffic in Lieu	110,607	1,517,164	1,500,000	127,771
Traffic Impact - Citywide	1,714,199	425,371	806,360	1,333,210
Traffic Impact - Pac Ridge	299,629	5,797	-	305,426
<b>Internal Service Funds:</b>				
Equipment Rental Operations	360,811	563,755	525,571	398,995
Equipment Rental Replacement	4,256,534	738,951	754,585	4,240,900
Facility Major Repairs	676,148	139,718	62,175	753,691
Computer Replacement	1,137,306	439,290	181,045	1,395,551
Self Insurance	689,060	733,773	657,579	765,255
Unemployment Insurance	497,992	49,975	11,564	536,403
General Fund	5,743,219	25,141,789	25,098,358	5,786,650
Development Fund	4,699,441	2,187,133	2,626,844	4,259,730
Marina	10,817,388	5,643,190	4,872,467	11,588,111
SWM	20,916,919	4,653,484	3,424,451	22,145,952
Total	65,650,076	58,081,108	55,389,554	68,341,630

<b>Budget vs. Actual Revenue &amp; Transfers-In by Fund</b>					
Year-to-Date through December 31, 2019					
Fund	Budget	YTD Actual	% Actual to Budget	Remaining Budget	
<b>Special Revenue Funds:</b>					
Street	1,691,608	1,714,518	101.35%	(22,910)	
Arterial Pavement	797,800	755,940	94.75%	41,860	
Police Drug Seizure	1,000	428	42.78%	572	
Hotel-Motel Tax	112,000	131,879	117.75%	(19,879)	
Redondo Zone	93,150	91,387	98.11%	1,763	
Waterfront Zone	225,070	215,066	95.56%	10,004	
PBPW Automation Fee	129,500	145,490	112.35%	(15,990)	
Urban Forestry	10,000	-	0.00%	10,000	
Abatement	5,300	5,968	112.60%	(668)	
Automated Speed Enforcement (ASE)	258,500	265,587	102.74%	(7,087)	
Transport Benefit District	944,000	933,318	98.87%	10,682	
<b>Debt Service Funds:</b>					
REET 1 Eligible Debt Service	19,064	13,148	68.97%	5,916	
REET 2 Eligible Debt Service	247,102	236,312	95.63%	10,790	
2018 LTGO & Refunding Bonds	263,000	264,817	100.69%	(1,817)	
<b>Capital Project Funds:</b>					
REET 1	1,007,000	1,084,034	107.65%	(77,034)	
REET 2	945,000	1,021,713	108.12%	(76,713)	
Park Levy	57,000	66,280	116.28%	(9,280)	
Park in Lieu	204,580	210,038	102.67%	(5,458)	
One-Time Sales & B&O Tax Revenues	830,000	935,618	112.73%	(105,618)	
Municipal Capital Improvements	5,360,000	2,992,062	55.82%	2,367,938	
Transportation Capital Improvements	8,666,000	4,758,115	54.91%	3,907,885	
Traffic in Lieu	1,815,750	1,517,164	83.56%	298,586	
Traffic Impact - Citywide	1,086,000	425,371	39.17%	660,629	
Traffic Impact - Pac Ridge	281,232	5,797	2.06%	275,435	
<b>Internal Service Funds:</b>					
Equipment Rental Operations	526,185	563,755	107.14%	(37,570)	
Equipment Rental Replacement	874,439	738,951	84.51%	135,488	
Facility Repair & Replacement	311,641	139,718	44.83%	171,923	
Computer Replacement	436,704	439,290	100.59%	(2,586)	
Self Insurance	730,620	733,773	100.43%	(3,153)	
Unemployment Insurance	73,181	49,975	68.29%	23,206	
General Fund	24,815,252	25,141,789	101.32%		
Development Fund	1,933,409	2,187,133	113.12%		
Marina	5,645,861	5,643,190	99.95%		
SWM	5,945,964	4,653,484	78.26%		
Total	66,342,912	58,081,108	87.55%		

<b>Budget vs. Actual Expenditures &amp; Transfers-Out by Fund</b>				
<b>Year-to-Date through December 31, 2019</b>				
<b>Fund</b>	<b>Budget</b>	<b>YTD Actual</b>	<b>% Actual to Budget</b>	<b>Remaining Budget</b>
<b>Special Revenue Funds:</b>				
Street	1,723,504	1,614,092	93.65%	109,412
Arterial Pavement	778,000	49,183	6.32%	728,817
Police Drug Seizure	1,000	-	0.00%	1,000
Hotel-Motel Tax	112,000	78,577	70.16%	33,423
Redondo Zone	118,961	106,334	89.39%	12,627
Waterfront Zone	110,729	154,254	139.31%	(43,525)
PBPW Automation Fee	90,881	90,881	100.00%	-
Urban Forestry	5,000	-	0.00%	5,000
Abatement	200	-	0.00%	200
Automated Speed Enforcement (ASE)	295,000	270,890	91.83%	24,110
Transport Benefit District	911,328	929,573	102.00%	(18,245)
<b>Debt Service Funds:</b>				
REET 1 Eligible Debt Service	16,870	16,369	97.03%	501
REET 2 Eligible Debt Service	246,668	274,472	111.27%	(27,804)
2018 LTGO & Refunding Bonds	2,242,050	2,140,925	95.49%	101,125
<b>Capital Project Funds:</b>				
REET 1	451,915	147,004	32.53%	304,911
REET 2	1,213,102	337,346	27.81%	875,756
Park Levy	62,000	62,000	100.00%	-
Park in Lieu	626,000	12,568	2.01%	613,432
One-Time Sales & B&O Tax Revenues	886,000	84,290	9.51%	801,710
Municipal Capital Improvements	3,663,000	2,233,173	60.97%	1,429,827
Transportation Capital Improvements	8,811,000	6,266,624	71.12%	2,544,376
Traffic in Lieu	1,500,000	1,500,000	100.00%	-
Traffic Impact - Citywide	2,602,732	806,360	30.98%	1,796,372
Traffic Impact - Pac Ridge	-	-	-	-
<b>Internal Service Funds:</b>				
Equipment Rental Operations	592,494	525,571	88.70%	66,923
Equipment Rental Replacement	935,214	754,585	80.69%	180,629
Facility Repair & Replacement	523,000	62,175	11.89%	460,825
Computer Replacement	257,434	181,045	70.33%	76,389
Self Insurance	731,260	657,579	89.92%	73,681
Unemployment Insurance	30,000	11,564	38.55%	18,436
General Fund	26,058,521	25,098,358	96.32%	
Development Fund	2,822,379	2,626,844	93.07%	
Marina	5,281,033	4,872,467	92.26%	
SWM	7,008,940	3,424,451	48.86%	
Total	70,708,215	55,389,554	78.34%	

**MARINA FUND - OPERATING, DEBT SERVICE & CAPITAL FUNDS**  
**(Budget/Working Capital Basis)**  
**Year-to-Date through December 31st**

	2019			2018		
	Budget	Year-to-Date	%	Budget	Year-to-Date	%
<b>Operating Revenues</b>						
Charges for Services	\$ 3,062,727	\$ 3,125,175	102%	\$ 2,957,465	\$ 3,014,477	102%
Fuel Sales	1,161,785	1,174,324	101%	934,600	1,080,619	116%
Parking Fines & Moorage Late Fees	20,000	19,160	96%	12,220	32,494	266%
Miscellaneous Revenues	74,315	52,509	71%	44,460	50,644	114%
<b>Total Operating Revenues</b>	<b>\$ 4,318,827</b>	<b>\$ 4,371,168</b>	<b>101%</b>	<b>\$ 3,948,745</b>	<b>\$ 4,178,234</b>	<b>106%</b>
<b>Operating Expenses</b>						
Salaries	662,119	563,262	85%	757,095	548,569	72%
Personnel Benefits	231,041	210,760	91%	277,853	195,496	70%
Supplies	141,643	115,207	81%	137,400	147,253	107%
Fuel Purchases	1,010,000	1,014,061	100%	657,000	947,900	144%
Services	481,770	370,352	77%	417,270	484,284	116%
Services - Interfund	394,310	394,310	100%	361,266	361,266	100%
Machinery & Equipment	-	2,613	-	-	-	-
<b>Total Operating Expenses (excl. depreciation)</b>	<b>2,920,883</b>	<b>2,670,566</b>	<b>91%</b>	<b>2,607,884</b>	<b>2,684,769</b>	<b>103%</b>
<b>Operating Income (Loss)</b>	<b>\$ 1,397,944</b>	<b>\$ 1,700,603</b>		<b>\$ 1,340,861</b>	<b>\$ 1,493,465</b>	
<b>Non-Operating Revenues</b>						
Interest Revenue	10,000	90,295	903%	10,000	54,744	547%
Capital Contributions	-	16,263	-	-	-	-
Insurance Recoveries	4,459	-	0%	-	-	-
Transfer In from Fund 309	50,000	13,231	26%	-	-	-
<b>Total Non-Operating Revenues</b>	<b>64,459</b>	<b>119,788</b>	<b>186%</b>	<b>10,000</b>	<b>54,744</b>	<b>547%</b>
<b>Non-Operating Expenses</b>						
Other Non-Operating Expenses	-	426	-	-	600	-
Capital Outlay	315,000	193,226	61%	295,000	-	0%
Debt Service	782,575	856,017	109%	815,415	182,292	22%
<b>Total Non-Operating Expenses</b>	<b>1,097,575</b>	<b>1,049,668</b>	<b>96%</b>	<b>1,110,415</b>	<b>182,892</b>	<b>16%</b>
Beginning Working Capital - January 1st		\$ 3,134,074			\$ 1,877,647	
Ending Working Capital - December 31st		<u>3,904,797</u>			<u>3,134,074</u>	
Net Change in Working Capital (see Note)		<u>\$ 770,723</u>			<u>\$ 1,256,427</u>	

Note: Working Capital = Current Assets minus Current Liabilities

December is the 12th month of 12 100.0%

**SURFACE WATER MANAGEMENT FUND - OPERATING & CAPITAL FUNDS**  
**(Budget/Working Capital Basis)**  
**Year-to-Date through December 31st**

	2019			2018		
	Budget	Year-to-Date	%	Budget	Year-to-Date	%
<b>Operating Revenues</b>						
Charges Goods & Services	\$ 4,071,914	\$ 4,133,850	102%	\$ 3,741,629	\$ 3,832,150	102%
Intergovernmental Revenues	-	-	-	-	50,000	-
Miscellaneous	-	1,624	-	-	(1,232)	-
Total Operating Revenues	<u>4,071,914</u>	<u>4,135,473</u>	<u>102%</u>	<u>3,741,629</u>	<u>3,880,918</u>	<u>104%</u>
<b>Operating Expenses</b>						
Salaries	909,593	874,125	96%	922,742	781,523	85%
Personnel Benefits	467,030	392,132	84%	424,417	303,729	72%
Supplies	115,785	87,118	75%	88,112	101,844	116%
Services	1,723,532	1,418,237	82%	1,585,117	1,504,545	95%
Total Operating Expenses (excluding depreciation)	<u>3,215,940</u>	<u>2,771,612</u>	<u>86%</u>	<u>3,020,388</u>	<u>2,691,642</u>	<u>89%</u>
<b>Operating Income (Loss) - excluding depreciation</b>	<b>855,974</b>	<b>1,363,861</b>		<b>721,241</b>	<b>1,189,277</b>	
<b>Non-Operating Revenues</b>						
Interest Revenue	70,000	115,581	165%	10,000	90,712	907%
Storm Drainage Hook-Up Fees	65,000	147,696	227%	80,000	200,611	251%
Total Non-Operating Revenues	<u>135,000</u>	<u>263,278</u>	<u>195%</u>	<u>90,000</u>	<u>291,323</u>	<u>324%</u>
<b>Non-Operating Expenses</b>						
Capital Outlay	2,088,000	398,106	19%	1,456,860	717,427	49%
Total Non-Operating Expenses	<u>\$ 2,088,000</u>	<u>398,106</u>		<u>\$ 1,456,860</u>	<u>717,427</u>	
Beginning Working Capital - January 1st		\$ 5,289,348			\$ 4,587,174	
Ending Working Capital - December 31st		<u>6,518,381</u>			<u>5,289,348</u>	
Net Change in Working Capital (see Note)		<u>\$ 1,229,033</u>			<u>\$ 702,174</u>	

Note: Working Capital = Current Assets minus Current Liabilities

December is the 12th month of 12 100.0%

The City of Des Moines' investment portfolio is managed in a manner to provide maximum security of principle while meeting daily cash flow demands and conforming to laws and regulations governing the investment of public funds. The primary objective of the City's investment activities, in priority order, are safety, liquidity and return on investment.

The City's Investment Policy has been adopted by Ordinance 1144 of the City Council (per Des Moines Municipal Code 3.12). Authorized investments are securities and investments authorized by State statute as defined in RCW 39.58 and further defined within the Investment Policy.

**City of Des Moines**  
**Deposits and Investment Portfolio**  
**Year-to-date December 31, 2019**

Security Type	Fair Value as of 1/1/2019	January through December Activity	Fair Value as of 12/31/2019	% of Portfolio
Federal Farm Credit Bank	\$ 994,670	\$ 6,987,470	\$ 5,992,890	13.7%
Federal Home Loan Bank	4,977,720	(980,200)	4,519,790	10.3%
Federal Home Loan Mtg. Corp.	2,000,000	(995,180)	1,001,750	2.3%
Residual Funding Corp.	4,532,300	158,918	4,700,853	10.7%
Freddie Mac	-	2,514,290	2,511,265	5.7%
Farmer Mac	1,499,025	(1,499,025)	-	0.0%
US Treasury Note/Bond	-	2,985,600	2,994,840	6.8%
STRIPS	-	1,504,547	1,504,547	3.4%
Key Bank	3,777,870	(429,362)	3,348,508	7.6%
LGIP	22,308,518	(5,018,604)	17,289,914	39.4%
<b>Total</b>	<b>\$ 40,090,103</b>	<b>\$ 5,228,453</b>	<b>\$ 43,864,356</b>	<b>100.0%</b>

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**CITY OF DES MOINES**  
**Voucher Certification Approval**  
**February 27, 2020**  
**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 **February 27, 2020** the Des Moines City Council, by unanimous vote, does approve for payment those vouchers through February 20, 2020 and payroll transfers through February 20, 2020 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
<b>Claims Vouchers:</b>			
Total A/P Checks/Vouchers	160170	- 160261	612,619.41
Voided Checks			0.00
Electronic Wire Transfers	1399	1412	703,115.71
<b>Total claims paid</b>			<b>1,315,735.12</b>
<b>Payroll Vouchers</b>			
Payroll Checks	19357	19360	3,843.31
Direct Deposit	80001	80186	379,761.49
<b>Total Paychecks/Direct Deposits paid</b>			<b>383,604.80</b>
<b>Total checks and wires for A/P &amp; Payroll</b>			<b>1,699,339.92</b>

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**MINUTES**

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

**January 09, 2020 – 7:00 p.m.**

**CALL TO ORDER**

City Clerk/Communications Director Wilkins called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember Pennington.

**ROLL CALL**

Council present: Councilmembers Traci Buxton, JC Harris, Matt Mahoney, Anthony Martinelli, Jeremy Nutting, Vic Pennington, and Matt Pina.

**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; Deputy Finance Director Shawn Hunstock; Harbormaster Scott Wilkins; Assistant Harbormaster Katy Bevegni; Chief of Police Ken Thomas; Assistant Police Chief Mark Couey; Master Police Officer Justin Cripe; Master Police Officer Isaac Helgren; Master Sergeant Patti Richards; Human Resource Director Adrienne Johnson; Public Works Director Brandon Carver; Transportation & Engineering Services Manager Andrew Merges; Civil Engineer II Tommy Owen; Planning & Development Services Manager Denise Lathrop; Emergency Preparedness Manager Shannon Kirchberg; Legislative Advocate Anthony Hemstad; City Clerk/Communications Director Bonnie Wilkins; and Deputy City Clerk Taria Keane.

**SWEARING IN OF COUNCILMEMBERS**

City Clerk/Communications Director Wilkins called Councilmember Harris to the podium to be sworn in by his friend Robert Embry.

City Clerk/Communications Director Wilkins called Councilmember Nutting to the podium to be sworn in by his wife Yvonne, and daughters Natalie and Lilah.

Councilmember Martinelli waived his ceremonial swearing in. He was officially sworn in on December 19, 2019 in the City Clerk's Office.

**SELECTION OF MAYOR**

City Attorney George provided a PowerPoint presentation to Council regarding the roles of the Mayor and Deputy Mayor.

City Clerk/Communications Director Wilkins called for nominations for Mayor.

Councilmember Pennington nominated Councilmember Pina to serve as Mayor for 2020 and 2021.

City Clerk/Communications Director Wilkins asked if there were any other nominations. Seeing none Communications Director/City Clerk Wilkins called for the vote.

**For:** Councilmembers Buxton, Mahoney, Pennington, Pina, and Nutting.

**Abstained:** Councilmembers Harris, and Martinelli.

Councilmember Pina was elected as Mayor for 2020-2021.

### **SELECTION OF DEPUTY MAYOR**

Mayor Pina called for nominations of Deputy Mayor.

Councilmember Buxton nominated Councilmember Mahoney to serve as Deputy Mayor for 2020 and 2021.

Mayor Pina asked if there were any other nominations. Seeing none Mayor Pina called for the vote.

**For:** Mayor Pina; Councilmembers Buxton, Harris, Mahoney, Martinelli, and Pennington.

**Abstained:** Councilmember Nutting.

Councilmember Mahoney was elected as Deputy Mayor for 2020-2021.

