

**FIRCREST CITY COUNCIL
REGULAR MEETING AGENDA**

**TUESDAY, APRIL 25, 2017
7:00 P.M.**

**COUNCIL CHAMBERS
FIRCREST CITY HALL, 115 RAMSDELL STREET**

1. **CALL TO ORDER BY PRESIDING OFFICER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **PRESIDING OFFICER'S REPORT**
 - A. Community Garden presentation by We Dig Fircrest and discussion/decision on a garden located either on Fircrest Park along Spring Street or on Whittier Park
 - B. [Liquor License renewal – Royal Thai Bistro](#)
5. **CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA**

(Please sign the **Public Attendance Roster/Public Hearing Sign-Up Sheet** if you wish to speak during the meeting.)
6. **COMMITTEE, COMMISSION & LIAISON REPORTS**
 - A. Water, Sewer, Storm
 - B. Street, Facilities & Equipment
 - C. Public Safety, Court
 - D. Pierce County Regional Council
7. **CONSENT CALENDAR**
 - A. Approval of vouchers/payroll checks
 - B. Approval of minutes: [April 11, 2017 Regular meeting](#)
[April 17, 2017 Special meeting](#)
 - C. Setting Budget Study Sessions for September 25, October 2, 9 and 23, 2017 at 6:00 p.m.
 - D. Setting a public hearing on October 10, 2017 at 7:15 p.m. to receive comments on revenue sources for the 2018 Budget including property taxes
 - E. Setting a public hearing on October 10, 2017 at 7:15 p.m. to receive comments on the Preliminary 2018 Budget
 - F. Setting a public hearing on October 24, 2017 at 7:15 p.m. to receive comments on the 2018 Budget
 - G. Setting January 16, February 20, March 19, April 16, May 21, June 18, July 16, August 20, September 17, October 15, November 19 and December 17, 2018 at 6:00 pm as special meeting study sessions
8. **PUBLIC HEARING 7:15 P.M.**
9. **UNFINISHED BUSINESS**
10. **NEW BUSINESS**
 - A. [Award of a contract to KPG, P.S., for design and bidding of the Traffic Signal Safety Improvement Project](#) – Public Works Director Wakefield
 - B. [Award of a contact to Pape & Sons Contractors, LLC in the amount of \\$411,685 for the Alameda Lift Station Project](#) – Public Works Director Wakefield
 - C. [Introduction of an ordinance authorizing emergency expenditure of funds for matters not foreseen at the time of filing the Preliminary Budget for 2017 and not provided for in the Annual Budget for 2017](#) – Finance Director Corcoran

11. **CITY MANAGER COMMENTS**
12. **DEPARTMENT HEAD COMMENTS**
13. **COUNCILMEMBER COMMENTS**
14. **EXECUTIVE SESSION**

15. **ADJOURNMENT**

COUNCIL MAY ADD AND TAKE ACTION ON OTHER ITEMS NOT LISTED ON AGENDA

Royal Thai Bistro Liquor License Renewal


FIRCREST CITY COUNCIL AGENDA SUMMARY

COUNCIL MEETING DATE: April 25, 2017

SUBJECT: Liquor License Renewal for the Royal Thai Bistro

FROM: Rick Rosenblatt, City Manager

Reviewed by:

 City Manager

 Finance Director

 City Attorney

RECOMMENDED MOTION: I move to register no objections to the liquor license renewal for the Royal Thai Bistro.

PROPOSAL: Council is being asked to approve a motion to register no objections to the liquor license renewal for the Royal Thai Bistro. There were no problems regarding liquor sales at this restaurant. Finance, Planning and Building and Police have expressed no concerns regarding renewing the license.

FISCAL IMPACT: None.

ADVANTAGES: Allows Council input on the license renewal.

DISADVANTAGES: None.

ALTERNATIVES: Council could recommend not approving the license.

HISTORY: The Washington State Liquor Control Board sent notification of the liquor license application. This allows the City the opportunity to make comments and recommendations regarding approval or disapproval to the Board. Unless Council has objections the license will be issued.

Attachment(s): Liquor License application documents from the Washington State Liquor Control Board
Staff Response forms



Washington State
Liquor and Cannabis Board
PO Box 43098, 3000 Pacific Ave. SE, Olympia WA 98504-3098, (360) 664-1600
www.lig.wa.gov Fax #: (360) 753-2710

CITY OF FIRCREST

APR 10 2017

RECEIVED

April 06, 2017

Dear Local Authority:

RE: Liquor License Renewal Applications in Your Jurisdiction - Your Objection Opportunity

Enclosed please find a list of liquor-licensed premises in your jurisdiction whose liquor licenses will expire in about 90 days. This is your opportunity to object to these license renewal requests as authorized by RCW 66.24.010 (8).

1) Objection to License Renewal

To object to a liquor license renewal: Fax or mail a letter to the Washington State Liquor and Cannabis Board (WS-LCB) Licensing Division. This letter must:

- o Detail the reason(s) for your objection, including a statement of all the facts upon which your objection or objections are based. You may include attachments and supporting documents which contain or confirm the facts upon which your objections are based.
- o Please note that whether a hearing will be granted or not is within the Board's discretion per RCW 66.24.010 (8)(d).

Your letter or fax of objection must be received by the Board's Licensing Division at least 30 days prior to the license expiration date. If you need additional time you must request that in writing. Please be aware, however, that it is within the Board's discretion to grant or deny any requests for extension of time to submit objections. Your request for extension will be granted or denied in writing. If objections are not timely received, they will not be considered as part of the renewal process.

A copy of your objection and any attachments and supporting materials will be made available to the licensee, therefore, it is the Local Authority's responsibility to redact any confidential or non-disclosable information (see RCW 42.56) prior to submission to the WSLOB.

2) Status of License While Objection Pending

During the time an objection to a renewal is pending, the permanent liquor license is placed on hold. However, temporary licenses are regularly issued to the licensee until a final decision is made by the Board.

3) Procedure Following Licensing Division Receipt of Objection

After we receive your objection, our licensing staff will prepare a report for review by the Licensing Director. The report will include your letter of objection, as well as any attachments and supporting documents you send. The Licensing Director will then decide to renew the liquor license, or to proceed with non-renewal.

4) Procedure if Board Does Not Renew License

If the Board decides not to renew a license, we will notify the licensee in writing, stating the reason for this decision. The licensee also has the right to request a hearing to contest non-renewal of their liquor license. RCW 66.24.010 (6)(d). If the licensee makes a timely request for a hearing, we will notify you.

The Board's Licensing Division will be required to present evidence at the hearing before an administrative law judge to support the non-renewal recommendation. You may present evidence in support of your objection or objections. The administrative law judge will consider all of the evidence and issue an initial order for the Board's review. The Board members have final authority to renew the liquor license and will enter a final order announcing their decision.

APR 10 2017

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5) Procedure if Board Renews License Over Your Objection

If the Board decides to renew the license over your objection, you will be notified in writing. At that time, you may be given an opportunity to request a hearing. An opportunity for a hearing is offered at the Board's discretion. If a hearing is held, you will be responsible for presenting evidence before an Administrative Law Judge in support of your objection to license renewal. The Board's Licensing Division will present evidence in support of license renewal. The Licensee may also participate and present evidence if the licensee desires. The administrative law judge will consider all of the evidence, and issue an initial order for the Board's review. The Board members have final authority to renew the liquor license and will enter a final order announcing their decision.

For questions about this process, contact the WSLCB Licensing Division at (360) 664-1600 or email us at wsicb@liq.wa.gov.

