

**FIRCREST CITY COUNCIL  
REGULAR MEETING  
AGENDA**

**TUESDAY, DECEMBER 12, 2023  
7:00 P.M.**

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

**Pg.#**

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. PRESIDING OFFICER'S REPORT**
  - A. Motion: Cancellation of December 18, 2023 Study Session
- 5. CITY MANAGER COMMENTS**
- 6. DEPARTMENT HEAD COMMENTS**
- 7. COUNCILMEMBER COMMENTS**
- 8. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA** (If you would like to make a public comment, you may speak at the appropriate time using the raise your hand feature or by pressing \*9 on your phone.)
- 9. COMMITTEE, COMMISSION & LIAISON REPORTS**
  - A. Administration
  - B. Environmental, Planning, and Building
  - C. Finance, IT
  - D. Other Reports
- 10. CONSENT CALENDAR**
  - A. Approval of [vouchers](#)/payroll checks 3
  - B. Approval of Minutes: [November 14, 2023, Special Meeting](#) 14  
[November 14, 2023, Regular Meeting](#)  
[November 20, 2023, Study Session](#)
- 11. PUBLIC HEARING**
- 12. UNFINISHED BUSINESS**
- 13. NEW BUSINESS**
  - A. [Resolution: Honoring Fircrest Municipal Court Judge Miller](#) 22
  - B. [Motion: Confirmation of Municipal Court Judge Appointment](#) 23
  - C. [Ordinance: 2023 Budget Amendment #3 – 2<sup>nd</sup> Reading](#) 27
  - D. [Resolution: Pierce County Regional Council Appointment](#) 34
  - E. [Resolution: South Sound Housing Affordability Partners Appointment](#) 36
  - F. [Resolution: Greenleaf Landscaping Maintenance Contract Amendment](#) 38
  - G. [Resolution: Tacoma Daily Index Contract](#) 58
  - H. [Resolution: Memorandum of Understanding with Teamsters](#) 71
  - I. [Resolution: RWJ Consultant Contract Amendment](#) 76
  - J. [Resolution: Audio-Visual System Replacement Change Order](#) 81
  - K. [Ordinance: Water Rate Adjustment](#) 85
  - L. [Resolution: Robert W. Droll, PS Contract Amendment](#) 96
  - M. [Resolution: Humane Society Contract](#) 99
  - N. [Resolution: KBH Contract Amendment](#) 110
  - O. [Resolution: Emerson Street Sidewalk Extension Design Contract](#) 113
  - P. [Resolution: 44th Street West/67th Ave West Lift Station Upgrade Contract](#) 176
  - Q. [Resolution: Claremont Avenue Overlay TIB Grant Agreement](#) 183
- 14. CALL FOR FINAL COMMENTS**

**15. EXECUTIVE SESSION**

To Discuss Potential Litigation, pursuant to RCW 42.30.110(1)(i)

**16. ADJOURNMENT**

Join the Zoom *Dial-in Information:* 1-253-215-8782 *Webinar ID:* 846 5985 5658*Password:* 848037

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# ACCOUNTS PAYABLE

City Of Fircrest

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Accts Pay #	Received	Date Due	Vendor	Amount	Memo
31187	12/06/2023	12/12/2023	3647 Agrishop, Inc	49.64	Plate Compactor Repair
	548 65 48 12	O & M - Street	501 000 548 Equipment Rent:	49.64	Plate Compactor Repair
31156	12/06/2023	12/12/2023	10562 Amazon Capital Services	60.74	Video Adapters, Mic Stand & Rollers
	512 51 35 00	Small Tools & Equip - Court	001 000 512 General Fund	34.96	Mic Stand & Rollers
	518 81 35 00	Small Tools & Equip - I/S	001 000 518 General Fund	25.78	Video Adapters (2)
31157	12/06/2023	12/12/2023	10562 Amazon Capital Services	56.19	Speakers (2) & Thumb Drives (2)
	518 81 35 00	Small Tools & Equip - I/S	001 000 518 General Fund	56.19	Speakers (2) & Thumb Drives (2)
Total Amazon Capital Services				116.93	
31147	12/05/2023	12/12/2023	4218 BHC Consultants LLC	3,829.38	G22-03 Comprehensive Plan Update thru 11/24/23
	558 60 41 00	Prof Svcs - Planning	001 000 558 General Fund	3,829.38	G22-03 Comprehensive Plan Update thru 11/24/23
31172	12/06/2023	12/12/2023	6018 Canon Financial Services Inc	159.81	Police Copier/Fax Rental - November 2023
	591 21 70 22	Lease Payments - Police	001 000 591 General Fund	159.81	Police Copier/Fax Rental - November 2023
31137	12/05/2023	12/12/2023	4315 Cities Insurance Assoc of WA	337,190.92	Insurance (12/01/23 - 12/01/2024)
	518 30 46 00	Insurance	001 000 518 General Fund	302,610.00	Insurance (12/01/23 - 12/01/2024)
	548 65 46 05	Insurance - Non Dept	501 000 548 Equipment Rent:	1,235.03	Insurance (12/01/23 - 12/01/2024)
	548 65 46 06	Insurance - Facilities	501 000 548 Equipment Rent:	2,223.05	Insurance (12/01/23 - 12/01/2024)
	548 65 46 08	Insurance - Police	501 000 548 Equipment Rent:	13,585.41	Insurance (12/01/23 - 12/01/2024)
	548 65 46 11	Insurance - Parks/Rec	501 000 548 Equipment Rent:	3,952.10	Insurance (12/01/23 - 12/01/2024)
	548 65 46 12	Insurance - Street	501 000 548 Equipment Rent:	5,094.50	Insurance (12/01/23 - 12/01/2024)
	548 65 46 13	Insurance - Storm	501 000 548 Equipment Rent:	2,006.92	Insurance (12/01/23 - 12/01/2024)
	548 65 46 14	Insurance - Water/Sewer	501 000 548 Equipment Rent:	6,483.91	Insurance (12/01/23 - 12/01/2024)
31140	12/05/2023	12/12/2023	10296 CodePros, LLC	5,961.04	Building Official/Inspection Services - Mar-Oct 2023
	524 20 41 01	Bldg Inspec/Plan Review	001 000 524 General Fund	5,961.04	Building Official/Inspection Services - Mar-Oct 2023
31201	12/06/2023	12/12/2023	8188 Comcast Business Communications LLC	451.87	Internet Access Fee - December 2023
	518 81 42 00	Communication/Internet - I/	001 000 518 General Fund	451.87	Internet Access Fee - December 2023
31163	12/06/2023	12/12/2023	7918 Contreras, Alejandra	150.00	Spanish Interpreting (2 hrs) 3A0798813, 3A0798812
	512 51 41 03	Prof Svcs - Interpreter - FMC	001 000 512 General Fund	150.00	Spanish Interpreting (2 hrs) 3A0798813, 3A0798812

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31178	12/06/2023	12/12/2023	3587 DG Construction, Darin J Gago	2,752.50	P#75 Tennis Court Concrete Sidewalk Walkway
	594 76 62 03 Buildings & Structures - PBC		301 000 594 Park Bond Capit:	2,752.50	P#75 Tennis Court Concrete Sidewalk Walkway
31150	12/05/2023	12/12/2023	10533 Desco Electronics, Corp, Db	40,793.55	AV System Upgrade - Equipment & Labor (Council Chambers/Courtroom)
	594 11 64 00 Machinery & Equipment - Le		001 000 511 General Fund	40,793.55	AV System Upgrade - Equipment & Labor (Council Chambers/Courtroom)
31180	12/06/2023	12/12/2023	366 Employment Security Dept, UI Tax Admin	749.00	Benefit Charge - Q3/2023
	517 78 20 00 Unemployment Compensati		001 000 517 General Fund	749.00	Benefit Charge - Q3/2023
31194	12/06/2023	12/12/2023	4858 Ewing Irrigation Products Inc	136.92	Sprinkler Repairs
	576 80 31 02 Oper Supplies - Parks		001 000 576 General Fund	136.92	Sprinkler Repairs
31181	12/06/2023	12/12/2023	3635 Fence Specialists Inc	1,734.08	Repair Fence at Well #7 from Car Accident
	534 50 48 01 Rep & Maint - Water Maint		425 000 534 Water Fund (dep	1,734.08	Repair Fence at Well #7 from Car Accident
31188	12/06/2023	12/12/2023	3636 Ferguson Waterworks, #3011	126.62	Supplies for New Water Meter Installs/Repairs
	594 34 63 01 Other Improvements - Wate		426 000 594 Water Improver	126.62	Supplies for New Water Meter Installs/Repairs
31158	12/06/2023	12/12/2023	3638 Fircrest Golf Club	1,366.81	Land Rental for Water Tank on Golf Course Property - December 2023
	591 34 70 00 Lease Payments - Water Adr		425 000 591 Water Fund (dep	1,366.81	Land Rental for Water Tank on Golf Course Property - December 2023
31123	12/01/2023	12/12/2023	10298 Foley, Meagan M.	187.50	Pro Temp Judge - 11/22/23 (2.5 hrs) - FMC
	512 51 41 02 Prof Svcs - Pro Temp Judges		001 000 512 General Fund	187.50	Pro Temp Judge - 11/22/23 (2.5 hrs) - FMC
31124	12/01/2023	12/12/2023	10298 Foley, Meagan M.	262.50	Pro Temp Judge - 11/16/23 (3.5 hrs) - RMC
	512 52 41 02 Prof Svcs - Pro Temp Judges		001 000 512 General Fund	262.50	Pro Temp Judge - 11/16/23 (3.5 hrs) - RMC
31164	12/06/2023	12/12/2023	10298 Foley, Meagan M.	225.00	Pro Temp Judge - 11/29/23 (3 hrs) - FMC
	512 51 41 02 Prof Svcs - Pro Temp Judges		001 000 512 General Fund	225.00	Pro Temp Judge - 11/29/23 (3 hrs) - FMC
31197	12/06/2023	12/12/2023	10298 Foley, Meagan M.	225.00	Pro Temp Judge - 11/30/23 (3 hrs) - RMC
	512 52 41 02 Prof Svcs - Pro Temp Judges		001 000 512 General Fund	225.00	Pro Temp Judge - 11/30/23 (3 hrs) - RMC

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			Total Foley, Meagan M.	900.00	
31126	12/04/2023	12/12/2023	9338 Fuelman Fleet Program	2,311.53	Gas/Fuel - November 2023
	548 65 31 06		Gas - Facilities 501 000 548 Equipment Rent:	170.04	Facilities - 11/2023
	548 65 31 08		Gas - Police 501 000 548 Equipment Rent:	1,622.13	Police - 11/2023
	548 65 31 11		Gas - Parks/Rec 501 000 548 Equipment Rent:	141.77	Parks - 11/2023
	548 65 31 12		Gas - Street 501 000 548 Equipment Rent:	134.79	Street - 11/2023
	548 65 31 14		Gas - Water/Sewer 501 000 548 Equipment Rent:	242.80	W/S - 11/2023
31154	12/05/2023	12/12/2023	10305 Gunderson Law Office PLLC	12,000.00	City of Fircrest - November 2023
	515 41 41 03		City Prosecutor 001 000 515 General Fund	12,000.00	City of Fircrest - November 2023
31135	12/04/2023	12/12/2023	3692 Home Depot Credit Services	161.29	Supplies to Seal Concrete on Drain at Tennis Courts
	576 80 31 02		Oper Supplies - Parks 001 000 576 General Fund	161.29	Supplies to Seal Concrete on Drain at Tennis Courts
31195	12/06/2023	12/12/2023	3692 Home Depot Credit Services	43.55	Painters Tape
	518 30 31 00		Oper Supplies - Facilities 001 000 518 General Fund	43.55	Painters Tape
31196	12/06/2023	12/12/2023	3692 Home Depot Credit Services	399.21	Tools for Shop
	518 30 35 00		Small Tools & Equip - Facilit 001 000 518 General Fund	399.21	Tools for Shop
			Total Home Depot Credit Services	604.05	
31161	12/06/2023	12/12/2023	4131 Humane Society - Tacoma	747.00	December 2023 Boarding Contract
	554 30 41 00		Animal Control 001 000 554 General Fund	747.00	December 2023 Boarding Contract
31125	12/01/2023	12/12/2023	8122 Jean, Robert W.	6,250.00	Project Coordinator Services - November 2023
	535 10 41 00		Prof Svcs - Sewer Admin 430 000 535 Sewer Fund (dep	6,250.00	Project Coordinator Services - November 2023
31159	12/06/2023	12/12/2023	9992 LaPointe, Raquel	57.24	Gym Reimbursement - June - Sept 2023
	571 10 20 00		Personnel Benefits - Rec 001 000 571 General Fund	57.24	Gym Reimbursement - June - Sept 2023
31139	12/05/2023	12/12/2023	10264 Larson, Shari	219.80	Gentle Yoga & Chair Yoga Classes (10/1/23-10/31/23) - Remainder of Oct Billing
	571 20 49 06		Instructor Fees 001 000 571 General Fund	219.80	Gentle Yoga & Chair Yoga Classes (10/1/23-10/31/23) - Remainder of Oct Billing

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31199	12/06/2023	12/12/2023	7975	Matty Photo & Motion LLC	385.35	City Council Photos: Group Photo 2023
	511 60 49 00	Miscellaneous - Legisl	001 000 511	General Fund	385.35	City Council Photos: Group Photo 2023
31132	12/04/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	61.73	Lights for Roof at Rec Bldg
	518 30 31 01	Oper Supplies - Rec Bldg	001 000 518	General Fund	61.73	Lights for Roof at Rec Bldg
31133	12/04/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	19.17	Part for Top Dresser
	576 80 31 02	Oper Supplies - Parks	001 000 576	General Fund	19.17	Part for Top Dresser
31170	12/06/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	132.29	Big Island Holiday Lights
	542 80 31 01	Oper Supplies - St Beaut	101 000 542	City Street Fund	132.29	Big Island Holiday Lights
31182	12/06/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	501.62	Big Island Holiday Lights
	542 80 31 01	Oper Supplies - St Beaut	101 000 542	City Street Fund	501.62	Big Island Holiday Lights
31183	12/06/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	529.18	Big Island Holiday Lights
	542 80 31 01	Oper Supplies - St Beaut	101 000 542	City Street Fund	529.18	Big Island Holiday Lights
31184	12/06/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	788.55	Big Island Holiday Decorations
	542 80 31 01	Oper Supplies - St Beaut	101 000 542	City Street Fund	788.55	Big Island Holiday Decorations
31185	12/06/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	22.05	Big Island Holiday Lights
	542 80 31 01	Oper Supplies - St Beaut	101 000 542	City Street Fund	22.05	Big Island Holiday Lights
31192	12/06/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	55.04	Holiday Lights for Alice Peers Park
	576 80 31 02	Oper Supplies - Parks	001 000 576	General Fund	55.04	Holiday Lights for Alice Peers Park
31193	12/06/2023	12/12/2023	6369	McLendon Hardware Inc (Tacoma)	121.09	Holiday Lights for Alice Peers Park
	576 80 31 02	Oper Supplies - Parks	001 000 576	General Fund	121.09	Holiday Lights for Alice Peers Park
				Total McLendon Hardware Inc (Tacoma)	2,230.72	
31138	12/05/2023	12/12/2023	10265	Mirande, Therese	175.00	Gentle Yoga Classes, Chair Yoga & Yin Yoga Series (10/01/23-10/31/23) - Remainder of Oct Billing
	571 20 49 06	Instructor Fees	001 000 571	General Fund	175.00	Gentle Yoga Classes, Chair Yoga & Yin Yoga Series (10/01/23-10/31/23) - Remainder of Oct Billing
31167	12/06/2023	12/12/2023	3957	PC Budget & Finance	137.50	October 2023 Radio Repair (1 unit)

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	521 22 48 00	Rep & Maint - Police	001 000 521 General Fund	137.50	October 2023 Radio Repair (1 unit)
31168	12/06/2023	12/12/2023	3957 PC Budget & Finance	20,360.00	Interim Police Chief Contract (R LaTour) - 1st Month
	521 22 41 00	Prof Svcs - Police	001 000 521 General Fund	20,360.00	Interim Police Chief Contract (R LaTour) - 1st Month
31198	12/06/2023	12/12/2023	3957 PC Budget & Finance	20,360.00	Interim Police Chief Contract (R LaTour) - 2nd Month
	521 22 41 00	Prof Svcs - Police	001 000 521 General Fund	20,360.00	Interim Police Chief Contract (R LaTour) - 2nd Month
31200	12/06/2023	12/12/2023	3957 PC Budget & Finance	20,360.00	Interim Police Chief Contract (R LaTour) - Final Bill
	521 22 41 00	Prof Svcs - Police	001 000 521 General Fund	20,360.00	Interim Police Chief Contract (R LaTour) - Final Bill
Total PC Budget & Finance				61,217.50	
31145	12/05/2023	12/12/2023	8993 Pacific Office Automation - A/R	549.59	Copier Lease - 10/01/23-11/01/23
	591 12 70 00	Lease Payments - Court	001 000 591 General Fund	104.42	Court 10/01/23-11/01/23
	591 18 70 10	Lease Payments - Non-Dept	001 000 591 General Fund	203.44	City Hall 10/01/23-11/01/23
	591 31 70 00	Lease Payments - Storm	415 000 591 Storm Drain	31.92	Storm 10/01/23-11/01/23
	591 34 70 00	Lease Payments - Water Adr	425 000 591 Water Fund (de	31.92	Water 10/01/23-11/01/23
	591 35 70 00	Lease Payments - Sewer	430 000 591 Sewer Fund (de	31.91	Sewer 10/01/23-11/01/23
	591 71 70 00	Lease Payments - Recreatior	001 000 591 General Fund	102.65	Rec 10/01/23-11/01/23
	591 76 70 80	Lease Payments - Parks	001 000 591 General Fund	11.41	Parks 10/01/23-11/01/23
	591 95 70 00	Lease Payments - Street	101 000 591 City Street Fund	31.92	Street 10/01/23-11/01/23
31206	12/06/2023	12/12/2023	8993 Pacific Office Automation - A/R	917.73	Copier Usage - 10/01/23-11/01/23
	518 10 45 00	Oper Rentals - Copier - Non	001 000 518 General Fund	689.92	City Hall 10/01/23-11/01/23
	531 50 45 00	Oper Rentals - Copier - Stori	415 000 531 Storm Drain	23.31	Storm 10/01/23-11/01/23
	534 10 45 02	Oper Rentals - Copier - Wat	425 000 534 Water Fund (de	23.31	Water 10/01/23-11/01/23
	535 10 45 00	Oper Rentals - Copier - Sew	430 000 535 Sewer Fund (de	23.31	Sewer 10/01/23-11/01/23
	542 30 45 00	Oper Rentals - Copier - Stree	101 000 542 City Street Fund	23.31	Street 10/01/23-11/01/23
	571 10 45 01	Oper Rentals - Copier - Rec	001 000 571 General Fund	121.11	Rec 10/01/23-11/01/23
	576 80 45 00	Oper Rentals - Copier - Park	001 000 576 General Fund	13.46	Parks 10/01/23-11/01/23
Total Pacific Office Automation - A/R				1,467.32	
31141	12/05/2023	12/12/2023	8626 Pacific Office Automation Inc	152.83	Postage Meter Rental - December 2023
	591 18 70 10	Lease Payments - Non-Dept	001 000 591 General Fund	152.83	Postage Meter Rental - December 2023

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31171	12/06/2023	12/12/2023	3937 Pape & Sons Construction Inc	17,940.14	P#66 Retainage Stormwater Pre-treatment Outfall Project
	594 31 63 00	Storm Improvements - Storr	416 000 594 Storm Improver	17,940.14	P#66 Retainage Stormwater Pre-treatment Outfall Project
31149	12/05/2023	12/12/2023	3954 Peterson, Kristin	78.00	Library Reimbursement - 1 Year
	572 21 49 00	Library Services	001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
31128	12/04/2023	12/12/2023	3955 Petrocard Systems Inc	269.16	Gas/Fuel - November 2023
	548 65 31 13	Gas - Storm	501 000 548 Equipment Rent	269.16	Storm - 11/2023
31148	12/05/2023	12/12/2023	357 Piercy, Timothy C	57.71	Gym Reimbursement - October, November, December 2023
	531 50 20 00	Personnel Benefits - Storm	415 000 531 Storm Drain	14.43	Gym Reimbursement - October, November, December 2023
	534 10 20 00	Personnel Benefits - Water A	425 000 534 Water Fund (dep	14.43	Gym Reimbursement - October, November, December 2023
	535 10 20 00	Personnel Benefits - Sewer A	430 000 535 Sewer Fund (dep	14.43	Gym Reimbursement - October, November, December 2023
	542 30 20 00	Personnel Benefits - Street R	101 000 542 City Street Fund	14.42	Gym Reimbursement - October, November, December 2023
31160	12/06/2023	12/12/2023	4828 Protect Youth Sports	317.55	Background Checks for Youth Basketball Coaches (November 2023)
	518 11 41 00	Prof Svcs - Personnel	001 000 518 General Fund	317.55	Background Checks for Youth Basketball Coaches (November 2023)
31175	12/06/2023	12/12/2023	3751 Psomas, DBA KPG Psomas	9,049.00	P#77 Orchard St. Overlay 08/25/23-09/28/23
	595 10 63 06	Project Engineering - Street	101 000 594 City Street Fund	9,049.00	P#77 Orchard St. Overlay 08/25/23-09/28/23
31176	12/06/2023	12/12/2023	3751 Psomas, DBA KPG Psomas	10,682.74	P#77 Orchard St. Overlay 09/29/23-10/26/23
	595 10 63 06	Project Engineering - Street	101 000 594 City Street Fund	10,682.74	P#77 Orchard St. Overlay 09/29/23-10/26/23
			Total Psomas, DBA KPG Psomas	19,731.74	
31177	12/06/2023	12/12/2023	3986 Puget Sound Energy, BOT-01H	311.89	Natural Gas - Pool/Bathhouse - November 2023
	576 20 47 00	Public Utility Services - Pool	001 000 576 General Fund	311.89	Natural Gas - Pool/Bathhouse - November 2023



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31202	12/06/2023	12/12/2023	5710 Rainier Connect, Mashell Telecom	106.95	Internet Access Fee - City Hall - December 2023
	518 81 42 00	Communication/Internet - I/	001 000 518 General Fund	106.95	Internet Access Fee - City Hall - December 2023
31143	12/05/2023	12/12/2023	4008 Rider, Amy	78.00	Library Reimbursement - 1 Year
	572 21 49 00	Library Services	001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
31165	12/06/2023	12/12/2023	337 Roberts, Christopher	25.00	Gym Fees Reimbursement - October 2023
	521 22 20 00	Personnel Benefits - Police	001 000 521 General Fund	25.00	Gym Fees Reimbursement - October 2023
31191	12/06/2023	12/12/2023	8403 Schmidtke, Judy A	275.00	Gym Fees Reimbursement - Jan-Nov 2023
	571 10 20 00	Personnel Benefits - Rec	001 000 571 General Fund	275.00	Gym Fees Reimbursement - Jan-Nov 2023
31155	12/06/2023	12/12/2023	6088 Sentinel Pest Control Inc	120.23	Pest Control - City Hall - 12/2023
	518 30 48 02	Rep & Maint - City Hall	001 000 518 General Fund	120.23	Pest Control - City Hall - 12/2023
31142	12/05/2023	12/12/2023	4056 Sherwin-Williams Company	67.10	Paint for Offices
	518 30 31 04	Oper Supplies - CH	001 000 518 General Fund	67.10	Paint for Offices
31153	12/05/2023	12/12/2023	4105 Sulgrove, Patricia	78.00	Library Reimbursement - 1 Year
	572 21 49 00	Library Services	001 000 572 General Fund	78.00	Library Reimbursement - 1 Year
31146	12/05/2023	12/12/2023	4328 Systems for Public Safety Inc	331.13	#60452D - 2016 Ford Interceptor - Draw Test/Replaced Battery
	548 65 48 08	O & M - Police	501 000 548 Equipment Rent:	331.13	#60452D - 2016 Ford Interceptor - Draw Test/Replaced Battery
31173	12/06/2023	12/12/2023	4328 Systems for Public Safety Inc	186.33	#68056D - 2019 Ford Interceptor - LOF, Replace Air Filter
	548 65 48 08	O & M - Police	501 000 548 Equipment Rent:	186.33	#68056D - 2019 Ford Interceptor - LOF, Replace Air Filter
Total Systems for Public Safety Inc				517.46	
31204	12/06/2023	12/12/2023	9888 T-Mobile (Cell Phone Bill)	1,129.45	City Cell Phones & Air Cards 11/2023
	518 30 42 00	Communication - Fac/Equip	001 000 518 General Fund	90.72	Maint. Lead, 2 Workers 11/2023
	521 22 42 00	Communication - Police	001 000 521 General Fund	583.31	Police Officers, Chief and Air Cards 11/2023
	524 20 42 00	Communication- Building	001 000 524 General Fund	15.12	Admin Svcs Dir. 11/2023

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Accts Pay #	Received	Date Due	Vendor	Amount	Memo
531 50 42 00	Communication - Storm		415 000 531 Storm Drain	75.83	Public Works Crew, Director, PW Office Coord. 11/2023
534 10 42 00	Communication - Water Adr		425 000 534 Water Fund (dep	106.97	Public Works Crew, Director, PW Office Coord., PW Water Meter Collector 11/2023
535 10 42 01	Communication - Sewer Adr		430 000 535 Sewer Fund (dep	75.83	Public Works Crew, Director, PW Office Coord. 11/2023
542 30 42 00	Communication - Street Reg		101 000 542 City Street Fund	75.83	Public Works Crew, Director, PW Office Coord. 11/2023
558 60 42 00	Communication - Planning		001 000 558 General Fund	15.12	Admin Svcs Dir. 11/2023
576 80 42 00	Communication - Parks		001 000 576 General Fund	90.72	P/R Director, Events, Maint. Worker 11/2023
31134 12/04/2023 12/12/2023 4135			Tacoma Screw Products Inc	28.03	Parts for Top Dresser
576 80 31 02	Oper Supplies - Parks		001 000 576 General Fund	28.03	Parts for Top Dresser
31203 12/06/2023 12/12/2023 4322			Tacoma, City of - POWER	6,760.23	Power - Various Locations - November 2023
518 30 47 00	Public Utility Services - City I		001 000 518 General Fund	727.03	Facilities Power 10/2023
534 80 47 01	Utility Services/Pumping		425 000 534 Water Fund (dep	4,953.85	PW, Well #6, #7, #8 & Weathervane Booster 10/2023 & 11/2023
535 80 47 01	Utility Services/Pumping		430 000 535 Sewer Fund (dep	938.13	Pumps/LS Power 10/2023 & 11/023
542 30 47 03	Electricity/Traffic Lights		101 000 542 City Street Fund	85.11	Traffic Control 10/2023 & 11/2023
542 63 47 00	Electricity/Street Lights		101 000 542 City Street Fund	12.11	Street Lights 11/2023
576 80 47 00	Public Utility Services - Parks		001 000 576 General Fund	44.00	Parks Power - 10/2023
31166 12/06/2023 12/12/2023 10617			TechPower Solutions, Inc.	898.28	49" Double Full HD Curved Screen - M Newman
524 20 35 00	Small Tools & Equip - Buildi		001 000 524 General Fund	449.14	49" Double Full HD Curved Screen - M Newman
558 60 35 00	Small Tools & Equip - Planni		001 000 558 General Fund	449.14	49" Double Full HD Curved Screen - M Newman
31131 12/04/2023 12/12/2023 5934			US Bank, City Hall Account	3,458.75	P-Card Charges thru 11/25/23
512 51 31 00	Office & Oper Sup - Court		001 000 512 General Fund	38.94	Office Supplies
512 51 49 00	Miscellaneous - Court		001 000 512 General Fund	44.00	Cleaning of Judge Miller's Robe
514 23 49 01	Reg & Tuition - Finance		001 000 514 General Fund	20.00	PSFOA Fraud Class - C Corcoran, J Dunbar
517 90 31 01	Oper Supplies - Wellness Pr		001 000 517 General Fund	214.33	Wellness Program Supplies
518 10 42 01	Postage - Non Dept		001 000 518 General Fund	212.30	Postage - Passports
521 10 49 00	Miscellaneous - Civil Svc		001 000 521 General Fund	51.83	Snacks & Refreshments for Oral Board Panel - 11/01/23
521 10 49 01	Meals - Other Than Travel/Ti		001 000 521 General Fund	71.82	Lunch for Oral Board Panel - 11/01/23
521 22 35 00	Small Tools & Equip - Police		001 000 521 General Fund	13.13	Display Port for Computer
524 20 35 00	Small Tools & Equip - Buildi		001 000 524 General Fund	7.46	HDMI Monitor Adapter
558 60 31 00	Office & Oper Sup - Planni		001 000 558 General Fund	34.24	Certified Mail for Code Enforcement
558 60 35 00	Small Tools & Equip - Planni		001 000 558 General Fund	7.46	HDMI Monitor Adapter

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Accts Pay #	Received	Date Due	Vendor	Amount	Memo
	558 60 49 03	Printing & Binding - Plannin	001 000 558 General Fund	2,743.24	Comp Plan Binder - Printing & Presentation
31127	12/04/2023	12/12/2023	8482 US Bank, Police Department Account	345.81	P-Card Charges thru 11/25/23
	521 22 49 07	Community Outreach	001 000 521 General Fund	345.81	Halloween Candy
31130	12/04/2023	12/12/2023	8483 US Bank, Public Works Dept Account	882.15	P-Card Charges thru 11/25/23
	518 30 31 01	Oper Supplies - Rec Bldg	001 000 518 General Fund	10.47	Supplies - Rec Bldg
	531 50 31 01	Office Supplies - Storm	415 000 531 Storm Drain	127.14	Date/Signature Stamps, Ink Printhead & 2024 Calendars
	531 50 35 00	Small Tools & Equip - Storm	415 000 531 Storm Drain	91.74	Weather Station
	531 50 49 00	Miscellaneous - Storm	415 000 531 Storm Drain	14.00	11th Tee Stormwater Agreement filed with Pierce County
	534 10 31 00	Office Supplies - Water Adm	425 000 534 Water Fund (de	127.15	Date/Signature Stamps, Ink Printhead & 2024 Calendars
	535 10 31 00	Office Supplies - Swr Admin	430 000 535 Sewer Fund (de	127.15	Date/Signature Stamps, Ink Printhead & 2024 Calendars
	535 10 35 00	Small Tools & Equip - Sewer	430 000 535 Sewer Fund (de	91.74	Weather Station
	542 30 31 01	Office Supplies - Street Reg	101 000 542 City Street Fund	127.14	Date/Signature Stamps, Ink Printhead & 2024 Calendars
	542 30 35 00	Small Tools & Equip - Street	101 000 542 City Street Fund	91.75	Weather Station
	542 30 48 01	Rep & Maint - Street Maint	101 000 542 City Street Fund	73.87	Chainsaw Repair Tools
31136	12/05/2023	12/12/2023	8484 US Bank, Recreation Dept Account	313.34	P-Card Charges thru 11/25/23
	571 10 31 02	Senior Program Supplies	001 000 571 General Fund	41.36	Senior Moring Supplies
	571 10 31 03	Youth Supplies	001 000 571 General Fund	30.47	Supplies for Rec Center
	573 90 49 01	Community Events	001 000 573 General Fund	241.51	Community Event Supplies
31186	12/06/2023	12/12/2023	4178 University Place Refuse Inc	1,390.63	Dumping Fees - 11/2023
	531 50 47 01	Dumping Fees - Storm	415 000 531 Storm Drain	908.13	Dumping Fees - Storm 11/2023
	534 80 47 02	Dumping Fees - Water	425 000 534 Water Fund (de	90.63	Dumping Fees - Water 11/2023
	535 80 47 02	Dumping Fees - Sewer	430 000 535 Sewer Fund (de	90.63	Dumping Fees - Sewer 11/2023
	542 30 47 01	Dumping Fees - Street	101 000 542 City Street Fund	150.62	Dumping Fees - Street 11/2023
	576 80 47 01	Dumping Fees - Parks	001 000 576 General Fund	150.62	Dumping Fees - Parks 11/2023
31162	12/06/2023	12/12/2023	4179 Unum Life Insurance Company of America	56.90	Retired Benefits - December 2023
	521 22 20 02	LEOFF I Long Term Care Prei	001 000 521 General Fund	56.90	Retired Benefits - December 2023
31179	12/06/2023	12/12/2023	4180 Utilities Underground	20.18	Locates 11/2023
	534 10 49 00	Miscellaneous - Water Admi	425 000 534 Water Fund (de	10.09	Locates 11/2023

# ACCOUNTS PAYABLE

City Of Fircrest

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Accts Pay #	Received	Date Due	Vendor	Amount	Memo
	535 10 49 00	Miscellaneous - Sewer Admi	430 000 535 Sewer Fund (de	10.09	Locates 11/2023
31151	12/05/2023	12/12/2023	4237 WCP Solutions	1,521.91	Copy Machine Paper (230 Reams)
	518 10 34 01	Office Supplies - Central	001 000 518 General Fund	1,521.91	Copy Machine Paper (230 Reams)
31152	12/05/2023	12/12/2023	4237 WCP Solutions	66.17	Copy Machine Paper (10 Reams)
	518 10 34 01	Office Supplies - Central	001 000 518 General Fund	66.17	Copy Machine Paper (10 Reams)
Total WCP Solutions				1,588.08	
31129	12/04/2023	12/12/2023	3645 WEX BANK, Wright Express FSC	1,135.70	Gas/Fuel - November 2023
	548 65 31 05	Gas - Non Dept	501 000 548 Equipment Rent:	43.12	Non Dept 11/2023
	548 65 31 08	Gas - Police	501 000 548 Equipment Rent:	815.05	Police 11/2023
	548 65 31 12	Gas - Street	501 000 548 Equipment Rent:	277.53	Street 11/2023
31189	12/06/2023	12/12/2023	4231 Water Mgmt Labs Inc	126.00	Fluoride Testing - 10/18/2023
	534 80 41 00	Water Testing	425 000 534 Water Fund (de	126.00	Fluoride Testing - 10/18/2023
31190	12/06/2023	12/12/2023	4231 Water Mgmt Labs Inc	42.00	Fluoride Testing - Well #4 - 10/18/23
	534 80 41 00	Water Testing	425 000 534 Water Fund (de	42.00	Fluoride Testing - Well #4 - 10/18/23
Total Water Mgmt Labs Inc				168.00	
31169	12/06/2023	12/12/2023	10035 Zoom Video Communications	1,432.12	Monthly Phone Rental 11/30/23-12/30/23
	513 10 42 00	Communication - Admin	001 000 513 General Fund	79.64	Meeting Webinar & Recording - 11/30/23-12/30/23
	518 10 42 00	Communication - Non Dept	001 000 518 General Fund	1,020.03	Monthly Phone Service - 11/30/23-12/30/23
	591 18 70 10	Lease Payments - Non-Dept	001 000 591 General Fund	332.45	Monthly Phone Rental - 11/30/23-12/30/23

Report Total: 543,868.99

Fund	
001 General Fund	444,226.85
101 City Street Fund	22,391.51
301 Park Bond Capital Fund	2,752.50
415 Storm Drain	1,286.50
416 Storm Improvement Fund	17,940.14
425 Water Fund (department)	8,627.24
426 Water Improvement Fund	126.62
430 Sewer Fund (department)	7,653.22
501 Equipment Rental Fund	38,864.41

# ACCOUNTS PAYABLE

City Of Fircrest

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Accts Pay #	Received	Date Due	Vendor	Amount	Memo
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This report has been reviewed by:

REMARKS:

\_\_\_\_\_  
Signature & Title

\_\_\_\_\_  
Date

**CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL**

Mayor Brett L. Wittner called the special meeting to order at 6:30 P.M. Councilmembers David M. Viafore, Shannon Reynolds, Joe Barrentine, Hunter T. George, and Nikki Bufford were present. Councilmember Jim Andrews was absent and excused.

**CITY COUNCIL PHOTO SESSION**

The Council convened in the Council Chambers for the official City Council photograph.

**ADJOURNMENT**

**Councilmember Viafore MOVED to adjourn the meeting at 6:34 P.M., seconded by Mayor Wittner. The Motion Carried (6-0).**

\_\_\_\_\_  
Brett L. Wittner, Mayor

\_\_\_\_\_  
Arlette Burkhart, Acting City Clerk

**CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL**

Mayor Brett L. Wittner called the regular meeting to order at 7:00 P.M. and led the Pledge of Allegiance. Councilmembers David M. Viafore, Shannon Reynolds, Joe Barrentine, Hunter T. George, and Nikki Bufford were present. Councilmember Jim Andrews was absent. Mayor Wittner informed the Council that Councilmember Andrews would be late and attending virtually.

**PRESIDING OFFICER’S REPORT**

Mayor Wittner reported that the special meeting scheduled for November 16, 2023, regarding the Whittier Park Master Plan Public Engagement, will be canceled due to a lack of quorum. **Councilmember Reynolds MOVED to cancel the Special Council Meeting scheduled for November 16, 2023, regarding the Whittier Park Master Plan Public Engagement; seconded by Councilmember Barrentine.** Mayor Wittner invited Councilmember comment. The Council noted that the Whittier Park Master Plan Public Engagement meeting is still scheduled and is not a Council meeting. Mayor Wittner invited public comment; none were provided.

**The Motion Carried (6-0).**

**A. Proclamation: Arbor Day 2023**

Councilmember Reynolds read the proclamation into the record. **Councilmember Reynolds MOVED to authorize the Mayor’s signature on a proclamation proclaiming November 18, 2023, as Arbor Day in the City of Fircrest; seconded by Councilmember Barrentine.** Mayor Wittner invited Councilmember comment. There was a brief discussion on the Tree City plaque. Mayor Wittner invited public comment; none were provided.

**The Motion Carried (6-0).**

**CITY MANAGER COMMENTS**

City Manager Masko reported on the City’s sewer availability letter, the upcoming Centennial Steering Committee meeting, and the new part-time Court Clerk.