### **CORRESPONDENCE**

- There were no correspondences

### **COMMENTS FROM THE PUBLIC**

- Jeanne Serrill, Des Moines, The City
- Nancy Stephan, Des Moines, City & Legacy
- Kaylene Moon, Des Moines, Senior Concerns
- Jim Langston, Des Moines, 216<sup>th</sup>
- Mary Eun, Des Moines, Mudslide
- John McEvoy, Des Moines, Activity Center
- Troy Dawson, Des Moines, Business Growth & LED Signage

### **BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS**

Councilmember Pennington

- Woodmont Mudslide
- Announced his resignation from City Council effective at the conclusion of the January 23, 2020 City Council Meeting

Deputy Mayor Mahoney

- Congratulated and welcomed the new Councilmembers
- Congratulated Councilmember Nutting on his re-election
- Police Advisory Meeting
- Mount Rainier Basketball Game
- Citing of the Second Airport Committee Meeting
- Business Meeting at Edward Jones

#### Councilmember Martinelli

- Thanked Councilmember Pennington for his service
- Thanked those who got Narcan in the hands of the Police Officers
- Commented on why he made the decision to abstain to vote on the Mayor position
- Commented on Consent Calendar Item #4

#### Councilmember Harris

- Commented on why he made the decision to abstain to vote on the Mayor position
- Citing of the Second Airport Committee Meeting
- Des Moines Marina Association Meeting
- Commerce Study
- Tour of the City with City Manager Matthias

#### Councilmember Nutting

- Thanked all supporters
- Des Moines Tree Lighting
- Shop with a Cop
- National Law Enforcement Appreciation Day

#### Councilmember Buxton

- Des Moines Farmers Market Meeting
- Highline College Annual Legislative Breakfast
- Small Business Saturday
- Human Services Advisory Committee
- Senior Center Fundraisers
- Commented on Consent Calendar Item #3, Item #4

### **PRESIDING OFFICER'S REPORT**

- Welcomed the Council Back in the New Year
- Congratulate the Newly Elected Councilmembers
- Process of the Mayor and Deputy Mayor Selection
- Executive Session
- Landmark on the Sound

### **ADMINISTRATION REPORT**

- Emergency Management Preparedness
  - Emergency Preparedness Manager Kirchberg updated Council on the preparation for the snow in the forecast.
- Legislation Update

- Legislative Advocate Anthony Hemstad gave Council a PowerPoint Presentation on 2020 Washington Legislative Session

**Direction/Action**

**Motion** made by Deputy Mayor Mahoney to pursue the legislative elements as suggested by Anthony Hemstad addressing the Redondo Pier and enhancing the Port Mitigation; seconded by Councilmember Buxton.  
Motion passed 7-0.

**CONSENT CALENDAR**

- Item 1: APPROVAL OF VOUCHERS  
Motion is to approve for payment vouchers and payroll transfers through January 02, 2020 included in the attached list and further described as follows:
- |   |                |                |
|---|----------------|----------------|
| Total A/P Checks/Vouchers                   | #159473-159780 | \$3,607,110.56 |
| Void Checks from Previous Check Runs        |                |                |
|   | #159529-159529 | \$ (9521.58)   |
| Electronic Wire Transfers                   | # 1351-1366    | \$ 758,953.36  |
| Payroll Checks                              | # 19311-19318  | \$ 9,987.44    |
| Payroll Direct Deposit                      | #490001-490181 | \$ 468,056.00  |
| Payroll Checks                              | # 19319-19332  | \$ 12,950.03   |
| Payroll Direct Deposit                      | #510001-510177 | \$ 335,130.33  |
| Total Checks and Wires for A/P and Payroll: |                | \$5,182,666.14 |
- Item 2: APPROVAL OF MINUTES  
Motion is to approve the November 14, 2019 and November 21, 2019 City Council Regular Meeting, the December 5, 2019 Special Meeting and the December 5, 2019 Study Session Minutes.
- Item 3: 2020-2025 KING COUNTY PARKS PROPERTY TAX LEVY AGREEMENT  
Motion is to approve the Agreement with King County for the City's proportionate share of funds from the King County Parks Property Levy in years 2020-2025 and to authorize the City Manager to sign the Parks Property Tax Levy Agreement between King County & the City of Des Moines substantially in the form as attached.
- Item 4: TASK ORDER FOR SURVEY AND DESIGN SERVICES FOR THE MARINA RFQ WITH KPFF CONSULTING ENGINEERS  
Motion is to approve Task Order 4c under the City's on-call contract with KPFF Consulting Engineers, for an amount of \$106,180 plus for the purposes of providing survey, design and support services for Marina redevelopment, and authorize the City Manager to sign the Agreement substantially in the form as attached.
- Item 5: DES MOINES MARINA FUELING SYSTEM UPGRADES PROJECT – REJECTION OF BIDS  
Motion is to reject all bids received December 23, 2019 for the Des Moines Marina Fueling System Upgrades Project, and direct staff to re-evaluate the alternatives for completing this project.

**Direction/Action**

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

**NEW BUSINESS**

Item 1:

DRAFT RESOLUTION 20-001 ACCEPTING FINDINGS OF FACT THAT AN EMERGENCY EXISTED

Staff Presentation: Public Works Director Brandon Carver

Public Works Director Carver along with Civil Engineer II Owen gave Council a PowerPoint presentation on the Woodmont Landslide Emergency.

**Direction/Action**

**Motion** made by Councilmember Nutting to adopt Draft Resolution 20-001 to allow the waiver of competitive bidding requirements for contracts authorized by the City Manager pursuant to the December 20, 2019 Proclamation of Emergency pursuant to RCW 39.04.280; seconded by Councilmember Pennington.  
Motion passed 7-0.

**NEXT MEETING DATE:**

January 23, 2020 City Council Regular Meeting.

**ADJOURNMENT****Direction/Action**

**Motion** made by Councilmember Nutting to adjourn; seconded by Deputy Mayor Mahoney.  
Motion passed 5-2.

**For:** Mayor Pina; Councilmembers Buxton, Harris, Martinelli, and Nutting.

**Against:** Deputy Mayor Mahoney, and Councilmember Pennington.

The meeting adjourned at 8:54 p.m.

Minutes Approved at the \_\_\_\_\_ Council Meeting.

**MINUTES**

**SPECIAL MEETING TO HOLD AN EXECUTIVE SESSION**

January 23, 2020

**CALL MEETING TO ORDER**

The Special Meeting was called to order by Mayor Pina at 5:45 p.m. in the Council Chambers.

**ROLL CALL**

Council present: Mayor Matt Pina; Deputy Mayor Matt Mahoney; Councilmembers Traci Buxton, Jeremy Nutting, Vic Pennington, Anthony Martinelli and JC Harris.

Others Present:

City Manager Michael Matthias; City Attorney Tim George

**PURPOSE**

The purpose of the Special Meeting was to hold an Executive Session to discuss the Performance of a Public Employee under RCW 42.30.110(1)(g). The Executive Session was expected to last 60 minutes.

The meeting adjourned at 6:45 p.m.

No formal action was taken.

Minutes Approved at the \_\_\_\_\_ Council Meeting.

**MINUTES**

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

**January 23, 2020 – 7:00 p.m.**

**CALL TO ORDER**

Mayor Pina called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember Pennington.

**ROLL CALL**

Council present: Mayor Matt Pina; Deputy Mayor Matt Mahoney; Councilmembers Traci Buxton, JC Harris, Anthony Martinelli, Jeremy Nutting, and Vic Pennington.

Staff present: City Manager Michael Matthias; Chief Strategic Officer Susan Cezar; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Finance Director Beth Anne Wroe; Deputy Finance Director Shawn Hunstock; Harbormaster Scott Wilkins; Assistant Harbormaster Katy Bevegni; Public Works Director Brandon Carver; Principal Planner Laura Techico; Chief of Police Ken Thomas; Commander Mike Graddon; Detective Dave Shields; Master Police Officer Isaac Helgren; Master Sergeant Patti Richards; Master Sergeant Cathy Savage; Master Police Officer Dan Lindstrom; Police Officer Johnny Tyler; Associate Events and Facilities Manager Ashley Young; Legislative Advocate Anthony Hemstad; City Clerk/Communications Director Bonnie Wilkins; and Deputy City Clerk Taria Keane.

**PRESIDING OFFICER'S REPORT**

RECOGNITION OF OUTGOING COUNCILMEMBER VIC PENNINGTON

- Item 3: DES MOINES POLICE FOUNDATION CHECK PRESENTATION
- Des Police Foundation President Yvonne Nutting presented a check to Council for new AED's for the Des Moines Police Department.
- Item 1: CHI FRANCISCAN PRESENTATION
- CHI Franciscan Chief Operating Officer Russell Woolley gave a PowerPoint Update to Council.

**Direction/Action**

**Motion** made by Deputy Mayor Mahoney that we support CHI Franciscan in Burien on the Elective PCI (Percutaneous Coronary Intervention); seconded by Councilmember Buxton.  
Motion passed 6-1.

**For:** Mayor Pina; Deputy Mayor Mahoney; Councilmembers Buxton, Martinelli, Nutting, and Pennington.

**Against:** Councilmember Harris.

Item 2: ARTS COMMISSION UPDATE

- Des Moines Arts Commission Chair Marcus Williams, and Co-Vice Chair Tiffani Melake gave a PowerPoint Presentation to Council.

Mayor Pina asked the City Clerk/Communications Director Wilkins to explain the new voting/timers system that is located at each Councilmembers seat.

### ADMINISTRATION REPORT

Item 1: MIDWAY PARK UPDATE

- Chief Strategic Officer Susan Cezar gave Council a PowerPoint Update on Midway Park.

### CORRESPONDENCE

- Post Card from Edward Jones – What's Up Des Moines Meet and Greet
- Post Card from SR3 – Thanked Council for for their Support

### COMMENTS FROM THE PUBLIC

- John Ayar, Des Moines, ALQ & Building Permit
- Marnie Sevores, Des Moines, City Manager Salary
- Sandra Mock, Des Moines, City Manager Salary

### BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS

Councilmember Martinelli

- Senate Bill 2214 and House Bill 2315
- Mayor Selection Process
- City Manager Raise
- Des Moines Legacy Foundation

Councilmember Pennington

- Thanked Everyone for the Recognition
- Des Moines Legacy Foundation

Councilmember Nutting

- Port of Seattle Community Tree Planting Event

Councilmember Harris

- Des Moines Legacy Foundation
- Reach Out Des Moines Meeting
- Port Packages Bill
- SCATBd Meeting
- Port of Seattle Community Tree Planting Event

## Councilmember Buxton

- Des Moines Farmers Market Meeting
- Federal Way Link Extension Celebrations
- Commented on Consent Calendar Item #3, Item #4, Item #5, and Item #7

## Deputy Mayor Mahoney

- Thanked Councilmember Pennington
- Federal Way Eagles Basketball Game
- SCATBd Meeting
- Destination Des Moines Meeting
- Commented on Consent Calendar Item #3
- Signing of the Sponsorship between Local 242 and the New Hockey Team

**PRESIDING OFFICER'S REPORT**

- Highline Forum

**CONSENT CALENDAR**

- Item 1: APPROVAL OF VOUCHERS  
Motion is to approve for payment vouchers and payroll transfers through January 16, 2020 included in the attached list and further described as follows:
- |   |                |                 |
|---|----------------|-----------------|
| Total A/P Checks/Vouchers                   | #159781-159994 | \$ 890,038.93   |
| Void Checks from Previous Check Runs        |                |                 |
|   | #159781-159852 | \$ (220,451.96) |
| Electronic Wire Transfers                   | # 1397-1389    | \$ 697,541.44   |
| Payroll Checks                              | # 19333-19339  | \$ 5,045.58     |
| Payroll Direct Deposit                      | # 10001-10188  | \$ 384,900.33   |
| Payroll Checks                              | # 19340-19347  | \$ 11,712.36    |
| Payroll Direct Deposit                      | # 30001-30182  | \$ 372,312.37   |
| Total Checks and Wires for A/P and Payroll: |                | \$2,141,068.05  |
- Item 2: 2020-2021 RECYCLING PROGRAM PROFESSIONAL SERVICES CONTRACT  
Motion is to approve the Professional Services Contract for the 2020-2021 Recycling Program between the City of Des Moines and Olympic Environmental Resources and to authorize the City Manager to sign substantially in the form submitted.
- Item 3: MIDWAY PARK SOCCER FIELD AGREEMENT – RAVE FOUNDATION  
Motion is to approve the Agreement between the RAVE Foundation and the City of Des Moines for the renovation of the playfield at Midway Park and to authorize the City Manager to sign the Agreement substantially in the form as submitted.
- Item 4: MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DES MOINES AND DES MOINES POLICE GUILD (“GUILD”)  
Motion is to ratify and approve the attached Memorandum of Understanding between the City of Des Moines and Des Moines Police Guild updating payroll processes and compensatory time limits.

- Item 5: ARTS COMMISSION APPOINTMENT  
Motion is to confirm the Mayoral appointment of Eduardo Mendonça to a 3 year term on the City of Des Moines Arts Commission effective immediately and expiring on December 31, 2022.
- Item 6: DES MOINES MUNICIPAL COURT AND POLICE SERVICES CENTER SECURITY IMPROVEMENTS – REJECTION OF BIDS  
Motion is to reject all bids received January 7, 2020 for the Des Moines Municipal Court and Police Service Security Improvements, and direct staff to re-advertise the project at a later date.
- Item 7: DES MOINES MARINA MAINTENANCE DREDGING PROJECT – CONTRACT AWARD – AMERICAN CONSTRUCTION CO., INC.  
Motion is to accept American Construction Company's bid for the Marina Maintenance Dredging Project in the amount of \$137,272.68 and authorize the City Manager to sign a contract for the work, substantially in the form as attached.

**Direction/Action**

Motion made by Councilmember Pennington to approve the consent calendar; seconded by Councilmember Buxton.

Councilmember Harris pulled Consent Calendar Item #7.

The remainder of the Consent Calendar passed 7-0.

Harbormaster Wilkins answered Council questions on Consent Calendar Item #7.

Motion made by Councilmember Martinelli to approve Consent Calendar Item #7; seconded by Councilmember Buxton.

Motion passed 7-0.

**NEW BUSINESS**

- Item 1: DISCUSSION OF 2020 CITY COUNCIL LEGISLATIVE PRIORITIES  
Staff Presentation: City Manager Michael Matthias

Legislative Advocate Anthony Hemstad gave Council a PowerPoint Presentation on the 2020 City of Des Moines City Council Legislative Priorities.

**Direction/Action**

Motion made by Councilmember Buxton -to add the phrase "particularly policies and legislation that protect or enhance the local authority of cities" into the middle of Item #4; seconded by Mayor Pina.

Motion passed 7-0.

**Direction/Action**

Motion made by Councilmember Nutting to approve the 2020 City Council Legislative Priorities for the 2020 Legislative Session as amended; seconded by Councilmember Pennington.

Motion passed 7-0.

Item 2: CITY MANAGER 2019-20 PERFORMANCE REVIEW AND CONTRACT AMENDMENT

Staff Presentation: Mayor Matt Pina

**Direction/Action**

**Motion** made by Mayor Pina to approve a single step increase for the City Manager from M-49 C to M-49 D, effective February 1, 2020, and authorize the Mayor to sign contract amendment #4 substantially in the form as attached; seconded by Deputy Mayor Mahoney.

**Motion** made by Councilmember Buxton to amend the main motion to eliminate the requirement for two annual performance evaluation and limit the annual performance evaluation to one in December of each year; seconded by Councilmember Pennington.  
Motion failed 2-5.

**For:** Councilmembers Buxton, and Martinelli.

**Against:** Mayor Pina; Deputy Mayor Mahoney; Councilmembers Harris, Nutting, and Pennington.

**Motion** made by Councilmember Pennington to amend the main motion extend that severance compensation and benefits in 7A to 18 months and to delete section 7B related to the severance and future employment restrictions; seconded by Mayor Pina.  
Motion passed 5-2.

**For:** Mayor Pina; Deputy Mayor Mahoney; Councilmembers Buxton, Nutting, and Pennington.

**Against:** Councilmembers Harris and Martinelli.

**Direction/Action**

**Motion** made by Mayor Pina to extend the meeting until 10:15 p.m.; seconded by Councilmember Pennington.  
Motion passed 7-0.

**Direction/Action**

**Motion** made by Mayor Pina to extend the meeting until 10:25 p.m.; seconded by Councilmember Pennington.  
Motion passed 7-0.

**The Main Motion** passed 5-2.

**For:** Mayor Pina; Deputy Mayor Mahoney; Councilmembers Buxton, Nutting, and Pennington.

**Against:** Councilmembers Harris and Martinelli.

**Direction/Action**

**Motion** made by Councilmember Pennington to give the City Clerk direction to add to the agenda for the first meeting of every February Council consideration giving from the Hearts and Mind Fund to fully fund the Steven J Underwood Scholarship Fund through Des Moines Dollars for Scholars; seconded by Deputy Mayor Mahoney.  
Motion passed 7-0.

Mayor Pina made an announcement regarding the application process for vacant Council position #3.

**NEXT MEETING DATE:**

February 6, 2020 City Council Study Session.

**ADJOURNMENT**

**Direction/Action**

**Motion** made by Councilmember Nutting to adjourn; seconded by Councilmember Pennington.  
Motion passed 7-0.

The meeting adjourned at 10:25 p.m.

Minutes Approved at the \_\_\_\_\_ Council Meeting.

**MINUTES**

**DES MOINES CITY COUNCIL  
STUDY SESSION  
Council Chambers  
21630 11<sup>th</sup> Avenue S, Des Moines, Washington**

**February 06, 2020 – 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 Martinelli.

**ROLL CALL**

Council present: Mayor Matt Pina; Deputy Mayor Matt Mahoney; Councilmembers Traci Buxton, JC Harris, Anthony Martinelli, and Jeremy Nutting.

Staff present:

City Manager Michael Matthias; Chief Operations Officer Dan Brewer; City Attorney Tim George; Assistant City Attorney Matt Hutchins; Finance Director Beth Anne Wroe; Police Chief Ken Thomas; Harbormaster Scott Wilkins; Master Police Officer Justin Cripe; Master Police Officer Isaac Helgren; City Clerk/Communications Director Bonnie Wilkins; Deputy City Clerk Taria Keane.

**DISCUSSION ITEMS**

Item 1

**EMERGING ISSUES**

- There were no Emerging Issues

**Direction/Action**

**Motion** made by Councilmember Harris to amend the Council Appointment process in the following manner: 1. After the initial interviews, Council will retire to Executive Session for up to 30 minutes to pare the list of Applicants down to 3 finalists. 2. After being informed of the Council's decision, the finalists will be invited to provide supplemental materials to bolster their case(s). 3. The Agenda of the February 13th City Council Meeting will contain a single Agenda Item consisting of a second round of in-depth finalist interviews. 4. At that same meeting, and immediately following those interviews, the Council will retire to Executive Session for up to 30 minutes to discuss. 5. Immediately following the Executive Session, Council will vote for the winning Applicant who will be sworn in at the next meeting; seconded by Councilmember Martinelli. Motion failed 2-4.