Sincerely,

Rebecca Smith

Rebecca Smith, Director,
Licensing and Regulation Division

LIQ 864 07/10

CITY OF FIRCREST

APR 10 2017

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C091080-2 WASHINGTON STATE LIQUOR AND CANNABIS BOARD DATE: 04/06/2017
LICENSED ESTABLISHMENTS IN INCORPORATED AREAS CITY OF FIRCREST
(BY ZIP CODE) FOR EXPIRATION DATE OF 20170731

LICENSEE	BUSINESS NAME AND ADDRESS	LICENSE NUMBER	PRIVILEGES
1. HENG HAN, INC.	ROYAL THAI BISTRO 2045 MILDRED ST W FIRCREST WA 98466 0000	086499	SPIRITS/BR/WN REST SERVICE BAR



THE CITY OF FIRCREST

115 RAMSDELL STREET • FIRCREST, WASHINGTON 98466-6999 • (253) 564-8901 • FAX (253) 566-0762

Applicant Information

Liquor License Renewal

Applicant Name	Heng, Han, Inc.		
Establishment Name	Royal Thai Bistro		
Address	2045 Mildred St W		
Comments			
No concerns per Finance			
Director Signature	<i>Colleen Corcoran</i>		
Date	4/10/2017	Department	Finance



THE CITY OF FIRCREST

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Applicant Information

Liquor License Renewal

Applicant Name	Heng Han, Inc		
Establishment Name	Royal Thai Bistro		
Address	2045 Mildred St		
Comments			
Zoned Commercial Mixed Use. This is a permitted use. Planning/Building has no objection to the license renewal.			
Director Signature			
Date	04/22/2017	Department	Planning/Building



THE CITY OF FIRCREST

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Applicant Information

Liquor License Renewal

Applicant Name	Heng Han, Inc
Establishment Name	Royal Thai Bistro
Address	2045 Mildred Street West
Comments	
We have had no problems with the service of alcohol at the Royal Thai Bistro.	
Director Signature	<i>Joe Chrusman</i>
Date	4/18/2017
Department	Police

CITY OF FIRCREST
REGULAR CITY COUNCIL MEETING MINUTES
TUESDAY, APRIL 11, 2017 **COUNCIL CHAMBERS**
7:00 P.M. **FIRCREST CITY HALL, 115 RAMSDELL STREET**

CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor Matthew Jolibois called the regular meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Councilmembers Blake Surina, Shannon Reynolds, Brett Wittner, Hunter T. George and Jason Medley were present. Councilmember Denny Waltier was absent. Waltier arrived at 7:03 P.M.

CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA

John Bozich, 1535 Estate Place, provided copies of a document he prepared regarding the 2015 Distribution of Local Sales Tax to Cities and Counties and discussed sales tax equalization.

COMMITTEE, COMMISSION AND LIAISON REPORTS

Parks & Recreation

Surina reiterated items from the Park and Recreation Director's General Update and concluded by stating the survey data is being analyzed by members of the Community Center and Pool Advisory Committee.

CONSENT CALENDAR

Jolibois requested the City Clerk read the consent calendar as follows: approval of Voucher No. 209176 through Voucher No. 209240 in the amount of \$120,211.43; approval of Payroll Check No. 12602 through Payroll Check No. 12605 in the amount of \$5,813.31; approval of Payroll Check No. 12606 through Payroll Check No. 12615 in the amount of \$98,760.40; approval of Payroll Check No. 12616 through Payroll Check No. 12621 in the amount of \$103,044.23; and approval of the March 28, 2017 Regular City Council meeting minutes.

MOTION

Moved by Medley, seconded by Reynolds, to approve the consent calendar as read. Upon vote, motion carried unanimously.

PUBLIC HEARING

To receive comments on amendments to Fircrest Municipal Code Title 22, related to the sign code

At 7:15 P.M. Jolibois opened the public hearing and outlined the format.

Planning and Building Administrator Angelie Stahlnecker provided a brief history and stated that the proposed amendments would modify Sign Code Regulations within FMC 22.26, definitions in 22.98 and would repeal FMC 22.64.041 regarding design criteria. She noted that the proposed amendments borrow and adapt certain provisions that were initiated in response to the Reed v.

Town of Gilbert U.S. Supreme Court decision and explained how and why that decision is effecting amendments to the sign code. Stahlnecker stated that the Planning Commission conducted public hearings on February 7, 2017 and March 7, 2017 and adopted a resolution recommending amendments to the sign code.

Principal Planner Jeff Boers presented a Power Point presentation and highlighted significant amendments to the sign code.

Jolibois invited public comment.

Pat Sollars, 600 San Juan Avenue, voiced support that the sign code amendments prohibit private advertising that people place in the rights of way throughout the City.

Staff responded to Council inquiries.

At 7:52 P.M. Jolibois closed the public hearing.

Staff responded to additional Council inquiries.

NEW BUSINESS

Resolution expressing support for Senate Bill 5851 that requires vehicle value taxes to be based on the published Kelley Blue Book or National Automobile Dealers Association vehicle values, rather than an arbitrary depreciation formula

Rosenbladt reported that Senate Bill 5851 was deemed unconstitutional and recommended not proceeding with adoption of the resolution.

There was consensus to remove Item 10A from the agenda.

Resolution expressing support for Senate Bill 5817 that authorizes counties and cities to opt out of the payment of Sound Transit Phase 3 taxes

Rosenbladt reported that Senate Bill 5817 hasn't made it out of Committee and is most likely not going to move forward.

There was consensus to remove Item 10B from the agenda.

Following discussion there was consensus that a letter, signed by Councilmembers, is provided to the Washington State Legislature encouraging them to fix and adjust the formula used by Regional Transit Authorities for the administration of motor vehicle excise taxes.

CITY MANAGER COMMENTS

Following discussion, there was consensus to add Community Gardens to the April 25, 2017 agenda. It was suggested that adjacent neighbors of the areas being considered are advised of the discussion. Following information regarding annexation of the area referred to as the 'Chair,' there was agreement to schedule a public hearing.

DEPARTMENT HEAD COMMENTS

Public Works Director Wakefield gave an update on progress of the Emerson Street Sidewalk Project, noting the projected completion date is the end of May but it will more likely be mid-June.

Police Chief Cheesman stated the lateral police officer candidate will complete testing this week. Cheesman reported on the upcoming Easter Egg Hunt.

COUNCILMEMBER COMMENTS

Councilmembers thanked everyone for coming.

George stated he appreciated the inclusion of pictures of the faulty pipe before it was fixed at the Pool in the City Manager's General Update.

Responding to Waltier, Rosenblatt stated that residents adjacent to both Whittier and Fircrest Park will be notified about the Community Garden discussion scheduled for April 25th regular meeting. He acknowledged that information will also be included on the reader board about that discussion.

EXECUTIVE SESSION

Jolibois stated that Council would take a five-minute recess and convene into Executive Session at the hour of 8:30 p.m., not to exceed the hour of 8:45 P.M., to discuss City Manager Performance Evaluation. The City Attorney was invited to attend.

ADJOURNMENT

Moved by Reynolds, seconded by Medley, to adjourn the meeting at 8:43 P.M. Upon vote, motion carried unanimously.

Matthew Jolibois, Mayor

Lisa Keely, City Clerk

**CITY OF FIRCREST
SPECIAL CITY COUNCIL MEETING MINUTES**

**APRIL 17, 2017
6:00 P.M.**

**COUNCIL CHAMBERS
FIRCREST CITY HALL, 115 RAMSDELL STREET**

CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor Matthew Jolibois called the special meeting to order at 6:00 P.M. and led the pledge of allegiance. Councilmembers Shannon Reynolds, Brett Wittner, Hunter T. George, Denny Waltier and Jason Medley were present. Councilmember Blake Surina was absent. Surina arrived at 6:03 P.M.

Discussion and direction on Air Bed & Breakfasts, business licenses for those renting properties, inspections, residents' complaints, home occupations and parking of vehicles/boats and campers in front yards

Planning and Building Administrator Stahlnecker presented an overview regarding air bed and breakfasts. She discussed the definition of family, and enforcement issues and short-term rentals. Discussion followed on business licenses for rentals. Stahlnecker indicated there were at least 200 and possibly 300 rentals in Fircrest, not including apartments. She noted that nuisance complaints have been limited in Fircrest. Stahlnecker indicated there were some vacant houses existing in Fircrest. She reported that apartment complexes that apply for and get a state business license also get a Fircrest business license, but not all apartment complexes have a Fircrest business license. Stahlnecker discussed the difficulty in dealing with nuisances when there is no probable cause to allow Fircrest staff to enter a house.

Discussion continued as follows:

- Requiring people to get a rental license would be the easiest way to start dealing with homes with problems
- Requiring all people who rent to obtain a business license because of one problem house seems unfair
- If there's a problem with one particular house the City should deal with that problem and not require business licenses of all rentals.
- If 200 people are running businesses in Fircrest, they should pay for a license
- Businesses are not being tracked and apartments are not being required to get a license
- Consider a graduated tax based on the amount of rent received
- Allowing ten people to reside in a home, as is allowed by the International Building Code, could result in 10 cars parked on City streets

There was Council consensus to move forward with further review of licenses, reviewing the definition of family, possibly imposing limited fees on residential rentals, and reviewing parking issues.

City Attorney Smith stated one issue was whether Council wants to have a license or not. Another issue was whether Council wants to ban air bed and breakfasts. He stated that carving up the house into many bedrooms was a different issue.