**DEPARTMENT HEAD COMMENTS**

- Parks and Recreation Director Grover reported on the upcoming FirFest event and provided an update on the upcoming Whittier Park Master Plan Public Engagement meeting. There was a discussion on providing public comment. Director Grover provided his email address, [jgrover@cityoffircrest.net](mailto:jgrover@cityoffircrest.net) for the public to provide feedback, comments, or ask questions regarding the Whittier Park Master Plan.
- Public Works Director Bemis reported on the sound-dampening material for the Tennis courts.
- City Manager Masko provided the Planning and Building department report and stated that Community Development Director Newman is working on the Middle Housing ordinance, collaborating with South Sound Housing Affordability Partners, and researching electric vehicle charging stations.

Councilmember Andrews joined the meeting at 7:17 P.M. via Zoom.

**COUNCILMEMBER COMMENTS**

- Councilmember Viafore commented on the Council Chamber’s audio-visual upgrade project and acknowledged the passing of Eddie Bartman, a retired Fircrest power lineman and Fire Captain.
- Councilmember Reynolds; no comment.
- Councilmember Barrentine; no comment.
- Councilmember George congratulated and thanked the participants in the Pierce County Election.
- Councilmember Bufford thanked staff for the continued community engagement.
- Councilmember Andrews thanked staff for the Veterans Day flyer and shared that his daughter passed away while in the military service.
- Mayor Wittner thanked the meeting attendees.

**PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA**

Mayor Wittner invited public comment. The following individuals provided public comment:

- Karen Grindle, 4301 62<sup>nd</sup> Ave. W., expressed concern on the City’s infrastructure, and pedestrian safety issues.
- Michael Grindle, 4301 62<sup>nd</sup> Ave. W., expressed concern about the City’s infrastructure and pedestrian safety issues.
- Vince Navarre, 1205 Del Monte Ave., reported on Project Blue Light, support for law enforcement, and thanked the Police Department.

**COMMITTEE, COMMISSION, AND LIAISON REPORTS**

**A. Administration**

There was no report.

**B. Environmental, Planning, and Building**

Councilmember George reported that the Planning and Building department is developing internal checklists and streamlining permit applicants.

**C. Finance, IT**

Councilmember Reynolds reported that the Finance department is working on the 2024 budget and coordinating the City’s yearly audit.

**D. Other Liaison Reports**

There were no other reports.

**CONSENT CALENDAR**

Mayor Wittner requested the Acting City Clerk read the Consent Calendar:

- A. Approval of Check No. 220358 through 220459 in the amount of \$792,325.85
- Approval of Check No. 14306 through 14307 in the amount of \$10,056.91
- Approval of Check No. 14308 through 14314 in the amount of \$64,839.66
- Approval of payroll electronic funds transfer in the amount of \$11,180.80
- Approval of payroll electronic funds transfer in the amount of \$5,166.28
- Approval of payroll electronic funds transfer in the amount of \$151,987.25



- B. Approval of the October 16, 2023, Study Session meeting minutes
- Approval of the October 23, 2023, Special meeting minutes
- Approval of the October 24, 2023, Special meeting minutes

**Councilmember Bufford MOVED to approve the Consent Calendar as read; seconded by Councilmember Barrentine.**

**The Motion Carried (7-0).**

**PUBLIC HEARING**

**A. To receive comments on the 2024 Preliminary Budget**

At 7:41 P.M., Mayor Wittner opened the public hearing. Finance Director Corcoran briefed the Council on the 2024 Preliminary Budget stating the public hearing was to receive comments on the Preliminary 2024 Budget. Mayor Wittner invited Councilmember comments; none were provided.

Mayor Wittner invited public testimony; none were provided.

At 7:44 P.M., Mayor Wittner closed the public hearing.

**UNFINISHED BUSINESS**

**A. Budget Discussion**

Finance Director Corcoran provided a brief overview of the changes to the 2024 proposed General Fund and Water Capital budget. Public Works Director Bemis provided a brief overview of the Water Meter Exchange Program to be completed in 2024. City Manager Masko reported on the proposed water rate increase and provided an overview of the process.

**NEW BUSINESS**

**A. Motion: Setting a public hearing on November 28, 2023, at 7:15 P.M. or shortly thereafter to receive comment on a potential water rate adjustment**

**Councilmember Viafore MOVED to set a public hearing on November 28, 2023, at 7:15 P.M. or shortly thereafter to receive comment on a potential water rate adjustment at Fircrest City Hall, 115 Ramsdell Street, Fircrest, Washington, 98466; seconded by Councilmember Bufford.** Mayor Wittner invited Councilmember comment. There was a brief discussion on the Water Fund and the proposed water rate report. Mayor Wittner invited public comment; none were provided.

**The Motion Carried (7-0)**

**B. Ordinance No. 1712: Salaries of Non-Union Employees, Including Casual and Seasonal Employees**

Finance Director Corcoran briefed the Council on the proposed ordinance and stated that the salary ordinance includes a proposed 4.5% Cost of Living Adjustment based on the Consumer Price Index. **Councilmember Reynolds MOVED to adopt Ordinance No. 1712, amending Fircrest Municipal Code (“FMC”) 2.44.050 relating to salaries of non-union City employees and**

amending FMC 2.44.090 relating to hourly rate of pay for casual and seasonal employees; providing for severability; and establishing an effective date; seconded by Councilmember Bufford. Mayor Wittner invited Councilmember comment; none were provided. Mayor Wittner invited public comment; none were provided.

The Motion Carried (7-0)

**C. Ordinance No. 1713: Municipal Court Judge and Chief Examiner Rate of Pay**

Finance Director Corcoran briefed the Council on the proposed ordinance and stated that the ordinance provides a salary increase for the Municipal Court Judge and Chief Examiner. **Councilmember Reynolds MOVED move to adopt Ordinance No. 1713, amending Fircrest Municipal Code (“FMC”) 2.44.070 amending the Municipal Court Judge monthly rate of pay, and the Civil Service Chief Examiner/Secretary rate of pay, providing for severability; and establishing an effective date; seconded by Councilmember Reynolds.** Mayor Wittner invited Councilmember comment; none were provided. Mayor Wittner invited public comment; none were provided.

The Motion Carried (7-0)

**D. Resolution No. 1853: NW GIS Consulting, LLC Contract Amendment**

Public Works Director Bemis provided an overview of the proposed resolution and highlighted the changes including extending the term and an increase in the hourly rate. **Councilmember Bufford MOVED to adopt Resolution No. 1853, authorizing the City Manager to execute an amendment to the contract for on-call GIS support services with NW GIS Consulting, LLC for calendar year 2024; seconded by Councilmember Reynolds.** Mayor Wittner invited Councilmember comment. There was a brief discussion on the annual expenses. Mayor Wittner invited public comment; none were provided.

The Motion Carried (7-0)

**E. Resolution No. 1854: Approval of Steilacoom Holiday Sleigh Agreement**

City Manager Masko briefed the Council on the Holiday Sleigh Contract and stated that the Police Department will develop maps for the Fircrest community. **Councilmember Bufford MOVED to adopt Resolution No. 1854, authorizing the City Manager to execute an Equipment Use and Hold Harmless Agreement between the Town of Steilacoom and the City of Fircrest for the use of the motorized Holiday Sleigh; seconded by Councilmember Barrentine.** Mayor Wittner invited Councilmember comment; none were provided. Mayor Wittner invited public comment; none were provided.

The Motion Carried (7-0)

**F. Ordinance No. 1714: 2024 Tax Levy**

Finance Director Corcoran briefed the Council on the proposed ordinance and stated that the ordinance will allow the City to levy the necessary amount to fund 2024 City operations. **Councilmember Bufford MOVED to adopt Ordinance No. 1714, fixing the amount of the annual ad valorem tax levy necessary for the fiscal year 2024, providing for severability, and establishing an effective date; seconded by Councilmember Barrentine.** Mayor Wittner invited

Councilmember comment; none were provided. Mayor Wittner invited public comment; none were provided.

**The Motion Carried (7-0)**

**G. Resolution No. 1855: Summit Law Contract Amendment**

City Manager Masko briefed the Council on the proposed resolution and stated that changes include extending the contract and an updated schedule of rates. **Councilmember Bufford MOVED to adopt Resolution No. 1855, authorizing the City Manager to execute Amendment #17 to the Professional Services Agreement with Summit Law Group for personnel legal services; seconded by Councilmember George.** Mayor Wittner invited Councilmember comment; none were provided. Mayor Wittner invited public comment; none were provided.

**The Motion Carried (7-0)**

**H. Resolution No. 1856: KBH Change Order #2**

Parks and Recreation Director Grover briefed the Council on the proposed resolution and highlighted that the change order will include additional sand to even the field of play. **Councilmember Bufford MOVED to adopt Resolution No. 1856, authorizing the City Manager to execute a contract change order for additional construction services for the Fircrest Park Athletic Fields Improvement Project with KBH Construction Company; seconded by Councilmember George.** Mayor Wittner invited Councilmember comment. There was a brief discussion on the Recreation and Conservation Office grant, due diligence, and expenditure of public funds. Mayor Wittner invited public comment.

- Brian Rybolt, 1036 Daniels Drive, expressed concern about the change order and public funds.

**The Motion Carried (6-1), with Councilmember Andrews dissenting.**

**I. Resolution No. 1857: Olbrechts & Associates Contract Amendment**

City Manager Masko briefed the Council on the proposed resolution and stated that the changes include extending the contract and an update fee for services schedule. **Councilmember Bufford MOVED to adopt Resolution No. 1857, authorizing the City Manager to execute an amendment to the Professional Services Agreement with Olbrechts & Associates, PLLC, for Hearing Examiner services; seconded by Councilmember Reynolds.** Mayor Wittner invited Councilmember comment. There was a brief discussion on the consent calendar for contract renewals. Mayor Wittner invited public comment; none were provided.

**The Motion Carried (7-0)**

**CALL FOR FINAL COMMENTS**

Councilmember Viafore requested a brief update on the sewer conditions near 62<sup>nd</sup> Avenue. Councilmember George commented on the consent calendar and its auditing process.

**EXECUTIVE SESSION**

At 8:23 P.M., Mayor Wittner reported that the Council would take a five-minute recess and

convene into Executive Session, not to exceed sixty (60) minutes, to discuss labor negotiations, pursuant to RCW 42.30.140(4)(b) and to review the performance of a public employee, pursuant to RCW 42.30.110 (g). Mayor Wittner noted that City Manager Masko was invited to the Executive Session.

Councilmember Andrews left the meeting at 8:54 P.M.

**ADJOURNMENT**

**Councilmember Bufford MOVED to adjourn the meeting at 8:59 P.M., seconded by Councilmember Barrentine.**

**The Motion Carried (6-0), with Councilmember Andrews absent.**

\_\_\_\_\_  
Brett L. Wittner, Mayor

\_\_\_\_\_  
Arlette Burkhart, Acting City Clerk

**CALL TO ORDER, PLEDGE OF ALLEGIANCE AND ROLL CALL**

Mayor Brett L. Wittner called the special meeting to order at 6:00 P.M. and led the Pledge of Allegiance. Councilmembers David M. Viafore, Shannon Reynolds, Joe Barrentine, Hunter T. George, Nikki Bufford, and Jim Andrews were present.

**AGENDA MODIFICATIONS**

There were none.

**PIERCE TRANSIT “STATE OF LOCAL TRANSIT” PRESENTATION**

Pierce Transit’s Government Relations Administrator, Alexandra Mather, and Executive Director of Planning and Community Development, Ryan Wheaton provided an overview of the 2023 Pierce Transit work plan and its operations. They highlighted major initiatives including the Enhanced Bus, Runner Service, and Bus Rapid Transit, and reported on capital projects.

**COMPREHENSIVE PLAN – YEAR 1 UPDATE**

Community Development Director Newman provided an update on the Comprehensive Plan and reported on work targets for 2024. BHC Consultants representative, Senior Planner Katie Cote, provided an overview of completed deliverables, the City’s vision statement, the draft Comprehensive Plan, and the next steps. Council discussions included the City’s vision statement, community involvement, and housing diversity.

**COUNCIL CHAMBER AUDIO-VISUAL SYSTEM**

Finance Director Corcoran provided an update on the Council Chamber audio-visual system, project changes, and additional equipment costs. There was a Council consensus to move forward with the additions and not move forward with the monitor mounted above the Council Chamber’s breezeway.

**I&I REDUCTION DISCUSSION**

Public Works Director Bemis reported on the City’s sewer system and Infiltration and Inflow (I&I) program. Council discussions included the City’s sewer flow data, community outreach, and education.

**ADJOURNMENT**

**Councilmember Bufford MOVED to adjourn the meeting at 7:47 P.M., seconded by Councilmember George. The Motion Carried (7-0).**

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Brett L. Wittner, Mayor

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Arlette Burkhart, Acting City Clerk

1 **CITY OF FIRCREST**  
2 **RESOLUTION NO. \_\_\_\_\_**

3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
4 **FIRCREST, WASHINGTON, RECORDING SINCERE**  
5 **GRATITUDE AND COMMENDATION TO JOHN A. MILLER FOR**  
6 **SERVICE AND DEDICATION TO THE CITY OF FIRCREST.**

7 **WHEREAS**, John A. Miller was first appointed as the Fircrest Municipal Court Judge on  
8 October 11, 1995; reappointed in 1997, 2001, 2005, 2009, 2013, 2017, and 2021; and

9 **WHEREAS**, Judge Miller has served in that capacity since that time; and

10 **WHEREAS**, Judge Miller has also served as the Ruston Municipal Court Judge since  
11 2019 and was instrumental in negotiations, ensuring the success of the Ruston Court  
12 transition; and

13 **WHEREAS**, Judge Miller also served as a Special Attorney for the City of Fircrest and  
14 as a Fircrest Civil Service Commissioner prior to his appointment as Fircrest Municipal  
15 Court Judge; and

16 **WHEREAS**, Judge Miller will retire on December 31, 2023, after 28 years of fairness,  
17 compassion, integrity, and dedication to the Fircrest community; and

18 **WHEREAS**, Judge Miller is highly regarded in the organization, bringing both humor  
19 and kindness to his position.

20 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY**  
21 **OF FIRCREST THAT:**

22 **Section 1.** The residents and staff of the City of Fircrest through their City Council  
23 hereby commemorate Judge John A. Miller for his long-tenured and distinguished  
24 public service and the professional and inspiring manner in which he carried out his  
25 duties and responsibilities as the Fircrest Municipal Court Judge.

26 **Section 2.** The City Council hereby honors Judge John A. Miller and extends its  
27 sincerest thanks and appreciation for his 28 years of loyal and dedicated service to the  
28 City of Fircrest.

29 **APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF**  
30 **FIRCREST, WASHINGTON**, at a regular meeting thereof this 12th day of December  
31 2023.

32 **APPROVED:**

33 \_\_\_\_\_  
34 Mayor Brett L. Wittner

35 \_\_\_\_\_  
36 Councilmember Hunter T. George

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**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:** Confirmation of Municipal Court Judge Appointment  
**ITEM:** 13B  
**DATE:** December 12, 2023  
**FROM:** Dawn Masko, City Manager

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**RECOMMENDED MOTION:** I move to confirm the City Manager’s appointment of Meagan M. Foley as Municipal Court Judge to fill the remainder of retired Judge John A. Miller’s unexpired term, effective January 1, 2024.

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**PROPOSAL:** The Council is being asked to confirm the City Manager’s appointment of Meagan Foley as Municipal Court Judge effective January 1, 2024 to fill the remainder of retired Judge John Miller’s unexpired term which ends on December 31, 2025.

**FISCAL IMPACT:** None. The Municipal Court Judge salary is included in the adopted budget.

**ADVANTAGE:** Having an experienced, well-qualified Judge is important to ensure the efficient operation of the Fircrest Municipal Court and the Ruston Municipal Court. Judge Foley’s knowledge of both court’s operations and staff will ensure a smooth transition.

**DISADVANTAGES:** None known.

**ALTERNATIVES:** Not confirm the appointment.

**HISTORY:** Pursuant to State law, in a Code City, the appointment of a Municipal Court Judge is made by the City Manager, subject to confirmation by the City Council.

Judge John A. Miller has served as the Fircrest Municipal Court Judge since 1995 and is retiring effective December 31, 2023. Judge Meagan M. Foley has served as a Pro Tem Judge for the Fircrest Municipal Court and Ruston Municipal Court since July 2022. She has the strong confidence and support of Court Administrator Samantha Olivarez, and retiring Judge Miller and has done an excellent job in recent months presiding over both courts as needed.

Judge Foley received her Juris Doctorate from the University of Puget Sound Law School. She was in private practice for 9 years, then served as a Court Commissioner for Pierce County Superior Court for over 30 years. Her experience ranges from family law, criminal court, at-risk youth and juvenile court, mental health hearings, domestic violence, civil cases, and a variety of other legal proceedings. Judge Foley was awarded the *Outstanding Jurist Award* in 2019 from the Tacoma-Pierce County Bar Association, which recognizes an exemplary jurist who has significantly served or improved the community. She has a reputation with both prosecutors and defense attorneys for being fair, professional, efficient, and respectful to everyone in her courtroom. City Manager Masko is honored to appoint Judge Meagan Foley and recommend her to the Council for confirmation.

**ATTACHMENTS:** Appointment Letter  
FMC 2.28.045  
RCW 35A.13.080



## THE CITY OF FIRCREST

115 RAMSDELL STREET • FIRCREST, WA 98466-6999 • (253) 564-8901 • [www.cityoffircrest.net](http://www.cityoffircrest.net)

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December 5, 2023

Meagan M. Foley  
115 Ramsdell Street  
Fircrest, WA 98466

**Re: Appointment – Municipal Court Judge**

Dear Ms. Foley,

As authorized by Fircrest Municipal Code Section 2.28.040, I hereby appoint you as Fircrest Municipal Court Judge to fill the unexpired term of retired Judge John A. Miller effective January 1, 2024. The term expires on December 31, 2025. Per the City of Fircrest's Interlocal Agreement with the City of Ruston, you will also serve as Judge of the Ruston Municipal Court.

In accordance with FMC section 2.28.040 and RCW 35A.13.080, this appointment will require confirmation of the Fircrest City Council. Confirmation is scheduled for December 12, 2023, at the regular City Council meeting.

Thank you for your willingness to serve our community!

Sincerely,

Dawn Masko  
Fircrest City Manager



## **2.28.045 Judicial vacancy.**

Any vacancy in the municipal court due to a death, disability or resignation of the municipal court judge shall be filled by the city manager for the remainder of the unexpired term. The appointment shall be subject to confirmation of a majority of the city council. The appointed judge shall be qualified to hold the position of judge of the municipal court as provided in this chapter. (Ord. 1314 § 4, 2002).

**City manager—Powers and duties.**

The powers and duties of the city manager shall be:

- (1) To have general supervision over the administrative affairs of the code city;
- (2) To appoint and remove at any time all department heads, officers, and employees of the code city, except members of the council, and subject to the provisions of any applicable law, rule, or regulation relating to civil service: PROVIDED, That the council may provide for the appointment by the mayor, subject to confirmation by the council, of a city planning commission, and other advisory citizens' committees, commissions, and boards advisory to the city council: PROVIDED FURTHER, That if the municipal judge of the code city is appointed, such appointment shall be made by the city manager subject to confirmation by the council, for a four year term. The council may cause an audit to be made of any department or office of the code city government and may select the persons to make it, without the advice or consent of the city manager;
- (3) To attend all meetings of the council at which his or her attendance may be required by that body;
- (4) To see that all laws and ordinances are faithfully executed, subject to the authority which the council may grant the mayor to maintain law and order in times of emergency;
- (5) To recommend for adoption by the council such measures as he or she may deem necessary or expedient;
- (6) To prepare and submit to the council such reports as may be required by that body or as he or she may deem it advisable to submit;
- (7) To keep the council fully advised of the financial condition of the code city and its future needs;
- (8) To prepare and submit to the council a proposed budget for the fiscal year, as required by chapter **35A.33** RCW, and to be responsible for its administration upon adoption;
- (9) To perform such other duties as the council may determine by ordinance or resolution.

[ **2009 c 549 § 3025; 1987 c 3 § 17; 1967 ex.s. c 119 § 35A.13.080.**]

**NOTES:**

**Severability—1987 c 3:** See note following RCW **3.70.010**.

**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS: 2023 Budget Amendment #3 Ordinance – 2<sup>nd</sup> Reading and Adoption**

**ITEM: 13C**

**DATE: December 12, 2023**

**FROM: Colleen Corcoran, Finance Director**

**RECOMMENDED MOTION: I move to adopt Ordinance No. \_\_\_\_, authorizing revenues and expenditures of funds for matters not provided for in the Adopted 2023 Budget.**

**PROPOSAL:** This is a request for additional appropriations for anticipated revenues and expenditures not provided for in the Adopted 2023 Budget.

**FISCAL IMPACT:** The fiscal impact of this proposal results in increases in expenditures with corresponding increases in revenue or corresponding decreases in fund balance as follows:

Fund	Account	Title	In(de)crease	Ref
General	345.81.00.01	Planning Permit	17,000	1
	347.30.00.00	Swimming Pool Fees	42,000	2
	347.60.00.01	Youth Basketball Revenue	10,000	3
	347.60.00.09	Instructor Based Revenue	10,000	4
	362.40.00.00	Rental Revenue-Space Facility	10,000	5
	362.50.00.07	Rental Revenue-Pool Party Room	7,000	6
	367.00.00.02	Donations-Park	11,000	7
	514.40.41.01	Special Elections-Voter Reg	16,000	8
	518.11.41.00	Professional Srv-Personnel	6,000	9
	518.30.46.00	Insurance	113,000	10
	518.30.46.01	Insurance Deductible	1,000	11
	518.30.48.02	Repairs & Maint-City Hall	3,000	12
	518.81.41.01	Professional Services-Info System	7,500	13
	521.10.41.00	Professional Services-Civil Service	1,000	40
	524.20.10.00	Salary & Wages-Building	9,600	14
	524.20.41.01	Bldg Inspec/Plan Review	27,000	15
	558.60.10.00	Salary & Wages-Planning	13,000	14
	558.60.41.00	Professional Services-Planning	40,000	16
	558.60.49.03	Printing & Binding-Planning	2,800	41
	558.60.49.02	Dues/Memb/Subscrip-Planning	3,100	17
	571.10.12.00	Casual & Seasonal Labor-Rec	25,000	18
	571.10.31.01	Operating Supplies-Rec	2,000	19
	571.20.49.06	Instructor Fees	7,000	20
	571.20.49.07	Youth Basketball	4,000	21

	572.21.49.00	Library Services	2,000	22
	576.20.12.00	Casual & Seasonal Labor-Pool	23,000	23
	576.20.31.03	Operating Supplies-Pool	6,000	24
	576.20.35.00	Small Tools & Minor Equip-Pool	1,500	25
	576.20.49.03	Swim Team League Registration	2,700	26
	576.20.43.00	Excise Tax-Pool	4,000	27
	576.80.47.00	Public Utility Services-Parks	13,000	28
	594.18.64.01	Machinery & Equip-Facilities	17,000	29
	594.18.64.00	Machinery & Equip-Info Systems	1,000	30
	594.21.64.00	Machinery & Equip-Police	3,200	39
	594.76.63.01	Other Improvements-Parks	(35,000)	31
	508.31.00.01	Restricted EFB-ARPA	(17,000)	
	508.91.00.01	Unassigned EFB-General Fund	(195,400)	
Street	594.32.64.01	Machinery & Equip-Street	11,000	32
	508.91.01.01	Unassigned EFB-Street Fund	(11,000)	
Park Bond Cap	367.00.03.01	Donations	(500,000)	33
	508.31.03.01	Restricted EFB-Park Bond Capital	(500,000)	
Water	534.10.44.00	Excise Tax-Water	4,000	34
	534.50.48.01	Repairs & Maint-Water Main	32,000	35
	534.80.31.02	Operating Supplies-Water Ops	6,000	36
	508.51.04.25	Assigned EFB-Water	42,000	
ERR	594.48.64.02	ERR Capital-Court	3,500	37
	594.48.64.12	ERR Capital-Street	22,920	38
	508.51.05.01	Assigned EFB-ERR	(26,420)	

The City of Fircrest adopts an annual budget at the fund level. The above adjustments will result in an Amended 2023 Budget by fund as follows:

2023 REVENUES, EXPENDITURES & BALANCES BY FUND					
FUND	ORIGINAL	BA #1	BA#2	BA#3	AMENDED
General	11,980,954	613,177		107,000	12,701,131
Street	964,797	865,581			1,830,378
Police Investigation	12,750	201			12,951
Cumulative Reserve	2,506,577	(527,071)			1,979,506
Park Bond Debt Service	725,016	(148,054)			576,962
Park Bond Capital	2,434,634	667,887		(500,000)	2,602,521
REET	2,855,958	(10,401)			2,845,557
Storm	884,985	74,021	25,000		984,006
Storm Capital	903,048	643,669	(345,239)		1,201,478
Water	1,551,461	(95,059)			1,456,402
Water Capital	695,483	13,829			709,312
Sewer	4,016,648	202,947			4,219,595
Sewer Capital	1,164,460	421,537			1,585,997
ERR	2,021,231	295,491			2,316,722
					-
Total	32,718,002	3,017,755	(320,239)	(393,000)	35,022,518

**ADVANTAGE:** This proposal will provide the necessary budget for the following:

1. Planning Permit-Additional revenue received-offset expenses. \$17,000
2. Swimming Pool Fees- Additional revenue received-offset expenses. \$42,000
3. Youth Basketball Revenue- Additional revenue received-offset expenses. \$10,000
4. Instructor Based Revenue- Additional revenue received-offset expenses. \$10,000
5. Space Facilities Rentals-Additional revenue received-offset expenses. \$10,000
6. Rental Revenue Pool Party Room- Additional revenue received-offset expenses. \$7,000
7. Donations Park- Additional revenue received-offset expenses. \$11,000
8. Special Elections & Voter Registrations-cost of elections. \$16,000
9. Professional Services Personnel-Desk audit and additional personnel issues. \$6,000
10. Insurance-Increase based on invoice received. \$113,000
11. Insurance Deductible-original budget contained one deductible. Two have been used. \$1,000
12. Repairs & Maintenance City Hall-Court window replacement and miscellaneous items. \$3,000
13. Professional Services Information Systems-Additional cost for IT support. \$7,500
14. Salary & Wages Building/Planning-Increased cost for Community Service Director. \$9,600 for Bldg and \$13,000 for Planning
15. Bldg Inspec/Plan Review- Additional revenue received-offset expenses. \$27,000
16. Professional Services Planning- Additional revenue received-offset expenses. \$40,000
17. Dues/Membership/Subscrp-SSHAP membership not included in budget. \$3,100
18. Casual/Seasonal Labor-Rec- Additional revenue received-offset expenses. \$25,000

19. Operating Supplies Rec- Additional revenue received-offset expenses. \$2,000
20. Instructor Fees- Additional revenue received-offset expenses. \$7,000
21. Youth Basketball- Additional revenue received-offset expenses. \$4,000
22. Library Services-additional reimbursements than budgeted. \$2,000
23. Casual/Seasonal Pool- Additional revenue received-offset expenses. \$23,000
24. Operating Supplies Pool- Additional revenue received-offset expenses. \$6,000
25. Small Tools & Minor Equip- Additional revenue received-offset expenses. \$1,500
26. Swim Team League Registration-new line created in budget. \$2,700
27. Excise Tax Pool- Additional revenue received-offset expenses. \$4,000
28. Public Utility Parks-additional water usage. \$13,000
29. Machinery & Equipment-Facilities-Court HVAC (ARPA funds). \$17,000
30. Machinery & Equipment-Info System-additional cost of police backup server. \$1,000
31. Other Improvements Park-Whittier Master Plan rolled over in BA #1 and BA #2.  
(35,000)
32. Machinery & Equipment Street-Balance for bucket truck purchase. \$11,000
33. Donations-Corrected for remaining pledges. \$(500,000)
34. Excise Tax Water-additional water usage. \$4,000
35. Repairs & Maint. Water Maintenance-KPG task order to assess well from damage and repair of pumps. \$32,000
36. Operating Supplies-Water Operations-Ph and chlorine sensors for wells. \$6,000
37. ERR Capital Court- New computer required for new system-using burster accumulated funds. Burster will not be replaced. \$3,500
38. ERR Capital Street-using Street's portion accumulated ERR interest (20,000) and accumulated funds set aside for replacement (\$2,920). Total \$22,920
39. Machinery & Equipment-Police Capital for new MDC for 10<sup>th</sup> Officer. \$3,200
40. Professional Services-Civil Service-for additional test for police officers. \$1,000
41. Printing & Binding-Planning-for Comp Plan binders. \$2,800

**Attachment(s):** Ordinance

**CITY OF FIRCREST  
ORDINANCE NO. \_\_\_\_\_**

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**AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON, AMENDING ORDINANCE NO. 1698 AND AMENDED BY ORDINANCE NO. 1707 AND AMENDED BY ORDINANCE NO. 1711 TO AUTHORIZE ADDITIONAL EXPENDITURES OF FUNDS FOR MATTERS NOT FORESEEN AT THE TIME OF FILING THE CITY OF FIRCREST ANNUAL BUDGET FOR 2023, PROVIDING SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Fircrest anticipates certain revenues and expenditures not foreseen at the time of filing the Annual Budget for 2023; and;

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

**WHEREAS**, the City of Fircrest adopted its 2023 Annual Budget on November 22, 2022 through Ordinance No. 1698 and;

**WHEREAS**, the City of Fircrest amended its 2023 Annual Budget on April 11, 2023 through Ordinance No. 1707 and;

**WHEREAS**, the City of Fircrest amended its 2023 Annual Budget on August 8, 2023 through Ordinance No. 1711 and;

**WHEREAS**, the Fircrest City Council, after due consideration, has deemed that it is necessary and in the best interest of the City of Fircrest to amend Ordinance No. 1711, the adopted 2023 Annual Budget, to defray the anticipated expenditures;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS FOLLOWS:**

**Section 1. Amendment.** Ordinance No. 1711, the amended City of Fircrest 2023 Annual Budget, is hereby amended as set forth in Section 2 below.

**Section 2. Amendment.** The anticipated revenues and expenditures will result in amendment of the City of Fircrest 2023 Annual Budget by fund as follows:

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2023 REVENUES, EXPENDITURES & BALANCES BY FUND					
FUND	ORIGINAL	BA #1	BA#2	BA#3	AMENDED
General	11,980,954	613,177		107,000	12,701,131
Street	964,797	865,581			1,830,378
Police Investigation	12,750	201			12,951
Cumulative Reserve	2,506,577	(527,071)			1,979,506
Park Bond Debt Service	725,016	(148,054)			576,962
Park Bond Capital	2,434,634	667,887		(500,000)	2,602,521
REET	2,855,958	(10,401)			2,845,557
Storm	884,985	74,021	25,000		984,006
Storm Capital	903,048	643,669	(345,239)		1,201,478
Water	1,551,461	(95,059)			1,456,402
Water Capital	695,483	13,829			709,312
Sewer	4,016,648	202,947			4,219,595
Sewer Capital	1,164,460	421,537			1,585,997
ERR	2,021,231	295,491			2,316,722
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Total	32,718,002	3,017,755	(320,239)	(393,000)	35,022,518

**Section 3. Non-emergency.** The revenues and expenditures set forth in Section 2 above are not one of the emergencies specifically enumerated in RCW 35A.33.080.

**Section 4. Corrections.** The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 5. Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

**Section 6. Effective Date.** This ordinance shall take effect five days after its passage, approval and publication as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON,** at a regular meeting thereof this 12th day of December 2023.

APPROVED:

\_\_\_\_\_  
Brett L. Wittner, Mayor

ATTEST:

\_\_\_\_\_  
Arlette Burkhart, Acting City Clerk



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APPROVED AS TO FORM:

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Robert Zeinemann, City Attorney

Publication Date:  
Effective Date:

**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:** 2024 Pierce County Regional Council Appointment  
**ITEM:** 13D  
**DATE:** December 12, 2023  
**FROM:** Dawn Masko, City Manager

---

**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, appointing Councilmember Shannon Reynolds as the representative to the Pierce County Regional Council, and further appointing Councilmember \_\_\_\_\_ as the alternate representative to the Pierce County Regional Council.

---

**PROPOSAL:** The Council is being asked to appoint Councilmembers as the City of Fircrest representative and alternate representative to the Pierce County Regional Council. Should the Council make these appointments, the representative will have voting authority beginning January 1, 2024 for a one year term.

**FISCAL IMPACT:** None.

**ADVANTAGE:** Participation in a cooperative effort on issues relevant to all cities is of advantage to the City of Fircrest.

**DISADVANTAGES:** None known.

**ALTERNATIVES:** Not to participate in the Pierce County Regional Council.

**HISTORY:** Fircrest has been a participating member of the Pierce County Regional Council (PCRC) since 1992. The PCRC provides a multi-government forum for coordination of growth management issues, reviews and approves funding for certain transportation projects, and provides the opportunity for building consensus on issues common to all Pierce County cities and towns.

**ATTACHMENTS:** Resolution

**CITY OF FIRCREST  
RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON APPOINTING COUNCILMEMBER  
SHANNON REYNOLDS AS REPRESENTATIVE TO THE  
PIERCE COUNTY REGIONAL COUNCIL, AND FURTHER  
APPOINTING COUNCILMEMBER \_\_\_\_\_ AS  
ALTERNATE REPRESENTATIVE TO THE PIERCE COUNTY  
REGIONAL COUNCIL.**

**WHEREAS**, the City of Fircrest has been a participating member of the Pierce County Regional Council (PSRC) since 1992; and

**WHEREAS**, an appointment needs to be made for a representative and alternate representative on the Pierce County Regional Council for the year 2024.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FIRCREST:**

**Section 1.** Councilmember Shannon Reynolds is hereby appointed as the City of Fircrest representative to the Pierce County Regional Council for a one-year term, commencing January 1, 2024, and expiring December 31, 2024.

**Section 2.** Councilmember \_\_\_\_\_ is hereby appointed as the City of Fircrest alternate representative to the Pierce County Regional Council for a one-year term, commencing January 1, 2024, and expiring December 31, 2024.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON**, at a regular meeting thereof this 12th day of December 2023.

**APPROVED:**

\_\_\_\_\_  
Brett L. Wittner, Mayor

**ATTEST:**

\_\_\_\_\_  
Arlette Burkhart, Acting City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert Zeinemann, City Attorney

**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:** 2024 South Sound Housing Affordability Partners Appointment  
**ITEM:** 13E  
**DATE:** December 12, 2023  
**FROM:** Dawn Masko, City Manager

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**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, appointing Councilmember George as the representative to South Sound Housing Affordability Partners, and further appointing Mayor Wittner as the alternate representative to South Sound Housing Affordability Partners.

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**PROPOSAL:** The Council is being asked to appoint Councilmembers as the City of Fircrest representative and alternate representative to South Sound Housing Affordability Partners (SSHAP). Should the Council makes these appointments, the representative will have voting authority beginning January 1, 2024 for a one-year term.

**FISCAL IMPACT:** These appointments will not have a direct fiscal impact.

**ADVANTAGE:** Participation with other agencies to foster housing affordability and stability in Pierce County including within Fircrest. Participating in SSHAP also allows Fircrest staff access to resources to assist with the development of local appropriate housing policies and programs.

**DISADVANTAGES:** None known.

**ALTERNATIVES:** Not to participate in South Sound Housing Affordability Partners.

**HISTORY:** Fircrest joined South Sound Housing Afforability Partners on September 28, 2021.

**ATTACHMENTS:** Resolution

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**CITY OF FIRCREST  
RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON APPOINTING COUNCILMEMBER  
GEORGE AS REPRESENTATIVE TO SOUTH SOUND  
HOUSING AFFORDABILITY PARTNERS, AND FURTHER  
APPOINTING MAYOR WITTNER AS ALTERNATE  
REPRESENTATIVE TO SOUTH SOUND HOUSING  
AFFORDABILITY PARTNERS.**

**WHEREAS**, the City of Fircrest has been a participating member of South Sound  
Housing Affordability Partners (SSHAP) since 2021; and

**WHEREAS**, an appointment needs to be made for a representative and alternate  
representative on South Sound Housing Affordability Partners for the year 2024.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF FIRCREST:**

**Section 1.** Councilmember George is hereby appointed as the City of Fircrest  
representative to South Sound Housing Affordability Partners for a one-year term,  
commencing January 1, 2024, and expiring December 31, 2024.

**Section 2.** Mayor Wittner is hereby appointed as the City of Fircrest alternate  
representative to South Sound Housing Affordability Partners for a one-year term,  
commencing January 1, 2024, and expiring December 31, 2024.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON**, at a regular meeting thereof this 12th day of December  
2023.

**APPROVED:**

\_\_\_\_\_  
Brett L. Wittner, Mayor

**ATTEST:**

\_\_\_\_\_  
Arlette Burkhardt, Acting City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert Zeinemann, City Attorney

## FIRCREST CITY COUNCIL AGENDA SUMMARY

**NEW BUSINESS:**        **Landscape Maintenance Services Agreement Amendment**  
**ITEM:**                    **13F**  
**DATE:**                    **December 12, 2023**  
**FROM:**                    **Tyler Bemis, Public Works Director**

---

**RECOMMENDED MOTION:**    **I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute Amendment #6 to the Professional Services Agreement with Greenleaf Landscaping, Inc. for landscape maintenance services.**

---

**PROPOSAL:** The Council is being asked to authorize the City Manager to execute Amendment #6 to the professional services agreement with Greenleaf Landscaping, Inc. for landscape maintenance services. This amendment incorporates additional services as identified by Public Works staff including street tree maintenance, irrigation startup and repairs and seasonal flower plantings. Tasks are identified in “Exhibit A” along with the attached Maintenance Maps for reference.