**For:** Councilmembers Harris and Martinelli

**Against:** Mayor Pina; Deputy Mayor Mahoney; Councilmembers Buxton and Nutting.

Item 2:

Interview of the Candidates for Vacant City Council Seat #3

To determine the order of the applicants, City Clerk/Communications Director Wilkins and Deputy City Clerk Taria drew the applicant names out of a bowl.

- The following candidates were allowed a 3 minute opening statement and each Councilmember asked on question of the candidates. Candidates were allowed 2 minutes to answer each question.
  - David Lee Black
  - Luisa Bangs
  - Meiling Sproger
  - Semerè Melake
  - Harry S. Steinmetz
  - Tad Doviak
  - Dan Harrington
- Candidate Penny Bohm did not show up

At 8:52 p.m. Council took an 11 minute break, and resumed the meeting at 9:03 p.m.

**Direction/Action**

**Motion** made by Mayor Pina to extend the meeting until 10:30 p.m.; seconded by Deputy Mayor Mahoney.

Motion failed 4-2 – Per Council rule there need to be 2/3 of the votes in favor to pass.

**For:** Mayor Pina; Deputy Mayor Mahoney; Councilmembers Buxton, and Nutting.

**Against:** Councilmembers Harris and Martinelli.

**Direction/Action**

**Motion** made by Councilmember Harris to extend the meeting up until 11:00 p.m.; seconded by Councilmember Buxton.

Motion passed 6-0.

**COMMENTS FROM THE PUBLIC**

- Susan Corey, Des Moines, supports Luisa Bangs for the vacant Council position
- Nadya Curtis, Des Moines, supports Luisa Bangs for the vacant Council position
- Fa'izah Bradford, Des Moines, supports Luisa Bangs for the vacant Council position
- Billy Hetherington, LiUNA Local 242, supports Luisa Bangs for the vacant Council position
- Catherine Carbone Rogers, Des Moines, supports Luisa Bangs for the vacant Council position
- Bill Linscott, Des Moines, supports Luisa Bangs for the vacant Council position
- Keith J Weiv, Des Moines, supports Luisa Bangs for the vacant Council position
- Justin Cripe, Des Moines Police Guild, supports Luisa Bangs for the vacant Council position
- Vic Pennington, Des Moines, supports Luisa Bangs for the vacant Council position
- Rick Johnson, Des Moines, supports Harry Steinmetz and ad Doviak for the Council position
- Steve Edmiston, Des Moines, supports Harry Steinmetz and Luisa Bangs for the vacant Council position

- Proteas Morrill, Federal Way, supports Meiling Sproger for the vacant Council position
- Candace Urquhart, Des Moines, supports Harry Steinmetz for the vacant Council position
- Sandra Mock, Des Moines, supports Harry Steinmetz for the vacant Council position
- Elizabeth Burn, Des Moines, supports Harry Steinmetz and Tad Doviak for the vacant Council position

**NEXT MEETING DATE**

February 13, 2020 City Council Regular Meeting

**ADJOURNMENT****Direction/Action**

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

The meeting was adjourned at 10:37 p.m.

**MINUTES**

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

**February 13, 2020 – 6:00 p.m.**

**CALL TO ORDER**

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

**PLEDGE OF ALLEGIANCE**

The flag salute was led by Councilmember Harris.

**ROLL CALL**

Council present: Mayor Matt Pina; Deputy Mayor Matt Mahoney; Councilmembers Traci Buxton, JC Harris, and Anthony Martinelli.

Councilmember Jeremy Nutting was absent.

**Direction/Action**

**Motion** made by Deputy Mayor Mahoney to excuse Councilmember Nutting; seconded by Councilmember Buxton.  
Motion passed 5-0.

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; Deputy Finance Director Shawn Hunstock; Harbormaster Scott Wilkins; Public Works Director Brandon Carver; Planning & Development Services Manager Denise Lathrop; Assistant Police Chief Mark Couey; Master Police Officer Isaac Helgren; City Clerk/Communications Director Bonnie Wilkins; and Deputy City Clerk Taria Keane.

**OLD BUSINESS**

Item 1: APPOINTMENT OF VACANT COUNCIL POSITION #3

Mayor Pina nominated Luisa Bangs

Councilmember Martinelli nominated Harry S. Steinmetz

Councilmember Harris nominated Semerè Melake

After discussion Mayor Pina asked City Clerk/Communications Director Wilkins to call for the vote.

- Deputy Mayor Mahoney voted for Luisa Bangs
- Councilmember Martinelli voted for Harry S. Steinmetz
- Councilmember Harris voted for Harry S. Steinmetz
- Councilmember Buxton voted for Luisa Bangs
- Mayor Pina voted for Luisa Bangs

With a vote 3 to 2 Luisa Bangs was selected for Council position #3.

Item 2: POSSIBLE SWEARING IN OF NEW COUNCILMEMBER

Councilmember Luisa Bangs was sworn in by City Clerk/Communications Director Wilkins.

At 6:22 p.m. Councilmember Bangs took her seat at the Dais.

**PRESIDING OFFICER'S REPORT**

- Pacific Middle School Students Future Cities Presentation to the Council

At 6:42 p.m. Council took an 8 minute break and resumed the meeting at 6:50 p.m.

**CORRESPONDENCE**

- There were no correspondences

**COMMENTS FROM THE PUBLIC**

- Rick Johnson, Des Moines, Council Seat
- Sam Pace, Kent, City Success

**BOARD AND COMMITTEE REPORTS/COUNCILMEMBER COMMENTS**

Councilmember Harris

- Port Package Update Bill
- Council Appointment Process

Councilmember Buxton

- Growth Management Policy Board Meeting
- Human Services Advisory Committee
- Domestic Violence Initiative Task Force Meeting
- Met with Representative Orwall regarding Port Package Update Bill
- Commented on Consent Calendar Item #3, and Item #4

Councilmember Martinelli

- Met with law makers regarding House Bill 1775
- House Bill 2315
- Council Appointment
- Commented on Consent Calendar Item #3

Councilmember Bangs

- Council Appointment Process

Deputy Mayor Mahoney

- Read the Comprehensive Plan from 1962

**PRESIDING OFFICER'S REPORT**

- Thanked Representative Tina Orwall and Legislative Advocate Anthony Hemstad regarding House Bill 1775

**CONSENT CALENDAR**

Item 1: APPROVAL OF VOUCHERS  
Motion is to approve for payment vouchers and payroll transfers through February 06, 2020 included in the attached list and further described as follows:

Total A/P Checks/Vouchers	#159995-160169	\$1,214,539.46
Electronic Wire Transfers	# 1390-1398	\$1,059,965.46
Payroll Checks	# 19348-19356	\$ 1,926.27
Payroll Direct Deposit	# 60001-60189	\$ 376,542.85
Total Checks and Wires for A/P and Payroll:		\$2,653,018.04

Item 2: SETTING PUBLIC HEARING TO CONSIDER DRAFT ORDINANCE 19-112 RELATING TO CODE CLEAN-UP ITEMS TO CORRECT OMISSIONS, ERRORS, AND INCONSISTENCIES AND TO CLARIFY CITY COUNCIL INTENT  
Motion is to set a public hearing on March 12, 2020, or as soon thereafter as the matter may be heard, to consider Draft Ordinance No. 19-112 amending chapters 18.01, 18.15, 18.20, 18.30, 18.52, 18.60, 18.190, 18.200, and 18.250 DMMC to correct omissions, errors and inconsistencies and to clarify City Council intent.

Item 3: NORTH MARINA PARKING LOT BULKHEAD AND RESTROOM REPLACEMENT – EXELTECH CONSULTING DESIGN CONTRACT; SUPPLEMENTAL AGREEMENT #1  
Motion is to approve Supplemental Agreement #1 with Exeltech Consulting for the North Marina Parking Lot Bulkhead and Restroom Replacement project in the amount of \$57,976.08, and further authorize the City Manager to sign said Agreement substantially in the form as submitted.

Item 4: WASHINGTON STATE FUTURE CITY REGIONAL COMPETITION  
Motion is to approve the Proclamation recognizing the achievements of the Pacific Middle School students in the Washington State Future City Regional Competition.

**Direction/Action**

Motion made by Deputy Mayor Mahoney to approve the consent calendar; seconded by Councilmember Bangs.

Councilmember Harris pulled Consent Calendar Item #2.

The remainder of the Consent Calendar passed 6-0.

Council discussed Consent Calendar Item #2

Motion made by Mayor Pina to move Consent Calendar Item as presented; seconded by Councilmember Bangs.  
 Motion passed 6-0.

**NEW BUSINESS**

Item 1: DRAFT RESOLUTION 20-006 – 24<sup>TH</sup> AVE S, KENT-DES MOINES RD (SR 516)  
TO S. 223<sup>RD</sup> ST; TIB PROJECT CERTIFICATION OF FULL FUNDING  
Staff Presentation: Public Works Director Brandon Carver

Public Works Director Carver gave a PowerPoint presentation to Council

**Direction/Action**

**Motion** made by Councilmember Buxton to adopt Draft Resolution No 20-006 certifying to the Washington State Transportation Improvement Board (TIB) that full funding is secured for the 24<sup>th</sup> Ave S, Kent-Des Moines Rd (SR516) to S. 223<sup>rd</sup> St. Project, and further authorize the City Manager to sign the TIB Funding Status Form and the Fuel tax Grant Agreement with TIB; seconded by Councilmember Martinelli.  
Motion passed 6-0.

**NEXT MEETING DATE:**

February 27, 2020 City Council Regular Meeting.

**ADJOURNMENT**

**Direction/Action**

**Motion** made by Councilmember Buxton to adjourn; seconded by Deputy Mayor Mahoney.  
Motion passed 6-0.

The meeting adjourned at 7:42 p.m.

Minutes Approved at the \_\_\_\_\_ Council Meeting.

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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: DSHS – Interlocal Datashare Agreement

ATTACHMENTS:

1. Interlocal Datashare Agreement between DSHS and the City of Des Moines

FOR AGENDA OF: February 27, 2020

DEPT. OF ORIGIN: Municipal Court

DATE SUBMITTED: February 13, 2020

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

- Legal VB  
 Finance \_\_\_\_\_  
 Courts YU  
 Police \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: [Signature]

**Purpose**

The purpose of this agenda item is for the City Council to approve an Interlocal Datashare Agreement with the Washington State Department of Social and Health Services (DSHS) to allow the court access to a software system to have a quick, reliable and fair way to determine if a person is eligible for a public defender or exempt them from discretionary Legal Financial Obligations (LFO's). The following motion will appear on the consent calendar.

**Suggested Motion[s]**

**Motion 1:** “I move to approve the Interlocal Datashare Agreement with DSHS for the benefits verification system and authorize the City Manager to sign the Agreement substantially in the form as attached.

### **Background**

Determining a defendant's financial status or in some cases determining their indigence is integral to the Washington state court process. In 1963, the Supreme Court ruled in Gideon v. Wainright that the sixth amendment to the US Constitution requires that states provide defense attorneys to criminal defendants who cannot afford lawyers on their own. People who have assigned legal counsel experience better outcomes in court cases than those who are unrepresented.

Additionally, Washington state courts are required to take a defendant's ability to pay into consideration before imposing discretionary Legal Financial Obligations (LFO's). Legal Financial Obligations (LFO's) are the fines, fees, costs, restitution and associated interest imposed by a court of law in addition to a criminal sentence.

### **Discussion**

Economic Services Administration Benefits Verification System (ESA's BVS) computer application definitively informs users whether a person receives benefits from Washington state public assistance programs, a decisive indicator of low income. Use of Benefits Verification System (BVS) may be a process improvement over other ways a court may determine an individual's indigence. Alternatives to determine indigence appear to be time consuming, unreliable and/or rely on the difficult proposition of the defendant "verifying" a lack of income and assets.

As of July 2019, nine (9) Washington court systems are signed up to use Benefits Verification System (BVS).

### **Alternatives**

Continue to operate as we have without verification.

### **Financial Impact**

There is no financial impact, as this program is a DSHS pilot program for three years.

### **Recommendation or Conclusion**

Staff recommends approval of the proposed Interlocal Agreement as presented.

 <p>Washington State Department of Social &amp; Health Services <i>Transforming lives</i></p>	<b>INTERLOCAL DATASHARE AGREEMENT</b>  <b>Benefit Verification System (BVS) Access</b>	DSHS Agreement Number: 1991-70058	
This Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.		Program Contract Number:  Contractor Contract Number:	
CONTRACTOR NAME City of Des Moines		CONTRACTOR doing business as (DBA) Des Moines Municipal Court	
CONTRACTOR ADDRESS 21630 11TH AVE S STE C Des Moines, WA 98198		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER  225757
CONTRACTOR CONTACT JENNEFER JOHNSON	CONTRACTOR TELEPHONE Click here to enter text.	CONTRACTOR FAX (206) 870-4387	CONTRACTOR E-MAIL ADDRESS jjohnson@desmoineswa.gov
DSHS ADMINISTRATION  Economic Services Administration	DSHS DIVISION  Community Services Division		DSHS CONTRACT CODE  3000DC-91
DSHS CONTACT NAME AND TITLE  Hope Schumacher SHPM 2		DSHS CONTACT ADDRESS  712 Pear St  Olympia, WA Click here to enter text.	
DSHS CONTACT TELEPHONE  (360)688-8089	DSHS CONTACT FAX  Click here to enter text.	DSHS CONTACT E-MAIL ADDRESS  schumhl@dshs.wa.gov	
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?  No		CFDA NUMBER(S)	
AGREEMENT START DATE  11/22/2019	AGREEMENT END DATE  10/31/2023	MAXIMUM AGREEMENT AMOUNT  No Payment	
<b>EXHIBITS. The following Exhibits are attached and are incorporated into this Agreement by reference:</b> <input checked="" type="checkbox"/> Data Security: Exhibit A – Data Security <input checked="" type="checkbox"/> Exhibits (specify): EXHIBIT B - BVS Program Users List - Format Requirement			
The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise regarding the subject matter of this Agreement, between the parties. The parties signing below represent they have read and understand this Agreement, and have the authority to execute this Agreement. This Agreement shall be binding on DSHS only upon signature by DSHS.			
CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED	
DSHS SIGNATURE	PRINTED NAME AND TITLE  Sandra Daniels, Contracts Officer DSHS/ESA-Community Services Division	DATE SIGNED	

## DSHS General Terms and Conditions

1. **Definitions.** The words and phrases listed below, as used in this Contract, shall each have the following definitions:
- a. "Central Contracts and Legal Services" means the DSHS central headquarters contracting office, or successor section or office.
  - b. "Confidential Information" or "Data" means information that is exempt from disclosure to the public or other unauthorized persons under RCW 42.56 or other federal or state laws. Confidential Information includes, but is not limited to, Personal Information.
  - c. "Contract" or "Agreement" means the entire written agreement between DSHS and the Contractor, including any Exhibits, documents, or materials incorporated by reference. The parties may execute this contract in multiple counterparts, each of which is deemed an original and all of which constitute only one agreement. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
  - d. "CCLS Chief" means the manager, or successor, of Central Contracts and Legal Services or successor section or office.
  - e. "Contractor" means the individual or entity performing services pursuant to this Contract and includes the Contractor's owners, members, officers, directors, partners, employees, and/or agents, unless otherwise stated in this Contract. For purposes of any permitted Subcontract, "Contractor" includes any Subcontractor and its owners, members, officers, directors, partners, employees, and/or agents.
  - f. "Debarment" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
  - g. "DSHS" or the "Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
  - h. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key;" a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
  - i. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, Social Security Numbers, driver license numbers, other identifying numbers, and any financial identifiers.
  - j. "Physically Secure" means that access is restricted through physical means to authorized individuals only.
  - k. "Program Agreement" means an agreement between the Contractor and DSHS containing special terms and conditions, including a statement of work to be performed by the Contractor and payment to be made by DSHS.
  - l. "RCW" means the Revised Code of Washington. All references in this Contract to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://apps.leg.wa.gov/rcw/>.

## DSHS General Terms and Conditions

- m. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
  - n. "Secured Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access. Secured Areas may include buildings, rooms or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
  - o. "Subcontract" means any separate agreement or contract between the Contractor and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Contract.
  - p. "Tracking" means a record keeping system that identifies when the sender begins delivery of Confidential Information to the authorized and intended recipient, and when the sender receives confirmation of delivery from the authorized and intended recipient of Confidential Information.
  - q. "Trusted Systems" include only the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.
  - r. "WAC" means the Washington Administrative Code. All references in this Contract to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://apps.leg.wa.gov/wac/>.
2. **Amendment.** This Contract may only be modified by a written amendment signed by both parties. Only personnel authorized to bind each of the parties may sign an amendment.
  3. **Assignment.** The Contractor shall not assign this Contract or any Program Agreement to a third party without the prior written consent of DSHS.
  4. **Billing Limitations.**
    - a. DSHS shall pay the Contractor only for authorized services provided in accordance with this Contract.
    - b. DSHS shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were performed.
    - c. The Contractor shall not bill and DSHS shall not pay for services performed under this Contract, if the Contractor has charged or will charge another agency of the state of Washington or any other party for the same services.
  5. **Compliance with Applicable Law.** At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.
  6. **Confidentiality.**
    - a. The Contractor shall not use, publish, transfer, sell or otherwise disclose any Confidential

## DSHS General Terms and Conditions

Information gained by reason of this Contract for any purpose that is not directly connected with Contractor's performance of the services contemplated hereunder, except:

- (1) as provided by law; or,
  - (2) in the case of Personal Information, with the prior written consent of the person or personal representative of the person who is the subject of the Personal Information.
- b. The Contractor shall protect and maintain all Confidential Information gained by reason of this Contract against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:
- (1) Allowing access only to staff that have an authorized business requirement to view the Confidential Information.
  - (2) Physically Securing any computers, documents, or other media containing the Confidential Information.
  - (3) Ensure the security of Confidential Information transmitted via fax (facsimile) by:
    - (a) Verifying the recipient phone number to prevent accidental transmittal of Confidential Information to unauthorized persons.
    - (b) Communicating with the intended recipient before transmission to ensure that the fax will be received only by an authorized person.
    - (c) Verifying after transmittal that the fax was received by the intended recipient.
  - (4) When transporting six (6) or more records containing Confidential Information, outside a Secured Area, do one or more of the following as appropriate:
    - (a) Use a Trusted System.
    - (b) Encrypt the Confidential Information, including:
      - i. Encrypting email and/or email attachments which contain the Confidential Information.
      - ii. Encrypting Confidential Information when it is stored on portable devices or media, including but not limited to laptop computers and flash memory devices.
- Note: If the DSHS Data Security Requirements Exhibit is attached to this contract, this item, 6.b.(4), is superseded by the language contained in the Exhibit.**
- (5) Send paper documents containing Confidential Information via a Trusted System.
  - (6) Following the requirements of the DSHS Data Security Requirements Exhibit, if attached to this contract.
- c. Upon request by DSHS, at the end of the Contract term, or when no longer needed, Confidential Information shall be returned to DSHS or Contractor shall certify in writing that they employed a DSHS approved method to destroy the information. Contractor may obtain information regarding approved destruction methods from the DSHS contact identified on the cover page of this Contract.