Stahlnecker next reviewed home occupations, noting the start-up costs for licensing and permitting is \$184. She indicated that fees could be lowered to \$25.00 for all, or a tiered amount could be created, as some home occupations could have an impact on neighbors if there's more traffic and noise.

Discussion continued as follows:

- Does the City charge a business license for employee telecommuting: (No)
- Home occupation costs should be tiered and the costs are too high

Council requested information on how Fircrest fees compare with other cities and information on tiered business license fees.

Stahlnecker next reviewed parking of vehicles and boats in front yard setbacks, noting there is no prohibition to parking vehicles and boats on front lawns. She reviewed the City of University Place regulations.

There was consensus of Council to move forward with reviewing this matter further with limitations and restrictions on parking.

Council next discussed the possibility of regulating drones. City Attorney Smith discussed the difficulties with cities regulating drones as they are regulated by the FAA.

Year-end Financial Review

Council discussed insurance costs, contract maintenance costs, the decrease in telephone taxes, and Real Estate Excise Tax (REET 1) funds.

Discussion on feasibility of hiring an additional Police Officer

Discussion followed on the feasibility and costs of hiring an additional police officer. Finance Director Corcoran stated it would be in excess of \$100,000 for salaries, benefits and equipment. Discussion followed on the amount of property tax that would be received from the condominiums being built adjacent to the Fircrest Golf Club. Corcoran stated the property tax may not be received until 2019. There was continued discussion regarding the amount of utility tax that would be transferred to the General Fund. Discussion followed on the need for an additional police officer.

EXECUTIVE SESSION

At 7:36 P.M., Mayor Jolibois stated Council would take a five minute recess and convene into Executive Session, not to exceed the hour of 8:00 P.M., to discuss potential litigation. The City Attorney was invited to attend.

ADJOURNMENT

Moved by Reynolds, seconded by Wittner, to adjourn at 8:00 P.M. Upon vote, motion carried unanimously.

Matthew Jolibois, Mayor

Lisa Keely, City Clerk

FIRCREST CITY COUNCIL AGENDA SUMMARY

COUNCIL MEETING DATE: April 25, 2017

SUBJECT: Resolution authorizing the City Manager to execute a Local Agency A&E Professional Services Negotiated Hourly Rate Agreement with KPG, P.S. for providing final design and bid call services for the Traffic Signal Safety Improvement Project

FROM: Jerry Wakefield, Public Works Director

Reviewed by: _____ City Manager _____ Finance Director _____ City Attorney

RECOMMENDED MOTION: I move to adopt Resolution No. _____ authorizing the City Manager to execute a Local Agency A&E Professional Services Negotiated Hourly Rate Agreement with KPG, P.S. for providing final design and bid call services for the Traffic Signal Safety Improvement Project in the amount of \$39,990.06.

PROPOSAL:

Council is being asked to authorize the City Manager to enter into a Local Agency A&E Professional Services Negotiated Hourly Rate Agreement with KPG, P.S. for providing final design and bid call services for the Traffic Signal Safety Improvement Project. This contract has been reviewed and approved by WSDOT as it is required to be per their contract requirements.

FISCAL IMPACT:

The agreement amount will result in a not-to-exceed budget of \$39,990.06. This cost is included in the grant monies for this project and has been obligated through the WSDOT. Since this phase has been obligated prior to August 2017 there is no match monies needed from the City and the entire cost is funded by the grant.

ADVANTAGES:

By obtaining the grant, this allowed the City to proceed with the design and bid call services for this project. Entering into a contract for engineering services is the first step in the process of utilizing the grant to improve the Traffic Signal Safety improvements at the intersection of Alameda and Emerson and Alameda and Regents.

DISADVANTAGES:

None

ALTERNATIVES:

Not to proceed with the design and bid call services of the project at this time and return the grant.

HISTORY:

In December of 2016, the City received notice of award of the Traffic Signal Safety Improvement project grant. In early January, the City updated the 6 year TIP to include this project, which was subsequently approved and included in the State TIP (STIP). This allowed WSDOT to authorize the City to begin the selection process for consultants to provide the necessary services on this project. The local agency guidelines for consultant selection were followed. This included advertisement for this project, review of submitted proposals, interviewing of the consultants, selection of the consultant and contract negotiations with that consultant. Two firms submitted proposals and both firms were interviewed. The firms were KPG, P.S. and PH Consulting LLC.

Proposals and interviews were evaluated by a selection committee of the City Manager, Public Works Director and WSDOT Local Programs Engineer. Each proposal and interview was ranked for each consultant. The top ranking consultant was KPG, P.S. Their experience and qualifications meet the needs of the project. They are local and seem to fit the City's needs very well for this project. They also have provided similar services for the City on other projects including the Emerson Sidewalk project.

The schedule has the project being designed this spring and early summer, with the project being bid and awarded prior to August.

Attachment: Resolution
Agreement

**CITY OF FIRCREST
RESOLUTION NO. _____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIRCREST,
WASHINGTON, AUTHORIZING THE CITY MANAGER TO EXECUTE A
LOCAL AGENCY A&E PROFESSIONAL SERVICES NEGOTIATED
HOURLY RATE AGREEMENT WITH KPG, P.S. FOR PROVIDING FINAL
DESIGN AND BID CALL SERVICES FOR THE TRAFFIC SIGNAL SAFETY
IMPROVEMENT PROJECT**

WHEREAS, the City of Fircrest had conducted a selection process and selected KPG, P.S. to prepare the design and bid call services for the Traffic Signal Safety Improvement Project; and

WHEREAS, the City of Fircrest has secured the necessary funding to finance the work identified in the Traffic Signal Safety Improvement Project; and

WHEREAS, the City wishes to contract with KPG, P.S., to prepare the design and bid call services for the Traffic Signal Safety Improvement Project; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST THAT:

Section 1. The City Manager is hereby authorized and directed to execute a Local Agency A&E Professional Services Negotiated Hourly Rate Agreement with KPG, P.S. for providing final design and bid call services for the Traffic Signal Safety Improvement Project in an amount not to exceed \$39,990.06.

APPROVED AND ADOPTED this 25th day of April 2017 at a regular meeting of the City Council of the City of Fircrest.

APPROVED:

Matthew Jolibois, Mayor

ATTEST:

Lisa Keely, City Clerk

APPROVED AS TO FORM:

Michael B. Smith, City Attorney

Local Agency A&E Professional Services Negotiated Hourly Rate Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's): KPG, P.S.	
Address 2502 Jefferson Avenue Tacoma, WA 98402	Federal Aid Number
UBI Number 601-248-468	Federal TIN or SSN Number 91-1477622
Execution Date	Completion Date 12/31/2018
1099 Form Required <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Federal Participation <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Project Title Traffic Signal Safety Improvements	
Description of Work Design for and upgrade to 12 inch vehicle displays and flashing yellow left turn arrows and upgrade signing at the intersection of Emerson Street and Alameda Avenue. Design for and upgrade to accessible pedestrian countdown signals and pushbuttons and leading pedestrian intervals at the intersection of Regents Boulevard and Alameda Avenue.	
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No DBE Participation <input checked="" type="checkbox"/> No MBE Participation <input checked="" type="checkbox"/> No WBE Participation <input checked="" type="checkbox"/> No SBE Participation
Maximum Amount Payable: \$39,990.06	

Index of Exhibits

- Exhibit A Scope of Work
- Exhibit B DBE Participation
- Exhibit C Preparation and Delivery of Electronic Engineering and Other Data
- Exhibit D Prime Consultant Cost Computations
- Exhibit E Sub-consultant Cost Computations
- Exhibit F Title VI Assurances
- Exhibit G Certification Documents
- Exhibit H Liability Insurance Increase
- Exhibit I Alleged Consultant Design Error Procedures
- Exhibit J Consultant Claim Procedures

Agreement Number:

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the City of Fircrest hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

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

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Agreement Number:

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

The CONSULTANT, on a monthly basis, is required to submit DBE Participation of the amounts paid to all DBE firms invoiced for this AGREEMENT.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Jerry Wakefield
Agency: City of Fircrest
Address: 120 Ramsdell St
City: Fircrest State: WA Zip: 98466
Email: jwakefield@cityoffircrest.net
Phone: 253.238.4134
Facsimile:

If to CONSULTANT:

Name: Terry Wright
Agency: KPG
Address: 2502 Jefferson Avenue
City: Tacoma State: WA Zip: 98402
Email: terry@kpg.com
Phone: 253.627.0720
Facsimile:

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

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V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov).