**FISCAL IMPACT:** The 2024 Budget has allocated funds for this expenditure. For 2024, the contract amount is \$83,300.09 plus tax. Funds are split between the line items of Street Tree maintenance, Beautification, and Facilities Contract Maintenance. Each year thereafter, the yearly total cost for services amount will be adjusted by 100% of the previous year’s Seattle/Tacoma/Bellevue CPI-W June to June percentage.

**ADVANTAGE:** Greenleaf Landscaping, Inc. has the necessary skills and subject matter expertise to meet the City’s landscaping needs. Greenleaf also performs pruning and maintenance of our street trees. Utilization of a specialized contractor increases consistent quality and timeliness of work performed.

**DISADVANTAGES:** None identified.

**ALTERNATIVES:** Do not utilize a landscaping service and hire additional Public Works staff as current staffing levels are not sufficient to support the needs of existing landscape maintenance.

**HISTORY:** The City of Fircrest has been using Greenleaf Landscaping, Inc. for landscape maintenance services since 2016. The current contract expires on December 31, 2023, and the City desires to continue utilizing their services. The current contract includes a renewal clause to extend the term annually. Either party can terminate the contract with 30 days’ written notice. This amendment extends the contract through December 31, 2024.

**ATTACHMENTS:** Resolution  
                          Amendment #6  
                          Exhibit A  
                          Maintenance Maps

1 CITY OF FIRCREST  
2 RESOLUTION NO. \_\_\_\_

3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
4 FIRCREST, WASHINGTON, AUTHORIZING THE CITY MANAGER  
5 TO EXECUTE A SIXTH AMENDMENT TO THE PROFESSIONAL  
6 SERVICES AGREEMENT WITH GREENLEAF LANDSCAPING,  
7 INC. FOR LANDSCAPE MAINTENANCE SERVICES.

8 WHEREAS, the City of Fircrest has contracted with Greenleaf Landscaping, Inc. to  
9 provide landscape maintenance since 2018; and

10 WHEREAS, the City of Fircrest has identified funds for these services in the annual  
11 budget; and

12 WHEREAS, the current Agreement term will expire on December 31, 2023; and

13 WHEREAS, the City of Fircrest wishes to continue utilizing Greenleaf Landscaping,  
14 Inc. for these services.

15 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
16 CITY OF FIRCREST:

17 Section 1. The City Manager is hereby authorized and directed to execute a Sixth  
18 Amendment to the Professional Services Agreement with Greenleaf Landscaping, Inc.,  
19 extending the term of the agreement through December 31, 2024, revising Scope of  
20 Services Exhibit A, and updating the fees.

21 APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
22 FIRCREST, WASHINGTON, at a regular meeting thereof this 12th day of December  
23 2023.

24 APPROVED:

25 \_\_\_\_\_  
26 Brett L. Wittner, Mayor

27 ATTEST:

28 \_\_\_\_\_  
29 Arlette Burkhardt, Acting City Clerk

30 APPROVED AS TO FORM:

31 \_\_\_\_\_  
Robert Zeinemann, City Attorney

**AMENDMENT #6  
TO THE CITY OF FIRCREST  
PROFESSIONAL SERVICES AGREEMENT  
WITH GREENLEAF LANDSCAPING, INC.  
FOR LANDSCAPE MAINTENANCE SERVICES**

This Sixth Amendment is hereby made and entered into this 12th day of December 2023 by and between the City of Fircrest, a political subdivision of the State of Washington, hereinafter referred to as the “City,” and Greenleaf Landscaping, Inc., hereinafter referred to as “Consultant”, to be effective January 1, 2024.

**WITNESSETH:**

**1. Purpose**

The purpose of this Sixth Amendment is to amend the February 27, 2018 agreement. This amendment is limited to the amendments as set forth herein. All of the remaining terms and conditions of the February 27, 2018 agreement shall remain in full force and effect. The amendments are as follows:

**2. Term of Agreement is hereby amended to read as follows:**

Notwithstanding, the date of execution hereof, this Agreement shall be in effect from January 1, 2024, to December 31, 2024, and will renew automatically yearly thereafter. Either party may terminate this Agreement upon thirty (30) days written notice to the other party.

**3. Payment is hereby amended to read as follows:**

Upon receipt of an invoice from the Contractor, progress payments may be made on a monthly basis for work completed. Each invoice shall itemize by site and date the work performed and include the ‘Affidavit of Wages Paid’ that was filed with the State of Washington Department of Labor and Industries. The total cost for services in 2024 shall not exceed \$83,300.09 plus sales tax. Effective January 1<sup>st</sup> of each year thereafter, the yearly total cost for services amount will increase by 100% of the previous year’s Seattle/Tacoma/Bellevue CPI-W June to June index.

**4. Scope of Services:**

Exhibit A is hereby replaced with a new Exhibit A to reflect the revised Scope of Services.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three counterparts, each of which shall be deemed as originals, in the year and day first above mentioned.

**CITY OF FIRCREST**

**GREENLEAF LANDSCAPING, INC.**

By \_\_\_\_\_  
Dawn Masko, City Manager

By \_\_\_\_\_



Approved as to Form:

By \_\_\_\_\_  
Robert Zeinemann, City Attorney

## EXHIBIT "A"

### TECHNICAL MAINTENANCE SPECIFICATIONS

- A. Unless specifically provided otherwise, all equipment and supplies for maintaining sites as outlined in these "Technical Maintenance Specifications," will be provided by the Contractor.
- B. Contractor shall immediately report to the City Manager or designee any damage or loss caused by Contractor or Contractor's employees to any of the sites which are the subject of these specifications. Contractor shall be responsible for replacing or repairing any such damage or loss within five (5) days of the occurrence.
- C. Schedule of Work: The Contractor shall establish a schedule of weekly and monthly routine work to be followed in the performance of this contract. A copy of this schedule shall be provided to the City Manager or designee prior to the performance of any work required by these specifications, and any changes in scheduling shall be reported, in writing, to the City Manager immediately. Contractor shall alter the work schedule if needed to accommodate park or city activities.
- D. All lawn area included in this contract shall be mowed with power propelled reel-type mowers. The mower reels shall be at least five-blade type. The mower shall be maintained so as to provide a smooth even cut without tearing. The reel adjustment will provide a uniform level cut without ridges or depression. The use of rotary mowers will not be allowed, except in trim work and rough areas, unless consent is received from the City Manager.
- E. All maintenance is to be performed between 7 a.m. and 6 p.m. on weekdays, excluding Wednesdays. Because of noise sensitivity and conflicting activities at certain sites, the City Manager or designee shall set a specific schedule for work to be performed at these sites.
- F. The following describes the work and frequency of work to be performed under this agreement.

#### **Turf Areas**

1. Mowing Weekly
  - Mow to between one inch and one and one-half inches in height.
2. Edging Weekly
  - Edge all turf adjacent to hard surfaces such as sidewalks, patios, and asphalt walkways. Remove debris materials.
3. Trimming Weekly
  - Trim with weed eater or like equipment around trees, posts, fences, and other objects in turf areas.
4. Fertilizing
  - May – October - three applications (at manufacturer's recommended rates). Fertilizer supplied by the City.

*NOTE: For the wells 6 & 7 site, only slow-release fertilizers with no manure content shall be applied. The application rate shall be approved by the City.*

## 5. Pest Control

- Apply herbicides in spring through fall or as necessary to control moss and broadleaf weeds. Control tunneling rodent damage. Materials supplied by Contractor.

*NOTE: For Well 6 & 7 site, no herbicides or pesticides shall be applied.*

## 6. Aeration

- To be done at Fircrest Park, Alice Peers Park, City Hall, Public Safety Building and Fircrest Tennis Courts. Aeration is to be completed by mid-June using core removal aeration equipment. Cores must be removed from site.

## 7. Thatch Removal

- To be done at Fircrest Park, Alice Peers Park, City Hall, Public Safety Building and Fircrest Tennis Courts. Thatch removal to be completed in May using a power thatcher. Remove thatch material from sites.

## 8. Turf Repair

- Over-seed and repair turf as necessary to maintain level healthy appearance. Materials supplied by Contractor.

### **Shrub Bed Areas**

#### 1. Pruning

- As necessary or as specified by the City Manager or designee. Perform minimal pruning as necessary to maintain groomed form and to keep curbing, walkways, driveways, and parking lots clear for pedestrian and vehicle clearances. Make repairs of any damage.

#### 2. Weeding

- Weekly or as necessary to maintain decorative shrub beds in 'weed free' condition. No herbicides or chemicals shall be applied within 100 feet from any well head.

#### 3. Edging

- Edge all turf areas adjacent to shrub beds using power-edging equipment.

### **Trees**

All maintenance of street trees and/or park trees will be verified, confirmed, and scheduled with Public Works staff.

### **Seasonal Flower Plantings**

All planting of seasonal flowers will be verified, confirmed, and scheduled with Public Works staff.

### **Irrigation**

Irrigation startup and repairs will be communicated and scheduled with Public Works staff.

### **Cleaning**

All grounds, parking lots, driveways, patios, and walkways shall have all debris removed from the premises on the same working day maintenance is performed. Debris consists of any litter, garbage, tree branches or vegetation. No debris shall be swept or blown into the streets.

# Alice Peers Park and Regents Blvd



	Weekly March 1 - October 31	As Described	Yearly
Perform Task #'s	1, 2, 3, 4, 5, 6, 7	7, 8, 9, 10, 11, 12	7



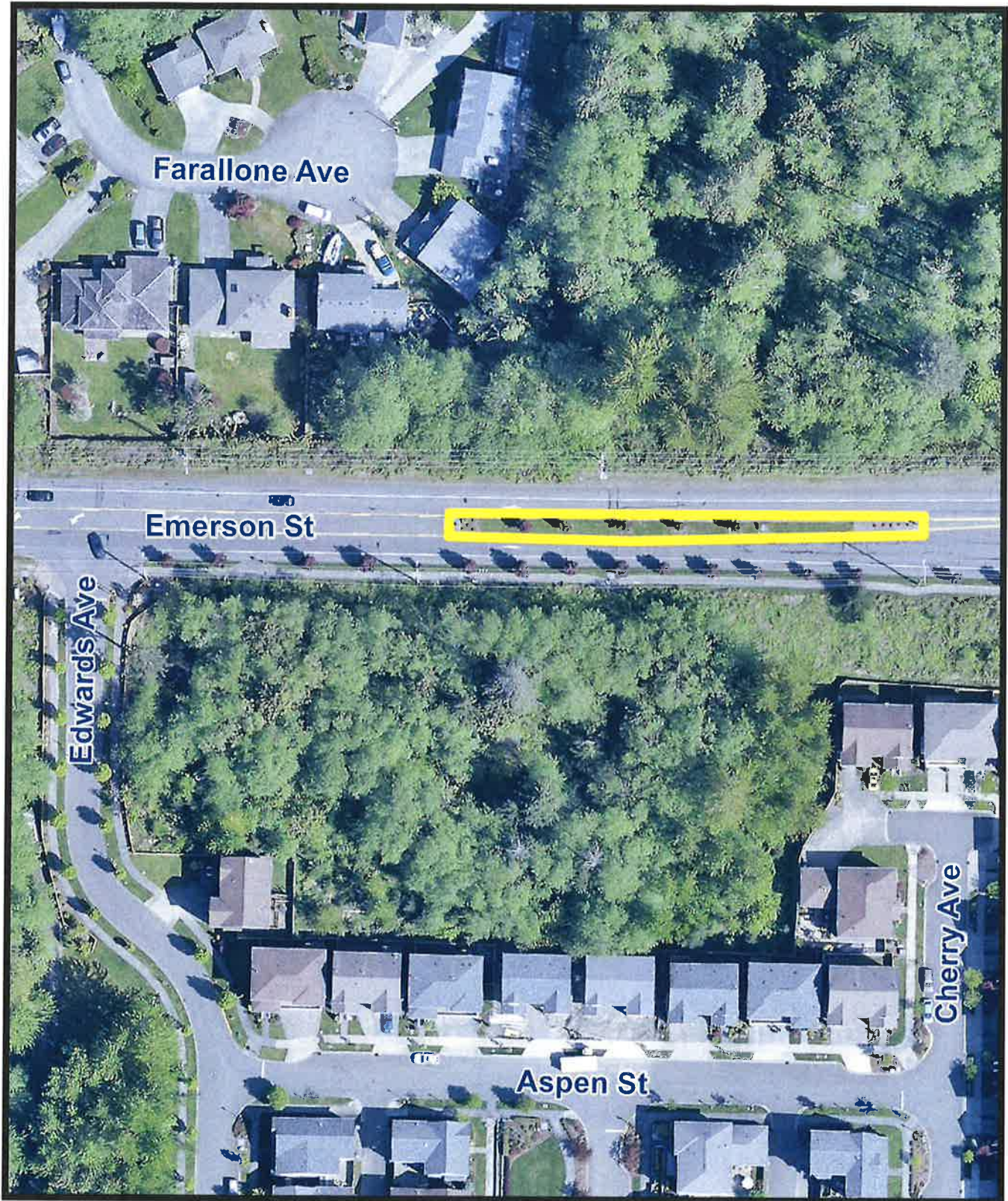
Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	1, 2, 3, 4, 5, 6, 7	7, 8, 9, 10, 11, 12	7

# Columbia and Summit - Roundabout



Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	1, 2, 3, 4, 5, 7	7, 8	7

# Emerson Street - Entry Island



Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	1, 2, 3, 4, 5, 6, 7	7, 8	7

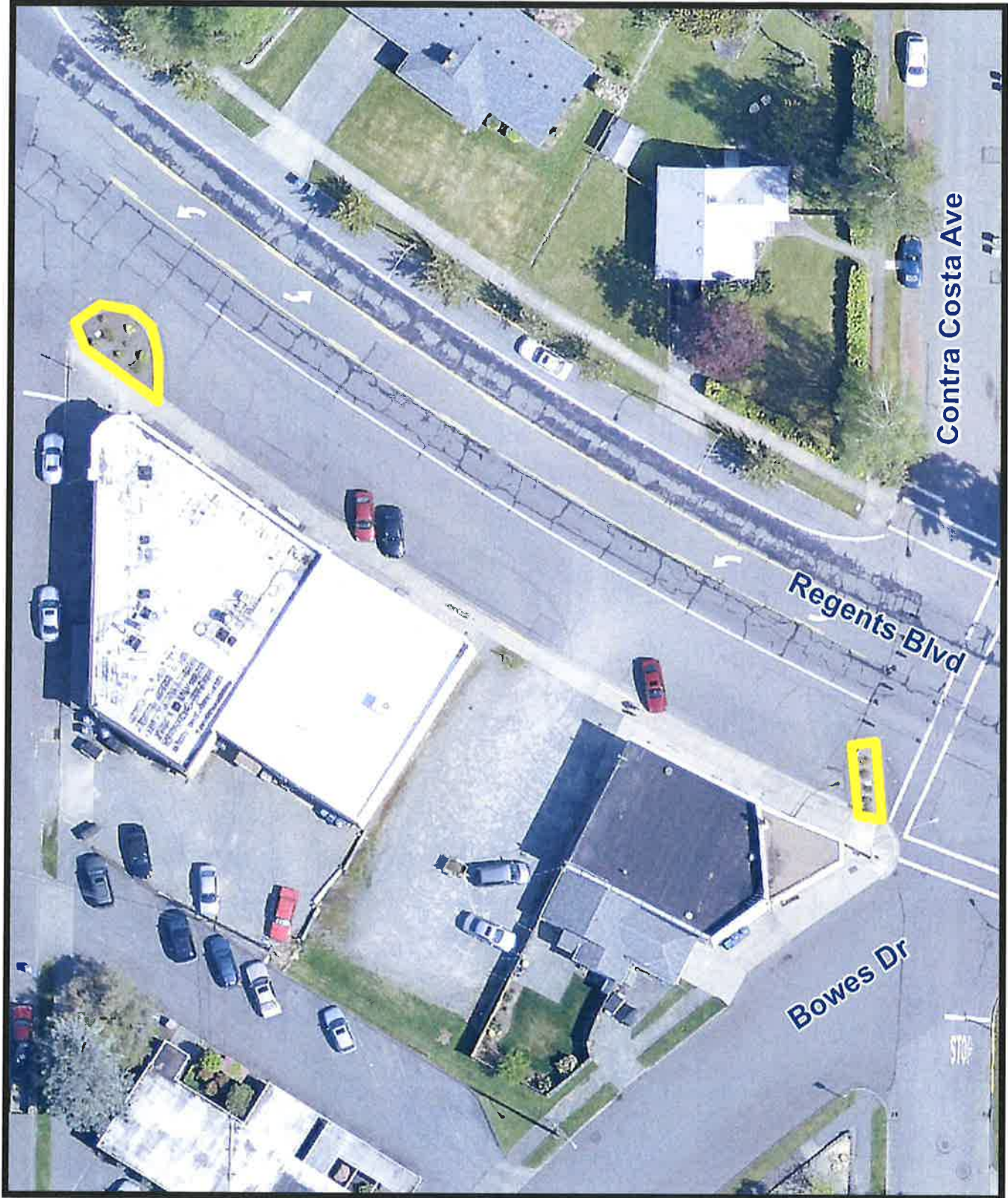
# Fircrest Rec Center / Pool House



	Weekly March 1 – October 31	As Described	
Perform Task #'s	1, 2, 3, 4, 5, 6, 7	7, 8, 9, 10, 11, 12	Yearly
			7

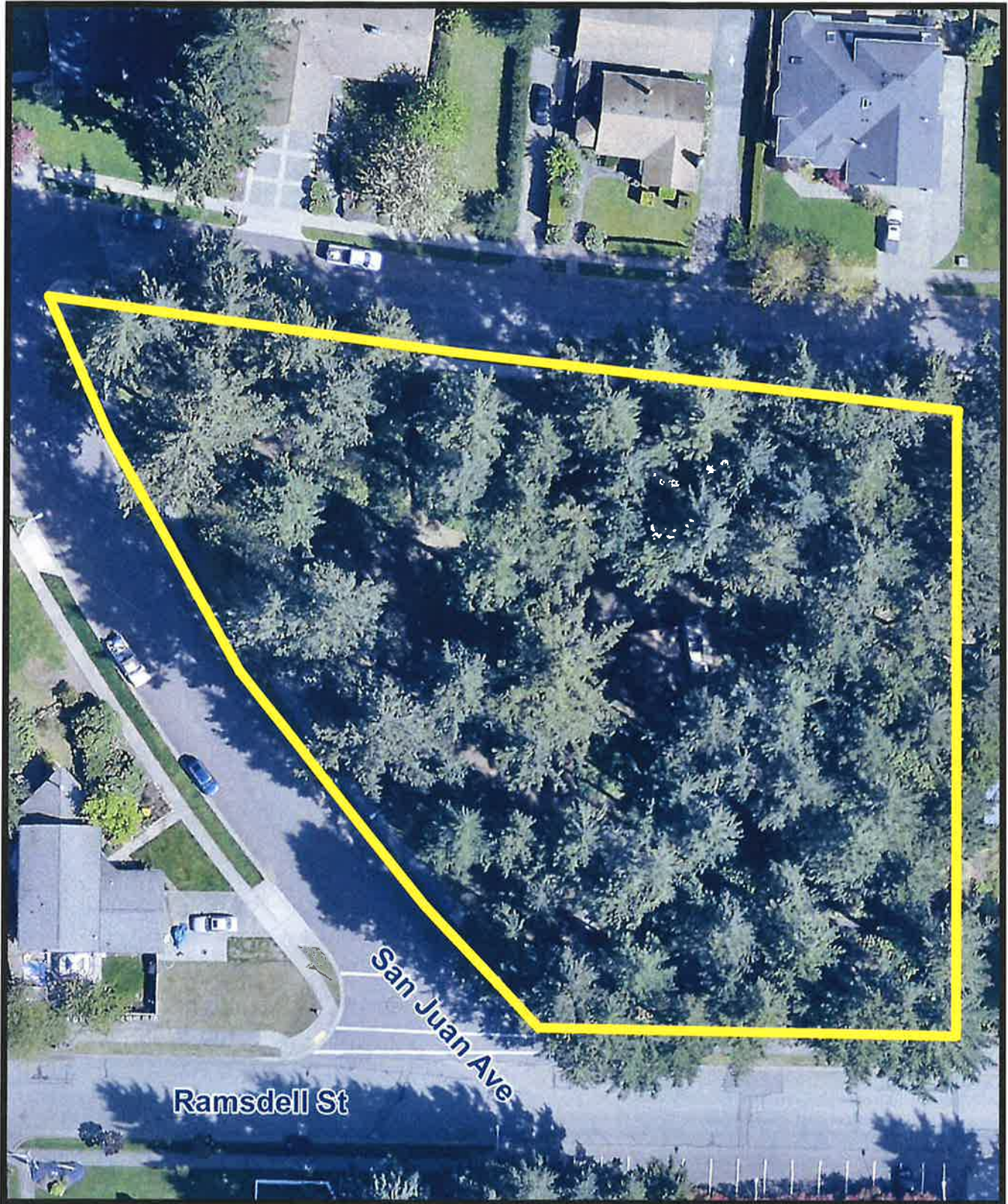


# Lower Business District - Bulb Outs



	<b>Weekly March 1 - October 31</b>	--	<b>Yearly</b>
<b>Perform Task #'s</b>	<b>5, 6, 7</b>		<b>7</b>

# George Masko Park - Perimeter Only



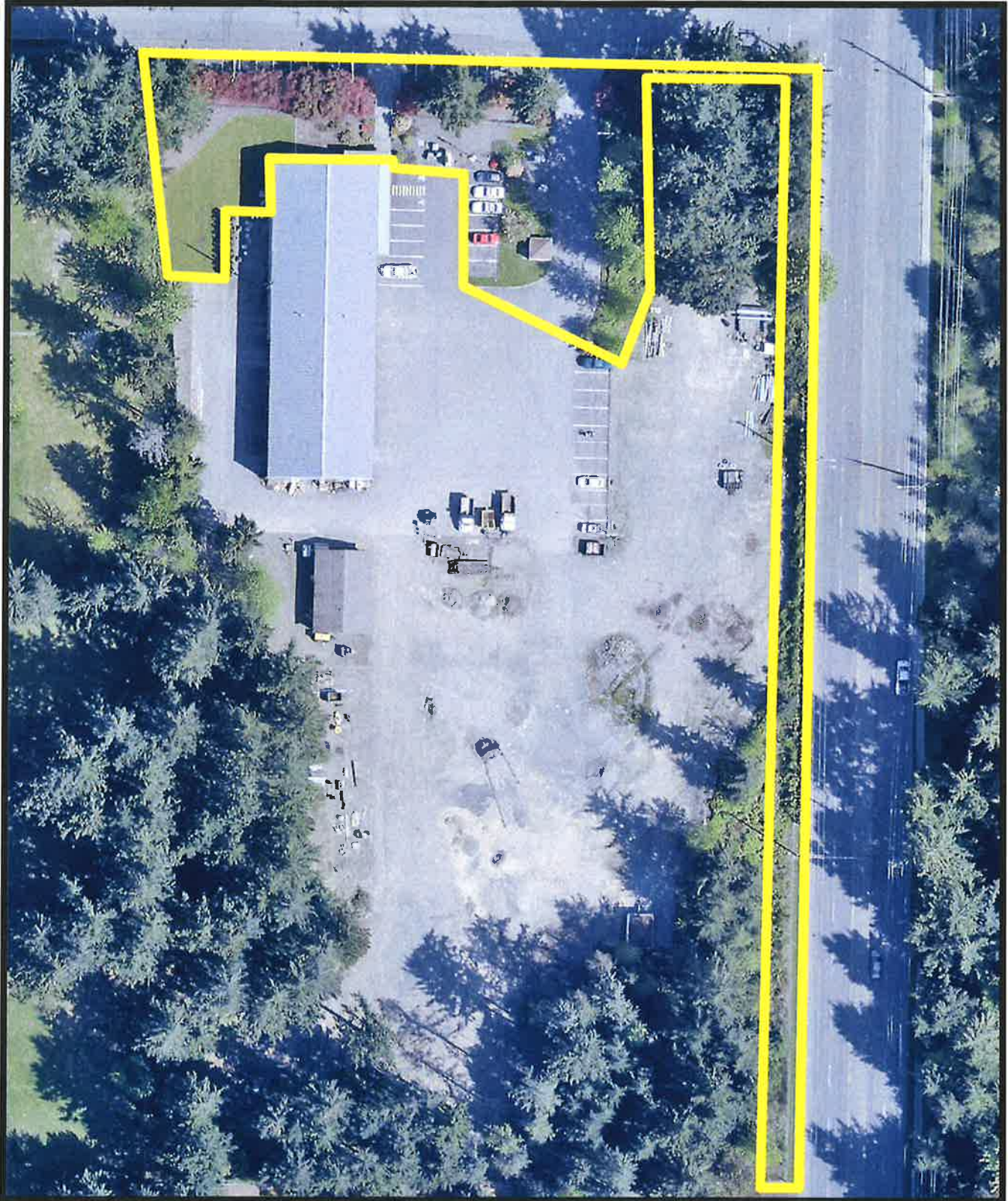
Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	1, 2, 3, 4, 7	7, 8, 9, 10, 11, 12	7

# Public Safety Building



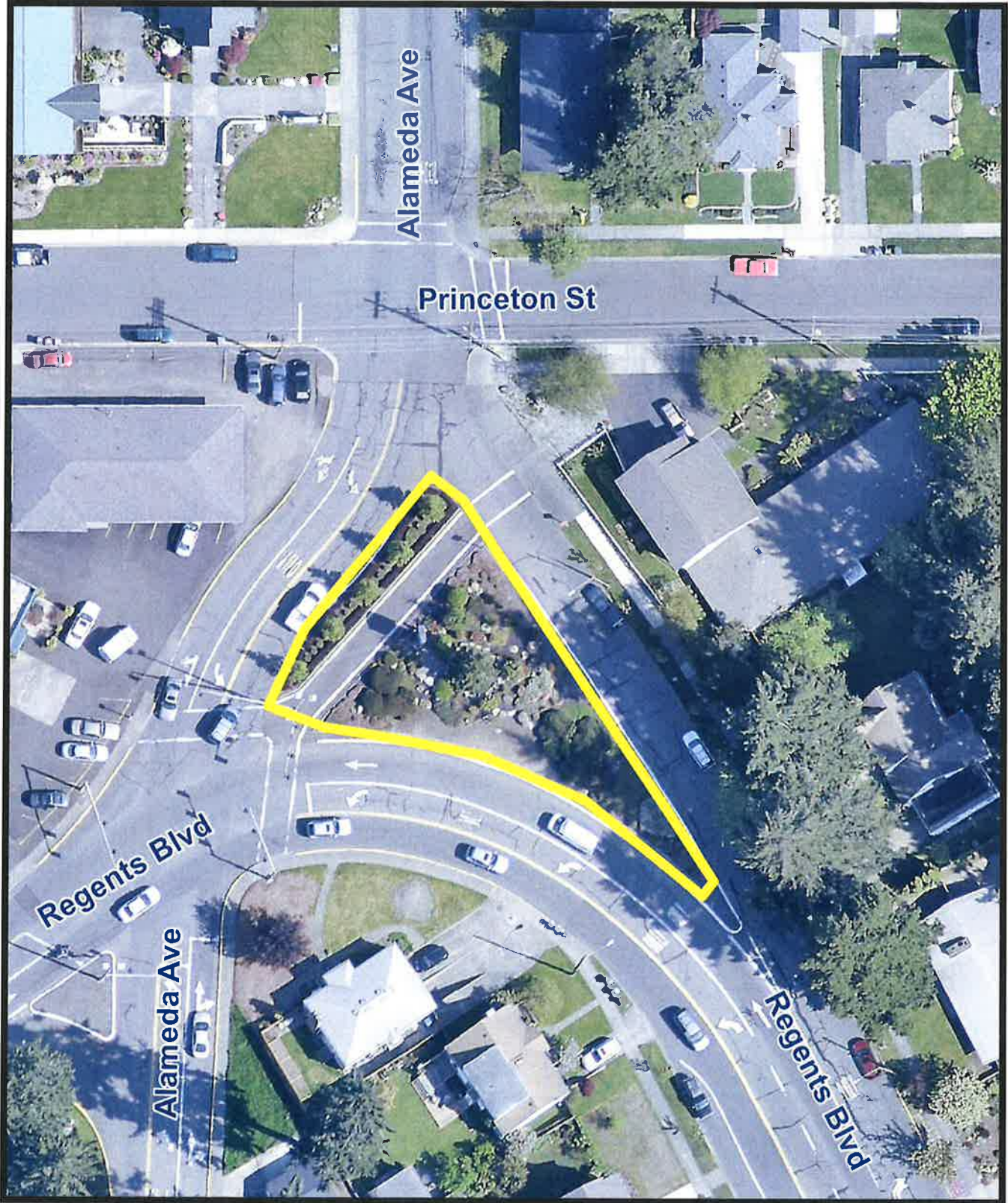
	Weekly March 1 - October 31	As Described	Yearly
Perform Task #'s	1, 2, 3, 4, 5, 6, 7	7, 8, 9, 10, 11, 12	7

# Public Works Building



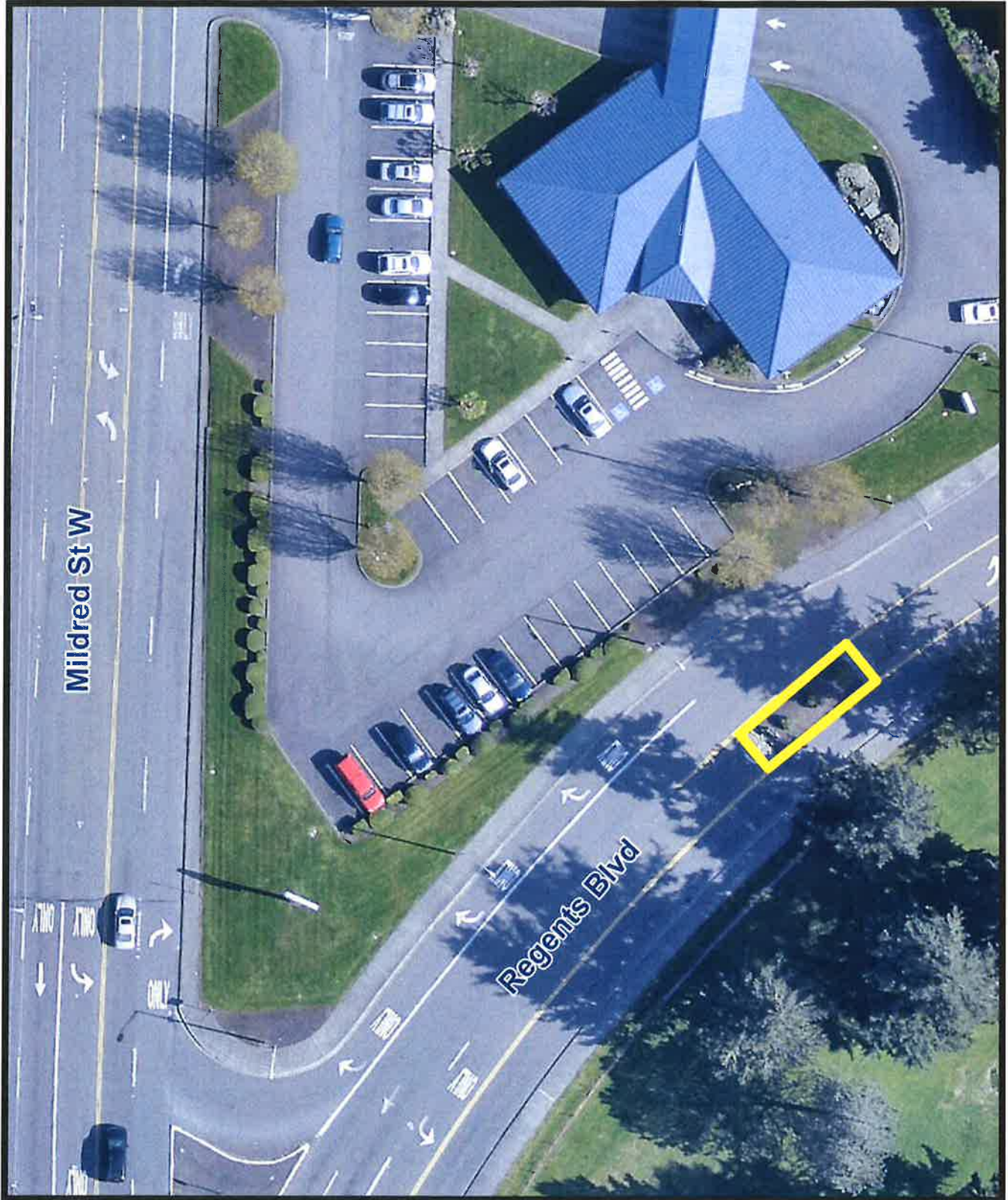
Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	1, 2, 3, 4, 5, 6, 7	7, 8	7

# Regents and Alameda - Big Island



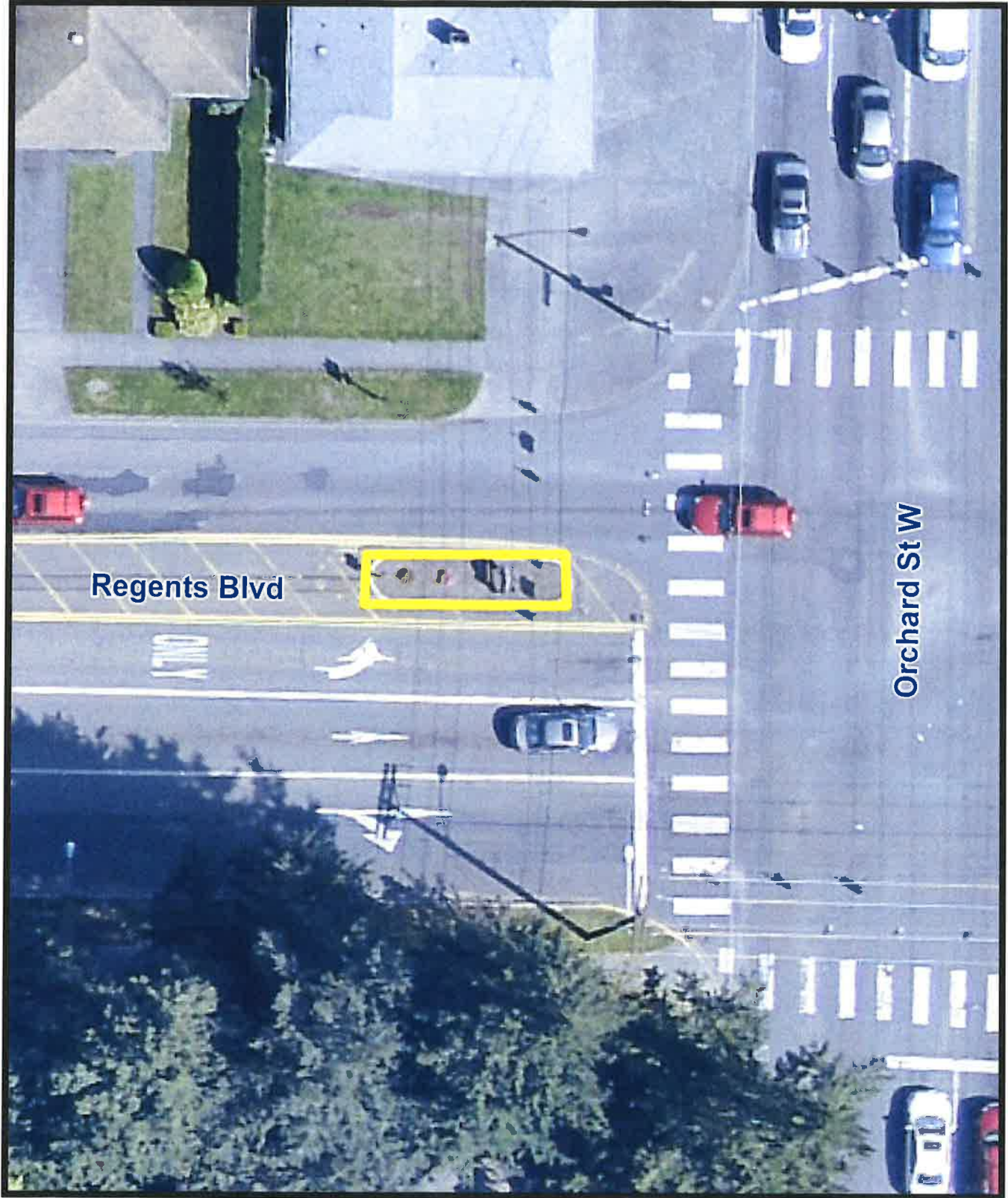
Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	1, 2, 3, 4, 5, 6, 7	--	7

# Regents and Mildred St - Entry Island



Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	5, 6, 7	--	7

# Regents and Orchard - Entry Island



Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	5, 6, 7	--	7

# Tot Lot and Tennis Courts



	Weekly March 1 - October 31	As Described	Yearly
Perform Task #'s	1, 2, 3, 4, 5, 6, 7	7, 8, 9, 10, 11, 12	7



# West Mount Court - Wells 6 & 7



Claremont St

West Mount Ct

Perform Task #'s	Weekly March 1 - October 31	As Described	Yearly
	1, 2, 3, 7	--	7

**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:** Tacoma Daily Index Agreement for Official Newspaper Services  
**ITEM:** 13G  
**DATE:** December 12, 2023  
**FROM:** Dawn Masko, City Manager

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**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute a Professional Services Agreement with Sound Publishing, Inc., dba Tacoma Daily Index, for continued legal publishing services as the official City newspaper for the City of Fircrest.