## DSHS General Terms and Conditions

- d. Paper documents with Confidential Information may be recycled through a contracted firm, provided the contract with the recycler specifies that the confidentiality of information will be protected, and the information destroyed through the recycling process. Paper documents containing Confidential Information requiring special handling (e.g. protected health information) must be destroyed on-site through shredding, pulping, or incineration.
- e. Notification of Compromise or Potential Compromise. The compromise or potential compromise of Confidential Information must be reported to the DSHS Contact designated on the contract within one (1) business day of discovery. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.

- 7. **Debarment Certification.** The Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify DSHS if, during the term of this Contract, Contractor becomes Debarred. DSHS may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term hereof.
- 8. **Governing Law and Venue.** This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in Superior Court for Thurston County.
- 9. **Independent Contractor.** The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and his or her employees or agents performing under this Contract are not employees or agents of the Department. The Contractor, his or her employees, or agents performing under this Contract will not hold himself/herself out as, nor claim to be, an officer or employee of the Department by reason hereof, nor will the Contractor, his or her employees, or agent make any claim of right, privilege or benefit that would accrue to such officer or employee.
- 10. **Inspection.** The Contractor shall, at no cost, provide DSHS and the Office of the State Auditor with reasonable access to Contractor's place of business, Contractor's records, and DSHS client records, wherever located. These inspection rights are intended to allow DSHS and the Office of the State Auditor to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.
- 11. **Maintenance of Records.** The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are 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 Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.

Without agreeing that litigation or claims are legally authorized, 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.

- 12. **Order of Precedence.** In the event of any inconsistency or conflict between the General Terms and Conditions and the Special Terms and Conditions of this Contract or any Program Agreement, the inconsistency or conflict shall be resolved by giving precedence to these General Terms and Conditions. Terms or conditions that are more restrictive, specific, or particular than those contained in the General Terms and Conditions shall not be construed as being inconsistent or in conflict.

## DSHS General Terms and Conditions

- 13. Severability.** If any term or condition of this Contract is held invalid by any court, the remainder of the Contract remains valid and in full force and effect.
- 14. Survivability.** The terms and conditions contained in this Contract or any Program Agreement which, by their sense and context, are intended to survive the expiration or termination of the particular agreement shall survive. Surviving terms include, but are not limited to: Billing Limitations; Confidentiality, Disputes; Indemnification and Hold Harmless, Inspection, Maintenance of Records, Notice of Overpayment, Ownership of Material, Termination for Default, Termination Procedure, and Treatment of Property.
- 15. Contract Renegotiation, Suspension, or Termination Due to Change in Funding.**
- If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:
- a. At DSHS's discretion, the Contract or Program Agreement may be renegotiated under the revised funding conditions.
  - b. At DSHS's discretion, DSHS may give notice to Contractor to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
    - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
    - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
    - (3) If the Contractor's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.
  - c. DSHS may immediately terminate this Contract by providing written notice to the Contractor. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.
- 16. Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Contract. Only the CCLS Chief or designee has the authority to waive any term or condition of this Contract on behalf of DSHS.

### Additional General Terms and Conditions – Interlocal Agreements:

- 17. Disputes.** Both DSHS and the Contractor ("Parties") agree to work in good faith to resolve all conflicts

## DSHS General Terms and Conditions

at the lowest level possible. However, if the Parties are not able to promptly and efficiently resolve, through direct informal contact, any dispute concerning the interpretation, application, or implementation of any section of this Agreement, either Party may reduce its description of the dispute in writing, and deliver it to the other Party for consideration. Once received, the assigned managers or designees of each Party will work to informally and amicably resolve the issue within five (5) business days. If managers or designees are unable to come to a mutually acceptable decision within five (5) business days, they may agree to issue an extension to allow for more time.

If the dispute cannot be resolved by the managers or designees, the issue will be referred through each Agency's respective operational protocols, to the Secretary of DSHS ("Secretary") and the Contractor's Agency Head ("Agency Head") or their deputies or designated delegates. Both Parties will be responsible for submitting all relevant documentation, along with a short statement as to how they believe the dispute should be settled, to the Secretary and Agency Head.

Upon receipt of the referral and relevant documentation, the Secretary and Agency Head will confer to consider the potential options of resolution, and to arrive at a decision within fifteen (15) business days. The Secretary and Agency Head may appoint a review team, a facilitator, or both, to assist in the resolution of the dispute. If the Secretary and Agency Head are unable to come to a mutually acceptable decision within fifteen (15) business days, they may agree to issue an extension to allow for more time.

The final decision will be put in writing, and will be signed by both the Secretary and Agency Head. If the Agreement is active at the time of resolution, the Parties will execute an amendment or change order to incorporate the final decision into the Agreement. The decision will be final and binding as to the matter reviewed and the dispute shall be settled in accordance with the terms of the decision.

If the Secretary and Agency Head are unable to come to a mutually acceptable decision, the Parties will request intervention by the Governor, per RCW 43.17.330, in which case the governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute.

Both Parties agree that, the existence of a dispute notwithstanding, the Parties will continue without delay to carry out all respective responsibilities under this Agreement that are not affected by the dispute.

### **18. Hold Harmless.**

- a. The Contractor shall be responsible for and shall hold DSHS harmless from all claims, loss, liability, damages, or fines arising out of or relating to the Contractor's, or any Subcontractor's, performance or failure to perform this Agreement, or the acts or omissions of the Contractor or any Subcontractor. DSHS shall be responsible for and shall hold the Contractor harmless from all claims, loss, liability, damages, or fines arising out of or relating to DSHS' performance or failure to perform this Agreement.
- b. The Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officials, agents, or employees.

### **19. Ownership of Material.** Material created by the Contractor and paid for by DSHS as a part of this Contract shall be owned by DSHS and shall be "work made for hire" as defined by Title 17 USCA, Section 101. This material includes, but is not limited to: books; computer programs; documents; films; pamphlets; reports; sound reproductions; studies; surveys; tapes; and/or training materials. Material which the Contractor uses to perform the Contract but is not created for or paid for by DSHS is owned by the Contractor and is not "work made for hire"; however, DSHS shall have a perpetual license to use

## DSHS General Terms and Conditions

this material for DSHS internal purposes at no charge to DSHS, provided that such license shall be limited to the extent which the Contractor has a right to grant such a license.

### 20. Subrecipients.

- a. General. If the Contractor is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the Contractor shall:
- (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
  - (2) Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
  - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
  - (4) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
  - (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
  - (6) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to <https://ojp.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)
- b. Single Audit Act Compliance. If the Contractor is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor shall:
- (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
  - (2) Follow-up and develop corrective action for all audit findings; in accordance with 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
- c. Overpayments. If it is determined by DSHS, or during the course of a required audit, that the Contractor has been paid unallowable costs under this or any Program Agreement, DSHS may require the Contractor to reimburse DSHS in accordance with 2 CFR Part 200.

## DSHS General Terms and Conditions

### 21. Termination.

- a. **Default.** If for any cause, either party fails to fulfill its obligations under this Agreement in a timely and proper manner, or if either party violates any of the terms and conditions contained in this Agreement, then the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given 15 working days to correct the violation or failure. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice from the aggrieved party to the other party.
- b. **Convenience.** Either party may terminate this Interlocal Agreement for any other reason by providing 30 calendar days' written notice to the other party.
- c. **Payment for Performance.** If this Interlocal Agreement is terminated for any reason, DSHS shall only pay for performance rendered or costs incurred in accordance with the terms of this Agreement and prior to the effective date of termination.

### 22. Treatment of Client Property.

Unless otherwise provided, the Contractor shall ensure that any adult client receiving services from the Contractor has unrestricted access to the client's personal property. The Contractor shall not interfere with any adult client's ownership, possession, or use of the client's property. The Contractor shall provide clients under age eighteen (18) with reasonable access to their personal property that is appropriate to the client's age, development, and needs. Upon termination of the Contract, the Contractor shall immediately release to the client and/or the client's guardian or custodian all of the client's personal property.

## Special Terms and Conditions

1. **Definitions Specific to Special Terms.** The words and phrases listed below, as used in this Agreement, shall each have the following definitions:
  - a. "BVS" means Benefit Verification System that provides client, specific information regarding benefits received through DSHS.
  - b. "BVS User" or "User" means contractor staff that have been approved and granted access to the BVS system for purposes of this Agreement. "
  - c. "Client" means any client of DSHS receiving benefits
  - d. "Contractor" means the business listed under "Contractor Name" on page one of this Agreement. The Contractor and its services are not in any way associated with DSHS, or DSHS provided, public assistance programs.
  - e. "CSD" means Community Service Division
  - f. "Data" means the information disclosed or exchanged as described by this Agreement.
  - g. "DSHS Contact" means the person whose name appears in the DSHS Contact box on page 1 of this Agreement.
  - h. "DSHS Client ID Number" or "Client ID #" is a number assigned to each client by DSHS. DSHS Client ID Number is the primary means of identification of the client. This number is located in the upper right corner of all DSHS correspondence to the client. On the DSHS letter, it is called "Client ID #."
  - i. "ESA" means Economic Services Administration
  - j. "ESA Nondisclosure of Confidential Information Agreement – Non-Employee DSHS # 03-374D" (here after, referenced as "Nondisclosure Form") means the nondisclosure form that must be signed by Contractor staff and returned to the DSHS Contact in order to receive BVS access. BVS users must sign this form annually thereafter. The form can be found at <https://www.dshs.wa.gov/office-of-the-secretary/forms>
  - k. "Portable Device" includes but is not limited to smart phones, tablets, flash memory devices (e.g. USB flash drives personal media players), portable hard disks, and laptop/notebook/netbook computers if those computers may be transported outside of a Secured Area.
  - l. "Portable Media" includes, but is not limited to optical media (e.g. CDs, DVDs), magnetic media (e.g. floppy disks, tape, removable or external hard disk drives), or flash media (e.g. Compact Flash, SD, MMC
  - m. "SAW" means Secure Access Washington
2. **Purpose**
  - a. The purpose of this data sharing agreement is to provide the Contractor specific public assistance client financial data to verify client eligibility for low income programs through BVS access.
  - b. Access to the DSHS Benefit Verification System (BVS) is for the Contractor to confirm if client applicants are currently receiving DSHS services.

## Special Terms and Conditions

- c. The Contractor shall use the information to administer state and federal programs for low - income client assistance.

### 3. Legal Authority

Requires authorized consent and/or statutory authority

### 4. Statement of Work

The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

#### a. Description of Data

##### (1) . Datasharing

DSHS shall grant the Contractor limited access to the web-based Benefits Verification System (herein called BVS) DSHS grants BVS access based on the Contractor's "need to know." Authority for any system changes, suspension, and removal of access or data enhancements to BVS lies solely within DSHS.

##### (2) . The BVS User shall provide DSHS – BVS with the following information:

- (a) DSHS Client ID number, or
- (b) Client's first name, Last Name, and Full Social Security Number
- (c) Month/Year of information needed

##### (3) The results of the database search will display either a "yes" or a "no" to indicate if the client received any means tested benefits in the inquiry month – Benefit Status Only Profile:

A "yes" answer means that during the inquired period of time the client received benefits from one or several public assistance programs administered by DSHS. The DSHS means tested public assistance programs are:

- (a) Medicaid;
- (b) Supplemental Nutrition Assistance Program (SNAP);
- (c) Temporary Assistance for Needy Families (TANF);
- (d) State Family Assistance (SFA);
- (e) Pregnant Women Assistance;
- (f) Aged, Blind or Disabled (ABD) cash assistance;
- (g) Housing and Essential Needs (HEN) referral;
- (h) Refugee cash (RCA) and Refugee Medical Assistance (RMA);

## Special Terms and Conditions

- (i) Food Assistance Program (FAP);
  - (j) State Supplemental Payment (SSP) to eligible SSI recipients;
  - (k) Medical assistance, including Medicare cost sharing programs.
- (4) A “no” answer means that during the inquired period of time the client did not receive any benefits from public assistance programs administered by DSHS and the list above.
- (5) BVS will return client data to the BVS user via the BVS website
- (6) Contractor/BVS users must not use programming scripts or automated search tools.

### b. Requirements for Data Access

The Contractor Must:

- (1) Limit access to client data to BVS users whose duties specifically require access to such data in the performance of their assigned duties.
- (2) Notify the DSHS Contact listed on page one of this Agreement to request BVS access for all BVS users.
- (3) The DSHS Contact will send the Contractor the ESA Nondisclosure of Confidential Information Agreement – Non Employee, **DSHS #03-374D** Nondisclosure Form. Staff requiring BVS access must read and sign this form annually.
- (4) Provide data to staff who will have access to client data use and nondisclosure requirements as described in this Agreement. Require each BVS user to read and sign the nondisclosure form provided by the DSHS contact and email signed PDF to DSHS Contact to receive BVS Access. If there amendments during the life of this Agreement that affect those with BVS access, the Contractor agrees to share these type of changes with staff.
- (5) Retain all Non-disclosure forms signed by staff on premises at all times, The Contractor shall provide the DSHS Contact with signed nondisclosure forms upon request.
- (6) Maintain a current BVS users list throughout the period of performance of this Agreement. Email updated BVS user list (Exhibit B) to DSHS contact as changes occur. Email the BVS user list to the DSHS Contact upon request.
- (7) Complete steps for setting up a SAW account prior to receiving active status. Users listed on BVS user list will receive an automated email with detailed instructions including how to set up a SAW account.
- (8) Immediately notify the DSHS Contact if the Agency/Organization is no longer providing services under the purpose of this Agreement.
- (9) Immediately notify DSHS contact when staff with BVS access is terminated from employment with the Contractor or no longer has a business need. If a BVS user has not accessed the website for ninety consecutive days, on the ninety first (91) day the BVS user’s access will be revoked from the system.

## Special Terms and Conditions

### 5. Consent

- a. The Contractor must obtain and retain a **valid written consent form signed in advance by the client** that allows DSHS to share information with the Contractor. The form must meet the DSHS authorization standards, or get DSHS approval on Contractors consent language. The contractor can request the **DSHS consent form 14-012(x)** from the DSHS contact.
- b. The Contractor must retain copies of the signed application and consent form(s) on file in either an electronic format, hardcopy format, or both for monitoring purposes. Contractor must make these forms available to DSHS Contact upon request.
- c. The Contractor agrees not to access any other clients' data in BVS who hasn't applied for Contractor's services or who have not signed a consent.

### 6. Security of Data

- a. Violations of the Nondisclosure provisions of this Agreement may result in criminal or civil penalties. Violation is a gross misdemeanor under RCW 74.04.060 Records, confidential – Exceptions - Penalty, punishable by imprisonment of not more than one year and/or a fine not to exceed five thousand dollars.
- b. The Contractor must take reasonable precautions to secure against unauthorized physical and electronic access to data. Contractor shall protect data in a manner designed to prevent unauthorized persons, including the public, from retrieving data by means of computer, remote terminal, or other means
- c. If the Contractor chooses to retain hard copies of clients' information obtained under this Agreement, the Contractor shall maintain all hard copies of information in a locked filing cabinet or locked office when not in use and only authorized BVS users shall have the key.
- d. When the Contractor is required to retain any information, document, application, or consent identified in this Agreement, the Contractor may maintain such information, document, application, or consent in either electronic format, hardcopy format, or both. The storage of clients' personal information on personal or company issued portable devices/media is not allowed under the provision of services under this Agreement.
- e. The information provided under this Agreement will remain the property of DSHS and will be promptly destroyed by the Contractor, or returned to the DSHS, when the work for which the information was required, as fully described herein, is completed.
- f. Follow Exhibit A.

### 7. Confidentiality and Nondisclosure

- a. The data shared under this agreement is confidential in nature and is subject to state and federal confidentiality requirements that bind the Contractor its employees to protect the confidentiality of the personal information contained in Economic Services Administration client data. The Contractor may use personal data and other data gained under this Agreement for the purpose of this Agreement only.

## Special Terms and Conditions

- b. The Contractor must maintain the confidentiality of personal data in accordance with state and federal laws, and shall have adequate policies and procedures in place to ensure compliance with confidentiality requirements, including restrictions on re-disclosure.
- c. The Contractor must not disclose, transfer, or sell any data as described in this agreement to any party in whole or in part, except as provided by law, or to any individual or agency not specifically authorized by federal or state law, rule, or regulation.
- d. The Contractor staff must not re-disclose the data unless specifically authorized in this Agreement or by prior written consent of DSHS.

### 8. Breach

As provided in Exhibit A of this Agreement the compromise or potential compromise of Confidential Information must be reported to the DSHS Privacy Officer at [dshsprivacyofficer@dshs.wa.gov](mailto:dshsprivacyofficer@dshs.wa.gov) and ESA Security Contacts at [angel.vasilev@dshs.wa.gov](mailto:angel.vasilev@dshs.wa.gov) within one (1) business day of discovery. The notifying party must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law. The Contractor is responsible for costs associated with data breach.