- A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect Cost Rate, and Fixed Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits "D" and "E" attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT's direct labor rates and indirect cost rate computations and agreed upon fixed fee. The accepted negotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgement, to 180 days following the CONSULTANT's fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits "D" and "E" shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT's FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits "D" and "E", will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgement between the parties. Such final written acknowledgement shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT's books and records to determine the CONSULTANT's actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fixed fee as identified in Exhibits "D" and "E" shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rates under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY's option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgement.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fixed fee (profit) percentage. The CONSULTANT shall bill each employee's actual classification, and actual salary plus indirect cost rate plus fixed fee.

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- B. **Direct Non-Salary Costs:** Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train and rental card costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the STATE upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.
- C. **Maximum Amount Payable:** The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. **Monthly Progress Payments:** Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. The monthly billings shall be supported by detailed statements for hours expended at the rates established in Exhibit "D," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. **Final Payment:** Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings.

- F. **Inspection of Cost Records:** The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and /or at the request of the AGENCY's Project Manager.

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VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub-consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

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

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

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VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

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The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT

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to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

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

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

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

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated by the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

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Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the STATE.
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Jerry Wakefield
Agency: City of Fircrest
Address: 120 Ramsdell St
City: Fircrest State: WA Zip: 98466
Email: jwakefield@cityoffircrest.net
Phone: 253.238.4134
Facsimile:

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

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XIII. Extra Work

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.
- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit “G-1(a and b)” are the Certifications of the CONSULTANT and the AGENCY, Exhibit “G-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “G-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “G-4” Certificate of Current Cost or Pricing Data. Exhibit “G-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “G-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

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XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, STATE and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

Agreement Number:

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTS, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbles, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

Agreement Number:

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.



Signature

4.11.17

Date

Signature

Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number:

Exhibit A
Scope of Work

Project No.

See attached Exhibit A

Agreement Number:

EXHIBIT A
City of Fircrest
Traffic Signal Safety Improvements

KPG
Scope of Work

Purpose

The purpose of the 2016 Traffic Signal Safety Improvements project is to design and construct improvements at intersections that will benefit both pedestrians and improve safety.

Proposed Improvements

Proposed Improvements for the 2016 Traffic Signal Safety Improvements project includes the following:

Emerson Street & Alameda Avenue

- Replace signal heads with 12" lenses, backplate and retroreflective tape (all approaches)
- Install Flashing Yellow Arrow signal heads and associated improvements (east/west approaches)
- Install new signing
- Replace traffic signal cabinet on existing base

Regents Boulevard and Alameda Avenue

- Install countdown pedestrian signals and APS push buttons
- Replace traffic signal cabinet (with bid additive for relocating base)
- Specify controller to be programmed with leading pedestrian interval

Assumptions

The following assumptions were identified to provide direction with design:

- ◆ The project currently is Federally Funded for design and construction.
- ◆ WSDOT, on behalf of the CITY, will prepare and coordinate all environmental approvals, including NEPA documentation and all supporting information. No supporting documentation will be required from the CONSULTANT.
- ◆ Traffic signal cabinet replacement at the intersection of Emerson St and Alameda Ave will be placed on the existing base. All improvements will be completed above grade; no digging and/or surface restoration will be required at this intersection.
- ◆ Traffic signal cabinet replacement at the intersection of Regents Blvd and Alameda Ave will specify installation on the existing base as part of the base bid. A bid additive (on a separate plan sheet) will be prepared including relocation of the signal cabinet and electrical service cabinet to a location directed by the CITY. The bid additive will also include re-wiring of the signal. Re-wiring will be addressed through wire notes; a wiring diagram will not be prepared. Surface restoration will be noted with a restoration table.
- ◆ Existing curb ramps at the intersection of Regents Blvd and Alameda Ave are understood to meet ADA requirements and have been pre-approved by WSDOT. Design of new ADA curb ramps is not required under this scope.
- ◆ Traffic signal timing will be coordinated between the CITY and the City of Tacoma, and no recommendations will be required from the CONSULTANT. Only traffic signal phasing will be included in the Plans.
- ◆ Material specifications for traffic signal equipment will be based on City of Tacoma standards.
- ◆ Aerial photographs will be obtained through Pierce County. The CITY will provide

- authorization to Pierce County for the CONSULTANT to obtain aerial photographs.
- ◆ Relocating of traffic signal poles will not be required.
- ◆ A formal public involvement process/program is not included in the scope of work. Public involvement and coordination with business owner/residents will be handled by the CITY.
- ◆ AutoCAD drafting and base mapping shall utilize KPG drafting standards.
- ◆ Right of Way will not be determined or shown on the Plan sheets.
- ◆ Right of Way, easement, or temporary construction permit acquisition will not be required.
- ◆ Structural engineering is not included in the scope of work.
- ◆ No coordination with private utilities will be required.
- ◆ Geotechnical investigation will not be required for this project and is not included in this scope of work.
- ◆ As-Built drawings are not included in the scope of work. See the Additional Services section of this Scope of Work.

Work Element 1 Project Management

The estimated project duration is 5 months. No design work will proceed without written authorization from the CITY.

- 1.1 Provide project management administrative services including:
 - ◆ Project set-up and execute agreement
 - ◆ Preparation of monthly progress reports and invoices
 - ◆ Record keeping and project closeout

- 1.2 Provide project management services including:
 - ◆ Project staff management and coordination
 - ◆ Prepare and update project schedule
 - ◆ Schedule and budget monitoring

- 1.3 Coordinate with City staff, including preparation and attendance of up to 5 coordination meetings throughout the duration of the project. Level of effort for this task is based on an average of 2 Consultant staff at each of the following meetings:
 - ◆ One formal kickoff meeting at project start
 - ◆ Project Milestone (concept workshop, design review) meetings at the City throughout the project duration. (Assume four (4) meetings).

Work Element 1 Deliverables:

- ◆ Monthly progress reports (5 months)
- ◆ Project schedule and updates
- ◆ Meeting minutes

Work Element 2 30% Design

This Work Element includes providing 30% Design Plans and Estimate for review and approval by the CITY. Plans shall be formatted to provide sufficient detail for convenient field layout of all proposed facilities. WSDOT standard plans will be supplemented with project specific details as necessary.

- 2.1 Conduct a site visit to each project site to gather data necessary to aid design. Prepare photo log of existing conditions.

2.2 The CONSULTANT shall prepare 30% plan sheets for review and approval by the CITY. The Plan sheets will be formatted as follows:

- ◆ Intersection of Emerson St & Alameda Ave
 - Basemapping will be completed using linework from the Emerson Street Improvements project. No aerial photography will be included.
 - Location of all proposed signal equipment will be provided.
 - Basic notations and legends will be included. Noting will be expanded in subsequent submittals.
 - No vertical information will be required.
- ◆ Intersection of Regents Blvd & Alameda Ave
 - Basemapping will be completed using tracing linework over aerial photographs. No field survey or right of will determination will be completed.
 - Location of all proposed signal equipment will be provided.
 - Basic notations and legends will be included. Noting will be expanded in subsequent submittals.
 - No vertical information will be required.

Sheet List

Title/index sheet	(1 sheet)
Signalization Details	(1 sheet)
Signalization Plan – Emerson St & Alameda Ave	(1 sheet)
Signalization Plan – Emerson St & Alameda Ave	(1 sheet)
Signalization Plan – Emerson St & Alameda Ave (Bid Additive)	(1 sheet)
Traffic Control Plans	(2 sheets)
TOTAL = 7 sheets	

Traffic and Pedestrian Control plans will utilize WSDOT traffic control (TC) Plans and City standard plans and be for the Contractor's reference only. Traffic Control plans will be stamped, signed and dated by a licensed professional engineer in the State of Washington. The CONSULTANT will not develop site specific Traffic and Pedestrian Control plans. The Contractor will still be required to develop site specific traffic control plan for all construction activities.

The CONSULTANT will provide Senior level QA/QC prior to submitting to the CITY.

- 2.3 The CONSULTANT shall prepare 30% quantities and opinion of probable cost for review and approval by the CITY.
- 2.4 Prepare and submit a Public Interest Finding (PIF) for all sole sourced materials. PIF will include Certificates of Materials Origin (CMO) for all sole sourced materials.
- 2.5 The CONSULTANT will attend a 30% Design workshop to review proposed improvements with CITY Staff and prepare a Design Decisions memorandum documenting directions given to the CONSULTANT by CITY staff.

Work Element 2 Deliverables:

- ◆ One (1) set Full Size hard copy of the 30% Plans for discussion during the workshop.
- ◆ 30% Design Decisions memorandum
- ◆ Public Interest Finding provided to CITY for signature and submission to WSDOT.