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**PROPOSAL:** The Council is being asked to authorize the City Manager to execute a Professional Services Agreement with Sound Publishing, doing business as Tacoma Daily Index (TDI), to provide publication of notices, calls for bids, ordinance titles, and other legally required publications. The City of Tacoma has competitively bid for official legal publishing services. In accordance with RCW 39.34, the City of Fircrest and the City of Tacoma entered into a cooperative government purchasing agreement using the City of Tacoma’s competitively awarded contracts. This agreement with Tacoma Daily Index utilizes the competitive bid done by the City of Tacoma for the contract awarded in October 2023. Tacoma Daily Index and The News Tribune were the bidders for the contract, which included the following publishing rates:

	Tacoma Daily Index	The News Tribune
Price per single column inch	\$18.00	\$20.16
Price per double column inch	\$36.00	\$40.32
Price per triple column inch	\$54.00	\$60.48

**FISCAL IMPACT:** There are funds budgeted for legal publishing in the Legislative, Planning, and Public Works advertising line items. There is a 9% increase in this contract over the 2016 contract; however, TDI has agreed to a three-year contract which may be renewed for two additional two-year terms with no cost increase.

**ADVANTAGE:** This agreement with the Tacoma Daily Index provides for required City legal publishing.

**DISADVANTAGES:** None identified.

**ALTERNATIVES:** None identified.

**HISTORY:** The Tacoma Daily Index has provided legal publishing services for the City of Fircrest since May 2011 and has proven to be a reliable publication for our needs.

**ATTACHMENTS:** Resolution  
Professional Services Agreement

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**CITY OF FIRCREST  
RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON, AUTHORIZING THE CITY  
MANAGER TO EXECUTE AN AGREEMENT WITH SOUND  
PUBLISHING INC., DBA TACOMA DAILY INDEX TO PROVIDE  
OFFICIAL CITY LEGAL PUBLISHING SERVICES..**

**WHEREAS**, the City of Fircrest has an agreement for official City legal publishing services with Sound Publishing Inc., dba Tacoma Daily Index; and

**WHEREAS**, that agreement expired on December 31, 2022; and

**WHEREAS**, in accordance with state law, bids were called for the City of Tacoma’s official newspaper, the bids were reviewed, and the Tacoma Daily Index was found to be the lowest responsible bidder; and

**WHEREAS**, in accordance with RCW 39.34, the City of Fircrest and the City of Tacoma have agreed to a cooperative governmental purchasing agreement using the City of Tacoma’s competitively awarded contracts.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST:**

**Section 1.** The City Manager is hereby authorized and directed to execute an agreement with Sound Publishing Inc., dba Tacoma Daily Index, to provide official City legal publishing services.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON**, at a regular meeting thereof this 12<sup>th</sup> day of December 2023.

**APPROVED:**

\_\_\_\_\_  
Brett L. Wittner, Mayor

**ATTEST:**

\_\_\_\_\_  
Arlette Burkhardt, Acting City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert Zeinemann, City Attorney

## PROFESSIONAL SERVICES AGREEMENT

**THIS CONTRACT**, made and entered into this \_\_\_th day of December 2023, by and between the **CITY OF FIRCREST**, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY"), and **SOUND PUBLISHING, INC, dba Tacoma Daily Index**, a Washington State Corporation (hereinafter referred to as "CONTRACTOR");

In consideration of the mutual promises and obligations hereinafter set forth, the Parties hereto agree as follows:

### 1. Scope of Services

The CONTRACTOR agrees to diligently and completely perform the service of acting as the official publication for the City of Fircrest as described in Exhibit A attached hereto and incorporated herein.

### 2. Order of Precedence

To the extent there is any discrepancy or conflict between and/or amongst the terms of this Contract and Exhibit A, this Contract is controlling.

### 3. Changes to Scope of Work

The CITY shall have the right to make changes within the general scope of services or deliverables upon execution in writing of a change order or amendment hereto. If the changes will result in additional work effort by CONTRACTOR, the CITY will agree to reasonably compensate the CONTRACTOR for such additional effort up to the maximum amount specified herein or as otherwise provided by Municipal Code.

### 4. Term

All services shall be satisfactorily completed on or before December 31, 2026, and this Contract shall expire on said date unless mutually extended by a written and executed Amendment to this Contract.

### 5. Renewals

At CITY's sole option, the Term of this Contract may be renewed for additional two-year terms, not to exceed two. CITY will provide written notice of its intent to exercise any renewal options at least 30 days prior to the then existing Term and a written Amendment to this Contract will be mutually executed.

### 6. Delay

Neither party shall be considered to be in default in the performance of this Contract to the extent such performance is prevented or delayed by any cause which is beyond the reasonable control of the affected party and, in such event, the time for performance shall be extended for a period equal to any time lost as a result thereof. In the event CONTRACTOR is unable to proceed due to a delay solely attributable to CITY, CONTRACTOR shall advise CITY of such delay in writing as soon as is practicable.

### 7. Compensation

The CITY shall compensate the CONTRACTOR for the services and deliverables performed under this Contract in accordance with Exhibit A.

## **8. Prevailing Wages**

- A. If federal, state, local, or any applicable law requires CONTRACTOR to pay prevailing wages in connection with this Contract, and CONTRACTOR is so notified by the CITY, then CONTRACTOR shall pay applicable prevailing wages and otherwise comply with the Washington State Prevailing Wage Act (RCW 39.12) in the performance of this Contract.
- B. If applicable, a Schedule of Prevailing Wage Rates and/or the current prevailing wage determination made by the Secretary of Labor for the locality or localities where the Contract will be performed is made part of the Contract by this reference. If prevailing wages apply to the Contract, CONTRACTOR and its subcontractors shall:
  - 1. Be bound by and perform all transactions regarding the Contract relating to prevailing wages and the usual fringe benefits in compliance with the provisions of Chapter 39.12 RCW, as amended, the Washington State Prevailing Wage Act and/or the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable, including the federal requirement to pay wages not less than once a week.
  - 2. Ensure that no worker, laborer, or mechanic employed in the performance of any part of the Contract shall be paid less than the prevailing rate of wage specified on that Schedule and/or specified in a wage determination made by the Secretary of Labor (unless specifically preempted by federal law, the higher of the Washington state prevailing wage or federal Davis-Bacon rate of wage must be paid.
  - 3. Immediately upon award of the Contract, contact the Department of Labor and Industries, Prevailing Wages section, Olympia, Washington and/or the federal Department of Labor, to obtain full information, forms and procedures relating to these matters. Per such procedures, a Statement of Intent to Pay Prevailing Wages and/or other or additional documentation required by applicable federal law, must be submitted by CONTRACTOR and its subcontractors to the CITY, in the manner requested by the CITY, prior to any payment by the CITY hereunder, and an Affidavit of Wages Paid and/or other or additional documentation required by federal law must be received or verified by the CITY prior to final Contract payment.

## **9. Payment**

- A. Said price shall be the total compensation for CONTRACTOR's performance hereunder including, but not limited to, all work, deliverables, materials, supplies, equipment, subcontractor's fees, and all reimbursable travel and miscellaneous or incidental expenses to be incurred by CONTRACTOR.
- B. The CONTRACTOR shall submit monthly invoices for services completed and/or deliverables furnished during the previous month. Upon CITY'S request, CONTRACTOR shall submit necessary and appropriate documentation, as determined by the CITY, for all invoiced services and deliverables.
- C. Payment shall be made through the CITY's ordinary payment process and shall be considered timely if made within 30 days of receipt of a properly completed invoice.

- D. The CITY may withhold payment to the CONTRACTOR for any services or deliverables not performed as required hereunder until such time as the CONTRACTOR modifies such services or deliverables to the satisfaction of the CITY.
- E. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.
- F. In the event the CONTRACTOR incurs cost in excess of the sum authorized for service under this Contract, the CONTRACTOR shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and the CONTRACTOR shall have no claim against the CITY on account thereof.

#### **10. Independent Contractor Status**

The services and deliverables shall be furnished by the CONTRACTOR as an independent Contractor, and nothing herein contained shall be construed to create a relationship of employer and employee relationship. The CONTRACTOR shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Contract, unless stated otherwise in this Contract. No payroll or employment taxes of any kind shall be withheld or paid by the CITY with respect to payments to CONTRACTOR. The payroll or employment taxes that are the subject of this paragraph include, but are not limited to, FICA, FUTA, federal income tax, state personal income tax, state disability insurance tax and state unemployment insurance tax. By reason of CONTRACTOR's status as an independent Contractor hereunder, no workers' compensation insurance has been or will be obtained by the CITY on account of CONTRACTOR. The CONTRACTOR may be required to provide the CITY with proof of payment of these said taxes and benefits. If the CITY is assessed or deemed liable in any manner for those charges or taxes, the CONTRACTOR agrees to hold the CITY harmless from those costs, including attorney's fees.

#### **11. Services Warranty**

The CONTRACTOR warrants that all services performed pursuant to this Contract shall be generally suitable for the use to which CITY intends to use said services and deliverables as expressed in the Scope of Work. In the performance of services under this Contract, the CONTRACTOR and its employees further agree to exercise the degree of skill and care required by customarily accepted good practices and procedures followed by professionals or service providers rendering the same or similar type of service. All obligations and services of the CONTRACTOR hereunder shall be performed diligently and completely according to such professional standards.

#### **12. Contract Administration**

The City Clerk's Office for the CITY shall have primary responsibility for contract administration and approval of services to be performed by the CONTRACTOR and shall coordinate all communications between the CONTRACTOR and the CITY.

#### **13. Specific Personnel**

If before, during, or after the execution of this Contract, CONTRACTOR represents to the CITY that certain personnel would or will be responsible for performing services and deliverables under this Contract, then the CONTRACTOR is obligated to ensure that said personnel perform said Contract services to the maximum extent permitted by law. This Contract provision shall only be waived by written authorization by the CITY, and on a case-by-case basis.

**14. Records Related to Performance of Contract**

Upon CITY’s request, the CONTRACTOR shall make available to CITY all accounts, records, and documents related to the performance of this Contract for CITY’s inspection, auditing, or evaluation during normal business hours as reasonably needed by CITY to assess performance, compliance, and quality assurance under this Contract. Upon CITY’s request, CONTRACTOR shall provide to CITY any and all records or documents related to the performance of this Contract that CITY deems to be public records responsive to a request made to the CITY pursuant to the Washington State Public Records Act, Chapter 42.56 Revised Code of Washington.

**15. Records Retention**

The CONTRACTOR shall establish and maintain records in accordance with requirements prescribed by the CITY, with respect to all matters covered by this Contract. Except as otherwise authorized by the CITY, the CONTRACTOR shall retain such records for a period of six years after receipt of the final payment under this Contract or termination of this Contract.

**16. Notices**

Except for routine operational communications, which may be delivered personally or transmitted by electronic mail, all notices required hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first-class mail, postage prepaid, to the parties at the following addresses:

<b>CITY OF FIRCREST:</b>	<b>CONTRACTOR: TACOMA DAILY INDEX:</b>
Name: Arlette Burkhart	Name: Jennifer Tribbett
Title: City Clerk	Title: Legal Manager
Address: 115 Ramsdell Street Fircrest, WA 98466	Address: 15 Oregon Avenue, Suite 101 Tacoma, WA 98409
Phone: 253.564.8901	Phone: 253.627.4853
E-Mail: aburkhart@cityoffircrest.net	E-Mail: legals@tacomadailyindex.com

**17. Termination**

- A. Except as otherwise provided herein, the CITY may terminate this Contract at any time, for CITY’s own reasons and without cause, by giving ten (10) business days written notice to CONTRACTOR. In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the CITY. CITY may terminate this Contract in the event of any material breach of any of the terms and conditions of this Contract if CONTRACTOR’s breach continues in effect after written notice of breach and 30 days to cure such breach and fails to cure such breach.
- B. In the event CITY terminates this Contract due to the CITY’s own reasons and without cause due to the CONTRACTOR’s actions or omissions, the CITY shall pay the CONTRACTOR the amount due for actual work and services necessarily performed under this Contract up to the effective date of termination, not to exceed the total compensation set forth herein.
- C. In the event of material default or breach by CONTRACTOR of any of the terms or conditions of the Contract, CITY may, at its election, procure services and deliverables under this Contract from other sources, and may deduct from the unpaid balance due

CONTRACTOR, or collect against the bond or security (if any), or may invoice and recover from CONTRACTOR all costs paid in excess of the price(s) set forth in the Contract.

- D. Termination of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

## **18. Suspension**

The CITY may suspend this Contract at its sole discretion, upon seven (7) business days' written notice to the CONTRACTOR. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the CONTRACTOR'S reasonable expenses and shall be subject to verification. The CONTRACTOR shall resume performance of services under this Contract without delay when the suspension period ends. Suspension of this Contract by CITY shall not constitute a waiver of any claims or remaining rights the CITY may have against CONTRACTOR relative to performance hereunder.

## **19. Taxes**

Unless stated otherwise herein, CONTRACTOR is responsible for the payment of all charges and taxes applicable to the services performed under this Contract, and the CONTRACTOR agrees to comply with all applicable laws regarding the reporting of income, maintenance of records, and all other requirements and obligations imposed pursuant to applicable law. If the CITY is assessed, made liable, or responsible in any manner for such charges or taxes, the CONTRACTOR holds the CITY harmless from such costs, including attorney's fees.

If CONTRACTOR fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including by Fircrest City ordinance, and including by a court of law, the CITY will deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. Any such payments shall be deducted from the CONTRACTOR's total compensation.

## **20. Licenses and Permits**

The CONTRACTOR, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The CONTRACTOR shall obtain a business license as required by Fircrest Municipal Code and shall pay any business and occupation taxes if required by Fircrest Municipal Code. If applicable, the CONTRACTOR must have a Washington state business license.

## **21. Indemnification**

The CONTRACTOR shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Contract; provided that this provision shall not apply to the extent that damage or injury results from the sole negligence of the CITY, or its officers, agents, or employees. This indemnification shall extend to and include attorneys' fees and the cost of establishing the right of indemnification hereunder in favor of the CITY. This indemnification shall survive the termination of this Contract.



## **22. Title 51 Waiver**

The CONTRACTOR specifically assumes potential liability for actions brought by the CONTRACTOR's own employees against the CITY and, solely for the purpose of this indemnification and defense, the CONTRACTOR specifically waives any immunity under the state industrial insurance law, Title 51 RCW. THE CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.

## **23. Insurance**

During the course and performance of the services herein specified, CONTRACTOR will maintain the following insurance coverage:

- A. Workers' Compensation and employer's liability - statutory limits.
- B. Commercial General Liability - \$1,000,000 single limit combined for personal injury, property damage: \$2,000,000 aggregate.
- C. Automobile public liability and property damage - \$1,000,000 single limit combined for bodily injury and property damage.

Certificates of the above insurance coverage shall be delivered, within ten (10) days, to the CITY by CONTRACTOR's insurance carrier or agent certifying the above insurance coverage items are in effect and will not be canceled or materially changed without 30 days' written notice given to the CITY. The commercial general liability policy shall be on an occurrence basis and shall include an endorsement naming the CITY as an additional insured and stating that coverage under such policy is primary over and non-contributory with any insurance the CITY may maintain.

## **24. Nondiscrimination**

The CONTRACTOR agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The CONTRACTOR shall not discriminate in any employment action because of race, religion, creed, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, veteran or military status, the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person. In the event of non-compliance by the CONTRACTOR with any of the non-discrimination provisions of this Contract, the CITY shall be deemed to have cause to terminate this Contract, in whole or in part.

## **25. Conflict of Interest**

No officer, employee, or agent of the CITY, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The CONTRACTOR shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The CONTRACTOR represents that the CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Contract pertains which would conflict in any manner or degree with the performance of the CONTRACTOR's services and obligations hereunder. The CONTRACTOR further covenants that, in performance of this Contract, no person having any such interest shall be employed. The CONTRACTOR also agrees that its violation of the CITY's Code of Ethics contained in Chapter 2.46 of the Fircrest Municipal Code shall constitute a breach of this Contract subjecting the Contract to termination.

## **26. City Ownership of Work/Rights in Data and Publications**

To the extent CONTRACTOR creates and Work subject to the protections of the Copyright Act (Title 17 U.S.C.) in its performance of this Contract, CONTRACTOR agrees to the following: The Work has been specially ordered and commissioned by CITY. CONTRACTOR agrees that the Work is a “work made for hire” for copyright purposes, with all copyrights in the Work owned by CITY. To the extent that the Work does not qualify as a work made for hire under applicable law, and to the extent that the Work includes material subject to copyright, CONTRACTOR hereby assigns to CITY, its successors and assigns, all right, title and interest in and to the Work, including but not limited to, all patent, trade secret, and other proprietary rights and all rights, title and interest in and to any inventions and designs embodied in the Work or developed during the course of CONTRACTOR’s creation of the Work. The CONTRACTOR shall execute and deliver such instruments and take such other action as may be required and requested by CITY to carry out the assignment made pursuant to this section. Any documents, magnetically or optically encoded media, or other materials created by CONTRACTOR pursuant to this Contract shall be owned by CITY and subject to the terms of this subsection. To the maximum extent permitted by law, CONTRACTOR waives all moral rights in the Work. The rights granted hereby to CITY shall survive the expiration or termination of this Contract. CONTRACTOR shall be solely responsible for obtaining releases for the performance, display, recreation, or use of copyrighted materials.

## **27. Public Disclosure**

This Contract and documents provided to the CITY by CONTRACTOR hereunder are deemed public records subject to disclosure under the Washington State Public Records Act, Chapter 42.56 RCW (Public Records Act). Thus, the CITY may be required, upon request, to disclose this Contract and documents related to it unless an exemption under the Public Records Act or other laws applies. In the event CITY receives a request for such disclosure, determines in its legal judgment that no applicable exemption to disclosure applies, and CONTRACTOR has complied with the requirements herein to mark all content considered to be confidential or proprietary, CITY agrees to provide CONTRACTOR ten (10) days written notice of impending release. Should legal action thereafter be initiated by CONTRACTOR to enjoin or otherwise prevent such release, all expense of any such litigation shall be borne by CONTRACTOR, including any damages, attorneys’ fees or costs awarded by reason of having opposed disclosure. CITY shall not be liable for any release where notice was provided, and CONTRACTOR took no action to oppose the release of information. Notice of any proposed release of information pursuant to Chapter 42.56 RCW, shall be provided to CONTRACTOR according to the “Notices” provision herein.

## **28. Confidential or Proprietary Records Must be Marked**

If CONTRACTOR provides the CITY with records that CONTRACTOR considers confidential or proprietary, CONTRACTOR must mark all applicable pages of said record(s) as “Confidential” or “Proprietary.” If CONTRACTOR fails to so mark record(s), then (1) the CITY, upon request, may release said record(s) without the need to satisfy the requirements above; and (2) the CONTRACTOR expressly waives its right to allege any kind of civil action or claim against the CITY pertaining to the release of said record(s).

## **29. Approval for Release of Information Related to Contract**

If requested by CITY, CONTRACTOR shall not release any information or documentation concerning the work under this Contract or any part thereof for marketing, advertising, or other commercial activities or publication including, but not limited to, news releases or professional articles without CITY’s prior written approval. CONTRACTOR may submit at

any time for review and approval a generic abstract describing the component parts of the completed Scope of Services ("Project Abstract"). After receiving written approval of the Project Abstract from the CITY, the CONTRACTOR may make minor insignificant changes to the Project Abstract and use all or parts of the Project Abstract in proposals. This Section shall survive for six (6) years after the termination or expiration of this Contract.

### **30. Dispute Resolution**

In the event of a dispute pertaining to this Contract, the parties agree to attempt to negotiate in good faith an acceptable resolution. If a resolution cannot be negotiated, then the parties agree to submit the dispute to voluntary non-binding mediation before pursuing other remedies. This provision does not limit the CITY's right to terminate authorized by this Contract.

### **31. Miscellaneous Provisions**

- A. Governing Law and Venue. Washington law shall govern the interpretation of this Contract. Pierce County shall be the venue of any mediation, arbitration or litigation arising out of this Contract.
- B. Assignment. The CONTRACTOR shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Contract or for any of the compensation due hereunder without the prior written consent of the CITY.
- C. No Third Party Beneficiaries. This Contract shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.
- D. Waiver. A waiver or failure by either party to enforce any provision of this Contract shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Contract.
- E. Severability and Survival. If any term, condition or provision of this Contract is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Contract, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Contract, shall survive termination of this Contract.
- F. Entire Agreement. This Contract and the attached Exhibits and Appendices, as modified herein, contain the entire agreement between the parties as to the services to be rendered hereunder. All previous and contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Contract are superseded hereby. The Parties hereto mutually acknowledge, understand, and agree that the terms and conditions set forth herein shall control and prevail over any conflicting terms and conditions stated in any attachments hereto.
- G. Modification. No modification or amendment of this Contract shall be effective unless set forth in a written and executed Amendment to this Contract.

**IN WITNESS WHEREOF**, the parties hereto have accepted and executed this Contract, as of the Effective Date stated above, which shall be Effective Date for bonding purposes as applicable. The undersigned CONTRACTOR representative, by signature below, represents and warrants they are duly authorized to execute this legally binding Contract for and on behalf of CONTRACTOR and further represents and warrants that CONTRACTOR is not suspended, debarred, or otherwise disqualified under federal, state, or local law from participating in this Contract.

**CITY OF FIRCREST**

**SOUND PUBLISHING, INC.  
DBA TACOMA DAILY INDEX**

By: \_\_\_\_\_  
Dawn Masko, City Manager

By: \_\_\_\_\_  
Josh O'Connor  
Chief Operating Officer

Approved as to Form:

By: \_\_\_\_\_  
Robert Zeinemann, City Attorney

## EXHIBIT "A"

### SCOPE OF WORK AND DELIVERABLES

#### Overview

Publish various City of Fircrest notices including but not limited to public notices, legal notices, and official notices in **The Tacoma Daily Index**.

#### Requirements

1. Minimum point size is 6-point type.
2. Minimum leading is 6 points.
3. Printing will be set in solid or with typeset quality or equivalent; or photographically reduced for publication; or optically scanned.
4. Receive publication requests by email, fax, or hardcopy. Honor publishing requests regardless of the format in which they are received, as long as they are received by the minimum lead time for publication.
5. Print in said newspaper upon request, after requested copy has been provided, all summaries of ordinances, resolutions, and legal notices, public notices, and official notices for and on behalf of the City, on all requested publication dates, without mistake or variance from the copy furnished. Failure to perform will be considered noncompliance with this Contract.
6. All legal publishing shall be placed together under the block title "City of Fircrest Legal Notices" in the legal notice section of said newspaper.
7. Ordinances and Resolutions submitted by the City may be photographically reduced for publication by the Contractor as long as the requirements are met. The City will not pay more for photographically reduced copy than if the copy had been typeset. Maps, photos, graphs, mathematical formulas, graphic designs, etc., which are photographically reduced for printing shall be measured for payment purposes based on the actual number of column inches of the copy printed.
8. Furnish and deliver 20 copies of each day's issue of said newspaper, at no additional charge, to the City Clerk's Office at Fircrest City Hall, 115 Ramsdell Street, in Fircrest, by the day following the publication.
9. Furnish the required number of "Affidavit of Publication" certifying the specific date(s) in which the advertisement was published, after the last publication date of the advertisement, to the City department or agency that submitted the publication request, at no additional charge.
10. Pickup advertising copy on an as needed basis, anticipated to be a rare occurrence, at the City Clerk's Office at Fircrest City Hall, 115 Ramsdell Street, in Fircrest. The pick-up of copy to be published shall be consistent and be scheduled to ensure next day publication of specified items.
11. Provide a subscription to any person or organization that requests it in a reasonable time frame, but in no event, not more than three weeks from the date of request. If the City receives five written complaints from potential subscribers in a one-month period who have been unable to obtain a subscription to Contractor's newspaper, which complaints are verified, the Contractor shall be deemed to be in material default of this Contract.
12. Furnish all affidavits with a copy of each particular published item cut and affixed to the front of each affidavit. Stapling a tear sheet to the back of the affidavit will not be sufficient. Affidavits must be signed and notarized. If Contractor fails to provide accurate affidavits and

accurate publication dates, Contractor shall be deemed to be in material default of this Contract.

13. Print accurate date(s) of when items were actually published at the end of the published document.
14. Requests for publication received by noon the day before the requested day of publication shall be ensured of next day publication. Variations from this time frame may be approved by the City Clerk's Office or the affected City department submitting the publication request.
15. The Contractor shall maintain an office located in the City of Fircrest for purposes of pickup and delivery of documents, affidavits, etc. If the Contractor does not maintain an office within the corporate boundaries of the City of Fircrest, the Contractor shall, at no extra cost to the City, pick up documents, affidavits, etc., the same day such items were received at the above listed locations and ensure next day publication.
16. Have and maintain an operating facsimile machine available on a 24-hour basis to accommodate the City and/or other agencies' delivery of publication requests and documents. If the fax machine becomes inoperable, it shall be the Contractor's responsibility to notify the City at 253-564-8901 of the interruption of service.
17. The City will not pay for any advertisement that is improperly run. The Contractor will republish improperly run advertisements at its own expense. Any additional costs incurred by the City from an improperly run advertisement will be passed on to the Contractor.
18. The Contractor must be in compliance with all state statutes pertinent to a legal newspaper.
19. The Contractor must have an Order of Approval of the Superior Court in accordance with Chapter 65.16 of the Revised Code of Washington prior to award of the contract.
20. The City reserves the right to terminate the contract for the convenience of the City, at the sole discretion of the City, with a 30-day written notice. The Contractor shall not be entitled to damages for lost profits in the event of such termination for convenience.
21. The City reserves the right to terminate the contract with five (5) calendar days' written notice of termination for cause shown. The Contractor's failure to publish as specified in said Advertisement, Information for Bidders, Instructions to Bidders, Specifications, Plans, Proposal and Contractor's Specifications (if any); or the Contractor's failure to qualify as a legal newspaper pursuant to Chapter 65.16 of the Revised Code of Washington shall constitute cause for termination, together with such other cause as may be sufficient under the common law. If a notice of termination for cause is issued by the City and it is later determined for any reason that the Contractor was not in default, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued for the convenience of the City.
22. Independently invoice separate City departments or agencies as requested by the City.
23. Provide monthly itemized statements of each account listing the invoice number, item published, and the total amount of each invoice.

### **Rates**

The Tacoma Daily Index charges \$18.00 per column inch for the first publishing. Tacoma Daily Index will charge \$18.00 per column inch for all subsequent publishings. Double column price is \$36.00 per inch and Triple column price is \$54.00 per inch.

**There will be no price escalations.** The price of \$18.00 per column inch will not change for the term of the contract and subsequent authorized renewals of the contract.

## FIRCREST CITY COUNCIL AGENDA SUMMARY

**NEW BUSINESS:** Memorandum of Understanding with Teamsters Local Union No. 117 regarding Out of Classification Work.

**ITEM:** 13H

**DATE:** December 12, 2023

**FROM:** Dawn Masko, City Manager

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**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute a Memorandum of Understanding with Teamsters Local Union No. 17 regarding out-of-classification work.

---

**PROPOSAL:** The Council is being asked to authorize the City Manager to execute a Memorandum of Understanding (MOU) with Teamsters Local Union No. 117 regarding employee pay for out-of-classification work.

**FISCAL IMPACT:** Out-of-classification pay has been triggered six times since contract inception, with a pay differential of approximately \$1,634.

**ADVANTAGE:** Upon execution of the MOU, the Teamsters will withdraw the current grievance without the need for litigation.

**DISADVANTAGES:** None identified.

**ALTERNATIVES:** Do not approve the MOU and proceed to the mediation or arbitration process to resolve the out-of-classification grievance.

**HISTORY:** Public Works employees are represented by Teamsters Union No. 117 with a Collective Bargaining Agreement (CBA) effective October 11, 2022. Public Works employees had previously been represented by IBEW (International Brotherhood of Electrical Workers). When the Teamsters contract was negotiated, the City sought to maintain the IBEW contract language as much as possible, partly because it had revised some of the City's personnel policies to align with the old IBEW contract after the unit was decertified. However, during the interim unrepresented period, Public Works employees' salaries became part of the 6-step salary range methodology that applied to other city employees, whereas, under the IBEW contract, there was only a single rate of pay for each job classification. This has led to various interpretations of the language in the current Teamsters contract, resulting in a grievance filed on June 13, 2023.

The City and the Union have met multiple times throughout the grievance process, with the issue remaining unresolved. Prior to commencing with the next step in the process (either mediation by the Washington Public Employment Relations Commission or arbitration), the parties met for a final time to try to achieve a resolution. Following this meeting, the City drafted an MOU to provide clarifying language. The MOU has been reviewed and approved by John Lee, the City's labor attorney with Summit Law.

The MOU is two-fold and includes language for those employees who were employees of the City prior to the Teamsters CBA ratification on October 11, 2022, and those hired on or after that date. The proposed language results in longer-tenured employees receiving the same out-of-class pay they had received under the IBEW contract and new employees receiving out-of-class pay in closer alignment with City personnel policies.

**ATTACHMENTS:** Resolution  
Memorandum of Understanding – Out-of-Classification Work



1 **CITY OF FIRCREST**  
2 **RESOLUTION NO. \_\_\_\_**

3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
4 **FIRCREST, WASHINGTON AUTHORIZING THE CITY**  
5 **MANAGER TO SIGN A MEMORANDUM OF**  
6 **UNDERSTANDING WITH TEAMSTERS LOCAL UNION NO.**  
7 **117 REGARDING OUT-OF-CLASSIFICATION WORK.**

8 **WHEREAS**, in October 2022, the City of Fircrest and Teamsters Local Union No. 117  
9 entered into a Collective Bargaining Agreement for the period of October 11, 2022  
10 through December 31, 2024; and

11 **WHEREAS**, the City of Fircrest has negotiated a Memorandum of Understanding  
12 (“MOU”) with Teamsters Local Union No. 117 to clarify and modify certain terms of the  
13 Collective Bargaining Agreement Article 15.31.1 pertaining to out-of-classification  
14 work.

15 **NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE**  
16 **CITY OF FIRCREST:**

17 **Section 1.** The City Manager is hereby authorized and directed to execute a  
18 Memorandum of Understanding with Teamsters Local Union No. 117 regarding out-of-  
19 classification work.

20 **APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF**  
21 **FIRCREST, WASHINGTON**, at a regular meeting thereof this 12th day of December  
22 2023.

23 **APPROVED:**

24 \_\_\_\_\_  
25 Brett L. Wittner, Mayor

26 **ATTEST:**

27 \_\_\_\_\_  
28 Arlette Burkhardt, Acting City Clerk

29 **APPROVED AS TO FORM:**

30 \_\_\_\_\_  
31 Robert Zeinemann, City Attorney

**MEMORANDUM OF UNDERSTANDING**  
**BY AND BETWEEN**  
**CITY OF FIRCREST, WASHINGTON**  
**(“City” or “Employer”)**  
**AND**  
**TEAMSTERS LOCAL UNION NO. 117**  
**(“Union”)**

---

This Memorandum of Understanding (“MOU”) is entered into by and between the City of Fircrest (“Employer”) and Teamsters Local Union No. 117 (“Union”), referred to herein collectively as the “Parties.”

WHEREAS, the Employer and the Union negotiated a Collective Bargaining Agreement (“CBA”) for the period of October 11, 2022 through December 31, 2024; and

WHEREAS, the Union filed a grievance on June 13, 2023, alleging the City violated Article 15.3.1 – Additional Compensation – Out of Classification Work when assigning out-of-class pay for Utility Worker II Russ Parsons; and

WHEREAS, a Step 1 grievance meeting was held on August 22, 2023, and the City’s Step 1 grievance response was provided to the Union on August 25, 2023; and

WHEREAS, the Union filed a Step 2 grievance on September 1, 2023, and the City’s Step 2 grievance response was provided to the Union on September 22, 2023; and

WHEREAS, the parties met on September 27, 2023, to discuss the historical application and various interpretations of the current language regarding Article 15.3.1; and

WHEREAS, the parties desire to resolve the grievance without the need for further litigation; and

WHEREAS, the parties desire to revise the language for Article 15.3.1 - Out of Classification Work to provide clarity and allow for consistency in application.

NOW, THEREFORE, the Employer and the Union agree to the following:

1. Article 15.3.1 – Out of Classification Work will be modified as follows:

*For employees hired **before** October 11, 2022: If the Employer assigns the Employee to perform work within the bargaining unit in a higher classification for more than two (2) consecutive scheduled work shifts, then the Employee shall receive the current rate of pay of the higher classification employee whose work they are performing, for all time worked in the higher classification. If the Employer assigns the Employee to perform work in a higher classification outside of the bargaining unit for more than two (2) consecutive scheduled work shifts, then the Employee shall receive one hundred and five percent (105%) of their base wage rate.*

2. Furthermore, additional language will be added to Article 15.3.1 – Out of Classification Work, applicable for employees hired after October 10, 2022, as follows:

*For employees hired **after** October 10, 2022: If the Employer assigns the Employee to perform work within the bargaining unit in a higher classification for more than two (2) and up to five (5) consecutive scheduled work shifts, then the Employee shall receive a five percent (5%) base wage*

*increase or be placed at the entry step of the higher classification wage range, whichever is greater, for all time worked in the higher classification. If the Employee is placed in a supervisory position (Maintenance Lead or Working Utility Foreman), the Employee shall receive a ten percent (10%) pay increase (not to exceed the supervisor's actual pay) for all time worked in the higher classification. If an employee is assigned to a higher classification for more than five (5) consecutive scheduled work shifts, then the Employee shall receive the current rate of pay as the higher classification employee whose work they are performing. If the Employer assigns the Employee to perform work in a higher classification outside of the bargaining unit for more than two (2) consecutive scheduled work shifts, then the Employee shall receive one hundred and five percent (105%) of their base wage rate.*

3. The provisions of this MOU will be effective as of October 11, 2022.
4. The Parties do not admit to any liability or wrongdoing.
5. Upon execution of this MOU, the Union shall immediately withdraw the grievance with prejudice, dated June 13, 2023, and it shall be considered resolved.
6. All other provisions of the CBA between the City and Union remain in effect.

IN WITNESS WHEREOF, the parties have executed this MOU as their free and voluntary act on the date set forth below.

**CITY OF FIRCREST, WASHINGTON**

**TEAMSTERS LOCAL UNION NO. 117**

\_\_\_\_\_  
Dawn Masko, City Manager

\_\_\_\_\_  
Paul Dascher, Secretary-Treasurer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:**        **RWJ Consultants Professional Services Agreement Amendment**  
**ITEM:**                **13I**  
**DATE:**                **December 12, 2023**  
**FROM:**                **Dawn Masko, City Manager**

---

**RECOMMENDED MOTION:**    **I move to adopt Resolution No. \_\_\_\_ authorizing the City Manager to execute an amendment to the professional services agreement with RWJ Consultants for Project Coordinator services.**

---

**PROPOSAL:** The Council is being asked to authorize the City Manager to execute an amendment to the professional services agreement with RWJ Consultants for project coordinator services relating to the Alliance Residential (Prose) project and the sewer related items, including the sewer transfer agreement with Pierce County.

**FISCAL IMPACT:** Services will be billed at \$75 per hour for a total not to exceed \$10,000.

**ADVANTAGE:** This agreement will provide continued project coordination services and will allow for continued momentum with the outstanding items related to the Alliance/Prose mixed use project and sewer-related associated items.

**DISADVANTAGES:** None.

**ALTERNATIVES:** None that are viable.

**HISTORY:** The City entered into a professional services agreement with RWJ Consultants for project coordination services in July 2023. Principal Bob Jean has been intricately involved in the Prose project and sewer-related items since April 2023 and possesses the professional expertise to complete the outstanding items.

The current professional services agreement expires on December 15, 2023. The City wishes to extend the agreement through March 31, 2024 and amend the fee structure from \$6,250 per month (based on 20 hours per week) to an hourly fee of \$75 for actual hours worked.

**ATTACHMENTS:** Resolution  
Professional Services Agreement Amendment

1 **CITY OF FIRCREST**  
2 **RESOLUTION NO. \_\_\_\_**

3  
4 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
5 **FIRCREST, WASHINGTON, AUTHORIZING THE CITY**  
6 **MANAGER TO EXECUTE AN AMENDMENT TO THE**  
7 **PROFESSIONAL SERVICES AGREEMENT WITH RWJ**  
8 **CONSULTANTS FOR PROJECT COORDINATOR SERVICES.**

9 **WHEREAS**, the City of Fircrest has contracted with RWJ Consultants to provide  
10 project coordination support for the Alliance Residential (Prose) Project and sewer-  
11 related items; and

12 **WHEREAS**, the term of said Agreement will expire on December 15, 2023; and

13 **WHEREAS**, the City of Fircrest wishes to continue utilizing RWJ Consultants for  
14 these services;

15 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE**  
16 **CITY OF FIRCREST:**

17 **Section 1.** The City Manager is hereby authorized and directed to execute an  
18 amendment to the professional services agreement with RWJ Consultants for project  
19 coordinator services.

20 **APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF**  
21 **FIRCREST, WASHINGTON**, at a regular meeting thereof this 12th day of December  
22 2023.

23 **APPROVED:**

24 \_\_\_\_\_  
25 Brett L. Wittner, Mayor

26 **ATTEST:**

27 \_\_\_\_\_  
28 Arlette Burkhardt, Acting City Clerk

29 **APPROVED AS TO FORM:**

30 \_\_\_\_\_  
31 Robert Zeinemann, City Attorney

**AMENDMENT #1  
TO THE CITY OF FIRCREST  
PROFESSIONAL SERVICES AGREEMENT  
WITH RWJ CONSULTANTS**

This Amendment is hereby made and entered into this 12th day of December 2023 by and between the City of Fircrest, a political subdivision of the State of Washington, hereinafter referred to as the “City,” and RWJ Consultants, hereinafter referred to as “Consultant” or “RWJ”, to be effective December 16, 2023.

**WITNESSETH:**

1. **Purpose:** The purpose of this first amendment is to amend the July 16, 2023 agreement. This amendment is limited to the amendments as set forth herein. All of the remaining terms and conditions of the July 16, 2023, agreement shall remain in full force and effect. The amendments are as follows:

2. Section 2 is hereby amended to read as follows:

**Scope of Services:** RWJ shall serve as the City’s Project Coordinator for the housing development proposed by Alliance Residential at 2119 Mildred Street West in Fircrest that is known as the Prose Project. RWJ shall perform coordination functions and duties as requested by the City and which are needed for the City to serve the Prose Project with sanitary sewer service, including reductions in infiltration and inflow (I&I) into the City’s sanitary sewer system, and to perform other legally permissible and proper duties and functions as agreed to by the City and RWJ and as outlined in Exhibit A to this Amendment.

