

RESOLUTION NO. 1356

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DES MOINES, WASHINGTON, amending the Des Moines City Council Rules of Procedure ("Rules") adopted on April 26, 2012, to change the title of Mayor Pro Tempore to Deputy Mayor, regulate telephonic communication, amend public comment requirements, update outdated provisions, and correct references to state law.

WHEREAS, DMMC 4.12.030 provides that the rules "...may be amended or new rules may be adopted by an affirmative vote of at least a majority of the whole membership of the council," and

WHEREAS, DMMC 4.12.030 further provides that "...[a]ny such amendments or new rules shall be submitted in resolution form at a regular meeting and shall be placed on the council agenda under order of new business," and

WHEREAS, a vote of the Council to adopt a resolution amending the Council Rules shall occur at a subsequent regular meeting, and

WHEREAS, a comprehensive review of the Rules was conducted and the City Council finds that the amendments proposed are necessary and appropriate; now therefore,

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

**Sec. 1.** The Des Moines City Council Rules of Procedure, Updated April 26, 2012 by Resolution No. 1189, is hereby amended as follows:

The term "Deputy Mayor" shall be substituted for the term "Mayor Pro Tempore" in all instances throughout the Rules where the term "Mayor Pro Tempore" currently exists.

(Res. No. 1356, 2017)

**Sec. 2.** The Des Moines City Council Rules of Procedure, Updated April 26, 2012 by Resolution No. 1189, is hereby amended to add Rule 7.1 as follows:

**PARTICIPATION BY TELEPHONIC COMMUNICATION**

**RULE 7.1.** A Councilmember may participate telephonically in all or part of a Council meeting under the following conditions:

(1) Prior approval shall be given by the Mayor for good cause, whose approval shall not be unreasonably withheld.

(2) "Good Cause" is defined as:

(a) Medical reasons that prevent a Councilmember from attending the meeting in person.

(b) Family emergency.

(c) Unexpected travel.

(d) Additional unanticipated event that prevents a Councilmember from attending the meeting in person through no fault of the Councilmember.

(3) Telephonic participation for each Councilmember shall be limited to three (3) Council meetings in a calendar year.

(4) Telephonic participation shall be limited to one (1) Councilmember per meeting. Priority will be given to the first Councilmember to request prior approval and who meets the requirements under this Rule.

(5) A Councilmember participating telephonically in the meeting must be able to hear and be heard.

(6) The Councilmember participating telephonically shall have reviewed all of the applicable material and participated in the relevant portion of the Council Meeting related to the topic to which the Councilmember is voting on. Any

technical prohibitions or difficulties that prevent all parties present at the Council meeting from adequately communicating with one another will negate any authorization previously given by the Mayor.

(7) The Councilmember attending telephonically shall notify the Council if he or she is about to disconnect from the call.

(8) A Councilmember who is attending telephonically shall be considered to be actually present at the meeting for the period of time he or she is connected, and that presence shall count toward a quorum of the Council for all purposes and shall also entitle the Councilmember to vote. A Councilmember voting telephonically may be polled separately to ensure their vote is tallied correctly.

(9) In the event the Mayor seeks to attend a meeting telephonically, the Mayor shall seek prior approval from the Deputy Mayor. If approval is granted, the Deputy Mayor shall act as the Presiding Officer for the meeting.

(Res. No. 1356, 2017)

**Sec. 3.** Rule 20(f) of the Des Moines City Council Rules of Procedure, Updated April 26, 2012 by Resolution No. 1189, is hereby amended as follows:

#### **ORDER OF BUSINESS AND PUBLIC COMMENT RULES**

##### **RULE 20.**

....

(f) Comments from the public (non-public hearing topics). Public comments are encouraged and appreciated. The information and advice received from citizens helps the City Council make the best possible decisions.

(1) Procedure.

(A) Citizens are encouraged to supplement verbal comments through written submittals.

(B) All citizens desiring to address Council during the Public Comment period shall first fill out a sign-in sheet, stating their name, address, and public comment topic, and the sign-in sheet shall be submitted to the City Clerk prior to the start of Public Comments.

(2) Scope of Comments.