Work Element 3 Final Design

This Work Element includes providing Draft Bid/WSDOT Submittal and Bid Document Plans, Specifications and Estimates for review and approval by the CITY. Plans shall be formatted to provide sufficient detail for convenient field layout of all proposed facilities. WSDOT standard plans will be supplemented with project specific details as required. Draft Bid/WSDOT Submittal and Final Bid Documents will be stamped, signed and dated by a licensed professional engineer in the State of Washington.

- 3.1 The CONSULTANT shall prepare Draft Bid/WSDOT Submittal plans for review and approval by the CITY. The Draft Bid submittal will include all comments received from the 30% review. The CONSULTANT will provide Senior level QA/QC and constructability review by KPG construction management staff prior to submitting to the CITY.
- 3.2 The CONSULTANT shall prepare Draft Bid/WSDOT Submittal quantities and opinion of probable cost for review and approval by the CITY.
- 3.3 The CONSULTANT shall prepare a complete Draft Bid/WSDOT Submittal specification document including legal documents, Divisions 1-9 and appendices. The CONSULTANT will include additional special provision language as needed.
- 3.4 The CONSULTANT shall prepare Final Bid Documents for advertisement by the CITY. The CONSULTANT will provide Senior level QA/QC prior to submitting to the CITY. The final bid documents will include all comments received from the Draft Bid review and will be complete set of contract specifications and drawings.

Work Element 3 Assumptions:

- ◆ Specifications will be based on 2016 WSDOT Standard Specifications.
- ◆ The Draft Bid documents will be utilized for WSDOT concurrence review.
- ◆ The CONSULTANT will assist the CITY will advertising for bids.

Work Element 3 Deliverables:

- ◆ Draft Bid Design Submittal
 - One (1) hard copy Construction Cost Estimate to CITY
 - Three (3) Sets hard copy 1/2 Size Plan (11x17 size) to CITY
 - Two (2) Sets hard copy Specifications to CITY
 - Two (2) 1/2 size bound of the Draft Bid/WSDOT Submittal Plans, One (1) hard copy of the Draft Bid/WSDOT Submittal Specifications and One (1) hard copy of the Engineer's Estimate mailed to WSDOT for concurrence review.

- ◆ Bid Document Submittal
 - One (1) hard copy Construction Cost Estimate to CITY
 - Five (5) Sets hard copy 1/2 Size Plans (11x17 size) to CITY
 - One (1) Set hard copy Full Size Plan (22x34 size) to CITY
 - Two (2) 1/2 size bound of the Bid Documents Plans, One (1) hard copy of the Bid Document Specifications and One (1) hard copy of the Engineer's Estimate mailed to WSDOT for the file.
 - AutoCAD 2015 drawing files of the Bid Documents Plans.

Work Element 4 Assistance During Bidding

4.1 This Work Element includes preparing addenda and responding to bidders questions relayed through the CITY. It is assumed that the CONSULTANT will prepare up to two (2) addenda.

Additional Services

The CITY may require additional services of the CONSULTANT. The scope of these services will be determined based on the unanticipated project needs or other considerations at the sole discretion of the CITY. This work may include items identified in the current task authorizations as well other items, which may include, but are not necessarily limited to the following:

- ◆ Construction Management & Inspection Services
- ◆ As-Built Drawings
- ◆ Utility Coordination
- ◆ Stakeholder Coordination
- ◆ Temporary Construction Permits
- ◆ Environmental approvals

These services will be authorized under a future contract supplement if necessary. At the time these services are required, the CONSULTANT shall provide a detailed scope of work and an estimate of costs. The CONSULTANT shall not proceed with the work until the CITY has authorized the work and issued a notice to proceed.

Exhibit B
DBE Participation

Zero DBE Goal – No Subconsultants anticipated

Agreement Number:

Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

Not Applicable

B. Roadway Design Files

AutoCAD 2015

C. Computer Aided Drafting Files

AutoCAD 2015

Agreement Number:

D. Specify the Agency's Right to Review Product with the Consultant

All project related files are subject to review by the City of Fircrest

E. Specify the Electronic Deliverables to Be Provided to the Agency

Complete contract documents, plans sheets and engineer's estimates

F. Specify What Agency Furnished Services and Information Is to Be Provided

None required

Agreement Number:

II. Any Other Electronic Files to Be Provided

A copy of all electronic files may be provided to the City on DVE, upon request.

III. Methods to Electronically Exchange Data

Email, CD, or FTP as approved by the City

A. Agency Software Suite

N/A

B. Electronic Messaging System

N/A

C. File Transfers Format

PDF, MS Word, MS Excel, and AutoCAD 2015

Exhibit D

Prime Consultant Cost Computations

See Exhibit D, attached.

Agreement Number:

HOUR AND FEE ESTIMATE

EXHIBIT D

Project: City of Fircrest
 2016 Traffic Signal Safety Improvements
 April 10, 2017



Task	Description	Labor Hour Estimate							Hours	Total Fee
		QA/QC Engineer	Project Manager	Senior Project Engineer	Design Engineer	CAD Technician	Construction Manager	Clerical		
		\$ 197.00	\$ 103.41	\$ 152.70	\$ 72.49	\$ 104.70	\$ 126.63	\$ 77.33		
Work Element 1 - Project Management / Coordination / Administration										
1.1	Administration Services (5 Months)		24					10	34	\$ 3,255.14
1.2	Management Services		16						16	\$ 1,654.56
1.3	Miscellaneous letters and phone calls		12						12	\$ 1,240.92
	Reimbursable expenses - see breakdown for details									\$ 53.50
	Task Totals	0	52	0	0	0	0	10	62	\$ 6,204.12
Work Element 2 - 30% Design										
2.1	Review Data & Photo Log		8		10				18	\$ 1,552.18
2.2	30% Design Plans	2	12	6	24	16			60	\$ 5,966.08
2.3	30% Cost Estimate	1	10	2	6				19	\$ 1,971.44
2.4	Public Interest Finding Documentation		4		12				16	\$ 1,289.52
2.5	30% Design Workshop	4	4						8	\$ 1,201.64
	Reimbursable expenses - see breakdown for details									\$
	Task Total	7	38	8	52	16	0	0	121	\$ 11,974.86
Work Element 3 - Final Design										
3.1	Draft Bid Plans	2	20	12	32	12	4		82	\$ 8,377.20
3.2	Draft Bid Estimate		8	2	4				14	\$ 1,422.64
3.3	Draft Bid Specifications		32	4	8			16	60	\$ 5,737.12
3.4	Bid Documents	2	20	2	16			8	48	\$ 4,546.08
	Reimbursable expenses - see breakdown for details									\$
	Task Total	4	80	20	60	12	4	24	204	\$ 20,083.04
Work Element 4 - Assistance During Bidding										
4.1	Bidder Questions/Addenda (Assume 2 Addenda)		8	4	4				16	\$ 1,728.04
	Reimbursable expenses - see breakdown for details									\$
	Task Total	0	8	4	4	0	0	0	16	\$ 1,728.04
TOTAL HOURS AND TOTAL ESTIMATED FEE		11	178	32	116	28	4	34	403	\$ 39,990.06

Hourly rates are based on the following:									
Direct Salary Costs	\$ 73.90	\$ 38.58	\$ 56.97	\$ 27.04	\$ 39.06	\$ 47.24	\$ 28.85		
Overhead @ 138.02%	\$ 101.45	\$ 53.25	\$ 78.63	\$ 37.33	\$ 53.92	\$ 65.21	\$ 39.82	138.02%	
Fixed Fee @ 30%	\$ 22.05	\$ 11.58	\$ 17.10	\$ 8.12	\$ 11.72	\$ 14.18	\$ 8.66	30.00%	
Total Labor Rate	\$ 197.00	\$ 103.41	\$ 152.70	\$ 72.49	\$ 104.70	\$ 126.63	\$ 77.33		

HOUR AND FEE ESTIMATE

**Project: City of Fircrest
2016 Traffic Signal Safety Improvements
April 10, 2017**



Reimbursable Breakdown

Work Element 1 - Project Management / Coordination / Administration

Mileage (est. 100 miles x 0.535 cents/mile)

\$ 53.50

Task 1 - Total

\$ 53.50

Work Element 2 - 30% Design

Task 2 - Total

\$ -

Work Element 3 - Final Design

Task 3 - Total

\$ -

Work Element 4 - Assistance During Bidding

Task 4 - Total

\$ -

TOTAL REIMBURSABLES: \$ 53.50

FEE SUMMARY



**Project: City of Fircrest
2016 Traffic Signal Safety Improvements
April 10, 2017**

Description	Estimated Fee
Work Element 1 - Project Management / Coordination / Administration	\$6,204.12
Work Element 2 - 30% Design	\$11,974.86
Work Element 3 - Final Design	\$20,083.04
Work Element 4 - Assistance During Bidding	\$1,728.04
Total Estimated Fee	\$39,990.06



**Washington State
Department of Transportation**

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300
360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

April 10, 2017

KPG, Inc.
3131 Elliott Avenue, Suite 400
Seattle, WA 98121

Subject: Acceptance FYE 2016 ICR – Risk Assessment Review

Dear Ms. Susan Rowe:

Based on Washington State Department of Transportation's (WSDOT) Risk Assessment review of your Indirect Cost Rate (ICR), we have accepted your proposed FYE 2016 ICR of 138.02%. This rate is applicable to Washington Local Agency Contracts only. This rate may be subject to additional review if considered necessary by WSDOT. Your ICR must be updated on an annual basis.