3. Section 7 is hereby amended to read as follows:

**Time Period of Agreement:** Notwithstanding, the date of execution hereof, this Agreement shall be in effect beginning July 16, 2023, and will terminate as the City Manager determines, not later than March 31, 2024.

4. Section 9 is hereby amended to read as follows:

**Payment:** RWJ shall be compensated at an hourly rate of \$75 per hour, for a total not to exceed \$10,000 over the term of the contract amendment. In addition, the City’s Finance Director is authorized to make such reimbursements after receipt of duly executed expense vouchers, receipts, statements, or personal declarations. Authorized vehicle travel within the Scope of Service shall be reimbursed at the current IRS mileage rate. RWJ shall submit monthly billings to the City.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three counterparts, each of which shall be deemed as originals, in the year and day first above mentioned.

**CITY OF FIRCREST**

**RWJ Consultants**

By \_\_\_\_\_  
Dawn Masko, City Manager

By \_\_\_\_\_

Approved as to Form:

By \_\_\_\_\_  
Robert Zeinemann, City Attorney

## EXHIBIT A

The duties of the Project Coordinator, shall include but not be limited to outstanding items related to the Alliance Residential (Prose) mixed use project and associated sewer-related items as follows:

- Communications with the City of Tacoma regarding: Sewer Availability Letter, MOU, and I&I Reduction.
- I&I monitoring by Public Works and communications with Tacoma per June 2014 agreement.
- Sewer Basin Transfer Agreement approval or ongoing negotiations/litigation support.
- Northwest Corner Joint Study Area “game plan” with Tacoma, Pierce County, and Fircrest.
- Other intergovernmental coordination as needed, eg. Boundary Review Board.
- Community information and education regarding I&I reduction and enforcement.
- Other sanitary sewer related services as determined by the City Manager.

The following tasks in the original Scope of Services have been completed or are substantially completed:

- Issue a Sewer Availability letter – *issued 11/30/23*.
- Securing necessary sewer line construction right-of-way for the Prose Project sewer connection to the southeast.
- Changing the Sewer Basin designation in which the Prose Project is located from Pierce County to Tacoma – *Sewer Basin Transfer Agreement under consideration*.
- Coordinating and negotiating with the City of Tacoma and Pierce County on behalf of the City regarding sanitary sewer issues – *NW Corner discussions in process*.
- Establish the timing of the construction of the East Stairway leading from the Prose Project - *resolved*.
- A Scope of work RFP for an Infiltration and Inflow Study – *in process*.
- A community education and information program for I&I reductions – *underway*.
- Pipe-bursting and other system improvements to reduce I&I – *in process*.
- Alliance/Prose Memorandum of Understanding and \$180,000 voluntary contribution to help reduce I&I – *MOU executed 10/24/23*.



**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:** Audio-Visual System Replacement Change Order  
**ITEM:** 13J  
**DATE:** December 12, 2023  
**FROM:** Colleen Corcoran, Finance Director

---

**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_ authorizing the City Manager to execute Change Order #1 to the Professional Services Agreement with DescoAV for the Council Chambers audio-visual system replacement.

---

**PROPOSAL:** The Council is being asked to authorize the City Manager to execute Change Order #1 to the Professional Services Agreement with DescoAV in the amount of \$8,955.21 including tax to add a rechargeable battery system for wireless microphones, an additional touchscreen controller and stand, replacement of audio cables, and adding the lobby speakers to the system.

**FISCAL IMPACT:** Change Order #1 is \$8,938.98 including tax. This will bring the total cost of DescoAV’s contract to \$80,159.32. The 2023 Budget contains \$88,000 from ARPA funds for this project. Additional costs related to this project include a new computer, electrician cost, and miscellaneous costs amounting to \$3,015.91 for a total project cost of \$83,175.23.

**ADVANTAGE:** This Change Order will provide the necessary items to finish this project.

**DISADVANTAGES:** None known.

**ALTERNATIVES:** None that are viable.

**HISTORY:** The contract with DescoAV was adopted by Resolution #1806 on December 13, 2022. Following discussion at the November 20, 2023 Council Study Session, Council agreed to the items included in this change order.

**ATTACHMENTS:** Resolution  
DescoAV Change Order #1 Agreement  
DescoAV Quotation

**CITY OF FIRCREST  
RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON, AUTHORIZING THE CITY  
MANAGER TO EXECUTE A CHANGE ORDER TO THE  
PROFESSIONAL SERVICES AGREEMENT WITH DESCO AV  
FOR THE COUNCIL CHAMBERS AUDIO-VISUAL SYSTEM  
REPLACEMENT PROJECT.**

**WHEREAS**, the City of Fircrest contracted with DescoAV for the Council Chambers Audio-Visual Replacement Project; and

**WHEREAS**, the City has determined that further labor and materials are necessary to finish this project; and

**WHEREAS**, DescoAV has agreed to a change order for the labor and materials to finish this project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST:**

**Section 1.** The City Manager is hereby authorized and directed to execute a change order with DescoAV for additional labor and materials necessary to finish the Council Chambers Audio-Visual Replacement project.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON**, at a regular meeting thereof this 12<sup>th</sup> day of December 2023.

APPROVED:

\_\_\_\_\_  
Brett L. Wittner, Mayor

ATTEST:

\_\_\_\_\_  
Arlette Burkhart, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Zeinemann, City Attorney

**Change Order Agreement**

Project: Council Chambers Audio Visual Replacement Project

Contractor: Desco AV

Change Order # 1

Date: 12/12/2023

This following covers the rechargeable battery setup, mic wiring, addition of the 2<sup>nd</sup> touchscreen, and adding the lobby speakers to the system.

Item	Quantity	Unit Price	Increase	Decrease \$
Shure Dual Charging System	1	\$131.00	\$131.00	
Shure Rechargeable Battery	2	\$49.00	\$98.00	
Touch Screen Controller	1	\$2,605.00	\$2,605.00	
Tabletop Stand	1	\$374.00	\$374.00	
Misc. Parts and Wiring	1	\$1,250.00	\$1,250.00	
Installation	7	\$237.28	\$1,660.96	
Custom Programing	1	\$2,000.00	\$2,000.00	
<b>Total</b>			<b>\$8,118.96</b>	

The Contractor agrees to comply with the following changes from the contract plans and specifications:

Amount of Original Contract (with tax):	\$71,220.34
Prior Change Orders:	\$ <u>0.00</u>
Addition/Reduction This Change Order (with tax)	\$ <u>8,938.98</u>
New Contract Amount (with sales tax)	\$80,159.32

This document shall become a supplement to the Contract and all provisions of the Contract shall apply thereto.

_____	_____	_____	_____
Contractor	Date	Fircrest City Manager	Date
_____		_____	
Print Name		Print Name	

11/22/23

Desco AV  
 2306 Harrison Ave NW  
 Olympia WA 98502

www.descoav.com  
 360.943.1393



<b>Estimate Prepared For:</b> City of Fircrest Attn: Chris Bunger cbunger@cityoffircrest.net	<b>Site Address:</b> 115 Ramsdell Street Fircrest WA 98466 Additional Touchscreen	<b>Prepared By:</b> Dustin Carter Desco AV 360.943.1393 dustinc@descoav.com
-------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------

Description	Quantity	Unit Price	Amount
Shure SBC203 Dual Charging Station	1	\$131.00	\$131.00
Shure SB903 Rechargeable Battery	2	\$49.00	\$98.00
QSC TSC-101-G3 Q-SYS 10.1" PoE Touch Screen Controller	1	\$2,605.00	\$2,605.00
QSC TSC-710t-G3 Tabletop Stand	1	\$374.00	\$374.00

Misc Parts and Wiring ( <b>Estimate, billed as consumed</b> )	1	\$1,250.00	\$1,250.00
2 Person Custom Installation ( <b>Estimate, billed hourly</b> )	7	\$237.28	\$1,660.96
1 Person Custom Programming	1	\$2,000.00	\$2,000.00

This covers the rechargeable battery setup, mic wiring, addition of the 2nd touchscreen, and adding the lobby speakers to the system.

All pricing and labor rates in compliance with AVMC #03418

Subtotal	\$ 8,118.96
Tax Rate	<del>10.30%</del> 10.1%
Tax	\$ 836.25
Total	\$ 8,955.21

10.1%  
 820.02  
 \$ 8,938.98

## FIRCREST CITY COUNCIL AGENDA SUMMARY

**NEW BUSINESS:** Ordinance Amending Fircrest Municipal Code Title 21 regarding Water Rates

**ITEM:** 13K

**DATE:** December 12, 2023

**FROM:** Dawn Masko, City Manager  
Tyler Bemis, Public Works Director

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**RECOMMENDED MOTION:** I move to adopt Ordinance No. \_\_\_\_\_, amending Section 1 of Ordinance No. 1701 and Fircrest Municipal Code Title 21.04.030 – Residential Rates and Section 2 of Ordinance No. 1701 and Fircrest Municipal Code Title 21.04.040 – Commercial Rates.

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**PROPOSAL:** The Council is being asked to amend Fircrest Municipal Code Title 21.04 regarding residential and commercial water rates to reflect a 4.5% rate increase.

**FISCAL IMPACT:** Increased revenue for the Water Utility. Based on the 4.5% proposed rate increase, the base fee would increase from \$38.49 to \$40.22 bi-monthly for residential customers. The proposed rate increase will generate approximately \$52,570 of additional revenue for the Water Utility to fund normal operations and maintenance. Additional information is contained in the attached Water Rate Increase memorandum.

**ADVANTAGE:** The proposed rate increase would generate additional revenue for the Water Utility and while there would still be a significant difference between the anticipated ending fund balance and the target reserve, it prevents the gap from increasing.

**DISADVANTAGES:** The cost to our ratepayers will increase on a bimonthly basis.

**ALTERNATIVES:** Not adopt or defer a rate increase or decrease the amount of the rate increase. This would result in the ending fund balance continuing to decline.

**HISTORY:** The City Council previously adopted water rate increases of 2% for both 2022 and 2023 following a financial analysis of the Water System Plan. Prior to this, the Council had approved a 3-year water rate increase schedule for 2017-2019. No rate increases were adopted for 2020 and 2021.

City Financial Policies state that the goal is to maintain reserves equal to at least three months of adopted operating expenditures. The current projected 2024 ending fund balance equates to approximately one month of expenditures. While the operating budget is structurally balanced, due to the impact of extraordinarily high inflation in recent years, the fund balance has continued to decline. If this trend continues it will result in the need to drastically cut expenses in future years, which could have a detrimental impact on utility operations.

**ATTACHMENTS:** Ordinance  
Water Rates – Follow-up Information Memo  
Typical Single-Family Residential Bill Examples

**CITY OF FIRCREST  
ORDINANCE NO. \_\_\_\_\_**

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**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON, AMENDING ORDINANCE NO. 1701  
SECTION 1 AND FMC 21.04.030 RESIDENTIAL RATE; AND  
AMENDING ORDINANCE NO. 1701 SECTION 2 AND FMC  
21.04.040 COMMERCIAL RATE.**

**WHEREAS**, the City’s existing water customers are responsible for paying for operations, maintenance, and repairs for the water utility and to existing infrastructure within the water system, and environmental requirements imposed by the Washington State Department of Health; and

**WHEREAS**, the City last studied water rates in 2021 and adopted Ordinance No. 1681 and Ordinance No. 1701, amending water rates for 2022 and 2023; and

**WHEREAS**, the City held a public hearing on the proposed changes to the water rates at the November 28, 2023, City Council meeting; and

**WHEREAS**, the City Council has determined it is in the City’s best interest to amend Sections 1 and 2 of Ordinance No. 1701 and Fircrest Municipal Code (FMC) Title 21.04 regarding residential and commercial Ready to Serve Charges and Tier 1, 2, and 3 consumption rates.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FIRCREST DO  
ORDAIN AS FOLLOWS:**

**Section 1. FMC 21.04.030, Amended.** Section 1 of Ordinance No. 1701 and FMC 21.04.030 are hereby amended to read as follows:

**21.04.030 Residential rate.**

Water furnished by the city of Fircrest for single-family residential and multiple dwelling units use and consumption within Fircrest city limits shall be furnished through metered connections and shall be charged for on the following basis:

- (a) Single-family residential units with an accessory dwelling unit (ADU), as defined by FMC [22.58.012](#), shall be billed as one dwelling unit.
- (b) A bimonthly ready to serve charge for each meter, regardless of size, per connection, shall be billed in accordance with the following schedule:

**Residential and Multiple Dwelling  
Water Ready to Serve Charge  
Effective February 1, 2024**

Ready to Serve Charge	\$40.22
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(c) A charge for water consumed through each meter shall be billed in accordance with the following schedule:

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**Consumption Tier for Residential and  
Multiple Dwelling Units**

**Effective February 1, 2024**

Tier	Rates
Tier 1 (0 – 1,000 cf)	\$0.0118
Tier 2 (1,001 – 4,000 cf)	\$0.0177
Tier 3 (4,001+ cf)	\$0.0301

(d) Water furnished by the city of Fircrest for single-family residential and multiple dwelling units use and consumption outside the Fircrest city limits shall be charged as outlined in subsections (a) and (b) of this section with an additional bimonthly surcharge of \$25.00.

(e) All rates and charges imposed by this section shall be collected in full for service furnished during any month or fractional month. (Ord. 1701 § 1, 2022; Ord. 1681 § 1, 2021; Ord. 1627 § 2, 2018; Ord. 1589 § 1, 2016; Ord. 1446 § 1, 2007; Ord. 1365 § 1, 2005; Ord. 1287 § 1, 2001; Ord. 1119 § 1, 1996; Ord. 1086 § 1, 1994; Ord. 1016 § 1, 1992; Ord. 979 § 1, 1990; Ord. 891 § 1, 1988; Ord. 745 § 1, 1980).

**Section 2. FMC 21.04.040, Amended.** Section 2 of Ordinance No. 1701 and FMC 21.04.040 are hereby amended to read as follows:

**21.04.040 Commercial rate.**

Water furnished by the city of Fircrest for commercial or industrial use and consumption within the Fircrest city limits shall be furnished through metered connections and shall be charged for on the following basis:

(a) A bimonthly ready to serve charge for each meter regardless of size, per connection, shall be in accordance with the following schedule:

**Commercial  
Water Ready to Serve Charge  
Effective February 1, 2024**

Ready to Serve Charge	\$40.22
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(b) A charge for water consumed through each meter shall be in accordance with the following schedule:

**Consumption Tier for  
Commercial Units**

**Effective February 1, 2024**

Tier	Rates
Tier 1 (0 – 1,000 cf)	\$0.0141
Tier 2 (1,001 – 4,000 cf)	\$0.0200
Tier 3 (4,001+ cf)	\$0.0322

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(c) Where more than one commercial business or establishment receives water through a single metered connection, each separate commercial business or establishment shall be charged a separate ready to serve charge that will include the same rate schedule as listed above.

(d) All rates and charges imposed by this section shall be collected in full for service furnished during any month or fractional month. (Ord. 1701 § 2, 2022; Ord. 1681 § 2, 2021; Ord. 1589 § 2, 2016; Ord. 1287 § 2, 2001; Ord. 1119 § 2, 1996; Ord. 1098 § 3, 1995; Ord. 1086 § 2, 1994; Ord. 1016 § 2, 1992; Ord. 979 § 2, 1990; Ord. 891 § 2, 1988; Ord. 745 § 2, 1980).

**Section 3. Corrections.** The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this ordinance, including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

**Section 4. Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

**Section 5. Effective Date.** This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force on February 1, 2024.

**PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON,** at a regular meeting thereof this 12<sup>th</sup> day of December 2023.

APPROVED:

\_\_\_\_\_  
Brett L. Wittner, Mayor

ATTEST:

\_\_\_\_\_  
Arlette Burkhardt, Acting City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Zeinemann, City Attorney





**To:** Mayor and City Council  
**From:** Dawn Masko, City Manager  
**Date:** November 3, 2023  
**Subject:** Water Rate Increase – Follow-up Information

As part of the discussion at the October 30, 2023 study session, the City Council requested additional information regarding the proposed water rate increase. Concern was expressed that materials provided as part of the budget workshop packet did not correctly reflect the impact of a proposed 4.5% rate increase on residential customers. It was also discovered that the amounts shown in the comparison with other cities did not correctly reflect the average billing based on 1400 cubic feet for the 2%, 4%, and 4.5% increased rates.

Attached is additional information for Council review prior to the November 14<sup>th</sup> City Council meeting. Staff has provided numerous examples of the impact of the proposed 4.5% rate increase on various customers based upon water volume usage. The chart below illustrates that 55% of single-family residential customers are in Tier 1 and 42% are in Tier 2 during winter months and the majority are in Tier 2 during summer months.

Single-Family Residential Customers by Tier					
Billing Cycle	Tier 1	Tier 2	Tier 3	No Usage	Total
February 2023	1,222	921	34	41	2,218
August 2023	471	1,137	599	13	2,220

*There are currently 100 accounts on Budget Billing.*

Information provided by Public Works states that the single-family residential customer average water usage is 1,179 cubic feet in the winter billing cycles and 3,131 cubic feet (cf) in the summer billing cycles. Based on that data, staff have used those averages to calculate the impacts of a proposed rate increase. Additionally, we have provided examples at the end of this memo based on 800 cf, 1400 cf, 2800 cf, and 4500 cf to illustrate potential impacts to customers in each tier.

The Council has previously authorized 2% water rate increases in both 2022 and 2023. Prior to 2022, there had not been a rate increase since 2019.

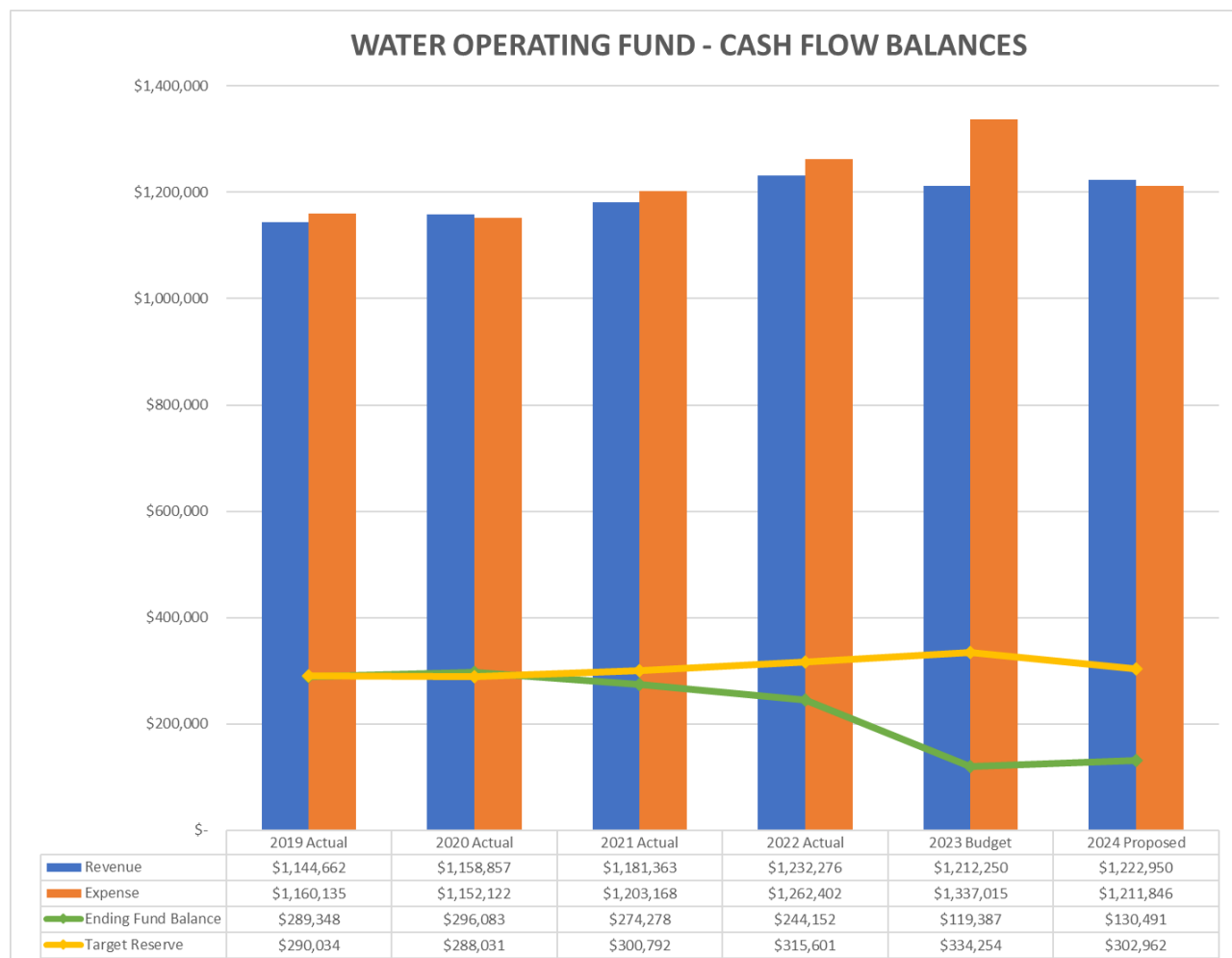
Single Family Residential		2019	2020	2021	2022	2023	2024 Proposed
Base Rate		\$37.00	\$37.00	\$37.00	\$37.74	\$38.49	\$40.22
Tier 1	0 – 1,000 cf	\$0.0109	\$0.0109	\$0.0109	\$0.0109	\$0.0113	\$0.0118
Tier 2	1,001 – 4,000 cf	\$0.0163	\$0.0163	\$0.0163	\$0.0163	\$0.0169	\$0.0177
Tier 3	4,001+ cf	\$0.0272	\$0.0272	\$0.0272	\$0.0272	\$0.0288	\$0.0301
Rate Increase		4.2%	0.0%	0.0%	2.0%	2.0%	4.5%

Unfortunately, these rate increases have not kept pace with inflation and the impact on Water operating expenditures.

	Rate Increase	Expenditure Increase	CPI-W June to June
2019	4.2%	-26.9%	3.6%
2020	0.0%	-0.7%	1.7%
2021	0.0%	4.4%	1.0%
2022	2.0%	4.9%	6.3%
2023	2.0%	5.9%	9.5%

The Water Capital Fund was created in 2018 with a transfer from the Water Operating Fund. The 2019 expenditures reflect a decrease from 2018 due to the impact of that transfer.

City Financial Policies state that the goal is to maintain reserves equal to at least three (3) months of adopted operating expenditures. The chart below highlights the growing gap between the Water Operating Fund’s target reserve and its actual ending fund balance. Extraordinarily high inflation in recent years is the largest contributor along with capital repairs funded by operating funds. While the 2024 proposed Water operating budget is structurally balanced, without a rate increase the ending fund balance will continue to decline. The current projected ending fund balance for 2024 is \$130,491, which equates to approximately one month of expenditures. The current trend is not sustainable and will result in the need to drastically cut expenses in future years, which could have a detrimental impact on utility operations.



Below is the corrected residential water rate comparison to surrounding jurisdictions.

Residential Water Rate Comparison  
Corrected Version  
Based on Average of 1400 cf

<u>Residential Water Service</u>	<u>2-Month Avg. Bill</u>	<u>Per Month Avg.</u>
University Place - Summer	\$118.08	\$59.04
University Place - Winter	\$111.33	\$55.66
Steilacoom	\$100.10	\$50.05
Tacoma - Summer	\$91.18	\$45.59
Tacoma - Winter	\$85.94	\$42.97
Lakewood	\$51.37	\$25.69
Fircrest - Current	\$56.55	\$28.28
Fircrest - 2%	<del>\$63.09</del> \$57.68	<del>\$31.55</del> \$28.84
Fircrest - 4%	<del>\$70.11</del> \$58.81	<del>\$35.06</del> \$29.41
Fircrest - 4.5%	<del>\$71.79</del> \$59.09	<del>\$35.90</del> \$29.55

Based solely on water rates, Fircrest’s rates continue to be among the lowest in our area. The table below shows how the proposed rate increase compares to the proposed rate increases for the same cities listed above, based on cubic feet of water usage.

	2024 PROPOSED Residential Rates					
	Bi-monthly Customer Bill based on Base Rate + Volume Charge					
	800 cf	1179 cf	1400 cf	2800 cf	3131 cf	4500 cf
City of University Place – Summer	\$104.18	\$119.67	\$128.70	\$185.91	\$199.44	\$255.38
City of University Place – Winter	101.73	114.12	121.35	167.11	177.93	222.68
Town of Steilacoom	82.10	96.31	104.60	157.13	169.54	220.90
City of Tacoma – Summer	80.36	92.37	99.38	143.77	154.27	197.68
City of Tacoma – Winter	78.45	88.07	93.67	129.18	137.58	172.30
City of Lakewood	40.09	49.34	53.68	86.87	95.73	132.35
City of Fircrest – 4.5% Increase	49.66	55.19	59.10	83.88	89.74	120.17
City of Fircrest – 4% Increase	49.47	54.98	58.87	83.51	89.34	119.63
City of Fircrest – 2% Increase	48.46	53.84	57.64	81.72	87.41	117.06
City of Fircrest – No Increase	47.53	52.82	56.55	80.21	85.80	114.89

Staff recommends that the Council approve a 4.5% rate increase (based on CPI-W June-to-June) for 2024. As indicated in the October 30<sup>th</sup> budget memo, this would generate approximately \$52,570 of additional revenue and while that still leaves a significant difference between the anticipated ending fund balance and the target reserve, it prevents the gap from increasing. The bi-monthly increases to customers are shown in the chart below.

	2023 Current	2024 Proposed	Difference	% Increase
Base Rate	\$38.49	\$40.22	\$1.73	4.5%
800 cf	47.53	49.66	2.13	4.5%
1179 cf	52.82	55.19	2.37	4.5%
1400 cf	56.55	59.10	2.55	4.5%
2800 cf	80.21	83.88	3.67	4.5%
3131 cf	85.80	89.74	3.94	4.5%
4500 cf	114.89	120.17	5.28	4.5%

*Base rate does not include any water usage. All other rates shown include base rates plus water usage charges.*

The Council previously requested to see the effect of a 4.5% increase in 2024 followed by 2% rate increases in 2025 and 2026. While staff is not recommending adoption of rate increases beyond 2024 without additional evaluation, the requested information is shown below.

	Current Rate	4.5% Increase	2024 Rate	2.0% Increase	2025 Rate	2.0% Increase	2026 Rate
Base Rate	\$38.49	\$1.73	\$40.22	\$0.80	\$41.02	\$0.82	\$41.84
800 cf	47.53	2.13	49.66	0.99	50.65	1.01	51.66
1179 cf	52.82	2.37	55.19	1.10	56.29	1.13	57.42
1400 cf	56.55	2.55	59.10	1.18	60.28	1.21	61.49
2800 cf	80.21	3.67	83.88	1.68	85.56	1.71	87.27
3131 cf	85.80	3.94	89.74	1.80	91.54	1.83	93.37
4500 cf	114.89	5.28	120.17	2.40	122.57	2.45	125.02

*Base rate does not include any water usage. All other rates shown include base rates plus water usage charges.*

The Water Capital Fund is primarily funded by transfers from the Water Operating Fund. Other revenue sources include grants and capital contributions/tap fees. ARPA funds also provided a significant infusion of cash for specific projects in prior years. The ending fund balance for Water Capital has also been declining, with an estimated 2024 ending fund balance of \$105,203. The total projected 2024 ending fund balance for the combined Water Utility Fund is \$235,694, which is less than the target operating reserve of \$302,962 for just the Water Operating Fund.

Finance Director Colleen Corcoran provided additional information at the October 30<sup>th</sup> budget workshop which discusses the Water Capital Fund as well as a high-level 5-year projection. Additional work needs to be done in the coming year to evaluate the Water Utility Fund and explore options to address its long-range financial health.

A public hearing will need to be held before any rate increase can be adopted. Council can set the date for a public hearing at the November 14<sup>th</sup> City Council meeting, which will allow for sufficient time to advertise the public hearing as required. Following the public hearing, an ordinance will be brought forward to Council for adoption. The rate increase would take effect with the February 1<sup>st</sup> utility billing cycle and the increase will be reflected on the April 2024 utility statement.

Please let me know if you have any questions or require additional information in advance of the November 14<sup>th</sup> City Council meeting. Thank you.

**City of Fircrest**  
**Water Utility - Customer Impact**  
**Typical Single-Family Residential Bill**

**Bi-Monthly Use (cf)** **1,179**

**Winter Billing Cycle Average (February 2023)**

Charge	2023 Current	2024 Proposed
<b>Base Charge (Bi-Monthly)</b>		
Bi-Monthly	\$ 38.49	\$ 40.22
<b>Volume</b>		
Tier 1 (0-1,000 cf)	\$ 0.0113	\$ 0.0118
Tier 2 (1,001-4,000 cf)	0.0169	0.0177
Tier 3 (4,001+ cf)	0.0288	0.0301

	2023 Current	2024 Proposed
<b>Fixed Bi-Monthly Rate:</b>	\$ 38.49	\$ 40.22
<b>Volume:</b>	<b>Cubic Ft</b>	
Tier 1 Usage	1,000	11.30
Tier 2 Usage	179	3.03
Tier 3 Usage	-	-
<b>Total Usage:</b>	<b>1,179</b>	<b>14.33</b>
<b>Total:</b>	<b>\$ 52.82</b>	<b>\$ 55.19</b>

**Bi-Monthly Use (cf)** **3,131**

**Summer Billing Cycle Average (August 2023)**

Charge	2023 Current	2024 Proposed
<b>Base Charge (Bi-Monthly)</b>		
Bi-Monthly	\$ 38.49	\$ 40.22
<b>Volume</b>		
Tier 1 (0-1,000 cf)	\$ 0.0113	\$ 0.0118
Tier 2 (1,001-4,000 cf)	0.0169	0.0177
Tier 3 (4,001+ cf)	0.0288	0.0301

	2023 Current	2024 Proposed
<b>Fixed Bi-Monthly Rate:</b>	\$ 38.49	\$ 40.22
<b>Volume:</b>	<b>Cubic Ft</b>	
Tier 1 Usage	1,000	11.30
Tier 2 Usage	2,131	36.01
Tier 3 Usage	-	-
<b>Total Usage:</b>	<b>3,131</b>	<b>47.31</b>
<b>Total:</b>	<b>\$ 85.80</b>	<b>\$ 89.74</b>

**City of Fircrest**  
**Water Utility - Customer Impact**  
 Single-Family Residential Bill - other examples

**Bi-Monthly Use (cf)** **800**

**Billing Based on 800 cf**

Charge	2023 Current	2024 Proposed
<b>Base Charge (Bi-Monthly)</b>		
Bi-Monthly	\$ 38.49	\$ 40.22
<b>Volume</b>		
Tier 1 (0-1,000 cf)	\$ 0.0113	\$ 0.0118
Tier 2 (1,001-4,000 cf)	0.0169	0.0177
Tier 3 (4,001+ cf)	0.0288	0.0301

		2023 Current	2024 Proposed
<b>Fixed Bi-Monthly Rate:</b>		\$ 38.49	\$ 40.22
<b>Volume:</b>	<b>Cubic Ft</b>		
Tier 1 Usage	800	9.04	9.44
Tier 2 Usage	-	-	-
Tier 3 Usage	-	-	-
<b>Total Usage:</b>	<b>800</b>	<b>9.04</b>	<b>9.44</b>
<b>Total:</b>		<b>\$ 47.53</b>	<b>\$ 49.66</b>

**Bi-Monthly Use (cf)** **1,400**

**Billing Based on 1400 cf**

Charge	2023 Current	2024 Proposed
<b>Base Charge (Bi-Monthly)</b>		
Bi-Monthly	\$ 38.49	\$ 40.22
<b>Volume</b>		
Tier 1 (0-1,000 cf)	\$ 0.0113	\$ 0.0118
Tier 2 (1,001-4,000 cf)	0.0169	0.0177
Tier 3 (4,001+ cf)	0.0288	0.0301

		2023 Current	2024 Proposed
<b>Fixed Bi-Monthly Rate:</b>		\$ 38.49	\$ 40.22
<b>Volume:</b>	<b>Cubic Ft</b>		
Tier 1 Usage	1,000	11.30	11.80
Tier 2 Usage	400	6.76	7.08
Tier 3 Usage	-	-	-
<b>Total Usage:</b>	<b>1,400</b>	<b>18.06</b>	<b>18.88</b>
<b>Total:</b>		<b>\$ 56.55</b>	<b>\$ 59.10</b>

**City of Fircrest**  
**Water Utility - Customer Impact**  
 Single-Family Residential Bill - other examples

**Bi-Monthly Use (cf)** **2,800**

**Billing Based on 2800 cf**

Charge	2023 Current	2024 Proposed
<b>Base Charge (Bi-Monthly)</b>		
Bi-Monthly	\$ 38.49	\$ 40.22
<b>Volume</b>		
Tier 1 (0-1,000 cf)	\$ 0.0113	\$ 0.0118
Tier 2 (1,001-4,000 cf)	0.0169	0.0177
Tier 3 (4,001+ cf)	0.0288	0.0301

		2023 Current	2024 Proposed
<b>Fixed Bi-Monthly Rate:</b>		\$ 38.49	\$ 40.22
<b>Volume:</b>	<b>Cubic Ft</b>		
Tier 1 Usage	1,000	11.30	11.80
Tier 2 Usage	1,800	30.42	31.86
Tier 3 Usage	-	-	-
<b>Total Usage:</b>	<b>2,800</b>	<b>41.72</b>	<b>43.66</b>
<b>Total:</b>		<b>\$ 80.21</b>	<b>\$ 83.88</b>

**Bi-Monthly Use (cf)** **4,500**

**Billing Based on 4500 cf**

Charge	2023 Current	2024 Proposed
<b>Base Charge (Bi-Monthly)</b>		
Bi-Monthly	\$ 38.49	\$ 40.22
<b>Volume</b>		
Tier 1 (0-1,000 cf)	\$ 0.0113	\$ 0.0118
Tier 2 (1,001-4,000 cf)	0.0169	0.0177
Tier 3 (4,001+ cf)	0.0288	0.0301

		2023 Current	2024 Proposed
<b>Fixed Bi-Monthly Rate:</b>		\$ 38.49	\$ 40.22
<b>Volume:</b>	<b>Cubic Ft</b>		
Tier 1 Usage	1,000	11.30	11.80
Tier 2 Usage	3,000	50.70	53.10
Tier 3 Usage	500	14.40	15.05
<b>Total Usage:</b>	<b>4,500</b>	<b>76.40</b>	<b>79.95</b>
<b>Total:</b>		<b>\$ 114.89</b>	<b>\$ 120.17</b>

**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:** Robert W. Droll, Landscape Architect, PS Contract Amendment  
**ITEM:** 13L  
**DATE:** December 12, 2023  
**FROM:** Jeff Grover, Parks and Recreation Director

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**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute an amendment to the Professional Services Agreement with Robert W. Droll, Landscape Architect, PS for the Fircrest Park Athletic Field Improvement Project.

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**PROPOSAL:** The Council is being asked to authorize the City Manager to execute an amendment to the professional services agreement with Robert W. Droll, Landscape Architect, PS to extend the date of the agreement to December 31, 2024, for the Fircrest Park Athletic Field Improvement Project.

**FISCAL IMPACT:** This amendment does not have a fiscal impact.

**ADVANTAGE:** Extending this agreement will allow RWD Landscape Architects to continue to coordinate and manage the Fircrest Park Athletic Field Improvement Project throughout the winter and spring months as the sod begins to grow deeper roots.

**DISADVANTAGES:** None.

**ALTERNATIVES:** None.

**HISTORY:** Robert W. Droll, Landscape Architects, PS was awarded the professional services agreement to provide design and construction administration services for the Fircrest Park Athletic Field Improvement Project on August 9, 2022.

**ATTACHMENTS:** Resolution  
Amendment #1



1 **CITY OF FIRCREST**  
2 **RESOLUTION NO. \_\_\_\_**

3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
4 **FIRCREST, WASHINGTON, AUTHORIZING THE CITY**  
5 **MANAGER TO EXECUTE AN AMENDMENT TO THE**  
6 **PROFESSIONAL SERVICES AGREEMENT WITH ROBERT W.**  
7 **DROLL, LANDSCAPE ARCHITECT, PS.**

8 **WHEREAS**, the City of Fircrest has contracted with Robert W. Droll, Landscape  
9 Architect, PS to provide design and construction administration services for the  
10 Fircrest Park Athletic Field Improvement Project; and

11 **WHEREAS**, the term of said Agreement will expire on December 31, 2023; and

12 **WHEREAS**, the City of Fircrest wishes to continue utilizing Robert W. Droll,  
13 Landscape Architect, PS for these services.

14 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE**  
15 **CITY OF FIRCREST:**

16 **Section 1.** The City Manager is hereby authorized and directed to execute an  
17 Amendment to the Professional Services Agreement with Robert W. Droll, Landscape  
18 Architect, PS, extending the term of the said agreement through December 31, 2024.

19 **APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF**  
20 **FIRCREST, WASHINGTON**, at a regular meeting thereof this 12th day of  
21 December 2023.

22 **APPROVED:**

23 \_\_\_\_\_  
24 Brett L. Wittner, Mayor

25 **ATTEST:**

26 \_\_\_\_\_  
27 Arlette Burkhart, Acting City Clerk

28 **APPROVED AS TO FORM:**

29 \_\_\_\_\_  
30 Robert Zeinemann, City Attorney

**AMENDMENT #1  
TO THE CITY OF FIRCREST  
PROFESSIONAL SERVICES AGREEMENT  
WITH ROBERT W. DROLL, LANDSCAPE ARCHITECT, PS, FOR DESIGN  
AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE  
FIRCREST PARK ATHLETIC FIELD IMPROVEMENT PROJECT**

This First Amendment is hereby made and entered into this 12th day of December 2023 by and between the City of Fircrest, a political subdivision of the State of Washington, hereinafter referred to as the “City,” and RWD, Landscape Architect, PS, hereinafter referred to as “Consultant”, to be effective January 1, 2024.