### 9. Limitations on Use of Data

If the Data and analyses generated by the Contractor contain personal information about DSHS clients, then these Data shall be subject to review and approval by DSHS, the Data Provider, prior to publication in any medium or presentation in any forum.

### 10. Payment

DSHS will provide the information under this Agreement at no charge to the Contractor. Each party shall be responsible for any expenses incurred in providing or receiving Data. In exchange for the receipt of data, the Contractor agrees to abide by the terms and conditions in this Agreement.

The Contractor will incur the responsibility of any costs in order to access client data. This includes any costs for hardware/software upgrades, and costs to improve any systems or processors that will enable the Contractor to access the data.

### 11. Agreement Monitoring

DSHS must conduct on-site visits in accordance with DSHS Administrative Policy 13.11. The Contractor's records related to this Agreement will be reviewed for compliance with the terms and conditions of this Agreement. DSHS reserves all other rights of inspection as provided in the General Terms and Conditions of this Agreement.

### 12. Agreement Suspension

DSHS may take certain actions in the event the Contractor, or any of its partners, officers, directors, or employees, is under investigation by a local, county, state or federal agency, for a matter, which DSHS determines, may adversely affect the delivery of services provided under this Agreement. DSHS may, without prior notice, either suspend the delivery of services or disallow the person(s) involved in the allegation(s) from providing services or having contact with clients pending final resolution of the investigation

## Special Terms and Conditions

### 13. Contractor Information

The Contractor must email to the DSHS Contract Contact, within 10 working days, any changes to the Contractor Contact information. Changes include changes in business, name, Contractor, Contact name, mailing address, email address, telephone number, fax number and business status and/or names of staff. If the Contractor's address, telephone number, fax number, or e-mail address change, the Contractor shall provide **written notice** of the change(s) to the DSHS Contact as shown on the first page of this Agreement **within (10) working days of the date of the change(s)**.

### 14. Subcontracting

The Contractor must not subcontract services under this Agreement. If the Contractor has subcontractors, who request to have BVS access the Contractor may refer them to the DSHS Contract Contact for this Agreement for assistance.

### 15. Fraud Reporting

The Contractor may report any knowledge of welfare fraud to DSHS by calling 1-800-562-6906

### 16. Disputes

**Either party may submit a request for resolution of an agreement dispute** (rates set by law, regulation, or DSHS policy are not disputable). The requesting party shall submit a written statement identifying the issue(s) in dispute and the relative positions of the parties. A request for a dispute resolution must include the Contractor's name, address, and Agreement number, and be mailed to the CSD Contracts Unit at the address below and to the DSHS contact listed on page 1 of this Agreement within thirty (30) calendar days after the party could reasonably be expected to have knowledge of the issue in dispute.

DSHS/ESA-Community Services Division  
P O Box 45470  
Olympia, WA 98504  
Attn: CSD Contracts Unit

## Exhibit A – Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
- a. “AES” means the Advanced Encryption Standard, a specification of Federal Information Processing Standards Publications for the encryption of electronic data issued by the National Institute of Standards and Technology (<http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.197.pdf>).
  - b. “Authorized Users(s)” means an individual or individuals with a business need to access DSHS Confidential Information, and who has or have been authorized to do so.
  - c. “Business Associate Agreement” means an agreement between DSHS and a contractor who is receiving Data covered under the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996. The agreement establishes permitted and required uses and disclosures of protected health information (PHI) in accordance with HIPAA requirements and provides obligations for business associates to safeguard the information.
  - d. “Category 4 Data” is data that is confidential and requires special handling due to statutes or regulations that require especially strict protection of the data and from which especially serious consequences may arise in the event of any compromise of such data. Data classified as Category 4 includes but is not limited to data protected by: the Health Insurance Portability and Accountability Act (HIPAA), Pub. L. 104-191 as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), 45 CFR Parts 160 and 164; the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g; 34 CFR Part 99; Internal Revenue Service Publication 1075 (<https://www.irs.gov/pub/irs-pdf/p1075.pdf>); Substance Abuse and Mental Health Services Administration regulations on Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2; and/or Criminal Justice Information Services, 28 CFR Part 20.
  - e. “Cloud” means data storage on servers hosted by an entity other than the Contractor and on a network outside the control of the Contractor. Physical storage of data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personal files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iTunes, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, and Rackspace.
  - f. “Encrypt” means to encode Confidential Information into a format that can only be read by those possessing a “key”; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 256 bits for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.
  - g. “FedRAMP” means the Federal Risk and Authorization Management Program (see [www.fedramp.gov](http://www.fedramp.gov)), which is an assessment and authorization process that federal government agencies have been directed to use to ensure security is in place when accessing Cloud computing products and services.
  - h. “Hardened Password” means a string of at least eight characters containing at least three of the following four character classes: Uppercase alphabetic, lowercase alphabetic, numeral, and special characters such as an asterisk, ampersand, or exclamation point.

- i. “Mobile Device” means a computing device, typically smaller than a notebook, which runs a mobile operating system, such as iOS, Android, or Windows Phone. Mobile Devices include smart phones, most tablets, and other form factors.
- j. “Multi-factor Authentication” means controlling access to computers and other IT resources by requiring two or more pieces of evidence that the user is who they claim to be. These pieces of evidence consist of something the user knows, such as a password or PIN; something the user has such as a key card, smart card, or physical token; and something the user is, a biometric identifier such as a fingerprint, facial scan, or retinal scan. “PIN” means a personal identification number, a series of numbers which act as a password for a device. Since PINs are typically only four to six characters, PINs are usually used in conjunction with another factor of authentication, such as a fingerprint.
- k. “Portable Device” means any computing device with a small form factor, designed to be transported from place to place. Portable devices are primarily battery powered devices with base computing resources in the form of a processor, memory, storage, and network access. Examples include, but are not limited to, mobile phones, tablets, and laptops. Mobile Device is a subset of Portable Device.
- l. “Portable Media” means any machine readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tapes, optical discs (CDs or DVDs), flash memory (thumb drive) devices, external hard drives, and internal hard drives that have been removed from a computing device.
- m. “Secure Area” means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through use of a key, card key, combination lock, or comparable mechanism. Secure Areas may include buildings, rooms or locked storage containers (such as a filing cabinet or desk drawer) within a room, as long as access to the Confidential Information is not available to unauthorized personnel. In otherwise Secure Areas, such as an office with restricted access, the Data must be secured in such a way as to prevent access by non-authorized staff such as janitorial or facility security staff, when authorized Contractor staff are not present to ensure that non-authorized staff cannot access it.
- n. “Trusted Network” means a network operated and maintained by the Contractor, which includes security controls sufficient to protect DSHS Data on that network. Controls would include a firewall between any other networks, access control lists on networking devices such as routers and switches, and other such mechanisms which protect the confidentiality, integrity, and availability of the Data.
- o. “Unique User ID” means a string of characters that identifies a specific user and which, in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.

2. **Authority.** The security requirements described in this document reflect the applicable requirements of Standard 141.10 (<https://ocio.wa.gov/policies>) of the Office of the Chief Information Officer for the state of Washington, and of the DSHS Information Security Policy and Standards Manual. Reference material related to these requirements can be found here: <https://www.dshs.wa.gov/sesa/central-contract-services/keeping-dshs-client-information-private-and-secure>, which is a site developed by the DSHS Information Security Office and hosted by DSHS Central Contracts and Legal Services.

3. **Administrative Controls.** The Contractor must have the following controls in place:

- a. A documented security policy governing the secure use of its computer network and systems, and which defines sanctions that may be applied to Contractor staff for violating that policy.
- b. If the Data shared under this agreement is classified as Category 4, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for that Category 4 Data.
- c. If Confidential Information shared under this agreement is classified as Category 4, the Contractor must have a documented risk assessment for the system(s) housing the Category 4 Data.

**4. Authorization, Authentication, and Access.** In order to ensure that access to the Data is limited to authorized staff, the Contractor must:

- a. Have documented policies and procedures governing access to systems with the shared Data.
- b. Restrict access through administrative, physical, and technical controls to authorized staff.
- c. Ensure that user accounts are unique and that any given user account logon ID and password combination is known only to the one employee to whom that account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on a system housing the Data based solely on the logon ID used to perform the action.
- d. Ensure that only authorized users are capable of accessing the Data.
- e. Ensure that an employee's access to the Data is removed immediately:
  - (1) Upon suspected compromise of the user credentials.
  - (2) When their employment, or the contract under which the Data is made available to them, is terminated.
  - (3) When they no longer need access to the Data to fulfill the requirements of the contract.
- f. Have a process to periodically review and verify that only authorized users have access to systems containing DSHS Confidential Information.
- g. When accessing the Data from within the Contractor's network (the Data stays within the Contractor's network at all times), enforce password and logon requirements for users within the Contractor's network, including:
  - (1) A minimum length of 8 characters, and containing at least three of the following character classes: uppercase letters, lowercase letters, numerals, and special characters such as an asterisk, ampersand, or exclamation point.
  - (2) That a password does not contain a user's name, logon ID, or any form of their full name.
  - (3) That a password does not consist of a single dictionary word. A password may be formed as a passphrase which consists of multiple dictionary words.
  - (4) That passwords are significantly different from the previous four passwords. Passwords that increment by simply adding a number are not considered significantly different.
- h. When accessing Confidential Information from an external location (the Data will traverse the

Internet or otherwise travel outside the Contractor's network), mitigate risk and enforce password and logon requirements for users by employing measures including:

- (1) Ensuring mitigations applied to the system don't allow end-user modification.
  - (2) Not allowing the use of dial-up connections.
  - (3) Using industry standard protocols and solutions for remote access. Examples would include RADIUS and Citrix.
  - (4) Encrypting all remote access traffic from the external workstation to Trusted Network or to a component within the Trusted Network. The traffic must be encrypted at all times while traversing any network, including the Internet, which is not a Trusted Network.
  - (5) Ensuring that the remote access system prompts for re-authentication or performs automated session termination after no more than 30 minutes of inactivity.
  - (6) Ensuring use of Multi-factor Authentication to connect from the external end point to the internal end point.
- i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, face recognition, iris scan) or token (software, hardware, smart card, etc.) in that case:
- (1) The PIN or password must be at least 5 letters or numbers when used in conjunction with at least one other authentication factor
  - (2) Must not be comprised of all the same letter or number (11111, 22222, aaaaa, would not be acceptable)
  - (3) Must not contain a "run" of three or more consecutive numbers (12398, 98743 would not be acceptable)
- j. If the contract specifically allows for the storage of Confidential Information on a Mobile Device, passcodes used on the device must:
- (1) Be a minimum of six alphanumeric characters.
  - (2) Contain at least three unique character classes (upper case, lower case, letter, number).
  - (3) Not contain more than a three consecutive character run. Passcodes consisting of 12345, or abcd12 would not be acceptable.
- k. Render the device unusable after a maximum of 10 failed logon attempts.
- 5. Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:
- a. **Hard disk drives.** For Data stored on local workstation hard disks, access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.

- b. **Network server disks.** For Data stored on hard disks mounted on network servers and made available through shared folders, access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secure Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data, as outlined below in Section 8 Data Disposition, may be deferred until the disks are retired, replaced, or otherwise taken out of the Secure Area.

- c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secure Area. When not in use for the contracted purpose, such discs must be Stored in a Secure Area. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secure Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.
- e. **Paper documents.** Any paper records must be protected by storing the records in a Secure Area which is only accessible to authorized personnel. When not in use, such records must be stored in a Secure Area.
- f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor's staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.
- g. **Data storage on portable devices or media.**
- (1) Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:
- (a) Encrypt the Data.
- (b) Control access to devices with a Unique User ID and Hardened Password or stronger

authentication method such as a physical token or biometrics.

- (c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes.
- (d) Apply administrative and physical security controls to Portable Devices and Portable Media by:
  - i. Keeping them in a Secure Area when not in use,
  - ii. Using check-in/check-out procedures when they are shared, and
  - iii. Taking frequent inventories.
- (2) When being transported outside of a Secure Area, Portable Devices and Portable Media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.

**h. Data stored for backup purposes.**

- (1) DSHS Confidential Information may be stored on Portable Media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.
- (2) Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements below in Section 8 *Data Disposition*.

**i. Cloud storage.** DSHS Confidential Information requires protections equal to or greater than those specified elsewhere within this exhibit. Cloud storage of Data is problematic as neither DSHS nor the Contractor has control of the environment in which the Data is stored. For this reason:

- (1) DSHS Data will not be stored in any consumer grade Cloud solution, unless all of the following conditions are met:
  - (a) Contractor has written procedures in place governing use of the Cloud storage and Contractor attests in writing that all such procedures will be uniformly followed.
  - (b) The Data will be Encrypted while within the Contractor network.
  - (c) The Data will remain Encrypted during transmission to the Cloud.
  - (d) The Data will remain Encrypted at all times while residing within the Cloud storage solution.
  - (e) The Contractor will possess a decryption key for the Data, and the decryption key will be

possessed only by the Contractor and/or DSHS.

- (f) The Data will not be downloaded to non-authorized systems, meaning systems that are not on either the DSHS or Contractor networks.
- (g) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User and within either the DSHS or Contractor's network.

(2) Data will not be stored on an Enterprise Cloud storage solution unless either:

- (a) The Cloud storage provider is treated as any other Sub-Contractor, and agrees in writing to all of the requirements within this exhibit; or,
- (b) The Cloud storage solution used is FedRAMP certified.

(3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPAA), the Cloud provider must sign a Business Associate Agreement prior to Data being stored in their Cloud solution.

**6. System Protection.** To prevent compromise of systems which contain DSHS Data or through which that Data passes:

- a. Systems containing DSHS Data must have all security patches or hotfixes applied within 3 months of being made available.
- b. The Contractor will have a method of ensuring that the requisite patches and hotfixes have been applied within the required timeframes.
- c. Systems containing DSHS Data shall have an Anti-Malware application, if available, installed.
- d. Anti-Malware software shall be kept up to date. The product, its anti-virus engine, and any malware database the system uses, will be no more than one update behind current.

**7. Data Segregation.**

- a. DSHS Data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.
  - (1) DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS Data. And/or,
  - (2) DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or,
  - (3) DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,
  - (4) DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.

(5) When stored as physical paper documents, DSHS Data will be physically segregated from non-DSHS data in a drawer, folder, or other container.

b. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

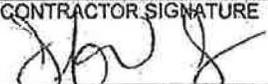
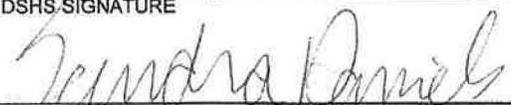
8. **Data Disposition.** When the contracted work has been completed or when the Data is no longer needed, except as noted above in Section 5.b, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

<b>Data stored on:</b>	<b>Will be destroyed by:</b>
Server or workstation hard disks, or  Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or  Degaussing sufficiently to ensure that the Data cannot be reconstructed, or  Physically destroying the disk
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm, provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

9. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the DSHS Privacy Officer at [dshsprivacyofficer@dshs.wa.gov](mailto:dshsprivacyofficer@dshs.wa.gov). Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.

10. **Data shared with Subcontractors.** If DSHS Data provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the subcontractor must be submitted to the DSHS Contact specified for this contract for review and approval.



 <p>Washington State Department of Social &amp; Health Services</p> <p><i>Transforming lives</i></p>	<b>INTERLOCAL DATASHARE AGREEMENT</b>  <b>Benefit Verification System (BVS) Access</b>	DSHS Agreement Number: 1991-70058
This Agreement is by and between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below, and is issued pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.		Program Contract Number:  Contractor Contract Number:
CONTRACTOR NAME City of Des Moines	CONTRACTOR doing business as (DBA) Des Moines Municipal Court	
CONTRACTOR ADDRESS 21630 11TH AVE S STE C Des Moines, WA 98198	WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI)	DSHS INDEX NUMBER  225757
CONTRACTOR CONTACT JENNEFER JOHNSON	CONTRACTOR TELEPHONE Click here to enter text.	CONTRACTOR FAX (206) 870-4387
DSHS ADMINISTRATION  Economic Services Administration		DSHS DIVISION Community Services Division  DSHS CONTRACT CODE 3000DC-91
DSHS CONTACT NAME AND TITLE  Hope Schumacher SHPM 2		DSHS CONTACT ADDRESS  712 Pear St  Olympia, WA Click here to enter text.
DSHS CONTACT TELEPHONE  (360)688-8089	DSHS CONTACT FAX Click here to enter text.	DSHS CONTACT E-MAIL ADDRESS schumhl@dshs.wa.gov
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?  No		CFDA NUMBER(S)
AGREEMENT START DATE 11/22/2019	AGREEMENT END DATE 10/31/2023	MAXIMUM AGREEMENT AMOUNT No Payment
<b>EXHIBITS. The following Exhibits are attached and are incorporated into this Agreement by reference:</b> <input checked="" type="checkbox"/> <b>Data Security: Exhibit A – Data Security</b> <input checked="" type="checkbox"/> <b>Exhibits (specify): EXHIBIT B - BVS Program Users List - Format Requirement</b>		
The terms and conditions of this Agreement are an integration and representation of the final, entire and exclusive understanding between the parties superseding and merging all previous agreements, writings, and communications, oral or otherwise regarding the subject matter of this Agreement, between the parties. The parties signing below represent they have read and understand this Agreement, and have the authority to execute this Agreement. This Agreement shall be binding on DSHS only upon signature by DSHS.		
CONTRACTOR SIGNATURE 	PRINTED NAME AND TITLE Jennefer Johnson Court Administrator	DATE SIGNED 11/18/19
DSHS SIGNATURE 	PRINTED NAME AND TITLE Sandra Daniels, Contracts Officer DSHS/ESA-Community Services Division	DATE SIGNED 11/18/19

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# AGENDA ITEM

## BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Draft Ordinance 20-016: Increasing Imprest Cash Funds

FOR AGENDA OF: February 27, 2020

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: February 12, 2020

ATTACHMENTS:

- 1. Draft Ordinance No. 20-016

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

- Legal *DB*
- Finance *Law*
- Courts
- Police *the*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *DJB A.C.M.*  
*FOR M.M.*

### Purpose and Recommendation

The purpose of this agenda item is for the City Council to consider adoption of Draft Ordinance No. 20-016 increasing the imprest cash funds from \$8,000 to \$14,000. The primary reason for the increase is to increase the authorized amount of the Police Department’s Investigative Fund from \$4,800 to \$10,000.

### Suggested Motion

**Motion 1:** “I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 20-016 on first reading.”

**Motion 2:** “I move to adopt Draft Ordinance No. 20-016, amending DMMC 3.60.010 to increase the imprest cash funds from \$8,000 to \$14,000.”

## **Background**

Imprest Cash (Petty Cash) Funds are created to provide a more efficient and cost effective way to operate City finances. These funds are used in three ways:

1. Reimburse employees for small expenditures of a minor nature that are incurred in connection with official City business; and
2. Provide a change drawer to make change; and
3. Confidential, Investigative Funds – provides for resources to law enforcement undercover operations.

The current imprest cash fund amount, of \$8,000, was established by Ordinance No. 1336 in 2004. From time to time there is a need to make adjustments to these funds. The Police Department has a need to increase their Investigative Fund from \$4,800 to \$10,000, as a result of increased undercover operations. The Finance Director is requesting an additional increase of \$800 to allow the flexibility to make changes to the imprest cash accounts more in alignment with the operating nature of the fund. The following table shows the current amount issued and the proposed amount.

<b><u>Department</u></b>	<b><u>Current Amount Issued</u></b>	<b><u>Proposed Amount</u></b>
Police Department:		
Cash Drawer	\$ 250.00	\$ 250.00
Investigative Fund	4,800.00	10,000.00
City Clerk – Petty Cash	400.00	400.00
Senior Services – Petty Cash	250.00	250.00
Recreation – Petty Cash and Cash Drawer	450.00	450.00
Municipal Court – 3 Cash Drawers	450.00	450.00
Community Development – Cash Drawer	150.00	150.00
Marina:		
Petty Cash	200.00	200.00
Multiple Cash Drawers	1,050.00	1,050.00
Finance Department – Amount held in reserve for future adjustments	-0-	800.00
<b>TOTAL IMPREST CASH FUNDS</b>	<b>\$ 8,000.00</b>	<b>\$ 14,000.00</b>

## **Recommendation**

Staff recommends that the City Council adopt Draft Ordinance No. 20-016.

**CITY ATTORNEY'S FIRST DRAFT 2/12/2020**

**DRAFT ORDINANCE NO. 20-016**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to municipal finance, increasing imprest cash funds and amending chapter 3.60 DMMC.

**WHEREAS**, on February 26, 2004, the City Council passed Ordinance No. 1336 creating a new chapter in Title 3 DMMC entitled "Imprest Cash Funds"; and

**WHEREAS**, the amount of funds was set to be no greater than Eight Thousand Dollars (\$8,000.00), with the exact amount of the funds to be determined by the Finance Director's written policy and procedure governing the funds; and

**WHEREAS**, there is a need to increase the Police Investigative Fund from \$4,800 to \$10,000.00 for undercover operations; and

**WHEREAS**, there is a need to increase the Imprest Cash Funds an additional \$800.00 to be held in reserve for future adjustments; and

**WHEREAS**, amending chapter 3.60 DMMC to increase the amount of funds set to be no greater than Fourteen Thousand Dollars (\$14,000.00) will satisfy the existing needs; and

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

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

**Sec. 1.** Section 3.60.010 is amended to read as follows:

There is created and established imprest cash funds. The amount of the funds is to be no greater than ~~\$8~~\$14,000, with the exact amount of the funds to be determined by the finance director's written policy and procedure governing the funds. The purpose of the imprest cash funds is to make change for city customers, make small office and operational purchases, and to fund police department investigative purchases.

**Sec. 2. Ratification, confirmation, and approval.** All acts undertaken prior to the effective date of this Ordinance that are consistent with the intent and purpose of same are hereby ratified, confirmed, and approved.

**Sec. 3. Severability - Construction.**

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

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

**Sec. 4. Effective date.** This Ordinance shall take effect and be in full force five (5) days after its final passage by the Des Moines City Council in accordance to law.

**PASSED BY** the City Council of the City of Des Moines this 27th day of February, 2020 and signed in authentication thereof this 27th day of February, 2020.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Published: \_\_\_\_\_

# AGENDA ITEM

## BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Interfund Loan for the purchase of the In-Car “Dashboard” Camera Systems.

FOR AGENDA OF: February 27, 2020

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: February 20, 2020

ATTACHMENTS:

- 1. Draft Ordinance No. 20-014

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

- Legal *DSB*
- Finance *Blw*
- Courts \_\_\_\_\_
- Police *MG*

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *DSB A.C.M.*  
*FOR M.M.*

**Purpose and Recommendation**

The purpose of this agenda item is to seek City Council approval of an interfund loan of \$104,650 from the Equipment Rental Replacement Fund to the General Fund for the purchase of In-Car “Dashboard” Camera Systems.

**Suggested Motion**

**First Motion:** “I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 20-014 on first reading.”

**Second Motion:** “I move to enact Draft Ordinance No. 20-014 authorizing an interfund loan of \$104,650 from the Equipment Rental Replacement Fund to the General Fund for the purchase of In-Car “Dashboard” Camera Systems.”

**Background**

On October 17, 2019, the City Council approved the replacement purchase of 18 in- car camera systems for the Police Department's patrol vehicles. At the time the purchase was approved, the cost of \$117,080.70 was to be paid using a 5-year lease, with a 3.85% interest rate. In reviewing the lease terms and interest rate it was determined the city would save approximately \$6,735 in interest costs if the purchase was financed with an interfund loan.

The cost of the in-car cameras is approximately \$111,831.50 and the estimated cost to install and video and license fees are \$17,818.50 for an approximate total cost of \$129,650. The Police Department's total budget request was \$140,000 for a one-time start-up cost or lease to own over 5 years at \$28,000 per year.

**Alternatives**

Not adopt the ordinance (not recommended). The City would then look to finance the purchase and be subject to existing interest rates.

**Financial Impact**

By financing the purchase of in-car cameras with an interfund loan, the City is able to save approximately \$6,735 in interest costs. The City is borrowing the funds that are available for investment from the Equipment Rental Replacement Fund. The General Fund will repay this loan, with interest, which is set at an interest rate equivalent to the Washington State Local Government Investment Pool rate. The Police Department will budget for the repayment of the principal and interest on this loan, no later than December 31, 2024.

**Recommendation**

Staff recommends the City Council enact Draft Ordinance No. 20-014.

**CITY ATTORNEY'S FIRST DRAFT, 02/20/2020****DRAFT ORDINANCE NO. 20-014**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** authorizing an interfund loan to the General Fund in the amount of \$104,650 from the Equipment Rental Replacement Fund, and setting the schedule for repayment and interest calculations on or before December 31, 2024.

**WHEREAS**, the City Council approved the replacement purchase of 18 in-car camera systems for Police Department patrol vehicles at the October 17, 2019 council meeting; and

**WHEREAS**, the City planned to finance this purchase with a 5-year lease arrangement, with a three point eighty-five (3.85%) percent interest rate; and

**WHEREAS**, after reviewing the leasing agreement, the City determined it would advantageous to fund the purchase with an interfund loan and save the city approximately six thousand seven hundred and thirty-five dollars (\$6,735); and

**WHEREAS**, the cost to purchase the in-car camera systems and installation costs are estimated to be one hundred twenty-nine thousand six hundred and fifty dollars (\$129,650); and

**WHEREAS**, the City budgeted a lease payment of twenty-five thousand (\$25,000) in fiscal year 2020; and

**WHEREAS**, the City will use the twenty-five thousand dollars (\$25,000) planned as a lease payment towards the purchase of in-car cameras, which is currently budgeted within the Police Department's 2020 budget; and

**WHEREAS**, the City will use a \$104,650 interfund loan to pay the balance for the purchase and will use General Fund resources to repay this loan; and

**WHEREAS**, the interfund loan will be repaid on or before December 31, 2024; now therefore,

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

**Sec. 1.** The Equipment Rental Replacement Fund will provide the General Fund with interfund loan proceeds of \$104,650.

**Sec. 2.** The General Fund will pay interest on the outstanding loan to the Equipment Rental Replacement Fund at an interest rate equivalent to the Washington State Local Government Investment Pool rate.

Ordinance No. 20-014  
Page 2 of 2

**Sec. 3.** Upon the availability of General Fund resources, the General Fund will repay the outstanding interfund loan to the Equipment Rental Replacement Fund, but no later than December 31, 2024.

**Sec. 4. Severability - Construction.** If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by a court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance.

**Sec. 5. Effective Date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval, and publication accordance with law.

**PASSED BY** a majority of the City Council of the City of Des Moines, Washington this 27<sup>th</sup> day of February, 2020 and signed in authentication thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
M A Y O R

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

# AGENDA ITEM

BUSINESS OF THE CITY COUNCIL  
City of Des Moines, WA

SUBJECT: Public Defense Services Contract  
Assignment and Extension

FOR AGENDA OF: February 27, 2020

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: February 14, 2020

ATTACHMENTS:

- 1. Assignment and Extension
- 2. Public Defense Services Contract

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

- Legal JS
- Finance San
- Court \_\_\_\_\_
- Police \_\_\_\_\_

APPROVED BY CITY MANAGER  
FOR SUBMITTAL: [Signature]

**Purpose and Recommendation**

The purpose of this agenda item is to request City Council approval of an assignment and extension of the contract to provide indigent criminal defense services. The following motion will appear on the consent calendar:

**Suggested Motion**

**Motion:** “I move to approve the contract assignment and extension for indigent public defense services and to authorize the City Manager to sign the contract substantially in the form as attached.”

**Background**

Ms. Julie Codd and her firm Codd Law Office have been providing contract public defense services to indigent defendants in Des Moines Municipal Court since 2003. During that time, Ms. Codd has provided exceptional defense services to her clients. Unfortunately, Ms. Codd has informed the City that

she will be retiring as of March 1, 2020. As a result, the City has worked with Ms. Codd to find a suitable replacement that will continue to provide the exceptional services that Ms. Codd and her firm have provided for many years.

### **Discussion**

Ms. Codd and the City's Court Administrator have identified Rebecca Thorley, attorney at law, as a qualified replacement for Ms. Codd and are confident that she is experienced and capable of providing these vital services to indigent defendants. Ms. Thorley will also be contracting with another qualified attorney to assist with this contract. Ms. Thorley has experience in the Des Moines Municipal Court and has assisted Ms. Codd previously on an on-call basis.

Pursuant to the existing contract, Ms. Codd can assign her interest if the City of Des Moines provides consent. The Assignment and Extension (attachment #1) provides that consent from the City and formally assigns Ms. Codd's interest in the contract to Ms. Thorley.

Additionally, the existing contract for public defense services expires as of February 29, 2020. The Assignment and Extension provides for a one year extension of the contract. During this time the City can decide whether to extend the contract further with Ms. Thorley or to pursue a Request for Proposals to consider additional attorneys who may be able to provide these services in 2021 and beyond.

Ms. Thorley is aware of all legal requirements of this contract as well as the specific expectations that the Des Moines Municipal Court has, such as specialized training in computer software as well therapeutic court training (DUI Court). Ms. Thorley has provided indigent defense services in Des Moines Municipal Court on a temporary basis in the past.

The City of Normandy Park has also contracted with Codd Law Office and has agreed to this assignment.

### **Alternatives**

Do not consent to the assignment and prepare a Request for Proposals to find qualified individuals to provide these vital services. This is not recommended as Ms. Thorley is qualified and has been vetted and the existing contract expires February 29, 2020 absent an extension.

### **Financial Impact**

The contract costs remain the same. The contract calls for a flat monthly fee of \$14,200. There are additional "other" costs that are billed if they occur. These events, such as appeals and special set trials, rarely occur and will not likely effect the contract amount to an appreciable degree.

### **Recommendation**

Administration recommends that Council approve the proposed assignment and extension.

**CONTRACT ASSIGNMENT,  
AMENDMENT,  
AND CITY'S CONSENT TO ASSIGNMENT**

This Contract Assignment, Amendment and City's Consent to Assignment (the "Assignment") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 by and between the City of Des Moines ("City"), Julie Codd, Codd Law Office ("Assignor") and Rebecca Thorley, Attorney at Law ("Assignee").

WHEREAS, the City and Assignor entered into an Agreement for Public Defender Services for Des Moines Municipal Court effective March 9, 2018; and

WHEREAS, Paragraph 9 of the Agreement allows assignment upon first obtaining consent of the City of Des Moines; and

WHEREAS, Julie Codd, Codd Law Offices wishes to assign this Agreement to Rebecca Thorley, Attorney at Law; and

WHEREAS, the City of Des Moines consents to this Assignment; and

WHEREAS, the Agreement expires February 29, 2020 absent an extension; and

WHEREAS, the City and Assignee desire to extend the Agreement for the term of one year through February 28, 2021; and

WHEREAS, the City of Normandy Park has also contracted with Codd Law Office; and

WHEREAS, through the City Manager, Normandy Park has consented to the assignment and is in agreement with the extension of the contract to be consistent with Des Moines;

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, the parties hereby mutually agree as follows:

1. The above recitations are true and correct.
2. Effective March 1, 2020, Assignor hereby assigns, sets over and transfers to Assignee the Assignor's interest in the Agreement.
3. All of the terms, covenants and conditions of the Agreement are hereby ratified and reaffirmed by all parties hereto.

- 4. Assignee hereby accepts this Assignment and agrees to assume and be bound by all of the terms of the Agreement and subsequent amendment to extend. A copy of the Agreement is attached hereto as Attachment 1, and is hereby incorporated by this reference.
- 5. As of the effective date, notice will be deemed to have been duly given immediately upon being mailed with postage prepaid to respective addresses, as follows:

To Assignee at:            Rebecca Thorley  
                                      16000 Mill Creek Blvd,  
                                      Mill Creek, WA 98012

To the City at:            City of Des Moines  
                                      Attention: Court Administrator  
                                      21630 11th Avenue So., Suite D  
                                      Des Moines, WA 98198

Upon change of address, each party shall provide the updated address to all parties within ten (10) days after the effective date of the change of address. Failure to provide the updated address constitutes waiver of the right to notice under this Paragraph.

- 6. The City consents to this Assignment on the following conditions:
  - a. Assignee agrees to be bound and abide by all of the terms of the Agreement as written.
  - b. Assignee shall provide proof of insurance pursuant to Section 6 prior to the effective date of the Assignment.
- 7. Extension Amendment: The term of the Agreement shall be extended to February 28, 2021.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the day and year first written above.

**ASSIGNEE:**

Dated: \_\_\_\_\_

\_\_\_\_\_  
 Rebecca Thorley, Attorney at Law

**ASSIGNOR:**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Julie Codd, Codd Law Office

**CITY OF DES MOINES**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Michael Matthias  
City Manager  
By Direction of the Des Moines City Council  
in Open Public Meeting on February 27,  
2020.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Timothy A. George  
City Attorney

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**AGREEMENT FOR PUBLIC DEFENDER SERVICES**  
**FOR DES MOINES MUNICIPAL COURT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

manage participants' progress. DUI Court emphasizes accountability and long-term treatment.

**1.9 Technology:** The Public Defenders must be knowledgeable in different aspects of court technology. The Des Moines Court currently uses Ocourt and JIS.

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

**2.1** The City shall pay to the Public Defenders for services rendered under this Agreement, a flat rate of \$14,200 per month for the period of March 1, 2018 through February 29, 2020. This contract contemplates regularly scheduled Court hearings to occur at the following times and thus court hearing scheduled at these times will not be subject to payment of additional compensation:

Every Wednesday and Thursday mornings and afternoons;

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

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

Courtesy counsel is required at arraignment calendars once per week.

- a. Video Court: The Public Defenders shall appear Monday through Friday for video court public defender services to defendants charged under ordinances of the City or state misdemeanor or gross misdemeanor statutes who are detained at the South Correctional Entity ("SCORE"). Public defense services will be provided in a manner consistent with the accepted practices for similar services, performed to the City's satisfaction and in conformance with WSBA's standards for the provision of public defense services as codified in the Rules for Professional Conduct, the Decision and the Des Moines Municipal Code as now existing or hereafter adopted or amended.
- b. The City shall pay an additional \$500 to Public Defenders for a "special set" jury trial and \$350 for a "special set" bench trial that is

scheduled and held on a court day other than the regularly scheduled 2 trial days per month as per Section 2.1

- c. The City shall pay an additional \$650 per RALJ appeal to the Superior Court in which a brief has been filed by the Public Defenders, which sum is over and above all compensation paid for legal services before the Court.
- d. The City may schedule additional Court days with 30 days written notice to the Public Defender, or such shorter time upon agreement by the Public Defender. Public Defenders shall be compensated an additional \$350 per half day calendar and \$700 per full day calendar for such additional court days.
- e. DUI Court: The City shall pay the Public Defender \$175 per calendared day for serving as Public Defender in the City of Normandy Park and the City of Des Moines' bi-monthly DUI calendar that is anticipated to begin in July 2018. This fee represents the City's one-half share of the Public Defender's billed fees, the other half to be paid by the City of Normandy Park.

**2.2** The compensation amount represents the salary and benefits necessary to provide the services for the City and as supplemented in Section 2.4 below all infrastructure, support, and systems necessary to comply with the Standards and Decision including by way of illustration and not limitation, training, investigation, translation, and mental and physical evaluation services. As provided in Section 2.5 and its sub paragraphs below, the parties will periodically review staffing in light of changes in court rule and case load in order to adjust staffing based on experience. The parties believe that they have provided sufficient capacity to ensure that, in all respects and at all times, public defense services will comply with the Standards and Decision with an adequate reserve capacity for each Public Defender.

**2.3 Case Counts.** Based upon case counts maintained by Public Defender and reviewed by the City, current estimates for annual case counts for all indigent cases filed by the City is approximately 400 cases per year. As provided in the Standards,

the case counts also include the Public Defender's appearance at all arraignment calendars. The terms "case" and "credit" shall be defined in accordance with the Washington State Supreme Court rule and Washington Office of Public Defense guidelines. The City has adopted an unweighted case count. Monthly stats are due the following month.