Costs billed to agreements/contracts will still be subject to audit of actual costs, based on the terms and conditions of the respective agreement/contract.

This was not a cognizant review. Any other entity contracting with the firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at (360) 705-7019 or via email consultantrates@wsdot.wa.gov.

Regards;

 Jonson, Erik



ERIK K. JONSON
Manager, Consultant Services Office

EKJ:kms

Exhibit E

Sub-consultant Cost Computations

There isn't any sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

Not applicable

Agreement Number:

Exhibit F

Title VI Assurances

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to non-discrimination in federally assisted programs of the AGENCY, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "REGULATIONS"), which are herein incorporated by reference and made a part of this AGREEMENT.
2. **Non-discrimination:** The CONSULTANT, with regard to the work performed during this AGREEMENT, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of sub-consultants, including procurement of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when this AGREEMENT covers a program set forth in Appendix B of the REGULATIONS.
3. **Solicitations for Sub-consultants, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-consultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the REGULATIONS relative to non-discrimination on the grounds of race, color, sex, or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the REGULATIONS or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AGENCY, the STATE, or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such REGULATIONS, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the AGENCY, the STATE, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Non-compliance:** In the event of the CONSULTANT's non-compliance with the non-discrimination provisions of this AGREEMENT, the AGENCY shall impose such AGREEMENT sanctions as it, the STATE, or the FHWA may determine to be appropriate, including, but not limited to:
 - Withholding of payments to the CONSULTANT under this AGREEMENT until the CONSULTANT complies, and/or;
 - Cancellation, termination, or suspension of this AGREEMENT, in whole or in part.
6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of paragraphs (1) through (5) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any sub-consultant or procurement as the STATE, the AGENCY, or FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance.

Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a sub-consultant or supplier as a result of such direction, the CONSULTANT may request the AGENCY enter into such litigation to protect the interests of the STATE and/or the AGENCY and, in addition, the CONSULTANT may request the United States enter into such litigation to protect the interests of the United States.

Agreement Number:

Exhibit G

Certification Documents

- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of City of Fircrest
- Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
- Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit G-4 Certificate of Current Cost or Pricing Data

Agreement Number:

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
KPG, P.S.

whose address is

2502 Jefferson Avenue, Tacoma, WA 98402

and that neither the above firm nor I have:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the City of Fircrest and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

KPG, P.S.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

4.11.17

Date

Agreement Number:

Exhibit G-1(b) Certification of City of Fircrest

I hereby certify that I am the:

Certified Authority

Other

of the City of Fircrest, and KPG, P.S.

or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

- a) Employ or retain, or agree to employ to retain, any firm or person; or
- b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the City of Fircrest and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

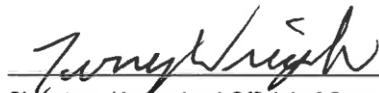
Agreement Number:

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

KPG, P.S.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

4.11.17

Date

Agreement Number:

Exhibit H

Liability Insurance Increase

To Be Used Only If Insurance Requirements Are Increased

The professional liability limit of the CONSULTANT to the AGENCY identified in Section XII, Legal Relations and Insurance of this Agreement is amended to \$ No Change

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$ No Change

Such insurance coverage shall be evidenced by one of the following methods:

- Certificate of Insurance.
- Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

Self-insurance through documentation of a separate fund established exclusively for the payment of professional liability claims, including claim amounts already reserved against the fund, safeguards established for payment from the fund, a copy of the latest annual financial statements, and disclosure of the investment portfolio for those funds.

Should the minimum Professional Liability insurance limit required by the AGENCY as specified above exceed \$1 million per occurrence or the value of the contract, whichever is greater, then justification shall be submitted to the Federal Highway Administration (FHWA) for approval to increase the minimum insurance limit.

If FHWA approval is obtained, the AGENCY may, at its own cost, reimburse the CONSULTANT for the additional professional liability insurance required.

Notes: Cost of added insurance requirements: \$ Not Applicable

- Include all costs, fee increase, premiums.
- This cost shall not be billed against an FHWA funded project.
- For final contracts, include this exhibit.

Agreement Number:

Exhibit I

Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Agreement Number:

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Agreement Number:

Exhibit J

Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) are a total of \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Agreement Number:

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

Agreement Number:

FIRCREST CITY COUNCIL AGENDA SUMMARY

COUNCIL MEETING DATE: April 25, 2017

SUBJECT: Contract Award for the Alameda Lift Station Project

FROM: Jerry Wakefield, Public Works Director

Reviewed by: _____ City Manager _____ Finance Director _____ City Attorney

RECOMMENDED MOTION:

I move the City Council authorize the City Manager to award the contract for the Alameda Lift Station Project to Pape & Sons Contractors, LLC for \$365,500.00 plus sales tax, plus a contingency amount of \$10,000.00 for a total of \$411,685.00 to prepare and execute the required contract documents, and to give the “Notice to Proceed” to commence construction of the project.

PROPOSAL:

It is proposed that the City of Fircrest award the contract for the Alameda Lift Station Project to Pape & Sons Contractors, LLC for a total project cost of \$365,500.00 plus a contingency amount of \$10,000.00 for a total amount of \$411,685.00. By this action, the Council gives authorization to prepare and execute contract documents, and give the low bidder a “Notice to Proceed” with the work detailed in the plans and specifications.

FISCAL IMPACT:

Five bids were received. The bids ranged from \$394,934.00 to \$553,017.00. The engineer’s estimate was \$344,702.00.

The budget amount for this project is \$350,000.00. A budget adjustment amount of \$62,000.00 would be needed to award this project with contingencies. This amount would be used from the ending fund balance of the sewer fund which is a balance of \$1,389,674.00.

ADVANTAGES:

This bids were evaluated and found to be good bids. While they are over the engineer’s estimate, the engineer has evaluated them and provided a response regarding the overage. See attached letter. The low responsive bidder is a contractor that has worked for the City in the past and has provided the City with a good product and a fair price.

DISADVANTAGES:

Since the bid is over the budgeted amount, the project would require utilizing a small portion of the ending fund balance.

ALTERNATIVES:

Reject all bids and rebid the project, or not proceed with the project. Neither option is recommended.

HISTORY:

This project is to upgrade a 40 year old lift station. The upgrade of this lift station would standardize the lift station similar to the Princeton lift station. Murray Smith and Associates completed the design and estimate.

Five bids were received April 4, 2017. The apparent low bid was determined to be unresponsive as well as two other bids, since they did not submit the mandatory bidders checklist. The second low bid, Pape & Sons bid was responsive and only \$4,923.00 above the low bid. Our engineers, MSA, notified the low bid that their bid was non-responsive. They also met with Pape & Sons to review their bid to assure the City was getting the best available bid for this project. Pape & Sons has also done prior projects with the City and those projects were successful and came in within the bid amount.

MSA tabulated the bids and provided the attached bid tabulation. MSA also provided a letter of clarification regarding the higher bid prices and also a letter of recommendation of award. See attached.