**WITNESSETH:**

1. **Purpose**

The purpose of this First Amendment is to amend the August 9, 2022, agreement. This amendment is limited to the amendments set forth herein. All of the remaining terms and conditions of the August 9, 2022, agreement shall remain in full force and effect. The amendments are as follows:

2. The Term of Agreement shall be extended through December 31, 2024.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three counterparts, each of which shall be deemed as originals, in the year and day first above mentioned.

**CITY OF FIRCREST**

**Robert W. Droll,  
Landscape Architect, PS**

By \_\_\_\_\_  
Dawn Masko, City Manager

By \_\_\_\_\_

Approved as to Form:

By \_\_\_\_\_  
Robert Zeinemann, City Attorney

## FIRCREST CITY COUNCIL AGENDA SUMMARY

**NEW BUSINESS:** Humane Society Agreement for Shelter and Related Services  
**ITEM:** 13M  
**DATE:** December 12, 2023  
**FROM:** Dawn Masko, City Manager

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**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute the agreement between The Humane Society for Tacoma and Pierce County and the City of Fircrest for animal sheltering and related services for 2024.

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**PROPOSAL:** The Council is being asked to authorize the City Manager to execute an agreement with The Humane Society for Tacoma and Pierce County for animal sheltering and related services for the period of January 1, 2024 – December 31, 2024. The agreement with The Humane Society provides for the handling of stray, impounded, and unwanted companion animals turned over to the Humane Society by Fircrest residents. The facility provides kennels for sheltering companion animals, licensing services for animals adopted or impounded at the shelter whose owner resides in Fircrest, routine veterinary services during business hours, boarding of animals held as evidence in animal cruelty cases, and cremation services for animals deceased upon arrival or during the time of sheltering.

The proposed contract requires that the animal control officers perform certain functions, comply with certain policies, and receive specified training. Fircrest contracts with the City of Tacoma for animal control services, and they ensure that their Animal Control Officers are in compliance with The Humane Society's requirements.

**FISCAL IMPACT:** 2024 costs for services will be \$9,376, which is an increase of 5.0% over 2023. This cost will be paid in monthly payments of \$781.36 in 2024.

Per the contract, impounded animals awaiting disposition by the courts are held at no charge for 3 days. After 3 days, board will be charged to the City at the rate of \$29.39 per day in 2024. This is an increase from the \$28.10 per day charge in 2023.

**ADVANTAGE:** The City has always had a good working relationship with The Humane Society. Renewing this agreement will provide continuity of service for any animal sheltering and related needs through 2024.

**DISADVANTAGES:** None known.

**ALTERNATIVES:** None at this time. Our animal control service provider (City of Tacoma) contracts with The Humane Society and transports animals there.

**HISTORY:** The City has had a contract with The Humane Society for many years. Up until 2006, The Humane Society also provided animal control services for our City.

**ATTACHMENTS:** Resolution  
Agreement for Services  
Fircrest Animal Reports for 2021 and 2022

**CITY OF FIRCREST  
RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON, AUTHORIZING THE CITY  
MANAGER TO EXECUTE AN AGREEMENT WITH THE HUMANE  
SOCIETY FOR TACOMA AND PIERCE COUNTY TO PROVIDE  
ANIMAL SHELTERING AND RELATED SERVICES.**

**WHEREAS**, the City of Fircrest believes it to be in the best interest of our citizens to continue to contract with The Humane Society for Tacoma and Pierce County for animal sheltering and related services; and

**WHEREAS**, The Humane Society for Tacoma and Pierce County offers a shelter for receiving stray, impounded, and companion animals, business hours allowing for lost pet reunification, licensing services for animals adopted or impounded whose owner resides in Fircrest, disposal services, and routine veterinary services during business hours; and

**WHEREAS**, the current contract will expire on December 31, 2023.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST:**

**Section 1.** The City Manager is hereby authorized and directed to execute an agreement with The Humane Society for Tacoma and Pierce County to provide animal sheltering services from January 1, 2024 through December 31, 2024.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON**, at a regular meeting thereof this 12<sup>th</sup> day of December 2023.

**APPROVED:**

\_\_\_\_\_  
Brett L. Wittner, Mayor

**ATTEST:**

\_\_\_\_\_  
Arlette Burkhardt, Acting City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert Zeinemann, City Attorney

**THE HUMANE SOCIETY FOR TACOMA AND PIERCE COUNTY  
AGREEMENT FOR SHELTER AND RELATED SERVICES**

The parties to this contract are the **CITY OF FIRCREST**, a political subdivision of the state of Washington, hereinafter referred to as the “City of Fircrest,” and **THE HUMANE SOCIETY FOR TACOMA AND PIERCE COUNTY**, a non-profit corporation formed and operating pursuant to RCW 16.52.020, hereinafter referred to as the “the HSTPC.” The terms of this contract shall cover the period from January 1, 2024, through December 31, 2024. In consideration of the mutual benefits derived, the parties agree as follows:

**THE SOCIETY AGREES:**

(1) To furnish and maintain and to employ adequate staff for suitable shelter for the handling of stray, impounded, and unwanted companion animals turned over to the HSTPC by the City of Fircrest or its residents. Companion animals are specifically defined as dogs, cats, domestic birds, domestic rabbits and small domestic rodents. Companion animals specifically exclude livestock (horses, cows, pigs, sheep, goats, fowl, etc.), venomous or dangerous reptiles, and wild or exotic animals. Such facility shall include cat kennels and dog kennels, as well as facilities for the humane disposal of sick and injured companion animals. The facility will provide disposal (cremation) services for animals deceased upon arrival or during the time of sheltering. Impounded animals, awaiting disposition by the courts or held as directed by Animal Control will be held for a maximum of 3 days without additional charge. After 3 days, board will be charged to City of Fircrest at the rate of \$29.39 per day in 2024.

(2) To keep the shelter staffed and open for the purposes of receiving companion animals and allowing such animals to be redeemed during regular business hours; PROVIDED THAT the Society shall establish and maintain 7-day per week, 24-hour per day access for City of Fircrest animal control officers to drop off companion animals or carcasses outside of normal shelter hours. It is understood that this does not include responsibility for the care for sick or injured companion animals outside of normal shelter hours.

(3) To provide licensing services for animals adopted or impounded at the HSTPC shelter whose owner resides within the City of Fircrest. The license service for impounded and adopted animals shall be provided during normal business hours, with no time limitation, and shall also be provided by the HSTPC in animal illness or injury conditions to expedite medical attention for the animal. The HSTPC shall maintain complete and adequate records of all licenses issued and shall provide a timely report to the City of Fircrest listing the name and address of the licensee and a description of the animal licensed. The HSTPC will retain 100% of every license sold and payments shall be made to the HSTPC.

(4) To provide orientation and training to City of Fircrest animal control officers and other City of Fircrest staff to the HSTPC shelter and its admissions policies, practices and other HSTPC operations as appropriate.

(5) To maintain complete records of animals received and animals disposed of on behalf of the City of Fircrest and other entities with whom the City of Fircrest has contracted. The HSTPC agrees to promptly make its records of investigations available for the City of Fircrest's inspection at reasonable times, and to furnish reports of the HSTPC 's activities to Fircrest, and to provide, within reason, such other data as the City of Fircrest requests and as may be inspected or requested by other entities with whom the City of Fircrest has contracted. This means the HSTPC at such times and in such form as the City of Fircrest may require, shall furnish the City of Fircrest with periodic reports pertaining to the work and services undertaken pursuant to this Contract. The HSTPC will make available to the City of Fircrest all work-related records and documents for inspection, or evaluation during normal business hours in order to assess performance, compliance and/or quality assurance under this Contract. Examination of veterinary records shall be in accordance with WAC 246-933-320 (8 and 9) and WAC 246-08-400, which govern the legal handling of veterinary records and permits the charging of fees for producing those records. The HSTPC further agrees to fully cooperate with any civil or criminal investigations by the City of Fircrest and to make its employees available for interviews conducted in the furtherance of such investigations.

(6) To provide access to computers for the City of Fircrest for Animal Control Officers to enter data into the database software for animals picked up by City of Fircrest Animal Control Officers. Access for Animal Control Officers shall be limited to entering animal intake and case-related information, but at no time shall be used to access personal records of HSTPC staff or volunteers or to access veterinary medical records.

(7) To provide a veterinary examination and medical diagnostics considered relevant to the condition of the animal at the time of admission, based on veterinary discretion, for animals involved in cruelty investigation, per request of the City of Fircrest Animal Control Officers. This service will be offered for cases of 1 to 2 animals and may be repeated weekly as deemed necessary by the Veterinarian staff at the HSTPC. Cruelty cases involving 3 to 6 animals require 24-hour advance notification in order to perform this service. Cases larger than 6 animals or animals needing detailed history and/or physical exams will be performed by an outside veterinarian of the City of Fircrest's choice. Costs associated with any additional exams and/or diagnostics beyond the initial intake will be billed separately to the City of Fircrest.

(8) To procure and maintain comprehensive general liability insurance, and professional liability insurance with limits not less than \$1,000,000.00 (\$1,000,000.00 bodily and personal injury and property damage insurance). The City of Fircrest is to be named as an additional insured and such insurance as is carried by the HSTPC is primary over any insurance carried by the City of Fircrest. In the event of a nonrenewal, cancellation, or material change in the coverage provided, 30 days' written notice will be furnished to the City of Fircrest prior to the date of nonrenewal, cancellation, or change. Such notice shall be sent to the City of Fircrest, City Manager, 115 Ramsdell Street, Fircrest, WA 98466. The City of Fircrest has no obligation to report occurrences unless a claim is filed with the City of Fircrest, and the City of Fircrest has no obligation to pay premiums on such insurance.

(9) To furnish equipment and supplies used in the performance of the HSTPC's obligations arising from this contract, except equipment and supplies which the City of Fircrest expressly promises to furnish.

(10) The HSTPC agrees to hold harmless, indemnify and defend the City of Fircrest and its officers, officials and employees from any claim, liability, lawsuit, or legal judgment arising from or out of the negligent or tortuous actions or inactions of the HSTPC in its performance of the activities and services set forth herein in this agreement to be performed by the Society. The Agreement to indemnify, defend and hold harmless the City of Fircrest by the HSTPC shall not apply to any loss, claim, liability, lawsuit, or legal judgment arising from the sole negligence of the City of Fircrest.

(11) To allow City of Fircrest animal control officers to sanitize their vehicles in accordance with HSTPC practices until the HSTPC requires the sanitizing facility to be vacated for construction. The HSTPC will provide 90 days' notice if the area is to be vacated.

(12) The HSTPC agrees to comply with Title 16 RCW and Title 7 of the Fircrest Municipal Code. The HSTPC will not release any animal except in full compliance with the municipal code.

(13) Non-discrimination. The HSTPC agrees to take all steps necessary to comply with all federal, state and City of Fircrest laws and policies regarding nondiscrimination and equal employment opportunities. The HSTPC shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental, or physical handicap.

#### **THE CITY OF FIRCREST AGREES:**

(1) To pay to the HSTPC a total of approximately \$9,376 for 2024. If a contract renewal is not completed by the end of this contract, the contract price for 2025 will be based on a COLA plus 1% price increase, with COLA being defined as the annual average of the Seattle-Tacoma-Bellevue metro area June-to-June CPI-U as determined by the Bureau of Labor Statistics. The contracted amount will be paid monthly as 1/12<sup>th</sup> of the annual contract costs, or \$781.36 per month in 2024.

Monthly payments are due on or before the 10<sup>th</sup> of each month, with the final payment due by January 10 of the following year. Any payment in full over 60 days late may cause a suspension of service and will automatically be charged a 1% penalty.

(2) To authorize the HSTPC to act on behalf of the Municipality for the purpose of selling pet licenses to owners of pets residing in the City of Fircrest in accordance with Pierce County Code (PCC) Chapter 6.04 and Fircrest Municipal Code (FMC) Section 7.05.

(3) To allow the HSTPC to retain all adoption, impound, board, fines and other fees collected from the public for animals accepted into the shelter since the HSTPC has factored retention of such fees into the cost of the contract.

(4) To provide the HSTPC all licenses and licensing material for the City of Fircrest and other entities with whom the City of Fircrest has contracted.

(5) The HSTPC does not have emergency veterinary or an intensive care unit (ICU) and cannot provide overnight monitoring of animals. Animals needing emergency medical care, as determined by our receiving and/or veterinary staff, will be taken by the Fircrest Animal Control Officer to an appropriate facility to be treated prior to booking with the HSTPC. For the purposes of this contract, emergency medical treatment is defined as a level of care higher than the HSTPC can provide, such as obvious broken bones, trauma, or other medical issues that would require intensive care and monitoring. Until the HSTPC accepts the animal, the City of Fircrest is responsible for all after-hours emergency medical treatment of any animal that the City impounds.

(6) During hours that the Shelter is open, the HSTPC normally has a veterinarian available to provide routine veterinary care; however, in the event that the HSTPC does not have a veterinarian available to provide routine veterinary care at the Shelter, any animals needing such care shall be the responsibility of the City of Fircrest. The HSTPC shall immediately inform Fircrest Animal Control when the HSTPC does not have a veterinarian available to provide routine veterinary care at the Shelter and the expected duration. The City of Fircrest is responsible for transporting the animal to the chosen veterinary clinic and to the HSTPC once the animal is stabilized.

(7) The City of Fircrest animal control officers will not bring known feral cats to the HSTPC unless they can be neutered and returned to field. It is accepted that stray cats frequently cannot be identified as true strays or feral cats and this clause only relates to known feral cats and/or members of feral cat colonies. On the same principle the HSTPC cannot accept feral cat colonies that cannot be returned to field following spay/neuter surgery as the only options would be euthanasia and it would therefore be more humane to leave the feral cats where they are.

(8) The City of Fircrest animal control officers will completely and accurately perform the data input required for shelter admission as well as scan each animal for microchips and make a sincere attempt to identify and return animals to owners in the field. The HSTPC will provide the necessary training for the computer intake requirements. The HSTPC will create the shelter admissions policy and provide it to the City of Fircrest.

(9) The City of Fircrest animal control officers agree to provide the HSTPC advanced notice of all incoming animals to enable both parties to provide "minimum care" standards as defined by Washington HB1234. Advanced notice should include animal description, medical and behavioral condition, legal status, and other information to ensure both parties are within compliance.



(10) To hold the HSTPC harmless from any damages or attorneys' fees or costs incurred by the Society, as a result of litigation which (a) names the HSTPC and (b) involves a City of Fircrest ordinance that is declared illegal or unenforceable and upon which the HSTPC relied in the performance of its obligations under this agreement.

**MUTUAL COVENANTS AND UNDERSTANDINGS – both parties hereto agree to the following conditions:**

(1) All persons employed by the HSTPC to perform its obligations under this contract shall be employees of the HSTPC and not of the City of Fircrest, with the proviso that the HSTPC may from time to time have to use contract veterinarians.

(2) Either party can terminate this contract upon 180 days' written notice, provided that either party may terminate upon 60 days' written notice for breach of any material clause herein. To facilitate timely renewal or termination, the parties agree to commence negotiations for the 2025 contract by August 1, 2024, and to gather and provide each other all pertinent data reasonably necessary to meaningfully negotiate.

(3) If this contract is not renewed or terminated by the expiration date of this contract, it shall remain in full force and effect on a month-to-month basis with an annual 3.5% rate increase, in accordance with the terms of this contract.

(4) Modification. This instrument constitutes the entire Agreement between the parties and supersedes all prior agreements. No modification or amendment shall be valid unless evidenced in writing, properly agreed to and signed by both parties. In the event either party shall desire to renegotiate any provision of the agreement, the party shall provide 90 days' notice to the other party. The notice shall identify the provision or provisions to be renegotiated, the requested changes, and shall state the reasons for the request. The party receiving the request shall respond in writing on or before the end of the 90 day period.

(5) Notices. All notices, requests, demands and other communications required by this Agreement shall be in writing and, except as expressly provided elsewhere in this Agreement, shall be deemed to have been given at the time of delivery if personally delivered or at the time of mailing if mailed by first class, postage pre-paid and addressed to the party at its address as stated in this Agreement or at such address as any party may designate at any time in writing.

*Notice to City of Fircrest shall be sent to:*

*City of Fircrest  
Attn: City Manager  
115 Ramsdell Street  
Fircrest, WA 98466*

*Notice to the HSTPC shall be sent to:*

*The Humane Society for Tacoma & Pierce County  
Attn: Chief Executive Officer  
2608 Center Street  
Tacoma, WA 98409*

(6) Litigation Costs and Fees. In the event of litigation concerning the terms of or performance under this Agreement, the prevailing party, in addition to costs, shall be entitled to reasonable attorney's fees as determined by the court.

(7) Benefits. This Agreement is entered into for the benefit of the parties to this Agreement only and shall confer no benefits, direct or implied, on any third persons.

End of Agreement. Signature page immediately following.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2023.

**THE HUMANE SOCIETY FOR  
TACOMA AND PIERCE COUNTY**

**CITY OF FIRCREST**

\_\_\_\_\_  
Leslie Dalzell, CEO

\_\_\_\_\_  
Dawn Masko, City Manager

Approved as to Form:

\_\_\_\_\_  
Robert Zeinemann, City Attorney

Attest:

\_\_\_\_\_  
Arlette Burkhart, Acting City Clerk

**City of Fircrest  
Humane Society - 2021 Animal Report**

**Animals Received**

**Live**

	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Total YTD
Dog	0	0	0	1	0	1	1	0	0	0	1	0	4
Cat	0	1	1	2	4	2	1	0	1	0	0	1	13
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal	0	1	1	3	4	3	2	0	1	0	1	1	17
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>17</b>

**Owner Surrender**

Dog	0	0	1	1	0	1	3	0	1	0	1	0	8
Cat	1	0	2	0	0	1	0	0	0	0	0	0	4
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>12</b>

**DOA ACO**

Dog	0	0	0	0	0	0	0	0	0	0	0	0	0
Cat	0	1	0	0	0	0	0	0	0	0	0	0	1
Exotic	0	0	1	0	0	0	1	0	0	0	0	0	2
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>

**Grand Total**

<b>1</b>	<b>2</b>	<b>5</b>	<b>4</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>32</b>
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**Animal Outcomes**

**Animals Placed**

	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Total YTD
Dog	0	0	0	0	0	1	0	0	0	0	0	0	1
Cat	0	0	1	0	0	3	4	1	0	0	0	0	9
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10</b>

**Animals United with Owners**

Dog	0	0	0	1	0	1	1	0	0	0	1	0	4
Cat	0	0	0	1	0	0	0	0	1	0	0	0	2
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>6</b>

**Animals Euthanized**

Dog	0	0	1	1	0	0	3	0	1	0	1	0	7
Cat	1	1	2	0	0	1	0	0	0	0	0	1	6
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1</b>	<b>1</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>13</b>

**Deceased Animals**

Disposal	0	1	1	0	0	0	1	0	0	0	0	0	3
Died	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>

**Grand Total**

<b>1</b>	<b>2</b>	<b>5</b>	<b>3</b>	<b>0</b>	<b>6</b>	<b>9</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>32</b>
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**City of Fircrest  
Humane Society - 2022 Animal Report**

**Animals Received**

<b>Live</b>	<b>Jan-22</b>	<b>Feb-22</b>	<b>Mar-22</b>	<b>Apr-22</b>	<b>May-22</b>	<b>Jun-22</b>	<b>Jul-22</b>	<b>Aug-22</b>	<b>Sep-22</b>	<b>Oct-22</b>	<b>Nov-22</b>	<b>Dec-22</b>	<b>Total YTD</b>
Dog	1	1	0	1	1	2	0	2	0	2	0	0	10
Cat	8	1	0	1	1	0	0	1	2	0	0	0	14
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal	9	2	0	2	2	2	0	3	2	2	0	0	24
Rabbit	0	0	0	0	0	0	0	0	4	0	0	0	4
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal	0	0	0	0	0	0	0	0	4	0	0	0	4
<b>Total</b>	<b>9</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>3</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>28</b>

**Owner Surrender**

Dog	0	0	1	0	0	0	1	0	0	0	1	0	3
Cat	1	0	0	1	0	0	0	1	1	0	0	0	4
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>7</b>

**DOA ACO**

Dog	0	0	0	0	0	0	0	0	0	0	0	0	0
Cat	0	0	0	0	0	0	0	0	0	0	0	0	0
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Grand Total</b>	<b>10</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>4</b>	<b>7</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>35</b>
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**Animal Outcomes**

<b>Animals Placed</b>	<b>Jan-22</b>	<b>Feb-22</b>	<b>Mar-22</b>	<b>Apr-22</b>	<b>May-22</b>	<b>Jun-22</b>	<b>Jul-22</b>	<b>Aug-22</b>	<b>Sep-22</b>	<b>Oct-22</b>	<b>Nov-22</b>	<b>Dec-22</b>	<b>Total YTD</b>
Dog	0	1	0	0	0	2	0	1	0	0	0	0	4
Cat	2	2	0	1	0	0	0	0	0	1	0	0	6
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>2</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>10</b>

**Animals United with Owners**

Dog	0	0	0	1	0	0	0	1	0	2	0	0	4
Cat	0	0	0	0	0	0	0	0	2	0	0	0	2
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	0	0	0	0	0
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>6</b>

**Animals Euthanized**

Dog	0	0	2	0	0	0	1	1	0	0	1	0	5
Cat	1	0	1	1	0	1	0	1	1	0	0	0	6
Exotic	0	0	0	0	0	0	0	0	0	0	0	0	0
Rabbit	0	0	0	0	0	0	0	0	4	0	0	0	4
Rodent	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>15</b>

**Deceased Animals**

Disposal	0	0	0	0	0	0	0	0	0	0	0	0	0
Died	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Grand Total</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>7</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>31</b>
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**FIRCREST CITY COUNCIL AGENDA SUMMARY**

**NEW BUSINESS:**        **KBH Construction Company Contract Amendment for the Fircrest Park Athletic Field Improvement Project**

**ITEM:**                 **13N**

**DATE:**                **December 12, 2023**

**FROM:**                **Jeff Grover, Parks and Recreation Director**

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**RECOMMENDED MOTION:**    **I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute an amendment to the Construction Services Contract with KBH Construction Company for the Fircrest Park Athletic Field Improvement Project.**

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**PROPOSAL:** The Council is being asked to authorize the City Manager to execute an amendment to the construction services contract with KBH Construction Company to extend the date of the agreement to July 31, 2024, for the Fircrest Park Athletic Field Improvement Project.

**FISCAL IMPACT:** This amendment does not have a fiscal impact.

**ADVANTAGE:** Extending the contract duration will enable the contractor to address the punch list items effectively. This extension is crucial, particularly during the winter months, as a substantial portion of the pending work necessitates dry soil conditions. Adverse weather conditions often hinder progress, and this extension will facilitate work that is contingent upon suitable weather for optimal results.

**DISADVANTAGES:** None.

**ALTERNATIVES:** None.

**HISTORY:** The Fircrest City Council approved the Construction Services Contract with KBH Construction Company on September 12, 2023.

**ATTACHMENTS:** Resolution  
                                         Amendment #1

**CITY OF FIRCREST  
RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
FIRCREST, WASHINGTON, AUTHORIZING THE CITY  
MANAGER TO EXECUTE AN AMENDMENT TO THE  
CONSTRUCTION SERVICES CONTRACT WITH KBH  
CONSTRUCTION CO. FOR THE FIRCREST PARK ATHLETIC  
FIELD IMPROVEMENT PROJECT.**

**WHEREAS**, the City of Fircrest has contracted with KBH Construction Co. for the Fircrest Park Athletic Field Improvement Project; and

**WHEREAS**, the term of said Agreement will expire on December 31, 2023; and

**WHEREAS**, the City of Fircrest wishes to continue utilizing KBH Construction Co. to finish the project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST:**

**Section 1.** The City Manager is hereby authorized and directed to execute an Amendment to the Construction Services Contract with KBH Construction Co. extending the term of the said agreement through July 31, 2024.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON**, at a regular meeting thereof this 12th day of December 2023.

**APPROVED:**

\_\_\_\_\_  
Brett L. Wittner, Mayor

**ATTEST:**

\_\_\_\_\_  
Arlette Burkhardt, Acting City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert Zeinemann, City Attorney

**AMENDMENT #1  
TO THE CITY OF FIRCREST  
CONSTRUCTION SERVICES CONTRACT  
WITH KBH CONSTRUCTION CO. FOR THE FIRCREST PARK  
ATHLETIC FIELD IMPROVEMENT PROJECT**

This First Amendment is hereby made and entered into this 12th day of December 2023 by and between the City of Fircrest, a political subdivision of the State of Washington, hereinafter referred to as the "City," and KBH Construction Co., hereinafter referred to as "Consultant", to be effective January 1, 2024.

**WITNESSETH:**

1. **Purpose**

The purpose of this First Amendment is to amend the September 12, 2023, agreement. This amendment is limited to the amendments set forth herein. All of the remaining terms and conditions of the September 12, 2023, agreement shall remain in full force and effect. The amendments are as follows:

2. The Term of Agreement shall be extended through July 31, 2024.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three counterparts, each of which shall be deemed as originals, in the year and day first above mentioned.

**CITY OF FIRCREST**

**KBH Construction Co.**

By \_\_\_\_\_  
Dawn Masko, City Manager

By \_\_\_\_\_

Approved as to Form:

By \_\_\_\_\_  
Robert Zeinemann, City Attorney



## FIRCREST CITY COUNCIL AGENDA SUMMARY

**NEW BUSINESS:** Emerson West Sidewalk Project Design Consultant Contract  
**ITEM:** 130  
**DATE:** December 12, 2023  
**FROM:** Tyler Bemis, Public Works Director

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**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute a Professional Services Agreement with Shea, Carr & Jewell, Inc. for engineering design services for the Emerson West Sidewalk Project.

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**PROPOSAL:** The Council is being asked to authorize the City Manager to execute a professional services agreement with Shea, Carr & Jewell, Inc. (dba SCJ Alliance) for engineering design services for the Emerson West Sidewalk Project. This project will add a sidewalk and bike lane route along the south side of Emerson Street from 67<sup>th</sup> Ave. West to Woodside Drive. The existing retaining wall will also be moved to the south and reinstalled to modern design specifications. This project has been identified as a priority in the City's Six Year Transportation Improvement Plan.

**FISCAL IMPACT:** The funding source for the design portion of this project is the WSDOT Surface Transportation Block Grant (STBG-UL) Program. The funding process has been facilitated by the Puget Sound Regional Council (PSRC). Federal funds for professional engineering (PE) total \$45,797.00 with a Local Match of \$7,148.00. Following the competitive Request for Qualifications process and consultant selection, SJC Alliance provided a Scope of Work and Fee total of \$89,925.15, resulting in a design funding shortfall of \$36,980.15. This shortfall in PE funds will be covered by advancing the remaining balance from obligated construction funds. The resulting shortfall in construction funds will be covered by local Real Estate Excise Tax (REET) funds to keep this project moving forward towards the construction bid process in 2024.

**ADVANTAGE:** The segment of sidewalk to be constructed will complete the connectivity of ADA compliant sidewalks on Emerson within the City limits. In addition to ADA compliance and pedestrian connectivity, this project will also provide for an identified bike lane which will be a modern day first for the City. Utilization of grant funds is an integral piece to sustaining the City's infrastructure.

**DISADVANTAGES:** None.

**ALTERNATIVES:** To not move forward with utilizing grant funding of this project and identify internal funds for the design and construction of this project.

**HISTORY:** The numbers compiled for the grant application of this project were prepared in March 2020. Design funding was obligated in June of 2023, with construction funding totaling \$395,325 set to be obligated in June of 2024. The additional funding shortfall in construction due to the advancement of construction funds to PE will be covered by local funds (REET). The City of Fircrest is a non-CA (Certification Acceptance) agency and is required to utilize WSDOT as the City's CA. WSDOT has taken part in all aspects of this project, including consultant interviews and selection. Numerous meetings and collaborations have taken place over the past

six months to identify roles, responsibilities, and funding shortfall action plans.

**ATTACHMENTS:** Resolution  
Professional Services Agreement

1 **CITY OF FIRCREST**  
2 **RESOLUTION NO. \_\_\_\_\_**

3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF**  
4 **FIRCREST, WASHINGTON, AUTHORIZING THE CITY**  
5 **MANAGER TO EXECUTE A PROFESSIONAL SERVICES**  
6 **AGREEMENT WITH SHEA, CARR & JEWELL, INC., FOR FINAL**  
7 **DESIGN AND BID CALL SERVICES FOR THE EMERSON WEST**  
8 **SIDEWALK PROJECT.**

9 **WHEREAS,** the City of Fircrest identified the Emerson West Sidewalk Project as a  
10 priority project in the City’s Six Year Transportation Improvement Plan; and

11 **WHEREAS,** the City of Fircrest was awarded a Surface Transportation Block Grant  
12 for project design from the Washington State Department of Transportation in the  
13 amount of \$45,797 with a local match of \$7,148; and

14 **WHEREAS,** the City of Fircrest has committed to cover funding shortfalls with local  
15 Real Estate Excise Tax (REET) funds; and

16 **WHEREAS,** the City of Fircrest desires to contract with Shea, Carr & Jewell, Inc., (dba  
17 SCJ Alliance) to prepare the design and bid documents for the sidewalk project; Now,  
18 Therefore,

19 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FIRCREST:**

20 **Section 1.** The City Manager is hereby authorized and directed to execute a professional  
21 services agreement with Shea, Carr & Jewell, Inc., to prepare the final design and perform  
22 bid call and construction management services for the Emerson West Sidewalk Project.

23 **Section 1.** This resolution shall become effective upon adoption.

24 **APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF**  
25 **FIRCREST, WASHINGTON,** at a regular meeting thereof this 12th day of December  
26 2023.

27 **APPROVED:**

28 \_\_\_\_\_  
29 Brett L. Wittner, Mayor

30 **ATTEST:**

31 \_\_\_\_\_  
Arlette Burkhardt, Acting City Clerk

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**APPROVED AS TO FORM:**

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Robert Zeinemann, City Attorney

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# Local Agency A&E Professional Services Cost Plus Fixed Fee Consultant Agreement

Agreement Number:

Firm/Organization Legal Name (do not use dba's):		
Address	Federal Aid Number	
UBI Number	Federal TIN or SSN Number	
Execution Date	Completion Date	
1099 Form Required <input type="checkbox"/> Yes <input type="checkbox"/> No	Federal Participation <input type="checkbox"/> Yes <input type="checkbox"/> No	
Project Title		
Description of Work		
<input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes <input type="checkbox"/> Yes	<input type="checkbox"/> No DBE Participation <input type="checkbox"/> No MBE Participation <input type="checkbox"/> No WBE Participation <input type="checkbox"/> No SBE Participation	Total Amount Authorized: Management Reserve Fund: Maximum Amount Payable:

## Index of Exhibits

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

In the absents of a mandatory DBE goal, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall develop a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the [wsdot.diversitycompliance.com](http://wsdot.diversitycompliance.com) program. Payment information shall identify any DBE Participation.

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:  
Agency:  
Address:  
City:                      State:              Zip:  
Email:  
Phone:  
Facsimile:

If to CONSULTANT:

Name:  
Agency:  
Address:  
City:                      State:              Zip:  
Email:  
Phone:  
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 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.

Agreement Number:

## 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, specified in Section II, "Scope of Work". The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)). The estimate in support of the Cost Plus Fixed Fee amount is attached hereto as Exhibits "D" and "E" and by this reference made part of this AGREEMENT.

- A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, indirect cost rate, and direct non-salary costs.
1. Direct (RAW) Labor Costs: The Direct (RAW) Labor Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.
  2. Indirect Cost Rate (ICR) Costs: ICR Costs are those costs, other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the ICR rates shown in attached Exhibits "D" and "E" of this AGREEMENT. Total ICR payment shall be based on Actual Costs. The AGENCY agrees to reimburse the CONSULTANT the actual ICR costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.  
A summary of the CONSULTANT'S cost estimate and the ICR percentage is shown in Exhibits "D" and "E", attached hereto and by this reference made part of this AGREEMENT. The CONSULTANT (prime and all A&E sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an ICR schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the ICR rate for billings received and paid during the fiscal year represented by the ICR schedule. It shall also be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's ICR cost to reflect the actual rate. The ICR schedule will be sent to Email: [ConsultantRates@wsdot.wa.gov](mailto:ConsultantRates@wsdot.wa.gov).  
Failure to supply this information by either the prime CONSULTANT or any of their A&E sub-consultants shall cause the AGENCY to withhold payment of the billed ICR costs until such time as the required information is received and an overhead rate for billing purposes is approved.  
The AGENCY's Project Manager and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual ICR rate, if they so desire.
  3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. (excluding Meals, which are reimbursed at the per diem rates identified in this section) 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 economy class levels 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 WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and revisions thereto. Air, train, and rental car 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 the PROJECT. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

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4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in attached Exhibits "D" and "E" of this AGREEMENT. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."
  5. Management Reserve Fund (MRF): The AGENCY may desire to establish MRF to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of \$100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the MRF is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the MRF shall be made in accordance with Section XIII, "Extra Work."
  6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the MRF. The Maximum Total 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.
- B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the ICR and calculated fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct (RAW) Labor, Direct Non-Salary, and allowable ICR Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed Direct (RAW) Labor costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, Direct (RAW) Labor rates, and present duties of those employees performing work on the PROJECT at the time of the interview.
- C. 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 work under this AGREEMENT, contingent, if applicable, 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. 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.

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D. 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.

## **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

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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.

## 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 and any appropriate fixed fee percentage 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

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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 and appropriate fixed fee percentage in accordance with the termination for other than default clauses listed previously.

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.

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## **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 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 between the Parties.

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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.

#### 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:  
Agency:  
Address:  
City:                      State:              Zip:  
Email:  
Phone:  
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 amount 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.

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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.

### **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.

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## **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.

## **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 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.

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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.

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, AGREEMENT 's, 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, scribbings, recordings, visual displays, photographs, minutes of meetings,

Agreement Number:

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.

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

\_\_\_\_\_  
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.

Agreement Number:



## Exhibit A Scope of Work Emerson West Sidewalk Project Fircrest, WA

**Prepared For:** Tyler Bemis  
City of Fircrest  
115 Ramsdell Street, Fircrest, WA 98466

**Prepared By:** George Hilen, PE, Project Manager

**Date Prepared:** September 13, 2023

### Introduction:

The following Scope of Work outlines the effort required to prepare Plans, Specifications, and Estimates for a new sidewalk along the south side of Emerson Street between 67<sup>th</sup> Avenue W and Woodside Drive. There is existing sidewalk infrastructure only present on the north side of the street.

### Proposed Improvements

Improvements within the project limits are assumed as follows:

- Construction of sidewalk on the south side of Emerson Street between 67<sup>th</sup> Avenue W and Woodside Drive
- Construction of two (2) new curb ramps on the south side of Emerson Street at the intersection with Woodside Drive
- Structural retaining walls will be required for approximately 300-feet of the project

### Assumptions

The following assumptions were made to establish a scope and budget for this project. Changes to these assumptions may require an amendment to this scope of work.

- The project is funded for design and construction by a Puget Sound Regional Council (PSRC) Surface Arterial Transportation Grant. These funds will require adherence with the WSDOT LAG Manual. Addition or changes of funding sources may modify permitting and/or approval requirements, which may result in an amendment to this scope of work.
- Project duration will be for six (6) months following execution of the contract.
- Right of way acquisition is not anticipated. Should right of way acquisition be necessary, an amendment to this contract will be required.
- No utility relocations will be required for this project.
- Any required utility coordination will be completed by the City and is not included in this scope.
- Special Provisions will be developed based on the 2023 WSDOT Standard Provisions.
- The City will be responsible for all permit fees.

- Plans will be developed using AutoCAD 2022 Civil 3D using SCJ drafting standards.
- Modifications to underground sewer, stormwater, water, and franchise utilities will not be required. Should utility improvements be desired by the purveyor, the design will be completed by the respective purveyor and provided to the CONSULTANT.
- Roadway and sidewalk pavement sections will be provided by the CITY and will not require an engineered design.
- To keep the project under the threshold of triggering stormwater treatment requirements, the existing asphalt pavement to be removed will be sawcut along the neat line of the gutter joint.
- The project is expected to only trigger Minimum Requirements #1 through #5 of the stormwater requirements per Department of Ecology State of Washington Stormwater Management Manual for Western Washington (SMMWW). Minimum Requirements #6 through #9 will not be required as part of this project.
- A public involvement process/program is not included in this scope of work.
- This project will be required to complete NEPA permitting and will qualify for a Categorical Exclusion.
- Section 7 of the Endangered Species Act will require a No Effect determination.

## Phase 1 Management/Coordination/Administration

This task covers the effort required to manage the project.

### *Task 1 Management*

- 1) **Management:** Manage the project by directing and supervising staff and reviewing work for the duration of the project. This management is for the overall work rather than specific tasks.
- 2) **Schedule and Budget:** Develop a critical path project schedule to match the scope of work. Identify task durations, predecessors, City reviews, deliverables, and milestones. Review and update the schedule on a monthly basis.

### *Task 2 Administration*

- 1) **Progress Reports and Billings:** Prepare and submit a monthly progress report and invoice. Progress reports will show: (1) prior work performed, (2) current work planned, (3) schedule and budget status (including a 3-line earned value chart), (4) a summary of scope changes/added value, and (5) items needed from the CITY and/or others. Invoices will show staff hours for each phase (i.e., Phase 1: Project Management).
- 2) **Subconsultant Administration:** Execute and administer subagreements. Review and approve monthly invoices.

### Task 3 Progress Meetings

- 1) **Progress Meetings:** The Consultant will host monthly virtual progress meetings. Assume one (1) Consultant staff for a total of six (6) meetings.

### Assumptions

- ◆ Project management will be provided over a six (6) month timeframe. Extension of the project timeframe may require a contract amendment.
- ◆ Progress billings will be submitted monthly to the City.
- ◆ Timelines and milestones will be outlined in a master schedule using Microsoft Project and will be updated for each progress billing.
- ◆ Budget for peer checks for quality control is included within the budget for design tasks.

### Deliverables

- ◆ Monthly Progress Report and billings submitted via email in PDF format.
- ◆ MS Project schedule updates submitted via email in PDF format.
- ◆ Meeting notes from each of the monthly meetings, submitted via email in PDF format.

## Phase 2 Survey and Right-of-Way Base Mapping

Please see the attached scope of work prepared by MTN2Coast.

## Phase 3 30% Design

The CONSULTANT shall prepare 30% Design Plans and Estimates for review by the CITY. Plans shall be formatted to provide for field layout of proposed facilities. City standard details and WSDOT standard plans will be supplemented with project specific details. The CONSULTANT will provide senior level QA/QC and constructability review prior to submitting to the CITY.

### Task 1 30% Design

- 1) **Data Collection and Site Photos:** Gather and review available background data and as-builts from the CITY, other agencies, and utilities. Walk the site to provide photo documentation of existing conditions and field-review the project survey.
- 2) **30% Design Plans:** The CONSULTANT shall prepare 30% plan sheets and will include horizontal location of improvements with the following level of detail:
  - ◆ Construction Limits
  - ◆ Curb and radii
  - ◆ Sidewalk and planter areas
  - ◆ Location and types of curb ramps
  - ◆ Potential utility impacts, required relocations, and recommended pothole location.
  - ◆ Wall locations and approximate heights

In general, vertical location of improvements will not be specified on the plans unless there are conflicts with existing utilities and/or surface improvements. Vertical information will be provided at locations where proposed improvements are confined by existing grades. The CONSULTANT will provide senior level QA/QC prior to submitting to the CITY.

The following plan sheets are anticipated:

Title	Number of Sheets
Cover Sheet	1
Legend, Abbreviations, General Notes	1
Survey Control Plan	1
Typical Sections	1
Typical Details	1
Site Preparation/TESC (Plan/Plan)	2
Roadway and Sidewalk Plan	2
<b>TOTAL</b>	<b>9</b>

*\*Some details, profiles, curb ramp grading and wall plans will be omitted for the 30% Design*

- 3) **30% Design Cost Estimate:** The CONSULTANT shall prepare 30% quantities and cost estimate for review by the CITY.
- 4) **Stormwater Technical Draft Memorandum:** Prepare a draft stormwater memorandum documenting the stormwater requirements per Department of Ecology State of Washington Stormwater Management Manual for Western Washington (SMMWW).

## Deliverables

- ◆ Half Size Plans (11x17) submitted via email in PDF format
- ◆ Engineer's Estimate submitted via email in PDF format
- ◆ Draft Stormwater Technical Memorandum submitted via email in PDF format

## Assumptions

- The final sidewalk location will be established as part of the 30% Review and will not be modified as a result of subsequent review comments.

## Phase 4 Environmental Documentation

### *Task 1 Coordination with WSDOT*

- 1) **Coordination with WSDOT:** SCJ will attend one (1) virtual meeting with the City and WSDOT during the beginning of the project to ensure exact environmental requirements for the project.

### *Task 2 NEPA Documentation*

- 1) **NEPA Documentation:** Prepare NEPA Categorical Exclusion Documentation Form for submittal to WSDOT and coordinate with Local Programs to obtain approval.

### Deliverables

- ◆ One (1) draft NEPA Categorical Exclusion Form for City and WSDOT review submitted via email in PDF format.
- ◆ One (1) Final NEPA Categorical Exclusion Form for WSDOT Signature submitted via email in PDF format.

### Assumptions

- ◆ A NEPA Categorical Exclusion Form will be the required level of documentation required for the project.
- ◆ The NEPA documentation will be completed per the WSDOT Environmental Manual procedures.

### *Task 3 Endangered Species Act Documentation*

- 1) **Endangered Species Act Documentation:** SCJ will provide documentation in compliance with Section 7 of the Endangered Species Act for potential impacts to threatened and endangered species.

### Deliverables

- ◆ One (1) draft Letter of No Effects for City and WSDOT review submitted via email in PDF format.
- ◆ One (1) final Letter of No Effects for WSDOT processing submitted via email in PDF format.

### Assumptions

- ◆ The project will not require formal consultation with US Fish and Wildlife or the National Marine Fisheries Service. This will be confirmed during early coordination with WSDOT Local Programs.
- ◆ If documentation other than a Letter of No Effects is required, a scope and budget amendment will be required.



#### Task 4 Cultural Resources

- 1) **Cultural Resources:** The project will be subject to review under Section 106 of the National Historic Preservation Act. SCJ will prepare an Area of Potential Effects (APE) letter for submission to WSDOT and coordinate with Local Programs to obtain approval for exemption of further Section 106 review.

#### Deliverables

- ◆ One (1) draft Area of Potential Effects letter for the City and WSDOT review submitted via email in PDF format.
- ◆ One (1) final Area of Potential Effects letter for WSDOT processing and submitted via email in PDF format.

#### Assumptions

- ◆ This project is presumed to have no potential or minimal potential to cause effects to historic properties and will be exempt from further Section 106 review.
- ◆ This project falls under exemption criteria A-15 found in Appendix B of the Statewide Programmatic Agreement with the Department of Archaeology and Historic Preservation, Federal Highway Administration, and Federal Transit Administration.
- ◆ The only work for this task will be assembling an Area of Potential Effects letter for submittal to WSDOT.

### Phase 5 100% Design

The CONSULTANT shall provide 100% Design Plans, Specifications, and Estimates for review by the CITY.

#### Task 1 100% Design

- 1) **100% Design Plans:** Respond to 30% City review comments and prepare the 100% Design Plans. The following plan sheets are anticipated:

Title	Number of Sheets
Cover Sheet	1
Legend, Abbreviations, General Notes	1
Survey Control Plan	1
Typical Sections	1
Typical Details	1
Site Preparation/TESC (Plan/Plan)	2
Roadway and Sidewalk Plan	2
<b>Wall Design (Plan/Profile)</b>	<b>2</b>
<b>Wall Structural Details</b>	<b>1</b>
<b>Curb Ramp Plan</b>	<b>2</b>
<b>TOTAL</b>	<b>14</b>

*\*Note: Bold items are new to this submittal*

## **Task 2 100% Design Specifications**

- 1) **100% Design Specifications:** Prepare a Project Manual per City of Fircrest standards including contract documents, special provisions, and appendices.
- 2) **100% Design Cost Estimate:** Develop a construction cost estimate based on the 100% design.
- 3) **Final Stormwater Technical Memorandum:** Finalize the stormwater memorandum.

## **Deliverables**

- ◆ 100% Design Half Size Plans (11x17) submitted to the City and WSDOT for review via email in PDF format
- ◆ 100% Project Manual submitted to the City and WSDOT for review via email in PDF format
- ◆ 100% Design Engineer's Estimate submitted to the City and WSDOT for review via email in PDF format
- ◆ Responses to the City 30% Comments submitted via email in PDF format
- ◆ Final Draft of the Stormwater Technical Report submitted via email in PDF format

## **Assumptions:**

- ◆ The Project Manual will be based on the 2023 WSDOT Standard Specifications for Road, Bridge and Municipal Construction. The CITY will provide the CONSULTANT with all front-end bidding documents and a special provisions template.

## Phase 6 Bid Documents

The CONSULTANT shall prepare final BID Design Plans, Specifications, and Estimates for advertisement by the CITY.

### *Task 1 City and WSDOT Comment Resolution*

- 1) **City and WSDOT Resolution:** Respond to City and WSDOT 100% review comments.

### *Task 2 BID Document Plans, Specifications & Estimate*

- 1) **Bid Document Plans, Specifications & Estimate:** The CONSULTANT shall prepare Final Bid Documents (Plans, Specifications and Cost Estimate) for advertisement by the CITY. The CONSULTANT will provide senior level QA/QC prior to submitting to the CITY. The final bid documents will address comments received from the 100% Design review submittal.

### *Task 3 Assistance during Bidding*

- 1) **Bid Addendum:** Prepare an addendum and respond to bidders' questions relayed through the CITY. It is assumed that the CONSULTANT will prepare one (1) addendum.

## Deliverables

- ◆ Bid Document Half Size Plans (11x17) submitted via email in PDF format
- ◆ Bid Document Project Manual submitted via email in PDF format
- ◆ Bid Document Engineer's Estimate submitted via email in PDF format
- ◆ Responses to the City 100% Comments submitted via email in PDF format
- ◆ All project related AutoCAD Files

## Phase 7 Geotechnical Engineering

Please see the attached proposal prepared by NV5.

## Phase 8 Management Reserve

SCJ will assist the City in efforts outside of those specified in the above tasks upon request on an as-needed basis. Budget from this task will not be used without prior written authorization from the City of Fircrest Project Manager.

## Additional Services

The CITY may require additional services of the CONSULTANT. These services will be authorized under management reserve and/or a future contract amendment. The CONSULTANT shall provide a scope of work and a budget. The CONSULTANT shall not proceed with the work until the CITY has authorized the work and issued a notice to proceed.

END OF SCOPE

**Exhibit B**  
**DBE Participation**

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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

B. Roadway Design Files

C. Computer Aided Drafting Files

Agreement Number:

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

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

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

Agreement Number:

II. Any Other Electronic Files to Be Provided

III. Methods to Electronically Exchange Data

A. Agency Software Suite

B. Electronic Messaging System

C. File Transfers Format



**Exhibit D**  
**Prime Consultant Cost Computations**

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Agreement Number:

Consultant Billing Rate Schedule - Exhibit D-2



**SCJ Alliance**

**Client:** City of Fircrest  
**Project:** Emerson West Sidewalk Project  
**Job #:** 23-P00611  
**File Name:** 2023-1122 Fircrest Emerson Sidewalks\_Fee.xlsm  
**Date:** 11/22/23

Hourly Rate Table Format: LAG Contract  
 Allowable Overhead Rate: 166.19%  
 Negotiated Fixed Fee: 30.00%  
 Billing Rate Table Version: 8/17/2023

**Actuals Not To Exceed Billing Rate Table (ANTE)**

Job Classifications	Direct Labor Hourly Rate NTE	Allowable Overhead 166.19%	Negotiated Profit 30.00%	Total Hourly Billing Rates NTE
Principal	\$132.15	\$219.63	\$39.65	\$391.43
Senior Consultant	\$105.92	\$176.02	\$31.77	\$313.71
Senior Project Manager	\$92.11	\$153.08	\$27.63	\$272.82
PM3 Project Manager	\$77.00	\$127.97	\$23.10	\$228.07
PM2 Project Manager	\$70.00	\$116.33	\$21.00	\$207.33
PM1 Project Manager	\$52.00	\$86.42	\$15.60	\$154.02
Senior Engineer	\$64.29	\$106.84	\$19.29	\$190.42
E4 Engineer	\$60.00	\$99.71	\$18.00	\$177.71
E3 Engineer	\$56.68	\$94.20	\$17.00	\$167.88
E2 Engineer	\$49.47	\$82.21	\$14.84	\$146.53
E1 Engineer	\$39.12	\$65.01	\$11.74	\$115.87
Senior Landscape Architect	\$61.79	\$102.69	\$18.54	\$183.02
L4 Landscape	\$53.08	\$88.21	\$15.92	\$157.22
L3 Landscape	\$45.00	\$74.79	\$13.50	\$133.29
L2 Landscape	\$41.14	\$68.37	\$12.34	\$121.85
L1 Landscape	\$34.00	\$56.50	\$10.20	\$100.70
Senior Planner	\$71.00	\$117.99	\$21.30	\$210.29
P4 Planner	\$52.17	\$86.70	\$15.65	\$154.52
P3 Planner	\$45.00	\$74.79	\$13.50	\$133.29
P2 Planner	\$39.48	\$65.61	\$11.84	\$116.94
P1 Planner	\$36.30	\$60.33	\$10.89	\$107.52
Senior Technician	\$53.00	\$88.08	\$15.90	\$156.98
T4 Technician	\$48.26	\$80.20	\$14.48	\$142.94
T3 Technician	\$40.62	\$67.51	\$12.19	\$120.31
T2 Technician	\$36.00	\$59.83	\$10.80	\$106.63
T1 Technician	\$34.34	\$57.07	\$10.30	\$101.71
Construction Inspector	\$33.17	\$55.13	\$9.95	\$98.25
Senior Construction Manager	\$0.00	\$0.00	\$0.00	\$0.00
RE 3 Construction Resident Engineer	\$0.00	\$0.00	\$0.00	\$0.00
RE 2 Construction Resident Engineer	\$0.00	\$0.00	\$0.00	\$0.00
RE 1 Construction Resident Engineer	\$0.00	\$0.00	\$0.00	\$0.00
Construction Office Engineer	\$0.00	\$0.00	\$0.00	\$0.00
CI 4 Construction Inspector	\$72.97	\$121.27	\$21.89	\$216.13
CI 3 Construction Inspector	\$0.00	\$0.00	\$0.00	\$0.00
CI 2 Construction Inspector	\$0.00	\$0.00	\$0.00	\$0.00
CI 1 Construction Inspector	\$0.00	\$0.00	\$0.00	\$0.00
Graphic Designer	\$46.00	\$76.45	\$13.80	\$136.25
PC 3 Project Coordinator - CM Only	\$0.00	\$0.00	\$0.00	\$0.00
PC 2 Project Coordinator	\$45.85	\$76.20	\$13.76	\$135.80
PC 1 Project Coordinator	\$36.35	\$60.41	\$10.91	\$107.67
Project Accountant	\$66.00	\$109.69	\$19.80	\$195.49

Consultant Labor Hour Estimate



SCJ Alliance

Client: City of Fircrest

Template Version: 8/17/2023

Project: Emerson West Sidewalk Project

Contract Type: LAG Contract

Job #: 23-P00611

File Name: 2023-1122 Fircrest Emerson Sidewalks\_Fee.xlsm

Phase & Task No.	Phase & Task Title	Principal	E4 Engineer	Senior Technician	E1 Engineer	E2 Engineer	Senior Consultant	P4 Planner	Project Accountant	Total Direct Labor Hours & Cost	Total Cost
<b>PHASE 1 Management/Coordination/Administration</b>											
<b>Task 1 Management</b>											
1	Management	3.0	6.0							9.0	\$ 1,617.21
		Subtotal Hours:	3.0	6.0						9.0	\$ 1,617.21
<b>Task 2 Administration</b>											
1	Progress Reports (assumes 6)		9.0						6.0	15.0	\$ 2,129.52
2	Subconsultant Administration		8.0						8.0	16.0	\$ 2,204.26
		Subtotal Hours:		17.0					14.0	31.0	\$ 4,333.79
<b>Task 3 Progress Meetings</b>											
1	Progress Meetings (assumes 6)		6.0							6.0	\$ 952.65
		Subtotal Hours:		6.0						6.0	\$ 952.65
		Total Phase Hours:	3.0	29.0					14.0	46.0	46.0
		Total Phase Direct Labor:	\$224.37	\$1,554.57					\$551.88	\$2,330.82	\$ 6,903.65
<b>PHASE 2 Survey and Right-of-Way Base Mapping (Mtn2Coast)</b>											
<b>Task 1 See Subconsultants</b>											
1	Survey and Right-of-Way Base Mapping										\$ -
		Subtotal Hours:									\$ -
		Total Phase Hours:									\$ -
		Total Phase Direct Labor:									\$ -
<b>PHASE 3 30% Design</b>											
<b>Task 1 30% Design</b>											
1	Data Collection and Site Photos		4.0	4.0						8.0	\$ 1,262.08
2	30% Design Plans	1.0	8.0	40.0	20.0					69.0	\$ 9,657.09
3	30% Design Cost Estimate	1.0	2.0	8.0	8.0					19.0	\$ 2,551.27
4	Stormwater Technical Draft Memorandum		1.0		2.0	8.0				11.0	\$ 1,423.15
		Subtotal Hours:	2.0	15.0	52.0	30.0	8.0			107.0	\$ 14,893.58
		Total Phase Hours:	2.0	15.0	52.0	30.0	8.0			107.0	\$ 107.0
		Total Phase Direct Labor:	\$149.58	\$804.09	\$2,751.84	\$960.00	\$362.88			\$5,028.39	\$ 14,893.58
<b>PHASE 4 Environmental Documentation</b>											
<b>Task 1 Coordination with WSDOT</b>											
1	Coordination with WSDOT						2.0			2.0	\$ 467.98
		Subtotal Hours:					2.0			2.0	\$ 467.98
<b>Task 2 NEPA Documentation</b>											
1	NEPA Documentation		1.0				2.0	8.0		11.0	\$ 1,708.92
		Subtotal Hours:		1.0			2.0	8.0		11.0	\$ 1,708.92
<b>Task 3 Endangered Species Act Documentation</b>											
1	Endangered Species Act Documentation		1.0				2.0	6.0		9.0	\$ 1,438.38
		Subtotal Hours:		1.0			2.0	6.0		9.0	\$ 1,438.38
<b>Task 4 Cultural Resources</b>											
1	Cultural Resources		4.0					8.0		12.0	\$ 1,717.26
		Subtotal Hours:		4.0				8.0		34.0	\$ 1,717.26
		Total Phase Hours:		6.0			6.0	22.0		34.0	\$ 34.0
		Total Phase Direct Labor:		\$321.63			\$474.00	\$1,004.74		\$1,800.37	\$ 5,332.53
<b>PHASE 5 100% Design</b>											
<b>Task 1 100% Design</b>											
1	100% Design Plans	1.0	8.0	40.0	20.0					69.0	\$ 9,657.09
2	100% Design Specifications	2.0	32.0							34.0	\$ 5,523.84
3	100% Design Cost Estimate	1.0	2.0	2.0	4.0					9.0	\$ 1,231.68
4	Stormwater Technical Final Memorandum		1.0			2.0				3.0	\$ 427.48
		Subtotal Hours:	4.0	43.0	42.0	24.0	2.0			115.0	\$ 16,840.09
		Total Phase Hours:	4.0	43.0	42.0	24.0	2.0			115.0	\$ 115.0
		Total Phase Direct Labor:	\$299.16	\$2,305.05	\$2,222.64	\$768.00	\$90.72			\$5,685.57	\$ 16,840.09
<b>PHASE 6 Bid Documents</b>											

Consultant Labor Hour Estimate

SCJ Alliance



Client: City of Fircrest

Template Version: 8/17/2023

Project: Emerson West Sidewalk Project

Contract Type: LAG Contract

Job #: 23-P00611

File Name: 2023-1122 Fircrest Emerson Sidewalks\_Fee.xlsm

Phase & Task No.	Phase & Task Title	Principal	E4 Engineer	Senior Technician	E1 Engineer	E2 Engineer	Senior Consultant	P4 Planner	Project Accountant	Total Direct Labor Hours & Cost	Total Cost
<b>Task 1 100% City and WSDOT Comment Resolution</b>											
1	100% City and WSDOT Comment Resolution		2.0							2.0	\$ 317.55
Subtotal Hours:			2.0							2.0	\$ 317.55
<b>Task 2 BID Document Plans, Specifications &amp; Estimate</b>											
1	Bid Document Plans, Specifications & Estimate	1.0	8.0	24.0	4.0					37.0	\$ 5,632.69
Subtotal Hours:		1.0	8.0	24.0	4.0					39.0	\$ 5,632.69
<b>Task 3 Assistance During Bidding</b>											
1	Bid Addendum		2.0	2.0						4.0	\$ 631.04
Subtotal Hours:			2.0	2.0						4.0	\$ 631.04
Total Phase Hours:		1.0	12.0	26.0	4.0					43.0	\$ 43.0
Total Phase Direct Labor:		\$74.79	\$643.27	\$1,375.92	\$128.00					\$2,221.98	\$ 6,581.28
<b>PHASE 7 Geotechnical Engineering (NV5)</b>											
<b>Task 1 See Subconsultants</b>											
1	Geotechnical Engineering										\$ -
Subtotal Hours:											\$ -
Total Phase Hours:											\$ -
Total Phase Direct Labor:											\$ -
Total Hours All Phases		10.0	105.0	120.0	58.0	10.0	6.0	22.0	14.0	345.0	345.0
Total Direct Labor Estimate All Phases		\$747.90	\$5,628.61	\$6,350.40	\$1,856.00	\$453.60	\$474.00	\$1,004.74	\$551.88	\$17,067.13	\$ 50,551.13
<b>Indirect Costs</b>											
Subconsultants:											
		Mtn2Coast Surveying NV5									\$5,712.44
Subconsultant Subtotal:											\$18,628.83
Subconsultant Markup:											\$ 24,341.27
Subconsultant Total:											\$ 24,341.27
Reimbursable Expenses:											
		Copies, Printing, etc. Mileage									\$ -
Expenses Subtotal:											\$ 32.75
Expenses Markup:											\$ -
Expenses Total:											\$ 32.75
Management Reserve:											\$ 15,000.00
<b>Total Indirect Costs:</b>											\$ 39,374.02
<b>Total:</b>											\$ 89,925.15

**Consultant Fee Determination Summary - Exhibit D-1**



**SCJ Alliance**

Client: City of Fircrest  
 Project: Emerson West Sidewalk Project  
 Job #: 23-P00611  
 File Name: 2023-1122 Fircrest Emerson Sidewalks\_Fee.xlsm

Template Version: 8/17/2023  
 Contract Type: LAG Contract

**Consultant Fee Determination**

***DIRECT SALARY COST***

<u>Classification</u>	<u>Hours</u>	<u>Direct Hourly Rate</u>	<u>Amount</u>
Principal	10.0	\$74.79	\$747.90
E4 Engineer	105.0	\$53.61	\$5,628.61
Senior Technician	120.0	\$52.92	\$6,350.40
E1 Engineer	58.0	\$32.00	\$1,856.00
E2 Engineer	10.0	\$45.36	\$453.60
Senior Consultant	6.0	\$79.00	\$474.00
P4 Planner	22.0	\$45.67	\$1,004.74
Project Accountant	14.0	\$39.42	\$551.88

**Total Direct Salary Cost \$17,067.13**

***OVERHEAD***

Overhead Rate: 166.19%      Direct Salary Cost: **\$17,067.13**      **Overhead Cost \$28,363.86**

***FIXED FEE***

Fixed Fee Rate: 30.00%      Direct Salary Cost: **\$17,067.13**      **Fixed Fee Cost \$5,120.14**

***TOTAL SALARY COST***

**Total Salary Cost \$50,551.13**

***SUBCONSULTANTS***

Mtn2Coast Surveying	PHASE 2	Survey and Right-of-Way Base Mapping	\$5,712
NV5	PHASE 7	Geotechnical Engineering (NV5)	\$18,629
		\$0	
<b>Subconsultant Fee Subtotal:</b>		\$0	<b>\$24,341.27</b>
<b>Subconsultant Markup:</b>		0%	<b>\$0.00</b>

***REIMBURSABLE EXPENSES***

Copies, Printing, etc.	0.0%	of the Direct Salary Costs	\$0.00
Mileage	50	miles at \$0.655 per mile	\$32.75
<b>Expenses Subtotal:</b>			<b>\$32.75</b>
<b>Expenses Markup:</b>		0%	<b>\$0.00</b>

***SUBTOTAL (SALARY, SUBCONSULTANTS AND EXPENSES)***

Subtotal (Salary, Subconsultants and Expenses) **\$74,925.15**

***MANAGEMENT RESERVE FUND (MRF)***

Management Reserve: \$15,000 **\$15,000.00**

**Total Estimated Budget: \$89,925.15**



July 6, 2023

Shea, Carr & Jewell, Inc. (dba SCJ Alliance)  
8370 Tallon Lane NE, Suite 200  
Lacey, WA 98516-6642

Subject: Acceptance FYE 2022 ICR – CPA Report

Dear Heather Seago:

We have accepted your firms FYE 2022 Indirect Cost Rate (ICR) of 166.19% of direct labor (rate includes 0.28% Facilities Capital Cost of Money) based on the “Independent CPA Report,” prepared by Stambaugh Ness. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington 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) 704-6397** or via email [consultanrates@wsdot.wa.gov](mailto:consultanrates@wsdot.wa.gov).

Regards;

*Schatzie Harvey*

Schatzie Harvey (Jul 6, 2023 13:38 PDT)

SCHATZIE HARVEY, CPA  
Contract Services Manager

SH:BJO

## ***Exhibit E*** ***Sub-consultant Cost Computations***

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If no 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.

Agreement Number:



**Professional Land Surveyors**  
Where Sound Practice, Innovation and Client Service Collide

2320 Mottman Road SW, Suite 106, Tumwater, WA 98512  
(360) 688-1949 • www.mtn2coast.com

---

September 11, 2023

SCJ Alliance  
George Hilén  
George.hilen@scjalliance.com  
253.201.0777, ext. 294

Re: Emerson West Sidewalks – Emerson St – Topographic Survey

Dear George:

Thank you for the opportunity to provide professional surveying services.

### *Scope*

#### Topographic Survey

M2C will complete a topographic survey of the site as shown on the attached Survey Limits Exhibit. The topographic survey will include the following:

- One-foot contours with tops, toes and breaks.
- Buildings and other structures on site with finished floor elevation.
- Other visible improvements such as curbs, mailboxes, light poles, etc.
- Hard surfaces such as concrete, pavement and gravel.
- Trees 6" and larger dbh with diameter and species measured.
- M2C will hire and coordinate a utility locator service to paint the buried conductible utilities. M2C will then field map the utilities paint marks and surface appurtenances. We will also open and measure utility structures and measure pipe sizes, types and invert elevations.

The Survey will be completed on the Washington State Plane Coordinate System and NAVD 88 vertical datum based on WSDOT monumentation.

#### Deliverables

M2C will deliver the following:

- Topographic Survey Map in pdf form.
- ACAD electronic drawing file of the project by email.





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(360) 688-1949 • [www.mtn2coast.com](http://www.mtn2coast.com)

---

*Fee*

M2C fee for completing the survey shall be lump sum based on attached WSDOT exhibit E-1.

*General Conditions*

M2C's General Conditions of Contract, attached, are included as part of this Agreement for professional services. Please sign a copy of this letter and return to M2C as notice to proceed.

Please feel free to contact me at [Seth@mtn2coast.com](mailto:Seth@mtn2coast.com) or by phone at 360.688.1949 if you have any questions.

Best regards,  
MTN2COAST, LLC

Seth E. Prigge, PLS  
Survey Manager

Proposal and General Conditions of Contract Accepted  
SCJ Alliance

\_\_\_\_\_  
Signature

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



**Professional Land Surveyors**  
Where Sound Practice, Innovation and Client Service Collide

2320 Mottman Road SW, Suite 106, Tumwater, WA 98512  
(360) 688-1949 • [www.mtn2coast.com](http://www.mtn2coast.com)

## Survey Limits Exhibit

Limits of Topographic mapping and Right-of-Way Establishment highlighted in yellow.



**Exhibit E-1  
Subconsultant Fee Determination - Summary Sheet  
(Mandatory when Subconsultants are utilized)**

Project: Emmerson West Sidewalks  
 Sub Consultant: MTN2COAST, LLC  
 Direct Salary Cost (DSC): \_\_\_\_\_

<u>Classification</u>	<u>Man Hours</u>		<u>Rate</u>	=	<u>Cost</u>
<b><u>ROW Plan and Determination</u></b>					
Senior Surveyor	_____	X	80.00		_____
Surveyor -LSIT	_____	X	50.00		_____
Senior Survey Technician	_____	X	35.00		_____
Survey Technician	_____	X	30.00		_____
Jr Survey Technician	_____	X	24.00		_____
_____	_____	X			_____
<b><u>Topographic Mapping and Map</u></b>					
Senior Surveyor	8	X	80.00		640.00
Surveyor -LSIT	8	X	50.00		400.00
Senior Survey Technician	16	X	35.00		560.00
Survey Technician	16	X	30.00		480.00
Jr Survey Technician	8	X	24.00		192.00
_____	_____	X			_____
_____	_____	X			_____
_____	_____	X			_____
			<b>Total DSC =</b>		<b>2,272.00</b>

**Overhead (OH Cost -- including Salary Additives):**  
 OH Rate x DSC of 73.47% x 2,272.00 = 1,669.24

**Fixed Fee (FF):**  
 FF Rate x DSC of 30.00% x 2,272.00 = 681.60

**Reimbursables:**

Mileage	204	x	\$ 0.65	=	\$ 132.60
Locator Service	\$ 870.00	x	\$ 1.10	=	\$ 957.00
title reports x5		x	\$ 1.10	=	\$ -

**SubConsultant Total** = \$ 5,712.44

**Grand Total** = \_\_\_\_\_

Prepared By: PJ Boughal Date: 11/22/2023

DOT Form 140-089 EF Exhibit G-1  
Revised 01/09



**Development Division**  
Contract Services Office  
PO Box 47408  
Olympia, WA 98504-7408  
7345 Linderson Way SW  
Tumwater, WA 98501-6504

TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

October 10, 2023

MTN2COAST, LLC  
2320 Mottman Road SW, Suite 106  
Tumwater, WA 98512

Subject: Acceptance FYE 2022 ICR – Audit Office Review

Dear Jessica Prigge:


Transmitted herewith is the WSDOT Audit Office's memo of "Acceptance" of your firm's FYE 2022 Indirect Cost Rate (ICR) of 73.47% of direct labor. This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington 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 your firm is responsible for determining the acceptability of the ICR.

If you have any questions, feel free to contact our office at **(360) 704-6397** or via email [consultanrates@wsdot.wa.gov](mailto:consultanrates@wsdot.wa.gov).

Regards,

  
[Schatzie Harvey \(Oct 11, 2023 15:23 PDT\)](#)

SCHATZIE HARVEY, CPA  
Contract Services Manager

SH:leg

November 22, 2023

SCJ Alliance  
8730 Tallon Lane NE, Suite 200  
Lacey, WA 98516

Attention: George Hilten

**Revised Proposal**  
**Geotechnical Engineering Services**  
City of Fircrest  
Emerson Street Sidewalk Improvements Project  
Emerson Street from 67<sup>th</sup> Avenue West to Woodside Drive  
Fircrest, Washington  
Project: SCJ-8-01

## INTRODUCTION

GeoDesign, Inc. dba NV5 (NV5) is pleased to present this revised proposal to provide geotechnical engineering services for the City of Fircrest's (City) Emerson Street Sidewalk Improvements Project. This phase of the project will include new sidewalk along the south side of Emerson Street between 67<sup>th</sup> Avenue West and Woodside Drive.

This revised proposal reflects recent discussions with you to decrease the number of borings from two to one and revise the west end of the project from the intersection with 67<sup>th</sup> Avenue West to the end of the existing concrete retaining wall (approximately 200 feet east of the intersection).

Emerson Street between 67<sup>th</sup> Avenue West and Woodside Drive is located along the base of engineered cut slopes on both the north and south side of the road. Construction of the proposed sidewalk on the south side of the road will require grading and cutting into the toe of the existing slope widening of the right-of-way (ROW) area. There is an existing concrete retaining wall toward the west end of the alignment that will need to be removed to accomplish the sidewalk construction.

Geotechnical investigation will support regrading and retaining the slope on the south side of the road for sidewalk construction.

## **SCOPE OF SERVICES**

Our scope of services will include slope stability analyses of the existing and proposed slope configurations as well as identifying appropriate retaining wall types and providing design parameters for them. Our recommendations will be based on subsurface explorations and observation of the soil exposure on the slope. Our proposed geotechnical services are described in detail below.

### ***TASK 1: REVIEW EXISTING CONDITIONS AND PROPOSED PROJECT PLANS***

Review available, existing preliminary plans and geotechnical, geological, and environmental reports for the immediate area to help develop an understanding of project goals, City expectations, and subsurface conditions. Discuss the area with City maintenance personnel for information on historical slope stability and records of any past slope failures.

### ***TASK 2: FIELD EXPLORATION***

#### **Task 2.1: Utility Locates**

Mark exploration locations and request public utility locates. A separate trip to the site will be necessary to mark the exploration locations in order to conduct utility locates, and a second trip will be necessary to observe utility locates and either verify that conflicts do not exist or to select an alternate exploration location.

#### **Task 2.2: Permitting**

Our permitting task will include preparing a traffic control plan and obtaining street-use ROW and lane closure permits from the City. We expect a street-use ROW application and ROW permit will be required. Traffic control plans will be required at the exploration locations.

#### **Task 2.3: Slope Reconnaissance**

Complete a site visit to observe existing conditions along the slope on the south side of the road to explore surficial conditions and indications of slope stability.

#### **Task 2.4: Borings**

Subsurface conditions will be explored by drilling one boring at a location along the south side of Emerson Street. The boring will be drilled to a depth of approximately 20 feet below ground surface with a small track- or trailer-mounted drill rig to minimize our footprint within the ROW. The boring will be drilled using hollow-stem auger techniques. Our representative will collect samples from the boring and log the subsurface conditions encountered. Samples will be collected via standard penetration test at approximately 2.5-foot intervals for the initial 15 feet and then at 5-foot intervals thereafter. Our traffic control subcontractor will provide flagging services during the field work.

### ***TASK 3: LABORATORY ANALYSIS***

Perform geotechnical laboratory analyses on disturbed soil samples collected from the explorations, including the following:

- Up to two moisture content determinations
- Up to two particle-size analyses

#### **TASK 4: REPORTING**

##### **Task 4.1: Draft Report**

Prepare a draft report (in PDF format) summarizing our findings, conclusions, and recommendations related to the following:

- Subsurface soil and groundwater conditions and results of laboratory testing.
- Existing slope stability condition and impact of regrading the slope with a retaining wall. A project goal will be to improve or provide equivalent slope stability similar to the existing conditions.
- Retaining wall design recommendations to support regrading along the toe of the slope to support sidewalk construction. Anticipated wall types, including gravity and cantilever retaining walls up to 8 feet in height.
- Luminaire pole foundation lateral bearing pressure design parameters based on Chapter 17, "Foundation Design for Signals, Signs, Noise Barriers, Culverts, and Buildings," of the Washington State Department of Transportation's (WSDOT) Geotechnical Design Manual, M 46-03,
- Subgrade preparation beneath retaining walls and sidewalk areas.

##### **Task 4.2: Final Report**

Prepare a final report that incorporates requested revisions.

#### **SCHEDULE**

We will begin our services upon receiving notification to proceed. Our initial task will be to prepare and obtain the ROW permit. The field work will be coordinated with you and the City. We anticipate that the field exploration will begin three to five weeks after the ROW permit is issued due to subcontractor availability and the permit acquisition process. Exploration activities will take approximately one day for the reconnaissance and one day for drilling the boring. Geotechnical laboratory testing will take approximately two weeks. The geotechnical report will be available within approximately five weeks after the field program is complete. Preliminary results can be provided as they are developed in the field.

#### **FEE**

Our services will be provided on a not-to-exceed, time-and-materials basis in accordance with our direct salary cost basis and WSDOT-approved overhead rate schedule and the attached General Terms and Conditions . The estimated project cost for our services as scoped above is \$18,628.83. A detailed cost summary of our services is attached.

The fee for additional services that may be required will be discussed with you and will not be undertaken without your prior approval. Services beyond the scope outlined above will be provided on a time-and-materials basis.



We appreciate the opportunity to submit this agreement and look forward to working with you on this project. Please do not hesitate to contact us if you have questions or require additional information. To formally authorize our services, return a signed copy of this agreement.

Sincerely,

NV5



Kevin J. Lamb, P.E.  
Principal Engineer

KJL:kt

Attachments

One copy submitted

Document ID: SCJ-8-01-112223-geop-rev3.docx

© 2023 NV5. All rights reserved.

The scope of services outlined in this agreement, the fees, and the General Terms and Conditions are hereby accepted and GeoDesign, Inc. dba NV5 is authorized to proceed. This agreement constitutes the entire agreement between the Client and GeoDesign, Inc. dba NV5 and supersedes all prior written or oral understandings. If the client does not sign our proposal, but instead gives us a notice to proceed, then that shall also constitute a contract.

_____	by	_____
Organization		Signature*
_____		_____
Date		Printed Name
		_____
		Title

\*Individual with contracting authority and responsible for payment of NV5's fees.