**2.4 Adjustment; Internal Allocation.** As provided in the Standards, case counts may be revised upwards based upon a variety of factors. Upon the Public Defender's request, the City shall review any particular case with the Public Defender to determine whether greater weighting should be assigned, and upward revisions shall not be unreasonably refused. The annual caseload shall be reviewed annually on or about June 30th each year.

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

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

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

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

- (i) investigation expenses;
- (ii) medical and psychiatric evaluations;
- (iii) expert witness fees and expenses;
- (iv) interpreters;

- (v) polygraph, forensic and other scientific tests;
- (vi) unusually extensive computerized legal research; or
- (vii) any other non-routine expenses the Court finds necessary and proper for the investigation, preparation, and presentation of a case. In the event any expense is found by the Court to be outside of its authority to approve, the Public Defender may apply to the Contract Administrator for approval, such approval not to be unreasonably withheld.

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

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

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

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

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

## **2.7 Review and Renegotiation.**

### **a. Due to Increases or Decreases in Case Load.**

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

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

**3. Term of Agreement.** The term of this agreement shall be from March 1, 2018 for a two (2) year initial term through February 29, 2020, unless sooner terminated as provided herein. The Agreement may be extended for one (1) additional two (2) year term at the mutual agreement of the parties, not to exceed four (4) years in total.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**12. Written Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the Agreement or such other address as may be hereinafter specified in writing:

**CITY:**

City of Des Moines  
21630 11<sup>th</sup> Ave. South  
Des Moines, WA 98198

**PUBLIC DEFENDER:**

Julie M. Codd  
Codd Law Office  
15401 First Avenue S, Suite A  
Seattle, WA 98148

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

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

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

**IN WITNESS WHEREOF,** the parties have executed this Agreement on the 9<sup>th</sup> day of March, 2018.

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**Matthew J. Hutchins**  
Assistant City Attorney

**CITY OF DES MOINES:**

  
\_\_\_\_\_  
**Michael Matthias**  
City Manager

**PUBLIC DEFENDER  
CODD LAW OFFICES:**

  
\_\_\_\_\_  
**Julie M. Codd**

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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: Interagency Agreement with Highline College for the Small Business Development Center

ATTACHMENTS:

1. Interagency Agreement

FOR AGENDA OF: February 27, 2020

DEPT. OF ORIGIN: Administration

DATE SUBMITTED: February 11, 2020

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

- Legal *JG*  
 Finance *Baw*  
 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 an Interagency Agreement between Highline College and the City of Des Moines for continuing support of the College's Small Business Development Center (SBDC). In the past the City contributed \$10,000 each year since the SBDC started in 2004, except in 2010 when the contribution was \$8,000. This year the contribution has increased to \$12,000. The first increase in financial support from the City since the inception of the Interagency Agreement.

**Suggested Motion**

**MOTION:** "I move to approve the Interagency Agreement with Highline College for support of the Small Business Development Center, and authorize the City Manager to sign the agreement substantially in the form as submitted.

**Background:**

The City of Des Moines was a founding partner of the Southwest King County Economic Development Initiative (SKCEDI) dedicated to collaboration related to the economic development of Southwest King County and to working together to solve the economic development issues common to its members. The Small Business Development Center is one example of this cooperation and it has been kept solvent and effective since its inception in large part due to each partners' commitment to funding. That funding commitment is an investment in the community and in area-wide economic development.

**Alternatives:**

The Council may decide not to enter into the agreement, or may approve the agreement for 2020.

**Financial Impact:**

The 2020 contribution of \$12,000 is provided for in the 2020 budget.

**Recommendation/Conclusion:**

Staff recommends approval of the Interagency Agreement.

**Concurrence:**

The Legal and Finance Departments recommend approval of this Interagency Agreement.

## INTERAGENCY AGREEMENT

Between

STATE OF WASHINGTON

HIGHLINE COLLEGE

and

CITY OF DES MOINES

**THIS AGREEMENT** is made and entered into by and between **HIGHLINE COLLEGE, PO BOX 98000 MS 99-104, DES MOINES, WA 98198**, hereinafter referred to as "**HIGHLINE COLLEGE**," and the **CITY OF DES MOINES, 21630 11<sup>TH</sup> AVE S. SUITE D, DES MOINES, WA 98198** hereinafter referred to as the "**CITY OF DES MOINES**".

**IT IS THE PURPOSE OF THIS AGREEMENT** to provide partnership and support for the community through the efforts of the Small Business Development Center and to provide complimentary business development services and resources to small to medium sized businesses.

**THEREFORE, IT IS MUTUALLY AGREED THAT:**

### STATEMENT OF WORK

To provide partnership and support for the community through the efforts of the Small Business Development Center (SBDC) and to provide complimentary business development services and resources to small to medium sized businesses.

### PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on **January 1, 2020**, and be completed on **December 31, 2020**, and will be renewed automatically on an annual basis unless terminated as specified in the termination clause of this agreement by either party.

### PAYMENT

Compensation for the work provided in accordance with this agreement has been established under the terms of RCW 39.34.130. The parties have estimated that the cost of accomplishing the work herein will not exceed **\$12,000.00 annually**. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount prior to the commencement of any work which will cause the maximum payment to be exceeded.

### BILLING PROCEDURE

Highline College shall submit invoices **automatically on an annual basis**. Payment to the **Highline College** for approved and completed work will be made by warrant or account transfer by the **City of Des Moines** within 30 days of receipt of the invoice. Upon expiration of the contract, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

### RECORDS MAINTENANCE

The parties to this contract shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of

the services described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, 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 and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

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 it 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.

### **RIGHTS IN DATA**

Unless otherwise provided, data which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by **Highline College**. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

### **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.

### **AGREEMENT ALTERATIONS AND AMENDMENTS**

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

### **TERMINATION**

Either party may terminate this Agreement upon 30 days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

### **TERMINATION FOR CAUSE**

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

### **DISPUTES**

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

**GOVERNANCE**

This contract 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.

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:

- a. applicable state and federal statutes and rules;
- b. statement of work; and
- c. any other provisions of the agreement, including materials incorporated by reference.

**ASSIGNMENT**

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

**INDEMNIFICATION**

Each party to this agreement will be responsible for the negligent acts or omissions of its own employees, officers, or agents in the performance of this Agreement. Neither party will be considered the agent of the other and neither party assumes any responsibility to the other party for the consequences of any act or omission of any person, firm, or corporation not a party to this Agreement.

**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 unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

**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.

**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.

**CONTRACT MANAGEMENT**

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

**Highline College:**

All correspondence and notices related to this agreement shall be delivered or mailed to the Economic Development Program Executive Director, Rich Shockley, Highline College, PO Box 98000 MS 99-104, Des Moines, WA 98198.

**City of Des Moines:**

Communications and billing contact person shall be Michael Matthias, City Manager, 21630 11<sup>th</sup> Ave S, Suite D, Des Moines, WA 98198

**IN WITNESS WHEREOF, the parties have executed this Agreement.**

State of Washington  
Highline College  
Michael Pham

City of Des Moines  
Michael Matthias

By:   
Title: VP for Administration  
Date: Jan 31, 2020

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

# A G E N D A I T E M

## BUSINESS OF THE CITY COUNCIL City of Des Moines, WA

SUBJECT: Draft Ordinance No. 20-013:  
Establishing a Custodial Fund and an Affordable  
Housing Sales Tax Fund in Title 3

ATTACHMENTS:

1. Draft Ordinance No. 20-013

FOR AGENDA OF: February 27, 2020

DEPT. OF ORIGIN: Finance

DATE SUBMITTED: February 12, 2020

CLEARANCES:

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

CHIEF OPERATIONS OFFICER: \_\_\_\_\_

- Legal *JS*
- Finance *SAW*
- Courts \_\_\_\_\_
- Police \_\_\_\_\_

APPROVED BY CITY MANAGER

FOR SUBMITTAL: *DJB M.M.*  
*FOR M.M.*

### Purpose and Recommendation

The purpose of this Draft Ordinance to provide authorization for the creation of two new funds. The first fund, the "Custodial Fund" is required due to a change made by the Government Accounting Standards Board Statement No. 84. The second fund, the "Affordable Housing Sales Tax Fund" is recommended due to the restricted nature of the tax credit revenue the City Council authorized on November 14, 2019.

### Suggested Motion

**Motion 1:** "I move to suspend Rule 26(a) in order to enact Draft Ordinance No. 20-013 on first reading."

**Motion 2:** "I move to adopt Draft Ordinance No. 20-013, establishing a Custodial Fund and an Affordable Housing Sales Tax Fund in Title 3."

## **Background**

Title 3 of the Des Moines Municipal Code (DMMC) authorizes and provides the legal definition of “funds” used for budgeting and reporting City financial activity. Title 3 DMMC currently has separate chapters for certain categories of funds (e.g. “Special Revenue Fund” DMMC 3.51 and “Funds” DMMC 3.48).

## **Discussion**

The City of Des Moines prepares a Comprehensive Annual Financial Report (CAFR) in accordance with generally accepted accounting principles and in conformance with financial reporting standards issued by the Governmental Accounting Standards Board (GASB).

The Government Accounting Standards Board issued Statement No. 84 that made changes to the fiduciary fund classification, which includes activities that need to be reported in custodial funds. The City of Des Moines holds assets that are for the benefit of individuals, organizations, or other governments that are not part of the City’s financial transaction, which requires us to account and report these assets in a custodial fund. An example is the City of Normandy Park contracts with the City of Des Moines for municipal court services. The money collected by Des Moines Municipal Court and held on behalf of the City of Normandy Park needs to be accounted and reported in a Custodial Fund.

Additionally, on November 14, 2019, the City Council passed Ordinance No. 1726, imposing a sales and use tax for affordable and supportive housing in accordance with RCW 84.14.540. Due to the restrictive nature of this sales tax credit, it is recommended to account for the receipt and payment of these funds from a new Special Revenue Fund named “Affordable Housing Sales Tax Fund.” The revenue and expenditure appropriations for \$30,000 will need to be moved from the General Fund to the new Affordable Housing Sales Tax Fund. This will be included in a budget amendment for the 2020 Budget and brought to City Council later this year.

## **Alternatives**

City Council could postpone or not adopt the ordinance to create the two new funds. Postponing or not passing this Ordinance will result in financial statements that do not conform to generally accepted accounting principles and could result in an audit finding.

## **Recommendation**

Staff recommends that the City Council adopt Draft Ordinance No. 20-013.

**CITY ATTORNEY'S FIRST DRAFT 2/6/2020****DRAFT ORDINANCE NO. 20-013**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to municipal finance, adding and codifying a new section in Chapter 3.48 DMMC establishing a "Custodial Fund" and adding and codifying a new section in chapter 3.51 DMMC establishing an "Affordable Housing Sales Tax Fund".

**WHEREAS**, the City of Des Moines prepares its Comprehensive Annual Financial Report in accordance with generally accepted accounting principles and in conformance with financial reporting standards issued by the Governmental Accounting Standards Board; and

**WHEREAS**, generally accepted accounting principles define what activities are accounted for in custodial funds and special revenue funds; and

**WHEREAS**, the City Council authorizes the creation, changes and deletions of funds; and

**WHEREAS**, from time to time new funds are necessary to track new activities and to comply with new accounting standards; and

**WHEREAS**, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (chapter 338, Laws of 2019) now codified in RCW 82.14.540; and

**WHEREAS**, RCW 82.14.540 authorizes the governing body of a city with population of 100,000 or less to impose a local sales and use tax for the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing; for the operations and maintenance costs of affordable or supportive housing; or for providing rental assistance to tenants; and

**WHEREAS**, the tax is considered to be restricted revenue subject to reporting requirements and audit review for compliance; and

**WHEREAS**, on November 14, 2019, the City Council passed Ordinance No. 1726, imposing a sales and use tax for affordable and supportive housing in accordance with RCW 84.14.540, fixing the rate of the tax, defining the permissible uses of the

proceeds of the tax, setting an expiration date, and adding and codifying a new chapter to Title 3 DMMC entitled "Additional Sales and Use Tax for Affordable and Supportive Housing"; and

**WHEREAS**, there is a need to create a new fund entitled "Affordable Housing Sales Tax Fund"; and

**WHEREAS**, Government Accounting Standards Board Statement No. 84 made changes to the fiduciary fund classification, which includes activities to be reported in custodial funds; and

**WHEREAS**, the City of Des Moines holds assets that are for the benefit of individuals, organizations, or other governments that are not part of the City's financial transactions which requires for these assets to be accounted for in a custodial fund; and

**WHEREAS**, the City Council finds that the amendments 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.** A new section is added to Chapter 3.48 DMMC to read as follows:

**3.48.160. Custodial Fund**

- (1) There is created a "Custodial Fund."
- (2) The purpose of the fund is for the receipt and expenditure of all moneys received by the City that are held in a trustee capacity or as a custodian for individuals, private organizations, other governments, or other funds.

**Sec. 2.** A new section is added to Chapter 3.51 DMMC to read as follows:

**3.51.113 Affordable Housing Sales Tax Fund**

- (1) There is created an "Affordable Housing Sales Tax Fund."

- (2) The purpose of the fund is for the receipt and expenditure of all moneys received by the City in distribution of the tax collected pursuant to this Chapter, in accordance with RCW 82.14.540.
- (3) Moneys in the fund shall be used only for the purposes set forth in chapter 3.112 DMMC.

**Sec. 3. Ratification, confirmation, and approval.** All acts undertaken prior to the effective date of this Ordinance that are consistent with the intent and purpose of same are hereby ratified, confirmed, and approved.

**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 five (5) days after its final passage by the Des Moines City Council in accordance to law.

**PASSED BY** the City Council of the City of Des Moines this 27th day of February, 2020 and signed in authentication thereof this 27th day of February, 2020.

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M A Y O R

APPROVED AS TO FORM:

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City Attorney

ATTEST:

---

City Clerk

Published: \_\_\_\_\_





# SOUND TRANSIT

## FEDERAL WAY LINK EXTENSION (FWLE)

PROJECT UPDATE BY

CITY STAFF, SOUND TRANSIT, AND KIEWIT

Dan Brewer, City of Des Moines, Chief Operations Officer

Dan Abernathy, Sound Transit, Executive Project Director

Robert Nichols, Sound Transit, Design Manager

Erik Nelson, Kiewit, Project Manager

February 27, 2020



# PROJECT HISTORY

We have come along way

# WORKING AGREEMENTS

We are fulfilling our Agreements

# PROJECT TEAM IS WELL COORDINATED

We are working well together

# CONSTRUCTION HAS STARTED

We are under way



February 27, 2020



# ***Federal Way Link Extension***

*Des Moines City Council*

*February 27<sup>th</sup>, 2020*





# System Expansion

## Link light rail

- 116-mile regional system
- 49 new stations
- Connecting Federal Way, Tacoma, Everett, Bellevue, Ballard and West Seattle

## Sounder south commuter rail

- Parking and access improvements
- Platform extensions

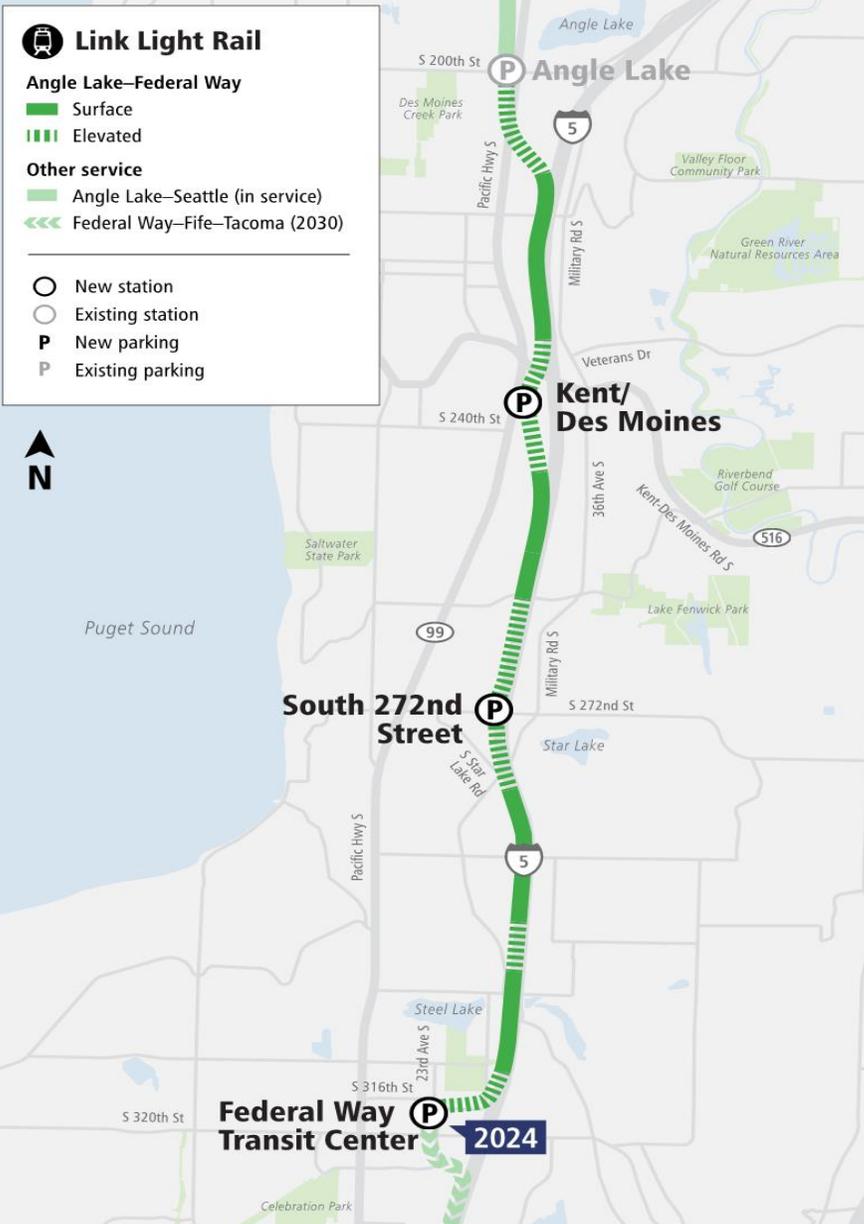
## Bus

- Bus Rapid Transit serving 12 cities, in the I-405, SR 522 and SR 518 corridors
- Bus-on-Shoulder opportunities: I-5, I-405, SR 518, SR 167

# Federal Way Link Extension

## Angle Lake to Federal Way

- Length: 7.8 Miles
- Stations: 3 (+3 parking garages)
- Daily Projected Riders: 36,500 (2035)



# Kent/Des Moines station concept

- 500 space garage
- New street grid
- Large plaza with landscaping, seating and public art







# Existing Condition – S.216<sup>th</sup> St. looking south on I-5



**DRAFT**

*For illustration and discussion purposes only.*

# Proposed Condition – S.216<sup>th</sup> St. looking south on I-5



**DRAFT**

*For illustration and discussion purposes only.*

# Existing Condition – Midway Park (S. 221<sup>st</sup> St.) looking east



**DRAFT**

*For illustration and discussion purposes only.*

# Proposed Condition – Midway Park (S. 221<sup>st</sup> St.) looking east



**DRAFT**

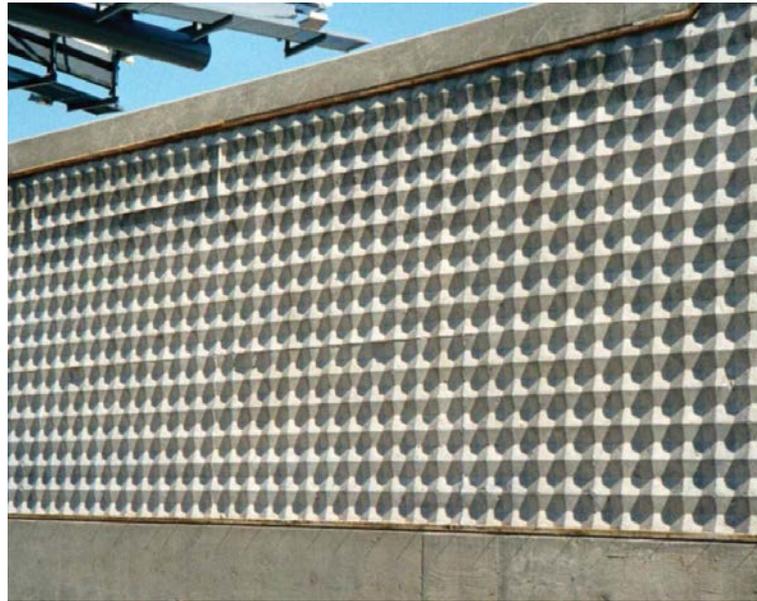
*For illustration and discussion purposes only.*

# Federal Way Link Extension Timeline



# *Final Design preview*

## *Noise wall design finalization*



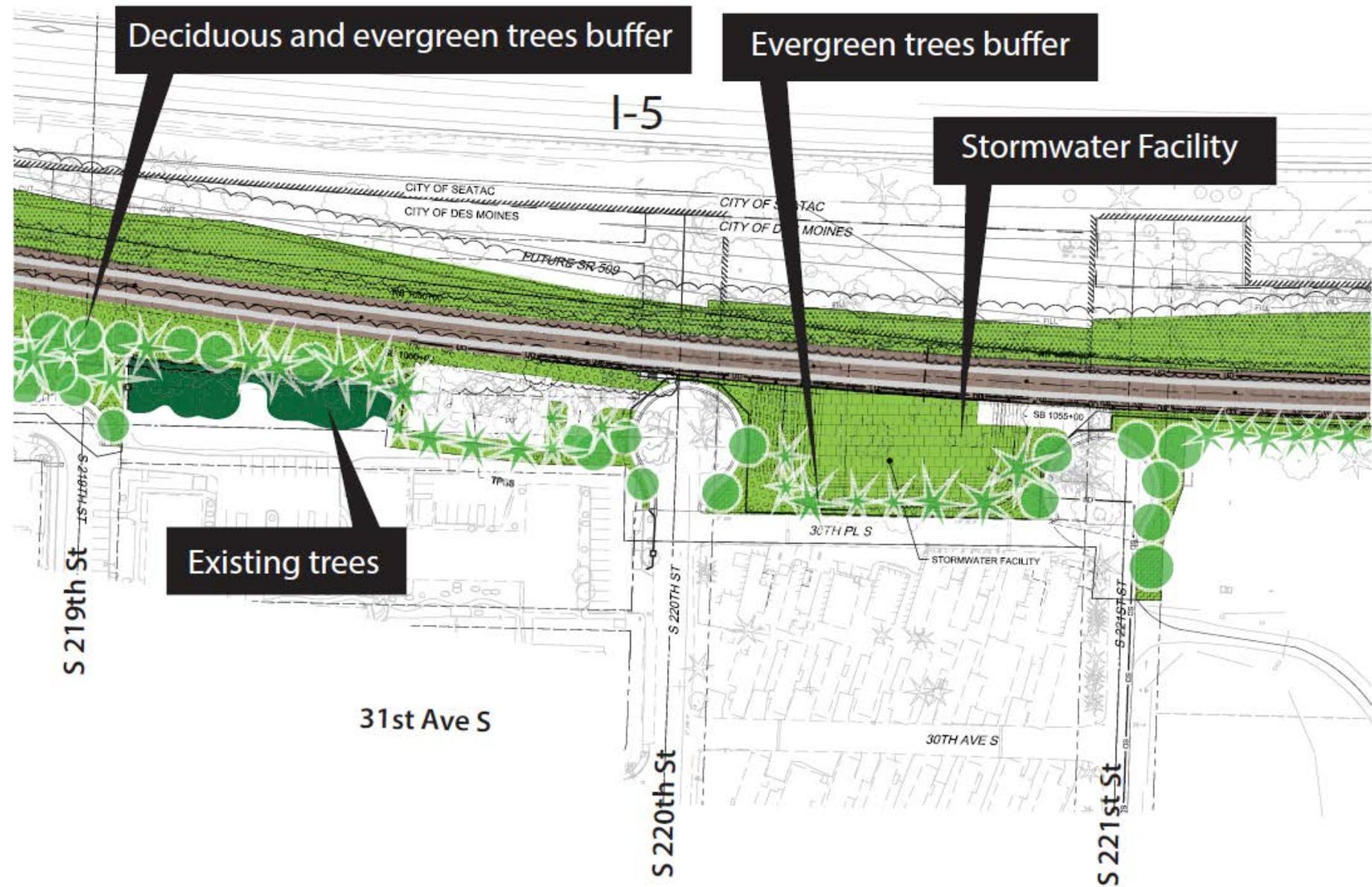
# *Final Design preview*

## *Vegetation design finalization*





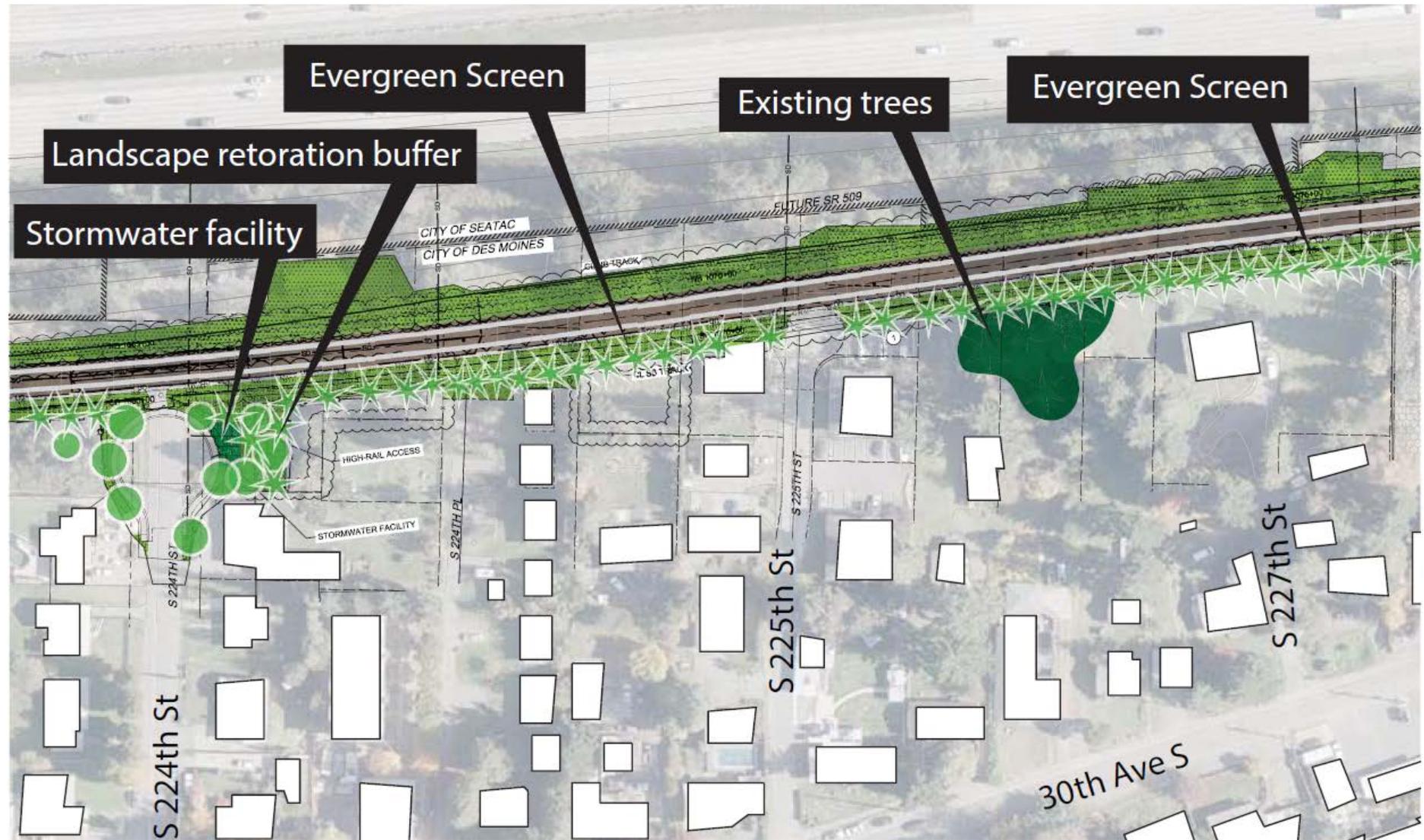
# Landscape Mitigation: S. 219<sup>th</sup> St. to S. 221<sup>st</sup> St.



**DRAFT**

*For illustration and discussion purposes only.*

# Landscape Mitigation: S. 224<sup>th</sup> St. to S. 227<sup>th</sup> St.



**DRAFT**

*For illustration and discussion purposes only.*

# *Design-Build Contractor*



# **Kiewit**

# *Who We Are*

- *135-year old design and construction company*
- *Founded in 1884 Omaha, Nebraska*
- *Peter Kiewit, a bricklayer*
- *Two generations, family-owned, then broad-based employee ownership*
- *Over 75 years working in the State of Washington*

# Tacoma Narrows Bridge - 2007



# Fort Lewis Barracks - 1939



# *SR 520 Floating Bridge - 2017*



# *Kiewit's Sound Transit Experience*

- *Maintenance Facility (Central Link)*
- *Bellevue to Redmond (East Link)*
- *Seattle to Bellevue (East Link)*
- *Northgate to Lynnwood (Lynnwood Link)*

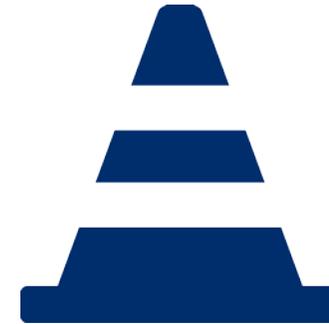
# *Construction preview: Work starting soon!*

## *Winter/Spring 2020*

- Geotechnical Investigations
- Structure demolition
- Utility relocations
- Clearing and grading
- Tree removal

## *Summer/Fall 2020*

- Light rail construction



# *Construction preview*

## *Typical work hours:*

Monday – Friday

7 am - 7 pm

(periodic night and weekend work will be necessary)

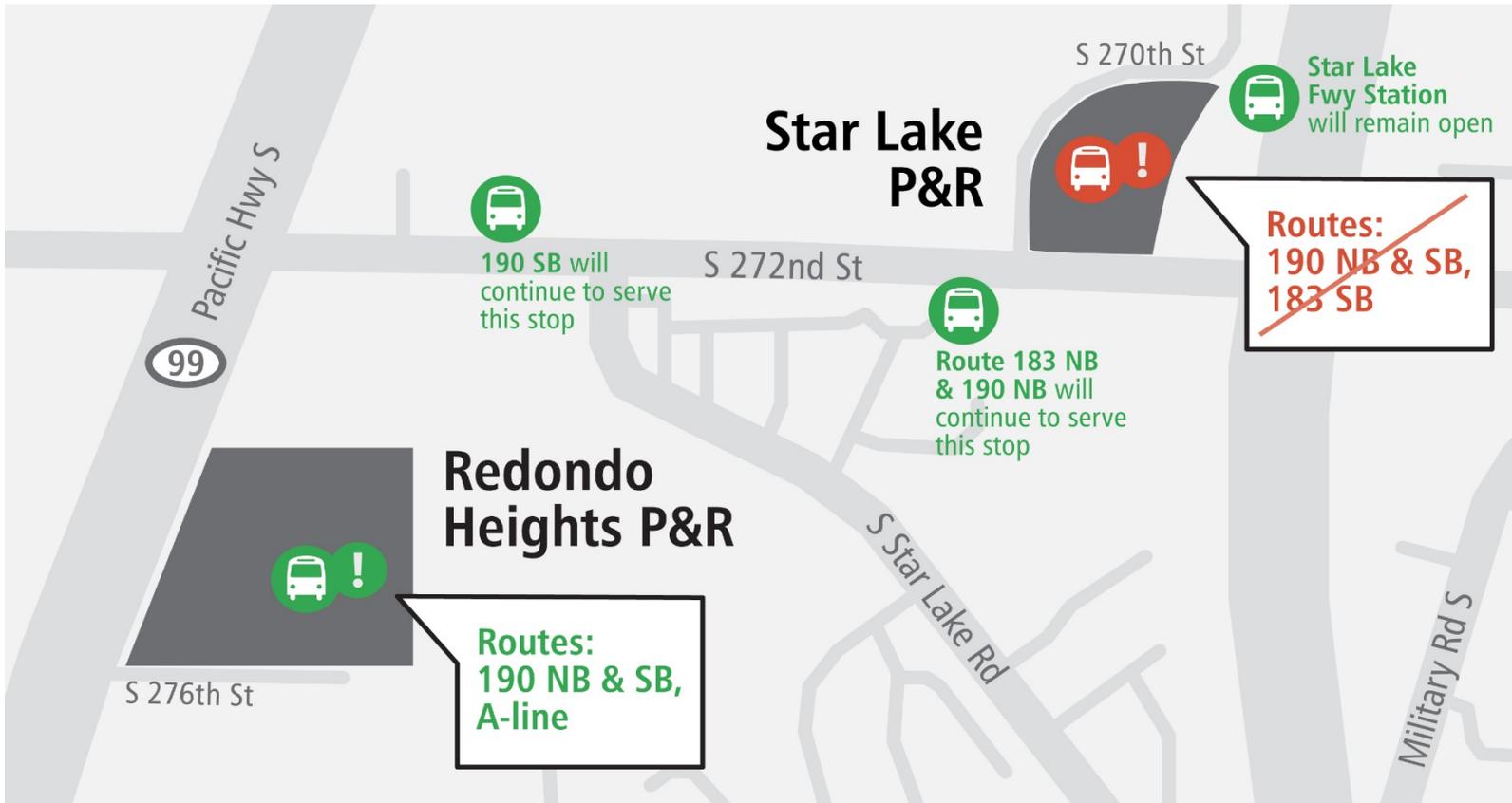
## *Construction Hotline:*

24-hour service for reporting construction issues

1-888-298-2395



# Star Lake Park & Ride Ride Changes



- Spring 2020 – Park and ride is temporarily relocated to the Redondo Park and Ride
- 2024 – S. 272nd Street station area opens, with new bus loop and surface parking lot

# Upcoming work Start March/April 216<sup>th</sup> to 221<sup>st</sup> work area



# Upcoming work Start April/May 221<sup>st</sup> to SR516 work area



# *Our commitment to you*



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[soundtransit.org/subscribe](https://soundtransit.org/subscribe)



***Community Outreach Specialist***

Jefferson Rose

206-370-5568 – available Mon – Fri 8am-5pm

[Jefferson.Rose@SoundTransit.org](mailto:Jefferson.Rose@SoundTransit.org)



***Construction Hotline***

1-888-298-2395 – available 24 hours, 7 days a week

Thank you.

*Thank you.*



 [soundtransit.org/fwlink](https://soundtransit.org/fwlink)



# UPDATE ON AVIATION ISSUES

- ▶ Temporary withdrawal from the Sea-Tac Aviation Round Table (StART).
- ▶ In July, 2019, the Port Commission passed design work for several projects associated with the Sustainable Airport Master Plan.
- ▶ Several Cities, including Burien, Des Moines and Federal Way felt this action undermined our Cities' trust in the StART process and therefore we temporarily suspended participation in the StART.
- ▶ In fact, actions taken by the Port, out of context with the SAMP, are part of a larger issue our City has formally commented on of the Port dividing up the SAMP and not identifying cumulative impacts.

# PROCESS

- ▶ In September, 2019, Cities of Burien, Des Moines and Federal Way held a joint Aviation Advisory Committee meeting to review the Cities status with regards to StART.
- ▶ In November a follow up joint meeting was held and identified outstanding issues associated with the StART.
- ▶ In December a meeting was held at the Port with the Mayors, City Managers, several Port Commissioners, Port Executive Director Metruck and Aviation Director Lance Lyttle to discuss the Cities concerns.
- ▶ A follow up meeting was held in January, 2020, between City Managers and Aviation Director Lyttle to once again review any opportunities for progress coming from the StART.

# SUMMARY

- ▶ This briefing tonight will serve as the foundation to a more extensive discussion I would like to hold with Council on March 12<sup>th</sup>, at which time City Council can review appropriate action relative to the possibility of rejoining the StART process.
- ▶ Other Cities, including Burien and Federal Way are holding similar briefings with their City Council's to determine their Cities appropriate action.