Attachment: Certified Bid Tabulation
MSA Letter Clarification of Higher Bid Prices
MSA Letter Recommendation for Award

**Bid Tabulation Sheet
City of Folsom
Alameda Lift Station Project
6-Apr-17**

Bid Item #	Item	QTY	UNIT	Engineer's Estimate	W.S. Contractors LLC	Pape & Sons Construction, Inc.	Amcore Construction, LLC	Nova Contracting, Inc.	DPK, Inc.
1	Mobilization	1	LS	\$28,644.00	\$30,000.00	\$18,000.00	68,800.00	49,000.00	50,000.00
2	Temporary Traffic Control	1	LS	\$2,100.00	\$20,000.00	\$6,000.00	2,000.00	6,000.00	30,000.00
3	Shoring and Trench Safety	1	LS	\$2,625.00	\$6,000.00	\$1,000.00	8,600.00	2,000.00	500.00
4	Temporary Erosion and Sediment Control	1	LS	\$2,100.00	\$4,000.00	\$500.00	1,100.00	1,300.00	5,000.00
5	Lift Station Upgrades, Complete	1	LS	\$279,615.00	\$301,000.00	\$340,000.00	312,800.00	395,000.00	420,000.00
	Subtotal			\$315,084.00	\$361,000.00	\$365,500.00	393,300.00	453,300.00	505,500.00
	Sales Tax (9.4%)			\$29,617.90	\$33,934.00	\$34,357.00	36,970.20	42,610.20	47,517.00
	Total			\$344,701.90	\$394,934.00	\$399,857.00	430,270.20	495,910.20	553,017.00

*Note 1 Did not attach the Mandatory Bidder's Responsibility Checklist

*Note 1

*Note 1

*Note 1



Murray, Smith & Associates, Inc.
Engineers/Planners

1145 Broadway Plaza, Suite 1010 • Tacoma, WA 98402-3523 • PHONE 253.627.1520 • FAX 253.627.1923

April 6, 2017

City of Fircrest Public Works Department
Attn: Jerry Wakefield, P.E., Public Works Director
115 Ramsdell Street
Fircrest, WA 98466

Subject: Alameda Lift Station Project – Clarification of Higher Bid Prices

Dear Jerry,

On Tuesday, April 4th, five bids were received and opened for the Alameda Lift Station Project. The Engineer's construction cost estimate was \$344,702, and the following bid prices were received:

\$394,934.00
\$399,857.00
\$430,270.00
\$495,910.20
\$553,017.00

The evaluation of the five received bids was completed and documented in a separate letter that recommends award to the lowest, responsive bidder. However, with all of the bids higher than the engineer's estimate, it is important to understand why this is the case and whether the City should enter into a contract with the lowest, responsive bidder.

The relatively close pricing of the lowest three bid prices, particularly the lowest two, indicate that the documents were understood by multiple contractors in the same fashion. Higher bids are common on every project and can be attributed to many contractor factors, including: lack of familiarity with this type of work, concern over a perceived risk, or an adequate amount of already-contracted work that would only make the project enticing if it had a large profit margin.

We also sat down with the lowest, responsive bidder to understand the difference(s) in the bid compared to our estimate. Most items were very close in cost, but after reviewing the contractor's detailed bid, we found three key areas of difference.

- Restoration and surfacing was inadequately covered in our estimate – additional cost of ~\$15,000
- Temporary power costs and surveying were not included in our estimate – additional cost of ~\$10,000
- The costs associated with working on the small site were significantly greater – additional cost of ~\$25,000 - \$35,000

Adding these costs to our estimate would result in an estimated cost of over \$400,000. After understanding these key differences, we believe that the bid prices are reasonable and that the

April 6, 2017
Page 2 of 2

City is getting good value for this project. With this information, we recommend that the City move forward with accepting the lowest, responsive bid and enter into a contract for the construction of the Alameda Lift Station.

Please feel free to contact me if there are any questions or concerns.

Sincerely,

Murray, Smith & Associates, Inc.

A handwritten signature in cursive script that reads "Brian M. Casey".

Brian Casey, P.E.



Murray, Smith & Associates, Inc.
Engineers/Planners

1145 Broadway Plaza, Suite 1010 • Tacoma, WA 98402-3524 • PHONE 253.627.1520 • FAX 253.627.1923

April 6, 2017

City of Fircrest Public Works Department
Attn: Jerry Wakefield, P.E., Public Works Director
115 Ramsdell Street
Fircrest, WA 98466

Subject: Recommendation for Award – Alameda Lift Station Project

Dear Jerry,

Per your request, we have reviewed the five bid packages received for the subject project. The low bidder was W.S. Contractors, LLC. Their bid was deemed nonresponsive due to the nonsubmittal of the Mandatory Bidder Responsibility Checklist. The second lowest bidder was Pape & Sons Construction, LLC. Their bid was \$399,857.00, including Washington State sales tax. The engineer's estimate, including Washington State sales tax, was \$344,702.00.

Pape & Sons, Inc. included all of the forms in their bid package as required by the contract documents and acknowledged receipt of Addenda Nos. 1, 2 and 3.

We reviewed all of the websites on the mandatory bidder responsibility checklist. Pape & Sons, Inc. is a registered contractor in the State of Washington. Their license is current through April 2019. Pape & Sons, Inc. has a current UBI number, has industrial insurance coverage, is registered with the Employment Securities Department and has a State Excise Tax Registration Number. They are not listed on the Contractor and Plumber Infraction List and are not disqualified from bidding.

Based on the bids received and the prior work history for the City, we recommend award of the subject contract to Pape & Sons, Inc.

Enclosed are the original five bid packages for your records and files.

Please feel free to contact me if there are any questions or concerns.

Sincerely,

Murray, Smith & Associates, Inc.

Brian Casey, P.E.

FIRCREST CITY COUNCIL AGENDA SUMMARY

COUNCIL MEETING DATE: April 25, 2017

SUBJECT: Budget Amendment, 1st Reading

FROM: Colleen Corcoran, Finance Director

Reviewed by: _____ City Manager _____ Finance Director _____ City Attorney

RECOMMENDED MOTION: None. Introduction of Proposed Ordinance Only.

PROPOSAL: This is a request for additional appropriations for anticipated revenues and expenditures not foreseen at the time of filing the 2017 Preliminary Budget and not provided for in the Adopted 2017 Budget.

FISCAL IMPACT: The fiscal impact of this proposal would be increases in expenditures with corresponding increases in revenue or corresponding decreases in undesignated fund balances as follows:

<u>General Fund</u>	<u>Increase/ (Decrease)</u>
Revenues	
Undesignated Beginning Fund Balance (001.308.80.00.01)	\$212,938
Designated Beginning Fund Balance-Light (001.308.10.00.01)	\$5,028
Designated Beginning Fund Balance-44 th (001.308.10.00.02)	\$3,609
RCO Grant Revenue (001.342.10.00.01)	\$8,151
Expenditures	
Admin-Salaries & Wages (001.513.10.10.00)	\$8,750
Admin-Benefits (001.513.10.20.00)	\$700
Finance-Small Tools (001.514.23.35.00)	\$350
IS-Web Design (001.518.81.41.02)	\$20,250
Police-Salaries & Wages (001.521.22.10.00)	\$9,700
Police-Benefits (001.521.22.20.00)	\$750
Police-Unemployment Compensation (001.517.78.20.00)	\$9,000
Police-Repairs & Maintenance (001.521.22.48.00)	\$3,500

Police-Machinery & Equipment (001.594.21.64.00)	\$6,000
Parks-Other Improvements (001.594.76.63.01)	\$2,450
Undesignated Ending Fund Balance (001.508.80.00.01)	\$160,864
Designated Ending Fund Balance-Light (001.508.10.00.01)	\$5,028
Designated Ending Fund Balance-44 th /Alameda (001.508.10.00.02)	\$2,384

Street Fund

Revenues	
Undesignated Beginning Fund Balance (101.308.80.01.01)	\$14,890
Expenditures	
Pole Attachments (101.542.63.48.02)	\$12,280
Undesignated Ending Fund Balance (101.508.80.01.01)	\$2,610

REET Fund

Revenues	
Designated Beginning Fund Balance 1st Qtr (310.308.10.03.11)	(\$10,977)
Designated Beginning Fund Balance 2 nd Qtr (310.308.10.03.12)	(\$20,174)
Expenditures	
Transfer Out to Sewer Reet 2	\$56,750
Designated Ending Fund Balance 1 st Qtr (310.508.10.03.11)	(\$10,977)
Designated Ending Fund Balance 2 nd Qtr (310.508.10.03.12)	(\$76,924)

Storm Drain Fund

Revenues	
Undesignated Beginning Fund Balance (415.308.80.04.15)	(\$24,158)
Expenditures	
Undesignated Ending Fund Balance (415.508.80.04.15)	(\$24,158)

Water Fund

Revenues	
Undesignated Beginning Fund Balance (425.308.80.04.25)	\$24,484
Expenditures	
Undesignated Ending Fund Balance (425.508.80.04.25)	\$24,484