NV5 FEE SUMMARY

Project: **City of Fircrest - Emerson Street Sidewalk Improvements Project**  
 Job No. **SCJ-8-01**

Date **11/22/2023**

Standard Schedule (SS) or Direct Salary Cost (DSC)	DSC
Labor Rate	Z- Direct Salary Cost (DSC)
NV5 OH Rate, if DSC calculation is used	147.80%
If Labor is DSC is the Fixed Fee = FF x (DSC+OH) ?	NO
Allowable Handling Charge	

Fixed Fee 30.00%

Include Laboratory Cost as Labor Hour:  
 If answered "YES" Enter Labor Division:

Lab Technician I 75%

NV5 LABOR - Summary from NV5 Hours Worksheet  
 Scope - See Proposal Text

		PROJECT PHASES OR TASKS				Total Hours	Labor Rate	Cost
		GEOTECHNICAL INVESTIGATION						
NV5 LABOR - Summary from NV5 Hours Worksheet		Task 1: Review Existing Conditions and Proposed Plans	Task 2: Field Explorations	Task 3: Laboratory Analysis	Task 4: Reporting			
CLASSIFICATION								
1.	Principal	2.0	1.5	0.5	8.0	12.0	\$69.71	\$837
2.	Senior Associate						\$69.71	
3.	Associate						\$60.10	
6.	Project Manager I		16.0	1.0	20.0	37.0	\$45.25	\$1,674
10.	Staff III		16.0			16.0	\$38.45	\$615
11.	Staff II						\$36.05	
12.	Staff I						\$29.81	
13.	Sr Tech						\$38.00	
14.	CAD				3.0	3.0	\$40.88	\$123
15.	Tech II						\$24.00	
16.	Tech I						\$23.50	
17.	Senior Project Assistant		0.5		3.0	3.5	\$30.29	\$106
18.	Proj Assistant		1.0		3.0	4.0	\$36.00	\$144
19.	Support Staff				2.0	2.0	\$25.00	\$50
<b>SUBTOTAL - Labor</b>		<b>\$139.42</b>	<b>\$1,494.91</b>	<b>\$80</b>	<b>\$1,834</b>	<b>77.5</b>	<b>\$3,548.63</b>	<b>\$3,548.63</b>
<b>OVERHEAD (OH) COST (Including Salary Additives)</b>		<b>206.06</b>	<b>2,209.48</b>	<b>118</b>	<b>2,711</b>		<b>\$3,344.87</b>	<b>5,244.87</b>
<b>FIXED FEE (FF):</b> = Fixed Fee x (DSC) or 30% x (\$3,548.63)		<b>41.83</b>	<b>448.47</b>	<b>24</b>	<b>550</b>		<b>\$1,064.59</b>	<b>1,064.59</b>
<b>SUBTOTAL LABOR</b>		<b>\$387.31</b>	<b>\$4,152.86</b>	<b>\$223</b>	<b>\$5,095</b>			<b>\$9,858.08</b>

EQUIPMENT		Task 1: Review Existing Conditions and Proposed Plans	Task 2: Field Explorations	Task 3: Laboratory Analysis	Task 4: Reporting	Unit	Rate	Extended
VEHICLE - NV5 - 1			2			Day	\$25.00	\$50.00
VEHICLE - Mileage			125			Mile	\$0.710	\$88.75
SAMPLING - GEO - MISC Sampling Equipment			1			Day	\$10.00	\$10.00
<b>SUBTOTAL EQUIPMENT</b>			<b>\$149</b>				<b>\$148.75</b>	<b>\$148.75</b>

REIMBURSABLES:		Task 1: Review Existing Conditions and Proposed Plans	Task 2: Field Explorations	Task 3: Laboratory Analysis	Task 4: Reporting	Unit	Rate	Extended
Permits						each	\$300.00	
<b>SUBTOTAL REIMBURSABLES</b>								

LABORATORY TESTING:		Task 1: Review Existing Conditions and Proposed Plans	Task 2: Field Explorations	Task 3: Laboratory Analysis	Task 4: Reporting	Unit	Rate	Extended
Moisture - Oven				2		ea	\$30.00	\$60
Particle Size Analysis ASTM C136				2		ea	\$156.000	\$312
CEC						ea	\$110.00	
Organic Content						ea	\$104.00	
<b>SUBTOTAL LABORATORY</b>				<b>\$372</b>			<b>\$372</b>	<b>\$372.00</b>

<b>NV5 Charges SubTotal</b>	<b>\$387.31</b>	<b>\$4,301.61</b>	<b>\$595</b>	<b>\$5,095</b>		<b>\$10,378.83</b>	<b>\$10,379</b>
-----------------------------	-----------------	-------------------	--------------	----------------	--	--------------------	-----------------

SUBCONTRACTORS (include tax when applicable)		Task 1: Review Existing Conditions and Proposed Plans	Task 2: Field Explorations	Task 3: Laboratory Analysis	Task 4: Reporting	SUBTOTAL	HC	Extended
5110.29 Drilling Subconsultant	Boretac Drilling (up to 1 boring to 20 feet, 1 day)		\$4,500			\$4,500		\$4,500
5110.99 Other Subconsultants								
5110.99 Other Subconsultants	TMI Traffic Control		\$3,000			\$3,000		\$3,000
5110.99 Other Subconsultants	Traffic Control Plans		\$450			\$450		\$450
5110.99 Other Subconsultants	Portable Restroom		\$300			\$300		\$300
<b>SUBTOTAL SUBCONSULTANTS incl HC</b>			<b>\$8,250</b>			<b>\$8,250</b>		<b>\$8,250.00</b>

ACTUAL SUBTOTAL BY PHASE incl HC		Task 1: Review Existing Conditions and Proposed Plans	Task 2: Field Explorations	Task 3: Laboratory Analysis	Task 4: Reporting			
		<b>\$387.31</b>	<b>\$12,551.61</b>	<b>\$594.53</b>	<b>\$5,095</b>	<b>\$18,628.83</b>		

ROUNDED UP SUBTOTAL BY PHASE incl HC		<b>\$18,629</b>						
<b>TOTAL - ESTIMATED FEE</b>						<b>\$18,628.83</b>		



**Development Division**  
Contract Services Office  
PO Box 47408  
Olympia, WA 98504-7408  
7345 Linderson Way SW  
Tumwater, WA 98501-6504

TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

October 3, 2023

AE U.S. Operations of NV5 Global, Inc.  
9450 SW Commerce Circle, Suite 300  
Wilsonville, OR 97070

Subject: Acceptance FYE 2022 ICR – CPA Report

Dear Crystal Bigley-Cregan:

We have accepted your firms FYE 2022 Indirect Cost Rate (ICR) based on the “Independent CPA Report,” prepared by Clifton Larson Allen, LLP as follows:

- Home Rate 147.80% of direct labor (rate includes 0.12% Facilities Capital Cost of Money).
- Field Rate 136.58% of direct labor.

This rate will be applicable for WSDOT Agreements and Local Agency Contracts in Washington 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) 704-6397** or via email [consultanrates@wsdot.wa.gov](mailto:consultanrates@wsdot.wa.gov).

Regards,

A handwritten signature in black ink that reads 'Schatzie Harvey'.

[Schatzie Harvey \(Oct 4, 2023 12:09 PDT\)](#)

SCHATZIE HARVEY, CPA  
Contract Services Manager

SH:leg

# **Exhibit F - Title VI Assurances Appendix A & E**

## **APPENDIX A**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, *(Title of Modal Operating Administration)*, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21. *[Include Modal Operating Administration specific program requirements.]*
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin. *[Include Modal Operating Administration specific program requirements.]*
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the *(Title of Modal Operating Administration)* to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the *(Title of Modal Operating Administration)*, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the *(Title of Modal Operating Administration)* may determine to be appropriate, including, but not limited to:
  - a. withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the *(Title of Modal Operating Administration)* may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

# **Exhibit F - Title VI Assurances Appendix A & E**

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## APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

**Exhibit G**  
**Certification Documents**

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- Exhibit G-1(a) Certification of Consultant
- Exhibit G-1(b) Certification of \_\_\_\_\_
- 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

whose address is

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 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.

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Consultant (Firm Name)

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Signature (Authorized Official of Consultant)

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Date

Agreement Number:

## Exhibit G-1(b) Certification of

I hereby certify that I am the:

Other

of the \_\_\_\_\_, and  
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 \_\_\_\_\_ 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.

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Consultant (Firm Name)

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Signature (Authorized Official of Consultant)

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Date

Agreement Number:



## **Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying**

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00, for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

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Consultant (Firm Name)

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Signature (Authorized Official of Consultant)

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Date

Agreement Number:

## Exhibit G-4 Certificate of Current Cost or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section 2.101 of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of \_\_\_\_\_\* are accurate, complete, and current as of \_\_\_\_\_\*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Date of Execution\*\*\*:

\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Agreement Number:

# **Exhibit H**

## **Liability Insurance Increase**

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### **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 \$

The CONSULTANT shall provide Professional Liability insurance with minimum per occurrence limits in the amount of \$

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: \$

- 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**

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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.

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## **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**

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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

**NEW BUSINESS:** 44<sup>th</sup> Street Sewer Lift Station Upgrade Project Contract  
**ITEM:** 13P  
**DATE:** December 12, 2023  
**FROM:** Tyler Bemis, Public Works Director

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**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute a Construction Contract with Pape and Sons Construction Inc. for the 44<sup>th</sup> Street Sewer Lift Station Upgrade Project.

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**PROPOSAL:** The Council is being asked to award the construction bid for the 44<sup>th</sup> Street Sewer Lift Station Upgrade Project to Pape and Sons Construction Inc. in the amount of \$639,460.80, including sales tax and authorize the City Manager to execute a construction contract. The construction phase of this project has a completion timeline of 400 calendar days from approval of the contract. In addition to the upgrading of the lift station, this project will enhance this otherwise barren corner of the City.

The City received six bid proposals in response to the Request for Proposal, with Pape and Sons meeting all necessary qualifications and being the lowest responsive bidder. All participating contractors, along with bid totals, are shown in the Bid Tabulation attachment.

**FISCAL IMPACT:** The bid award amount is \$639,460.80, including sales tax. Funding for the design and construction of this project has been identified from Sewer capital funds and has been carried forward since late 2021. The construction funding package is included in the 2024 Sewer Capital budget. Increases have been made to account for rising material and construction costs.

**ADVANTAGE:** Upgrading this lift station will provide efficient SCADA/Telemetry connectivity along with emergency power backup. This will be the last of the City's seven Sewer Lift Stations to be upgraded.

**DISADVANTAGES:** None.

**ALTERNATIVES:** None identified at this time.

**HISTORY:** Preliminary planning for this project started in early 2022. Casey Civil was awarded the design contract in July of 2022 via a competitive Request for Qualifications process. The design process included the identification of historical maintenance and analysis of current wastewater flows and potential future growth. Land ownership concerns were remedied via temporary construction and permanent easements being prepared, signed, and filed with Pierce County. Many collaborative site visits and communications with the adjacent property owner have taken place. In its entirety, this lift station has failing corrugated metal walls of the well, insufficient SCADA control, and no emergency backup power. The project specifications/construction sequence requirements document is available for review at the City Clerk's Office.

**ATTACHMENTS:** Resolution  
Construction Contract  
Bid Tabulation Sheet





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**APPROVED AS TO FORM:**

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Robert Zeinemann, City Attorney

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## CITY OF FIRCREST PUBLIC WORKS CONTRACT

THIS AGREEMENT, made and entered into in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by and between the **City of Fircrest**, hereinafter called the Owner, and **PAPE & SONS CONSTRUCTION, INC.**, hereinafter called the Contractor.

In consideration of the terms and conditions contained herein, and attached and made a part of this agreement, the parties hereto covenant and agree as follows:

1. **PROJECT.** The Contractor shall do all work and furnish all tools, materials, and equipment for the CITY OF FIRCREST – 44<sup>th</sup> STREET SEWER LIFT STATION PROJECT in accordance with and as described in the attached plans and specifications in **Exhibit A** and the 2022 edition of the WSDOT Standard Specifications for road, Bridge, and Municipal Construction (except where noted otherwise) which are by this reference incorporated herein and made a part hereof, and shall perform any alterations in or additions to the work provided under this Contract and every part thereof.

Work shall be completed within four hundred (400) calendar days from the project start date specified in a Notice to Proceed letter provided by the Owner to the Contractor.

If the work specified herein is not completed within the time specified, the Contractor agrees to pay to the Owner, as liquidated damages, the sum of Five Hundred dollars (\$500) per day.

The Contractor shall provide and bear the expense of all equipment, work, materials, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in this contract and every part thereof, except such as are mentioned in the specifications to be furnished by the City of Fircrest.

The City of Fircrest hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above-described work and to complete and finish the same according to the attached plans and specifications and the terms and conditions herein contained; and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices hereto attached, at the time and in the manner and upon the conditions provided for in this contract.

2. **ASSIGNMENT.** The Contractor shall not sublet or assign any of the work covered by this Agreement without the express written consent of the City.
3. **PAYMENT.** Upon receipt of an invoice from the Contractor, the City may make monthly progress payments for work completed. Each invoice shall itemize by site and date the work performed and include the "Affidavit of Wages Paid" that was filed with the State of Washington Department of Labor and Industries. The total cost for the Resurfacing of the 44<sup>th</sup> Street Sewer Lift Station Project shall not exceed \$639,460.80, including sales tax.
4. **PERFORMANCE.** The Contractor for itself, and for its heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein upon the part of the Contractor. The City reserves the right to withhold a part or all the monthly payments if, in the judgment of the City, the Contractor has not performed or has unsatisfactorily performed any of the work set forth in this Agreement, provided that the City shall promptly notify the Contractor in writing of the specific items of non-performance or

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unsatisfactory performance. Any such payments withheld shall reasonably relate to the estimated value of the work not performed.

5. INDEMNIFICATION. It is further provided that no liability shall attach to the City of Fircrest by reason of entering into this contract, except as expressly provided herein. The Contractor shall protect, indemnify, and hold the City of Fircrest and City Employees, Directors, Officers, and Officials harmless from and against any damage, cost, or liability, including reasonable attorney's fees, for any or all injuries to persons or damage to property arising from acts or omissions of the Contractor, its officers, employees, agents, or subcontractors.
6. NON-DISCRIMINATION. The Contractor shall not discriminate against any person, firm, partnership, or organization as it pertains to race, color, religion, sex, age, national origin, marital status, sexual orientation, medical condition, physical handicap, or disability. Any person, firm, partnership, or organization contracting with, or doing business with, the City of Fircrest, shall be in conformity with the City of Fircrest's policy on non-discrimination.
7. INSURANCE REQUIREMENTS. The Contractor shall maintain insurance liability coverage as required under Section 1-.07.18(5) of the Standard Specifications. The City of Fircrest and Fircrest employees, Directors, Officers, and Officials shall be added as a Primary — Non-Contributory additional insured for General Liability per attached endorsement CG 8416.

An insurance certificate showing the foregoing shall be submitted to the City for approval before work commences. The minimum limits above do not limit the Contractor's liability to the City or the public.

8. COMPLIANCE WITH LAWS. The Contractor agrees that all persons employed in it and by any of its subcontractors in work done pursuant to this Contract shall be in accordance with all federal, state, and local laws. The Contractor must possess a City business license.
9. PREVAILING WAGES. The Contractor agrees that all laborers, workers, or mechanics employed by it or by any subcontractor in the work of this Contract will be paid not less than the prevailing rate of wage for an hour's work in accordance with the provisions of the Revised Code of Washington, Chapter 39.12, and all rules and regulations promulgated pursuant thereto. The State of Washington prevailing wage rates applicable for this public works project, which is located in Pierce County, may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. Based on the bid submittal deadline for this project, the applicable effective date for prevailing wages for this project is **October 31, 2023**.

In case any dispute arises as to what the prevailing rates of wages for work of a similar nature are and such dispute cannot be adjusted by the parties involved, the matter shall be referred to the director of the Department of Labor and Industries of the State of Washington for arbitration, and the director's decision therein shall be final and conclusive and binding on all parties involved in the dispute.

10. EXTRA WORK AND CHANGE ORDERS. Work in addition to, or different from, that provided for in the Scope of Work shall only be allowed by prior authorization in writing and signed by the City Manager as a modification to this Agreement. Such change order or modification shall be attached hereto and made a part hereof.

11. COMPLIANCE WITH CITY POLICY. The Contractor shall comply with approved City policies concerning the administration of City-owned property, and the provisions of the policy shall

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have the same force and effect as provisions of this Agreement to the extent not inconsistent herewith.

12. SAFETY REQUIREMENT. All work performed under the terms of this Agreement shall be performed in such a manner as to provide maximum safety to the public and employees of the City.

13. HAZARDOUS CONDITIONS. The Contractor shall maintain all work sites free of hazards to persons and/or property resulting from its operation.

14. NON-WAIVER. Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provisions.

15. TERMINATION. If the Contractor violates any of the covenants undertaken herein, or any of the duties imposed upon it by this Agreement, this Agreement may be terminated by the City immediately with cause. This Agreement may be terminated by either party without cause upon thirty (30) days' written notice served to the other party by certified mail. The Contractor shall be compensated by the City for all work performed to the date of termination.

16. VENUE. This Agreement shall be considered as having been made and delivered within the State of Washington, both as to interpretation and performance. Any action in law or equity, or judicial proceeding for the enforcement of this Agreement or any of the provisions contained therein, shall be instituted and maintained only in Pierce County Superior Court.

17. STATUS OF CONTRACTOR. Neither the Contractor nor personnel employed by the Contractor shall acquire any rights or status in City employment, nor shall they be deemed employees or agents of the City for any purpose. The Contractor is required to employ a qualified supervisor acceptable to the City. The Contractor shall be deemed an independent contractor and responsible in full for payment of its employees, including prevailing wages, worker's compensation, insurance, payroll deductions, and all related costs.

18. INTEGRATED AGREEMENT. This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the parties. This Agreement may be amended only by written instrument signed by both the City and the Contractor.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed the day and year first hereinabove written.

**CITY OF FIRCREST**

**PAPE & SONS CONSTRUCTION, INC.**

By \_\_\_\_\_  
Dawn Masko, City Manager

By \_\_\_\_\_  
Contractor

Approved as to Form:

By \_\_\_\_\_  
Robert Zeinemann, City Attorney

City of Fircrest -44th Street and 67th Avenue Lift Station Upgrade Project #68  
 Bid Tabulation Sheet  
 Estimated Bid Range: \$500,000 - \$650,000  
 Bid Opening October 31, 2023

ITEM #	ITEM	QTY	UNIT	ENGINEER'S ESTIMATE		NOVA CONTRACTING Inc		Ceccanti Inc		Northwest Cascade Inc	
				UNIT COST	EXTENSION	UNIT COST	EXTENSION	UNIT COST	EXTENSION	UNIT COST	EXTENSION
				90% Design Deliverable							
1	Mobilization	1	L.S.	\$ 38,620.00	\$ 38,620.00	\$ 80,000.00	\$ 80,000.00	\$ 150,000.00	\$ 150,000.00	\$ 64,385.00	\$ 64,385.00
2	Temporary Traffic Control	1	L.S.	\$ 5,000.00	\$ 5,000.00	\$ 4,000.00	\$ 4,000.00	\$ 50,000.00	\$ 50,000.00	\$ 18,690.00	\$ 18,690.00
3	Shoring and Trench Safety	1	L.S.	\$ 5,000.00	\$ 5,000.00	\$ 12,000.00	\$ 12,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,275.00	\$ 1,275.00
4	Temporary Erosion and Sediment Control	1	L.S.	\$ 2,000.00	\$ 2,000.00	\$ 500.00	\$ 500.00	\$ 1,000.00	\$ 1,000.00	\$ 19,255.00	\$ 19,255.00
5	Bypass Pumping	1	L.S.	\$ 36,500.00	\$ 36,500.00	\$ 32,000.00	\$ 32,000.00	\$ 50,000.00	\$ 50,000.00	\$ 78,000.00	\$ 78,000.00
6	Gravity Block Wall	1	L.S.	\$ 14,150.00	\$ 14,150.00	\$ 12,000.00	\$ 12,000.00	\$ 14,000.00	\$ 14,000.00	\$ 21,380.00	\$ 21,380.00
7	Wet Well	1	L.S.	\$ 30,500.00	\$ 30,500.00	\$ 210,000.00	\$ 210,000.00	\$ 100,000.00	\$ 100,000.00	\$ 114,100.00	\$ 114,100.00
8	Pumps and Piping	1	L.S.	\$ 68,000.00	\$ 68,000.00	\$ 98,000.00	\$ 98,000.00	\$ 90,000.00	\$ 90,000.00	\$ 133,590.00	\$ 133,590.00
9	Electrical and Controls	1	L.S.	\$ 136,300.00	\$ 136,300.00	\$ 150,000.00	\$ 150,000.00	\$ 100,000.00	\$ 100,000.00	\$ 105,600.00	\$ 105,600.00
10	Programming and Integration	1	L.S.	\$ 19,900.00	\$ 19,900.00	\$ 25,000.00	\$ 25,000.00	\$ 30,000.00	\$ 30,000.00	\$ 22,450.00	\$ 22,450.00
11	Lift Station Miscellaneous	1	L.S.	\$ 27,500.00	\$ 27,500.00	\$ 30,000.00	\$ 30,000.00	\$ 110,000.00	\$ 110,000.00	\$ 32,465.00	\$ 32,465.00
12	Generator	1	L.S.	\$ 33,600.00	\$ 33,600.00	\$ 50,000.00	\$ 50,000.00	\$ 45,000.00	\$ 45,000.00	\$ 53,420.00	\$ 53,420.00
13	Fencing	1	L.S.	\$ 5,250.00	\$ 5,250.00	\$ 16,000.00	\$ 16,000.00	\$ 16,000.00	\$ 16,000.00	\$ 27,200.00	\$ 27,200.00
14	Startup and Commissioning	1	L.S.	\$ 2,500.00	\$ 2,500.00	\$ 14,000.00	\$ 14,000.00	\$ 4,000.00	\$ 4,000.00	\$ 14,260.00	\$ 14,260.00
15	Power Service Relocation and Coordination	1	L.S.			\$ 5,000.00	\$ 5,000.00	\$ 500.00	\$ 500.00	\$ 2,463.00	\$ 2,463.00
Subtotal					\$ 424,820.00	Subtotal	\$ 738,500.00		\$ 761,500.00		\$ 708,533.00
Construction Contingency (10%)					\$ 42,482.00	Sales Tax (10.1%)	\$ 74,588.50		\$ 76,911.50		\$ 71,561.83
Sales Tax (10%)					\$ 46,730.20	Project Total	\$ 813,088.50		\$ 838,411.50		\$ 780,094.83
<b>Total</b>					<b>\$ 514,032.20</b>						

ITEM #	ITEM	QTY	UNIT	Road Construction NW Inc		Pape & Sons Construction Inc		Midway Underground	
				UNIT COST	EXTENSION	UNIT COST	EXTENSION	UNIT COST	EXTENSION
1	Mobilization	1	L.S.	\$ 75,000.00	\$ 75,000.00	\$ 50,000.00	\$ 50,000.00	\$ 45,000.00	\$ 45,000.00
2	Temporary Traffic Control	1	L.S.	\$ 75,000.00	\$ 75,000.00	\$ 7,600.00	\$ 7,600.00	\$ 20,000.00	\$ 20,000.00
3	Shoring and Trench Safety	1	L.S.	\$ 2,000.00	\$ 2,000.00	\$ 2,500.00	\$ 2,500.00	\$ 5,200.00	\$ 5,200.00
4	Temporary Erosion and Sediment Control	1	L.S.	\$ 3,000.00	\$ 3,000.00	\$ 1,700.00	\$ 1,700.00	\$ 350.00	\$ 350.00
5	Bypass Pumping	1	L.S.	\$ 105,000.00	\$ 105,000.00	\$ 39,000.00	\$ 39,000.00	\$ 64,500.00	\$ 64,500.00
6	Gravity Block Wall	1	L.S.	\$ 25,000.00	\$ 25,000.00	\$ 22,000.00	\$ 22,000.00	\$ 28,000.00	\$ 28,000.00
7	Wet Well	1	L.S.	\$ 140,000.00	\$ 140,000.00	\$ 56,000.00	\$ 56,000.00	\$ 71,000.00	\$ 71,000.00
8	Pumps and Piping	1	L.S.	\$ 90,000.00	\$ 90,000.00	\$ 92,000.00	\$ 92,000.00	\$ 98,500.00	\$ 98,500.00
9	Electrical and Controls	1	L.S.	\$ 123,000.00	\$ 123,000.00	\$ 134,000.00	\$ 134,000.00	\$ 128,000.00	\$ 128,000.00
10	Programming and Integration	1	L.S.	\$ 25,500.00	\$ 25,500.00	\$ 22,500.00	\$ 22,500.00	\$ 28,000.00	\$ 28,000.00
11	Lift Station Miscellaneous	1	L.S.	\$ 31,800.00	\$ 31,800.00	\$ 49,000.00	\$ 49,000.00	\$ 9,500.00	\$ 9,500.00
12	Generator	1	L.S.	\$ 53,000.00	\$ 53,000.00	\$ 67,000.00	\$ 67,000.00	\$ 88,000.00	\$ 88,000.00
13	Fencing	1	L.S.	\$ 17,300.00	\$ 17,300.00	\$ 20,000.00	\$ 20,000.00	\$ 12,500.00	\$ 12,500.00
14	Startup and Commissioning	1	L.S.	\$ 12,000.00	\$ 12,000.00	\$ 12,500.00	\$ 12,500.00	\$ 13,600.00	\$ 13,600.00
15	Power Service Relocation and Coordination	1	L.S.	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00	\$ 5,000.00	\$ 3,500.00	\$ 3,500.00
Subtotal				\$ 780,600.00		\$ 580,800.00		\$ 615,650.00	
Sales Tax (10.1%)				\$ 78,840.60		\$ 58,660.80		\$ 62,180.65	
Project Total				\$ 859,440.60		\$ 639,460.80		\$ 677,830.65	

## FIRCREST CITY COUNCIL AGENDA SUMMARY

**NEW BUSINESS:** Claremont Street Grind and Overlay Washington State Transportation Improvement Board (TIB) Grant Agreement (TIB Project Number 3-P-130(005)-1)

**ITEM:** 13Q

**DATE:** December 12, 2023

**FROM:** Tyler Bemis, Public Works Director

---

**RECOMMENDED MOTION:** I move to adopt Resolution No. \_\_\_\_\_, authorizing the City Manager to execute a grant agreement with the Washington State Transportation Improvement Board (TIB) in the amount of \$677,409 for the Claremont Street Grind and Overlay Project.

---

**PROPOSAL:** The Council is being asked to authorize the City Manager to execute an agreement with the Washington State Transportation Improvement Board (TIB) to accept an Arterial Preservation Program (APP) grant for funding of the Claremont Street (67<sup>th</sup> Ave West to Alameda Avenue) Grind and Overlay Project. The grant will fund 84.47% of approved eligible project costs with a maximum grant of \$677,409. In addition to the grind and overlay, sidewalk curb ramps will also be updated to ADA standards. The TIB has confirmed that since this is an APP project, it did not have to be identified on the City's Six-Year Transportation Improvement Plan. Acceptance of this grant requires the return of the signed Agreement and Funding Status Forms (see attached).

**FISCAL IMPACT:** The City would be required to provide local matching funds up to a maximum of \$124,543. This amount is included in the 2024 adopted Street Capital Fund budget, utilizing REET funds.

**ADVANTAGE:** A grind and overlay project of this nature is of great benefit to the City's infrastructure. This will also improve the City's overall pavement condition index (PCI).

**DISADVANTAGES:** None.

**ALTERNATIVES:** Fund the entire project with REET funds, which is not a feasible option.

**HISTORY:** Claremont Street has been crack-sealed multiple times over the years and carries an average pavement rating (PCI) of 70. This is a higher travelled segment of road in the City and is classified as an Urban Major Collector.

**ATTACHMENTS:** Resolution  
Grant Agreement  
Funding Status Form  
Grant Award Letter







City of Fircrest  
3-P-130(005)-1  
2024 Overlay  
Multiple Locations

STATE OF WASHINGTON  
TRANSPORTATION IMPROVEMENT BOARD  
AND  
City of Fircrest  
AGREEMENT

THIS GRANT AGREEMENT (hereinafter “Agreement”) for the 2024 Overlay, Multiple Locations (hereinafter “Project”) is entered into by the WASHINGTON STATE TRANSPORTATION IMPROVEMENT BOARD (hereinafter “TIB”) and City of Fircrest, a political subdivision of the State of Washington (hereinafter “RECIPIENT”).

1.0 PURPOSE

For the project specified above, TIB shall pay 84.4700 percent of approved eligible project costs up to the amount of \$677,409, pursuant to terms contained in the RECIPIENT’S Grant Application, supporting documentation, chapter 47.26 RCW, title 479 WAC, and the terms and conditions listed below.

2.0 SCOPE AND BUDGET

The Project Scope and Budget are initially described in RECIPIENT’S Grant Application and incorporated by reference into this Agreement. Scope and Budget will be further developed and refined, but not substantially altered during the Design, Bid Authorization and Construction Phases. Any material alterations to the original Project Scope or Budget as initially described in the Grant Application must be authorized by TIB in advance by written amendment.

3.0 PROJECT DOCUMENTATION

TIB requires RECIPIENT to make reasonable progress and submit timely Project documentation as applicable throughout the Project. Upon RECIPIENT’S submission of each Project document to TIB, the terms contained in the document will be incorporated by reference into the Agreement. Required documents include, but are not limited to the following:

- a) Project Funding Status Form
- b) Bid Authorization Form with plans and engineers estimate
- c) Award Updated Cost Estimate
- d) Bid Tabulations
- e) Contract Completion Updated Cost Estimate with final summary of quantities
- f) Project Accounting History

4.0 BILLING AND PAYMENT

The local agency shall submit progress billings as project costs are incurred to enable TIB to maintain accurate budgeting and fund management. Payment requests may be submitted as



often as the RECIPIENT deems necessary, but shall be submitted at least quarterly if billable amounts are greater than \$50,000. If progress billings are not submitted, large payments may be delayed or scheduled in a payment plan.

## 5.0 TERM OF AGREEMENT

This Agreement shall be effective upon execution by TIB and shall continue through closeout of the grant or until terminated as provided herein, but shall not exceed 10 years unless amended by the Parties.

## 6.0 AMENDMENTS

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

## 7.0 ASSIGNMENT

The RECIPIENT shall not assign or transfer its rights, benefits, or obligations under this Agreement without the prior written consent of TIB. The RECIPIENT is deemed to consent to assignment of this Agreement by TIB to a successor entity. Such consent shall not constitute a waiver of the RECIPIENT's other rights under this Agreement.

## 8.0 GOVERNANCE & VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington and venue of any action brought hereunder shall be in the Superior Court for Thurston County.

## 9.0 DEFAULT AND TERMINATION

### 9.1 NON-COMPLIANCE

- a) In the event TIB determines, in its sole discretion, the RECIPIENT has failed to comply with the terms and conditions of this Agreement, TIB shall notify the RECIPIENT, in writing, of the non-compliance.
- b) In response to the notice, RECIPIENT shall provide a written response within 10 business days of receipt of TIB's notice of non-compliance, which should include either a detailed plan to correct the non-compliance, a request to amend the Project, or a denial accompanied by supporting details.
- c) TIB will provide 30 days for RECIPIENT to make reasonable progress toward compliance pursuant to its plan to correct or implement its amendment to the Project.
- d) Should RECIPIENT dispute non-compliance, TIB will investigate the dispute and may withhold further payments or prohibit the RECIPIENT from incurring additional reimbursable costs during the investigation.

### 9.2 DEFAULT

RECIPIENT may be considered in default if TIB determines, in its sole discretion, that:



- a) RECIPIENT is not making reasonable progress toward correction and compliance.
- b) TIB denies the RECIPIENT's request to amend the Project.
- c) After investigation TIB confirms RECIPIENT'S non-compliance.

TIB reserves the right to order RECIPIENT to immediately stop work on the Project and TIB may stop Project payments until the requested corrections have been made or the Agreement has been terminated.

### 9.3 TERMINATION

- a) In the event of default by the RECIPIENT as determined pursuant to Section 9.2, TIB shall serve RECIPIENT with a written notice of termination of this Agreement, which shall be served in person, by email or by certified letter. Upon service of notice of termination, the RECIPIENT shall immediately stop work and/or take such action as may be directed by TIB.
- b) In the event of default and/or termination by either PARTY, the RECIPIENT may be liable for damages as authorized by law including, but not limited to, repayment of grant funds.
- c) The rights and remedies of TIB provided in the AGREEMENT are not exclusive and are in addition to any other rights and remedies provided by law.

### 9.4 TERMINATION FOR NECESSITY

TIB may, with ten (10) days written notice, terminate this Agreement, in whole or in part, because funds are no longer available for the purpose of meeting TIB's obligations. If this Agreement is so terminated, TIB shall be liable only for payment required under this Agreement for performance rendered or costs incurred prior to the effective date of termination.

## 10.0 USE OF TIB GRANT FUNDS

TIB grant funds come from Motor Vehicle Fuel Tax revenue. Any use of these funds for anything other than highway or roadway system improvements is prohibited and shall subject the RECIPIENT to the terms, conditions and remedies set forth in Section 9. If Right of Way is purchased using TIB funds, and some or all of the Right of Way is subsequently sold, proceeds from the sale must be deposited into the RECIPIENT's motor vehicle fund and used for a motor vehicle purpose.

## 11.0 INCREASE OR DECREASE IN TIB GRANT FUNDS

At Bid Award and Contract Completion, RECIPIENT may request an increase in the maximum payable TIB funds for the specific project. Requests must be made in writing and will be considered by TIB and awarded at the sole discretion of TIB. All increase requests must be made pursuant to WAC 479-05-202 and/or WAC 479-01-060. If an increase is denied, the recipient shall be liable for all costs incurred in excess of the maximum amount payable by TIB. In the event that final costs related to the specific project are less than the initial grant award, TIB funds will be decreased and/or refunded to TIB in a manner that maintains the intended ratio between TIB funds and total project costs, as described in Section 1.0 of this Agreement.



## 12.0 INDEPENDENT CAPACITY

The RECIPIENT shall be deemed an independent contractor for all purposes and the employees of the RECIPIENT or any of its contractors, subcontractors, and employees thereof shall not in any manner be deemed employees of TIB.

## 13.0 INDEMNIFICATION AND HOLD HARMLESS

The PARTIES agree to the following:

Each of the PARTIES, shall protect, defend, indemnify, and save harmless the other PARTY, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from, that PARTY's own negligent acts or omissions which may arise in connection with its performance under this Agreement. No PARTY will be required to indemnify, defend, or save harmless the other PARTY if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the other PARTY. Where such claims, suits, or actions result from the concurrent negligence of the PARTIES, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a PARTY's own negligence. Each of the PARTIES agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each of the PARTIES, by mutual negotiation, hereby waives, with respect to the other PARTY only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provision of Title 51 RCW. In any action to enforce the provisions of the Section, the prevailing PARTY shall be entitled to recover its reasonable attorney's fees and costs incurred from the other PARTY. The obligations of this Section shall survive termination of this Agreement.

## 14.0 DISPUTE RESOLUTION

- a) The PARTIES shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this AGREEMENT. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this AGREEMENT.
- b) Informal Resolution. The PARTIES shall use their best efforts to resolve disputes promptly and at the lowest organizational level.
- c) In the event that the PARTIES are unable to resolve the dispute, the PARTIES shall submit the matter to non-binding mediation facilitated by a mutually agreed upon mediator. The PARTIES shall share equally in the cost of the mediator.
- d) Each PARTY agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.
- e) The PARTIES agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.



15.0 ENTIRE AGREEMENT

This Agreement, together with the RECIPIENT'S Grant Application, the provisions of chapter 47.26 Revised Code of Washington, the provisions of title 479 Washington Administrative Code, and TIB Policies, constitutes the entire agreement between the PARTIES and supersedes all previous written or oral agreements between the PARTIES.

16.0 RECORDS MAINTENANCE

The RECIPIENT shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. RECIPIENT shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Agreement shall be subject at all reasonable times to inspection, review or audit by TIB personnel duly authorized by TIB, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Approved as to Form  
Attorney General

By:

Signature on file

\_\_\_\_\_  
Guy Bowman  
Assistant Attorney General

Lead Agency

Transportation Improvement Board

\_\_\_\_\_  
Chief Executive Officer                      Date

\_\_\_\_\_  
Executive Director                              Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name



# Project Funding Status Form

Agency Name: **FIRCREST**  
Project Name: **2024 Overlay**  
**Multiple Locations**

TIB Project Number: **3-P-130(005)-1**

Verify the information below and revise if necessary.

Email to: Your TIB Engineer

## PROJECT SCHEDULE

Target Dates		
Construction Approval	Contract Bid Award	Contract Completion

## PROJECT FUNDING PARTNERS

List additional funding partners and amount.

Funding Partners	Amount	Revised Funding
FIRCREST	124,543	
WSDOT	0	
Federal Funds	0	
<b>TOTAL LOCAL FUNDS</b>	<b>124,543</b>	

Signatures are required from two different agency officials. Return the originally signed form to your TIB Engineer.

### Mayor or Public Works Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

### Financial Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title



# Washington State Transportation Improvement Board

## TIB Members

Chair  
Mayor Glenn Johnson  
City of Pullman

Vice Chair  
Councilmember Sam Low  
Snohomish County

Amy Asher  
Mason Transit Authority

Aaron Butters, PE  
HW Lochner Inc.

Susan Carter  
Hopelink

Kent Cash, PE  
Port of Vancouver

Barbara Chamberlain  
WSDOT

Elizabeth Chamberlain  
City of Walla Walla

Dongho Chang, PE  
WSDOT

Scott Chesney  
Spokane County

Vicky Clarke  
Cascade Bicycle Club/Washington Bikes

Mike Dahlem, PE  
City of Sumner

Commissioner Al French  
Spokane County

Councilmember Hilda González  
City of Granger

Commissioner Scott Hutsell  
Lincoln County

Les Reardanz  
Whatcom Transportation Authority

Peter Rogalsky, PE  
City of Richland

Mayor Kim Roscoe  
City of Fife

Maria Thomas  
Office of Financial Management

Jennifer Walker  
Thurston County

Jane Wall  
County Road Administration Board

December 1, 2023

Mr. Tyler Bemis  
Public Works Director  
City of Fircrest  
115 Ramsdell Street  
Fircrest, WA 98466-6912

Dear Mr. Bemis:

Congratulations! We are pleased to announce the selection of your project, 2024 Overlay, Multiple Locations, TIB project number 3-P-130(005)-1.

TIB is awarding 84.4700% of approved eligible project costs with a maximum grant of \$677,409.

Before any work is permitted on this project, you must complete and email the following items to your TIB engineer:

- Verify the information on the attached Project Funding Status Form and, revise if necessary. Sign and email a copy.
- Sign and email one copy of the Fuel Tax Grant Distribution Agreement.

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by December 2, 2024 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Greg Armstrong, TIB Project Engineer, at [GregA@TIB.wa.gov](mailto:GregA@TIB.wa.gov).

Sincerely,

Ashley Probart  
Executive Director

Enclosures

Ashley Probart  
Executive Director

P.O. Box 40901  
Olympia, WA 98504-0901  
Phone: 360-586-1140  
Fax: 360-586-1165  
[www.tib.wa.gov](http://www.tib.wa.gov)