(A) Subjects not on the current agenda. Any member of the public may request time to address the Council after first stating their name, and City of residence. The Presiding Officer may then allow the comments subject to such time limitations as referenced in Rule 20(f)(3)(A) or as the Presiding Officer deems necessary. Following such comments the Presiding Officer may place the matter on the current agenda or a future agenda, or refer the matter to administration or a Council committee for investigation and report.

(B) Subjects on the current agenda. Any member of the public who wishes to address the Council on an item on the current agenda shall make such request to the Presiding Officer at the time when comments from the public are requested. The Presiding Officer shall rule on the appropriateness of public comments as the agenda item is reached. The Presiding Officer may change the order of speakers so that testimony is heard in the most logical groupings (i.e.) proponents, opponents, adjacent owners, vested interests, etc.).

(C) Subjects of a Public Hearing. Comments made during the Public Comment period on a topic set for a public hearing by the City Council shall be out of order. To ensure a fair hearing to

applicants or matters that are subject to a public hearing before the City Council, the Presiding Officer may rule public comments made outside the scope of a public hearing record to be out of order.

(D) Any ruling by the Presiding Officer relative to the preceding two subsections may be overruled by a vote of a majority of members present.

(3) Rules of Conduct. A minimum number of basic rules are established to ensure that all individuals wishing to address the City Council are fairly heard.

(A) Each person addressing the Council shall step up to the indicated speakers table, give his or her name and city of residence and shall limit comments to three (3) minutes. Groups may be allotted five (5) minutes by the Presiding Officer.

(B) Except where permission is granted by the Presiding Officer, all remarks shall be made only from the designated speaking table and addressed to the Council as a body and not to individual members, the audience or the television cameras.

(C) The Presiding Officer or designee shall notify the individual when the allotted time has expired and the speaker shall promptly conclude his or her remarks. All speakers are encouraged to submit supplemental or detailed written remarks for Council consideration.

(D) Any person making personal, impertinent, or slanderous remarks, or who becomes boisterous, threatening, or personally abusive while addressing the Council, may be ordered to leave the meeting. The Presiding Officer has the authority and duty to preserve order at all meetings of the Council, to cause the removal of any person from any

meeting for disorderly conduct and to enforce these rules.

(E) The Presiding Officer may rule "out of order" any comment made with respect to a quasi-judicial matter pending before the Council or its Boards or Commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

(F) Any person whose comments have been ruled out of order by the Presiding Officer shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from personal, inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the Presiding Officer may subject the individual to removal from the Council Chambers.  
(Amended by Res. No. 1356, 2017)

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**Sec. 4.** Rule 21(b) of the Des Moines City Council Rules of Procedure, Updated April 26, 2012 by Resolution No. 1189, is hereby amended as follows:

#### **ACTIONS FOR A PUBLIC HEARING**

##### **RULE 21**

...

(b) The Presiding Officer introduces the agenda item, opens the public hearing, and provides a summary of the following Rules of Order and/or advises the public that they may have a copy of such rules, which shall be available with other agenda materials regularly made available to the public at each Council meeting.

(1) "All comments by proponents, opponents, or the public shall be made from the speaker's rostrum and any individual making comments

shall first give their name and city of residence. This is required because an official recorded transcript of the public hearing is being made. If there is any appeal to King County Superior Court, the court must make its decision on the basis of what was said here."

(2) "It is not necessary to be a proponent or opponent in order to speak. If you consider yourself neither a proponent nor opponent, please speak during the proponent portion and identify yourself as neither a proponent nor an opponent."

(3) "No comments shall be made from any other location, and anyone making "out of order" comments shall be subject to removal from the meeting."

(4) "There will be no demonstrations during or at the conclusion of anyone's presentation."

(5) "These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising their right of free speech."

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(Amended by Res. 571, 1989, amended by Res. 894, 2000, amended by Res. 1140, 2011, amended by Res. 1356, 2017).

**Sec. 5.** Rule 36 of the Des Moines City Council Rules of Procedure, Updated April 26, 2012 by Resolution No. 1189, is hereby amended as follows:

#### **VIDEO RECORDING AND BROADCAST**

**RULE 36.** All public meetings of a quorum of the City Council not exempt from the Open Public Meetings

Act held at Des Moines City Hall at 21630 11th Avenue South should be video recorded and cablecast within the City. (Res. 772, 1994, amended by Res. 1140, 2011, amended by Res. 1189, 2012, amended by Res. 1356, 2017).

**Sec. 6. REFERENCES TO DES MOINES MUNICIPAL CODE (DMMC) AND REVISED CODE OF WASHINGTON (RCW)** of the Des Moines City Council Rules of Procedure, Updated April 26, 2012 by Resolution No. 1189, are replaced with the following:

**REFERENCES TO DES MOINES MUNICIPAL CODE (DMMC) AND REVISED CODE OF WASHINGTON (RCW)**

**DMMC 4.04.010 Council Meetings - City Hall Location.**

All meetings of the City Council shall be held at 21630 11th Avenue South, which is designated as the location of the City Hall, except that, when necessary, the City Council may hold meetings at other places.

**DMMC 4.04.020 Council Meetings - Time.**

(1) The regular meetings of the City Council are held every Thursday, with the meetings convening at 7:00 p.m.; except when the regular meeting date falls on a legal holiday the meeting is canceled and the City Council shall not meet.

(2) The Presiding Officer may cancel a regular meeting at the Presiding Officer's discretion as the business of the City Council requires; except the City Council shall meet at least once each month.

**RCW 35A.12.050 and 12.060 Forfeiture of Office.**

The office of a Mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of Mayor or in the council shall be filled as provided in chapter 42.12 RCW. An incumbent councilmember is eligible to be appointed to fill a vacancy in the office of Mayor. A Councilmember shall forfeit his office if he fails to attend three consecutive regular meetings of the Council without being excused by the Council.

**RCW 35A.13.020 Election of Councilmembers- Eligibility - Terms - Vacancies - Forfeiture of Office - Council Chair.**

In council-manager code cities, eligibility for election to the Council, the manner of electing Councilmembers, the numbering of council positions, the terms of Councilmembers, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a Mayor pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060 and 35A.12.065 relating to the council of a code city organized under the Mayor-council plan, except, that in council-manager cities where all council positions are at-large positions, the City Council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one shall be the Council Chair and shall carry out the duties prescribed by RCW 35A.13.030.

**RCW 42.30.080 Special Meetings.**

A special meeting may be called at any time by the Presiding Officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, by fax, or by electronic mail to each member of the governing body.

Written notice shall be deemed waived in the following circumstances:

(a) A member submits a written waiver of notice with the clerk or secretary of the governing body at or prior to the time the meeting convenes. A written waiver may be given by telegram, fax, or electronic mail; or

(b) A member is actually present at the time the meeting convenes.

(2) Notice of a special meeting called under subsection (1) of this section shall be:

(a) Delivered to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of such special meeting or of all special meetings;

(b) Posted on the agency's web site. An agency is not required to post a special meeting notice on its web site if it (i) does not have a web site; (ii) employs fewer than ten full-time equivalent employees; or (iii) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site; and

(c) Prominently displayed at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location.

Such notice must be delivered or posted, as applicable, at least twenty-four hours before the time of such meeting as specified in the notice.

(3) The call and notices required under subsections (1) and (2) of this section shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body.

(4) The notices provided in this section may be dispensed with in the event a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage.

**RCW 42.30.090 Adjournments.**

The governing body of a public agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the governing body may declare the meeting adjourned to a stated time and place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.030.080 for special meetings, unless such notice is waived as provided for special meetings. Whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to

state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

**RCW 42.30.110 Executive Sessions.**

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting.

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when the governing body elects to take final action hiring, setting the salary or an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective

office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency;

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public.

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition,

or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the Presiding Officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the Presiding Officer.

**RCW 42.30.140 Chapter Controlling - Application.** If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: Provided, that this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation or profession or to any disciplinary proceedings involving a member of such business, occupation or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4) (a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) That portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

**RCW 42.36.010 Local Land Use Decisions.**

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

**RCW 42.36.040 Public Discussion by Candidate for Public Office.**

Prior to declaring as a candidate for public office or while campaigning for public office as defined by RCW 42.17A.005 no public discussion by expression of an opinion by a person subsequently elected to a public office, on any pending or proposed quasi-judicial actions, shall be a violation of the appearance of fairness doctrine.

**RCW 42.36.050 Campaign Contributions.**

A candidate for public office who complies with all provisions of applicable public disclosure and ethics laws shall not be limited from accepting campaign contributions to finance the campaign, including outstanding debts; nor shall it be a violation of the appearance of fairness doctrine to accept such campaign contributions.

**RCW 42.36.060 Quasi-judicial Proceedings - Ex Parte Communications Prohibited, Exceptions.**

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

(1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

(2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and his or her elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

**REFERENCES TO RESOLUTION NO. 1118 - POLICIES GOVERNING CITY  
COUNCIL PARTICIPATION IN PUBLIC CONTRACTS**

1. **Interlocal Agreements**. Chapter 39.34 RCW requires the governing bodies of participating public agencies to take appropriate action by ordinance, resolution or otherwise before interlocal agreements may enter into force. All interlocal agreements should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.

2. **Franchise Agreements**. Franchise agreements such as Comcast, PSE, water, sewer, and the like require City Council approval. Franchise agreements should be referred to an Ad Hoc Council Committee for the study and recommendation prior to presentation to the City Council for approval.

3. **Public Works (small works roster)**.

(a) MRSC rosters. The City wishes to contract with the Municipal Research and Services Center of Washington (MRSC) to adopt for City use those state-wide electronic databases for small works roster and consulting services developed and maintained by MRSC and authorizes the City Manager to sign that contract. In addition, paper and/or electronic rosters may be kept on file by appropriate City departments.

(b) Small works rosters. The following small works roster procedures are established for use by the City pursuant to RCW 39.04.155:

(i) Cost. The City need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair or improvement of real property where the estimated cost does not exceed Three Hundred Thousand Dollars (\$300,000.00), which includes the costs of labor, material, equipment, and sales and/or use taxes as applicable. Instead, the City may use the small works roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process.

(ii) Publication. At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. Responsible contractors shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a small works roster.

(iii) Telephone or written quotations. The City shall obtain telephone, written, or electronic quotations for public works contracts from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1) and may establish supplementary bidder criteria under RCW 39.04.350(2).

(A) A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

(B) Quotations may be invited from all

appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five (5) contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the City may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

If the estimated cost of the work is from One Hundred Fifty Thousand Dollars (\$150,000.00) to Three Hundred Thousand Dollars (\$300,000.00), the City may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The City has the sole option of determining whether this notice to the remaining contractors is made by:

(1) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done;

(2) Mailing a notice to these contractors; or

(3) Sending a notice to these contractors by facsimile or email.

(C) At the time bids are solicited, the City representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.

(D) A written record shall be made by the City representative of each contractor's bid on the project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

(c) Limited public works process.

(i) If a work, construction, alteration, repair, or improvement project is estimated to cost less than Thirty-Five

Thousand Dollars (\$35,000.00), the City may award such a contract using the limited public works process provided under RCW 39.04.155(3). For a limited public works project, the City will solicit electronic or written quotations from a minimum of three (3) contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 39.04.010. After an award is made, the quotations shall be open to public inspection and available by electronic request.

(ii) For limited public works projects, the City may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, materialmen, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project. However, the City shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

(iii) The City shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four (24) months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded.

(iv) Determining the lowest responsible bidder. The City Council shall award the contract for the public works project to the lowest responsible bidder provided that, whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the City may call for new bids. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 133, Laws of 2007 (SHB 2010) and who meets any supplementary bidder responsibility criteria established by the City.

(v) Award. The City Manager or his designee shall present all telephonic quotations/bids, and recommendation for award of the contract to the lowest responsible bidder to the City Council. However, for public works projects under Fifty Thousand Dollars (\$50,000.00), the City Manager shall have the

authority to award public works contracts without City Council approval. For public works projects over Fifty Thousand Dollars (\$50,000.00), the City Council shall award all public works contracts.

(c) Consulting services rosters.

(i) Consulting services. Consulting services are professional services that have a primarily intellectual output or product and include architectural and engineering services as defined in RCW 39.80.020.

(ii) Publication. At least once a year, on behalf of the City, MRSC shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the consulting services roster or rosters and solicit statements of qualifications from firms providing consulting services. Such advertisements will include information on how to find the address and telephone number of a representative of the City who can provide further details as to the City's projected needs for consulting services. Firms or persons providing consulting services shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The City may require master contracts to be signed that become effective when a specific award is made using a consulting services roster.

(iii) Professional architectural and engineering services. The MRSC rosters will distinguish between professional architectural and engineering services as defined in RCW 39.80.020 and other consulting services and will announce generally to the public the City's projected requirements for any category or type of professional or other consulting services. The City reserves the right to publish an announcement on each occasion when professional services or other consulting services are required by the agency and to use paper and/or other electronic rosters that may be kept on file by appropriate City documents.

**4. Public Works (Subject to Bid).** Public work projects exceeding \$300,000 (three hundred thousand dollars) are subject to bid laws and shall be processed in accordance with the Revised Code of Washington. After opening of bids, results shall be submitted to the Council Committee of origin for study and recommendation prior to being presented to the City Council for

approval and if there is no Council Committee of origin, shall be considered by the Council as a whole. Action taken by the City Council in awarding the bid and directing the City Manager to sign contracts should include authority granted to the City Manager to expend funds in the amount of the bid award plus ten percent.

**5. Purchase of Supplies, Material, Equipment, and Non-Professional Services.** For code cities of a population of 20,000 or greater there are no bidding requirements for purchases of supplies, material, equipment, or services which are not purchased in connection with a public work. For such purchases, the City Manager shall adopt written guidelines, subject to City Council approval, to ensure that purchases are made at the lowest possible price from a responsible vendor.

**6. Architectural and Engineering Services.** Chapter 39.80 RCW provides that in selecting architect and engineer consultants the City shall conduct discussions with one or more firms and shall select the firm deemed the most highly qualified to provide the services required for the proposed project. The Attorney General of the State of Washington has issued an opinion precluding cities from considering price when selecting architects and engineers, except for a final price negotiation after the most qualified architect or engineer has been selected. The following process shall govern awarding of contracts to architects or engineers:

(a) The City Manager shall advertise the architectural and engineering requirements;

(b) The City Manager shall thereafter enter into discussion with several firms and select the most qualified architect or engineer;

(c) The City Manager shall then negotiate the scope of work and price with the architect or engineer selected; and

(d) If the contract amount does not exceed \$50,000 and has been previously budgeted, the City Manager shall be authorized to sign a contract for such services without approval by the City Council or any committee thereof. If the contract amount exceeds \$50,000, the Contract should appear on the consent calendar, subject to removal in accordance with the City Council Rules of Procedure.

(e) In case of a disaster, emergency, or immediate City need, including assistance on Capital Improvement Program projects and general engineering services previously approved by the Council, the City Manager shall be authorized to sign Task Order Assignments on multi-year "on-call" civil engineering services consultant contracts, which have been previously approved by the

Council for services if the Task Order Assignment does not exceed \$50,000.

(f) The City Manager shall, as part of the City Manager's monthly report, provide the City Council with a list of contracts with consultants that have been approved by the City Manager pursuant to this resolution.

(g) The City Manager shall not allow task order assignments for a specific single project that cumulatively add up to an amount greater than \$50,000.00 without being approved by the City Council.

**7. Leases of City Real Property.** Leases of City real property are subject to review and approval by the City Council. The Mayor shall have discretion to submit any such lease to a standing or ad hoc committee for study and recommendation prior to being presented to the City Council for approval.

**8. Contracts for General Professional Services.** Contracts for general professional services, which do not involve architects or engineers, are not subject to the bid laws of the State of Washington. Examples of such services are computer consultants, financial consultants, management consultants, and the like. The process for awarding general professional services contracts shall be as follows:

(a) The City Manager shall research the persons and firms that are available to such professional services, taking into consideration recommendations from any source.

(b) The City Manager shall then negotiate a contract with the party selected, including scope of work and price.

(c) If the contract amount exceeds \$50,000, the contract should appear on the consent calendar, subject to removal in accordance with the *City Council Rules of Procedure*.

**9. Administrative Contracts.** Administrative contracts are contracts which do not fall into any other category described in this rule, and are for services previously budgeted by the City Council. Examples of administrative contracts are agreements with the Sexual Assault Center, VanGo, Senior Nutrition, D.A.W.N., and the like. The City Manager is authorized to execute administrative

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contracts, and the same shall not be subject to approval by the City Council or any committee thereof.

**ADOPTED BY** the City Council of the City of Des Moines, Washington this 9th day of March, 2017 and signed in authentication thereof this 9th day of March, 2017.

  
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M A Y O R

APPROVED AS TO FORM:

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

ATTEST:

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