Sewer Fund

Revenues

Undesignated Beginning Fund Balance (430.308.80.04.30)	(\$8,309)
Transfer In Reet 2 (430.397.00.00.08)	\$56,750

Expenditures

Other Improvements (430.594.35.63.01)	\$62,000
Project Engineering (430.594.35.63.03)	\$56,750
Construction Engineering (430.594.35.63.03)	\$45,000
Undesignated Ending Fund Balance (430.508.80.04.30)	(\$115,309)

Relocation of Backyard Sewer Main Fund

Revenues

Undesignated Beginning Fund Balance (431.308.80.04.31)	(\$58,552)
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Expenditures

Undesignated Ending Fund Balance (431.508.80.04.31)	(\$58,552)
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ERR Fund

Revenues

Designated Beginning Fund Balance (501.308.10.05.01)	(\$10,570)
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Expenditures

Designated Ending Fund Balance (501.508.10.05.01)	(\$10,570)
--	------------

The City of Fircrest adopts an annual budget at the fund level. The above adjustments will result in an Amended 2017 Budget by fund as follows:

2017 REVENUES, EXPENDITURES & BALANCES BY FUND			
<u>FUND</u>	<u>ORIGINAL</u>	<u>ADJUSTMENT</u>	<u>AMENDED</u>
General	7,739,626	229,726	7,969,352
Street	2,625,622	14,890	2,640,512
Storm Drain	1,121,800	(24,158)	1,097,642
Water	1,833,670	24,484	1,858,154
Sewer	3,918,200	48,441	3,966,641
BYSM	1,379,164	(58,552)	1,320,612
ERR	1,863,099	(10,570)	1,852,529
Police Investigation	11,500		11,500
REET	1,509,300	(31,151)	1,478,149
Cumulative Reserve	3,530,763		3,530,763
Total	25,532,744	193,110	25,725,854

ADVANTAGE: This proposal will provide necessary budget to match the actual Beginning and Ending Fund Balances. It also provides budget for the following:

1. RCO Grant Revenue-rollover from 2016
2. Admin Salaries & Benefits-vacation payout
3. Finance Small Tools-replace printer
4. IS Web Design-rollover from 2106
5. Police Salaries & Benefits-vacation payout
6. Police Unemployment-reimbursement for Police employee
7. Police Repair & Maintenance-repairs for vehicle damages
8. Police Machinery & Equipment-radio for take home vehicle
9. Parks Other Improvements-rollover from 2016 Tot Lot
10. Street Pole Attachments-billing from City of Tacoma for 2014-2017
11. REET Transfer Out-rollover from 2016 Alameda Lift Station
12. Sewer Transfer In-rollover from 2106 Alameda Lift Station
13. Sewer Other Improvements-additional funds for Alameda Lift Station contract
14. Sewer Design Engineering-rollover Alameda Lift Station
15. Sewer Construction Engineering-Alameda Lift Station contract

DISADVANTAGES: None

ALTERNATIVES: None

Attachment(s): Ordinance

**CITY OF FIRCREST
ORDINANCE NO. _____**

**AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON,
AUTHORIZING EMERGENCY EXPENDITURES OF FUNDS FOR
MATTERS NOT FORESEEN AT THE TIME OF FILING THE
PRELIMINARY BUDGET FOR 2017 AND NOT PROVIDED FOR IN
THE ANNUAL BUDGET FOR 2017**

WHEREAS, the City anticipates certain revenues and expenditures not foreseen at the time of filing the Annual Budget for 2017; and;

WHEREAS, the City of Fircrest adopts an annual budget at the fund level and;

WHEREAS, it is necessary to amend the adopted 2017 budget to defray the anticipated expenditures; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS FOLLOWS:

Section 1. These revenues and expenditures are not one of the emergencies specifically enumerated in RCW 35A.33.080.

Section 2. The anticipated revenues and expenditures are as follows:

<u>General Fund</u>	<u>Increase/ (Decrease)</u>
Revenues	
Undesignated Beginning Fund Balance (001.308.80.00.01)	\$212,938
Designated Beginning Fund Balance-Light (001.308.10.00.01)	\$5,028
Designated Beginning Fund Balance-44 th (001.308.10.00.02)	\$3,609
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Expenditures	
Admin-Salaries & Wages (001.513.10.10.00)	\$8,750
Admin-Benefits (001.513.10.20.00)	\$700
Finance-Small Tools (001.514.23.35.00)	\$350
IS-Web Design (001.518.81.41.02)	\$20,250
Police-Salaries & Wages (001.521.22.10.00)	\$9,700
Police-Benefits (001.521.22.20.00)	\$750
Police-Unemployment Compensation (001.517.78.20.00)	\$9,000
Police-Repairs & Maintenance (001.521.22.48.00)	\$3,500
Police-Machinery & Equipment	\$6,000

(001.594.21.64.00)	
Parks-Other Improvements	\$2,450
(001.594.76.63.01)	
Undesignated Ending Fund Balance	\$160,864
(001.508.80.00.01)	
Designated Ending Fund Balance-Light	\$5,028
(001.508.10.00.01)	
Designated Ending Fund Balance-44 th /Alameda	\$2,384
(001.508.10.00.02)	

Street Fund

Revenues	
Undesignated Beginning Fund Balance	\$14,890
(101.308.80.01.01)	
Expenditures	
Pole Attachments	\$12,280
(101.542.63.48.02)	
Undesignated Ending Fund Balance	\$2,610
(101.508.80.01.01)	

REET Fund

Revenues	
Designated Beginning Fund Balance 1st Qtr	(\$10,977)
(310.308.10.03.11)	
Designated Beginning Fund Balance 2 nd Qtr	(\$20,174)
(310.308.10.03.12)	
Expenditures	
Transfer Out to Sewer Reet 2	\$56,750
Designated Ending Fund Balance 1 st Qtr	(\$10,977)
(310.508.10.03.11)	
Designated Ending Fund Balance 2 nd Qtr	(\$76,924)
(310.508.10.03.12)	

Storm Drain Fund

Revenues	
Undesignated Beginning Fund Balance	(\$24,158)
(415.308.80.04.15)	
Expenditures	
Undesignated Ending Fund Balance	(\$24,158)
(415.508.80.04.15)	

Water Fund

Revenues	
Undesignated Beginning Fund Balance	\$24,484
(425.308.80.04.25)	
Expenditures	
Undesignated Ending Fund Balance	\$24,484

(425.508.80.04.25)

Sewer Fund

Revenues

Undesignated Beginning Fund Balance (\$8,309)

(430.308.80.04.30)

Transfer In Reet 2 \$56,750

(430.397.00.00.08)

Expenditures

Other Improvements \$62,000

(430.594.35.63.01)

Project Engineering \$56,750

(430.594.35.63.03)

Construction Engineering \$45,000

(430.594.35.63.03)

Undesignated Ending Fund Balance (\$115,309)

(430.508.80.04.30)

Relocation of Backyard Sewer Main Fund

Revenues

Undesignated Beginning Fund Balance (\$58,552)

(431.308.80.04.31)

Expenditures

Undesignated Ending Fund Balance (\$58,552)

(431.508.80.04.31)

ERR Fund

Revenues

Designated Beginning Fund Balance (\$10,570)

(501.308.10.05.01)

Expenditures

Designated Ending Fund Balance (\$10,570)

(501.508.10.05.01)

Section 3. The anticipated revenues and expenditures will result in the 2017 Amended Budget by fund as follows:

2017 REVENUES, EXPENDITURES & BALANCES BY FUND			
<u>FUND</u>	<u>ORIGINAL</u>	<u>ADJUSTMENT</u>	<u>AMENDED</u>
General	7,739,626	229,726	7,969,352
Street	2,625,622	14,890	2,640,512
Storm Drain	1,121,800	(24,158)	1,097,642
Water	1,833,670	24,484	1,858,154
Sewer	3,918,200	48,441	3,966,641
BYSM	1,379,164	(58,552)	1,320,612
ERR	1,863,099	(10,570)	1,852,529
Police Investigation	11,500		11,500
REET	1,509,300	(31,151)	1,478,149
Cumulative Reserve	3,530,763		3,530,763
Total	25,532,744	193,110	25,725,854

PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON,
at a regular meeting thereof this 9th day of May 2017.

APPROVED:

Matthew Jolibois, Mayor

ATTEST:

Lisa Keely, City Clerk

APPROVED AS TO FORM:

Michael B. Smith, City Attorney

Publication Date:

Effective Date: