



AGENDA YAKIMA CITY COUNCIL

February 6, 2024

City Hall -- Council Chambers - 129 N 2nd Street, Yakima, WA

4:30 Executive Session | 5:30 p.m. Regular Meeting | 6:00 p.m. Public Hearings --- This meeting will be conducted in person, live streamed at www.yakimawa.gov/council/live-stream/ and telecast live on Y-PAC, Spectrum Cable Channel 194. You may also participate via Zoom: <https://cityofyakima.zoom.us/j/99447476219> or call in by dialing 1-253-215-8782 | Webinar ID: 994 4747 6219 | Passcode: 882209 --- Individuals who wish to provide public comment remotely are encouraged to submit a Public Comment Request Form online at: www.yakimawa.gov/council/public-comment no later than 3:00 p.m. on the day of the meeting. If you wish to provide public comment in-person, please fill out a "Request for Appearance" form and hand it to the City Clerk before you address City Council.

EXECUTIVE SESSION

1. Executive Session regarding collective bargaining pursuant to RCW 42.30.140

1. **Roll Call**

2. **Pledge of Allegiance**

3. **Interpreter Services**

4. **Public Comment**

There will be 35 minutes allotted for public comment with two and a half (2 1/2) minutes per speaker in order to allow as much opportunity as possible for audience participation. Written communication and e-mail messages are strongly encouraged.

5. **Open Discussion for the Good of the Order**

- A. Proclamations

- i. Black History Month proclamation
 - ii. Draft Welcome Home Vietnam Veterans Day proclamation

6. **Council Reports**

- A. Upcoming Chamber State of the City event
 - B. Discussion on City Manager job description
 - C. Resolution extending the moratorium regarding parking violations within the downtown area of the City of Yakima

7. **Consent Agenda**

Items listed are considered routine by the City Council and will be enacted by one motion without discussion. A Council member may request to remove an item from the Consent Agenda and, if approved, it will be placed on the regular agenda for discussion and consideration.

- A. Approval of minutes from the January 16, 2024 City Council regular meeting, January 22, 2024 special meeting and January 23, 2024 study session
- B. Project Completion and Contract Acceptance with Leslie & Campbell Inc for the Yakima Convention & Event Center Roof Replacement Project 2755
- C. Project Completion and Contract Acceptance with Central Washington Asphalt Inc for the Summitview Avenue Project 2566
- D. Resolution ratifying the declaration of an emergency and authorizing Professional Services Agreement with HLA Engineering and Land Surveying, Inc. for the S. 2nd Avenue Waterline Project
- E. Resolution authorizing a contract agreement with Andrew Kottkamp for Hearing Examiner Pro Tem services
- F. Resolution accepting an Agreement with KPG Psomas for Division & 3rd Ave Signal Installation Project 2598

DEPARTMENT ITEMS

- 8. 2023 Vacant Building Safety Project 4th Quarter Report
- 9. Resolution authorizing a Professional Services Agreement with Annie Murphey Consulting LLC to serve as the domestic violence high risk team coordinator
- 10. Resolution authorizing the City Manager to execute an Interlocal Agreement with the Washington Traffic Safety Commission for funding a Law Enforcement Liaison
- 11. Ordinance amending the City of Yakima Municipal Code Section 6.08.015 by adopting Revised Code of Washington 69.50.475, relating to penalties for sales of cannabis by cannabis retail outlets to persons under twenty-one years of age

12. Other Business

13. Adjournment

The next meeting is a City Council study session on February 13, 2024, at 5:00 p.m. in the City Hall Council Chambers

14. Council General Information

- A. Council General Information
- B. Prosecution Division 2023 Year End Report

Any invocation that may be offered before the official start of the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker.

A Council packet is available for review at the City Clerk's Office and on-line at www.yakimawa.gov. The City provides special accommodations, such as hearing devices, wheelchair space or language interpreters, for City meetings. Anyone needing special assistance please contact the City Clerk's office at (509) 575-6037 at least two business days prior to the meeting. All meetings are live streamed on the City of Yakima website at www.yakimawa.gov and telecast live on Y-PAC, Spectrum Cable Channel 194.



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. A.i.
For Meeting of: February 6, 2024

ITEM TITLE: Black History Month proclamation
SUBMITTED BY: Cally Price, Administrative Assistant to the City Manager
SUMMARY EXPLANATION:
 Reesha Cosby will be accepting the proclamation.

ITEM BUDGETED:
STRATEGIC PRIORITY:

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

ATTACHMENTS:

Description	Upload Date	Type
Black History Month proclamation	1/3/2024	Cover Memo

CITY OF YAKIMA PROCLAMATION

WHEREAS, since the Bicentennial year of 1976, Americans of all walks of life have come together during the month of February to honor the too-often neglected accomplishments of Black Americans in every area of endeavor throughout our history; and

WHEREAS, these accomplishments were made despite great inequities and injustices and are more remarkable for having been won at the cost of struggle and sacrifice by men and women who came to these shores in chains, and by their living descendants; and

WHEREAS, the African American community continues to contribute to the rich diversity and general welfare of Yakima; and

WHEREAS, during Black History Month we endeavor to learn about and celebrate the many experiences, achievements, and contributions made by African Americans to our historical and current economic, cultural, spiritual, and political development; and

WHEREAS, the City of Yakima continues to work toward becoming an inclusive community in which all citizens – past, present, and future – have similar opportunities for growth and are respected and recognized for their past contributions and potential future contributions to our community, the state, the country, and the world; and

WHEREAS, the City of Yakima is proud to honor the history and contributions of African Americans in our community, throughout our state, and nation.

NOW THEREFORE, I, Patricia Byers, Mayor of the City of Yakima and on behalf of the Yakima City Council, do hereby proclaim the month of February 2024 as

“BLACK HISTORY MONTH”

in the City of Yakima and encourage all citizens to celebrate our diverse heritage and culture, and continue our efforts to create career opportunities that are more just, peaceful, and prosperous for all.

Dated this 6th day of February, 2024

Patricia Byers, Mayor



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. A.ii.
For Meeting of: February 6, 2024

ITEM TITLE: Draft Welcome Home Vietnam Veterans Day proclamation

SUBMITTED BY: Dave Zabell, Interim City Manager

SUMMARY EXPLANATION:

Attached is a draft Welcome Home Vietnam Veterans Day proclamation for Council consideration. If approved, the proclamation will be read and presented at the March 19th City Council meeting.


ITEM BUDGETED:

STRATEGIC PRIORITY:

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

ATTACHMENTS:

Description	Upload Date	Type
 Draft Welcome Home Vietnam Veterans Day proclamation	1/22/2024	Cover Memo

CITY OF YAKIMA P R O C L A M A T I O N

WHEREAS, the Vietnam War was fought from 1961 to 1975, and involved North Vietnam and the Vietcong in conflict with United States Armed Forces and South Vietnam; and

WHEREAS, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam; and

WHEREAS, the Vietnam War was an extremely divisive issue among people in the United States, and the members of the United States Armed Forces who served bravely and faithfully were, upon their return home, caught in the middle of public debate about involvement of the United States in the Vietnam War; and

WHEREAS, there were 1,123 members of the United States Armed Forces from Washington State killed or missing in action and more than 171,980 Vietnam-era veterans who live in Washington. Our nation stands together for their service; and

WHEREAS, the people of Yakima, Washington realize that one of our most fundamental obligations is to show respect and dignity to all who have worn the uniform of the United States, and to honor their sacrifice by serving them as well as they served us; and

WHEREAS, Washington passed legislation which was signed by Governor Jay Inslee in 2013 proclaiming March 30 of each year as Welcome Home Vietnam Veterans Day in our State; and

WHEREAS, the Yakima Warriors Association Veterans group of Toppenish has held annual ceremonies honoring Welcome Home Vietnam Veterans with keynote speakers, wreath laying, full military honors, 21-gun salute and taps at the Korean-Vietnam memorial within Sarg Hubbard Park,

NOW THEREFORE, I, Patricia Byers, Mayor of the City of Yakima and behalf of the Yakima City Council, do hereby proclaim March 30, 2024 as

“WELCOME HOME VIETNAM VETERANS DAY”

in the City of Yakima and encourage all residents to honor all Vietnam Veterans.

Dated this 19th day of March, 2024

Patricia Byers, Mayor



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 6.A.
For Meeting of: February 6, 2024

ITEM TITLE: Upcoming Chamber State of the City event

SUBMITTED BY: Dave Zabell, Interim City Manager

SUMMARY EXPLANATION:

The Yakima Chamber of Commerce will hold its Chamber State of the City event on March 14, 2024 at 4:30 p.m. at a location to be determined. Councilmembers are being asked by the Chamber of Commerce to confirm their availability for attendance at this event so they can properly advertise the event.

Should a quorum of the Council wish to participate in this event, it will be noticed as a special meeting pursuant to the Open Public Meetings Act.

ITEM BUDGETED:

STRATEGIC PRIORITY:

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 6.B.
For Meeting of: February 6, 2024

ITEM TITLE: Discussion on City Manager job description
SUBMITTED BY: Connie Mendoza, Director of Human Resources

SUMMARY EXPLANATION:

As directed by the City Council at the January 16, 2024 Council meeting, this item is to allow for discussion regarding City Manager job description. A draft copy of the classification as well as a recruitment brochure are included.

Approval by the City Council of the job description is the first step in the recruitment process. Additional recruitment process considerations include:

Develop Framework:

- Marketing Plan
- Advertising/Outreach
- Establish timeline
- Review salary range

Structure of Candidate Evaluation Process:

- Screening of applications
- Council Interviews
- Interview panels (Staff, Community, etc.)
- Community involvement (Forum, Meet & Greet, etc.)
- Feedback method

Selection Process

- Application review
- Candidate selection
- Candidate interviews
- Reference checks
- Background checks
- Final selection

Negotiation of Employment Agreement

- Salary

- Benefits
- Working conditions
- Severance
- Other

Staff will present recommendations to Council regarding the above at a future meeting.

ITEM BUDGETED:

STRATEGIC PRIORITY:

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

ATTACHMENTS:

Description		Upload Date	Type
<input type="checkbox"/>	Draft City Manager Classification	1/31/2024	Cover Memo
<input type="checkbox"/>	Draft CM Recruitment Brochure	2/1/2024	Backup Material

**City of Yakima
Class Specification**

1110

CITY MANAGER

DEFINITION: The City Manager is responsible for directing the administration of City government in accordance with the municipal management principles, City ordinances, Yakima City Charter, applicable local, state and federal laws, and policies set forth by the Yakima City Council.

The City Manager appoints all Civil Service exempt employees including but not limited to Department Heads as provided by City Ordinance; supervises activities of all City departments and divisions, including public works, collection and disbursement of revenues, personnel management, public safety, code enforcement, City legal services, and City communications; oversees annual budget preparation and management; submits an annual budget to the City Council for approval; plans for future development to provide for population growth and expansion of public services.

The City Manager provides guidance, support, and problem solving assistance to all Department Heads in handling daily activities and responsibilities for the City of Yakima, making independent decisions on operational issues, managing and evaluating the effectiveness of technical operations, monitoring implementation of the City budget and ensuring that the City's programs are implemented in a manner consistent with City goals and policies. The City Manager reports to the City Council and is the appointing authority for all other City of Yakima employees.

ESSENTIAL FUNCTIONS: Plans, directs and coordinates the City's administrative functions and administers and executes the City's laws and ordinances. Provides City departments appropriate direction, encourages feedback and communication, and provides problem solving guidance and assistance.

Appoints, manages and, when necessary for the good of the City, removes from employment personnel of the City, all in compliance with Civil Service rules, regulations and laws; may authorize the heads of departments or offices to appoint and remove subordinates in such departments or offices.

Prepares the budget annually, submits it to the City Council and is responsible for budget administration after adoption.

Prepares a complete report of the City's finances and administrative activities of the City for the preceding year and submits it to the City Council at the end of the fiscal year.

Recommends measures considered necessary and expedient for adoption by the City Council.

Keeps the Council advised of the financial condition of future needs of the City and makes such recommendations as may deem desirable.

Administers all finance and fiscal matters of the City, countersigns all warrants, approves all claim vouchers and authorizes all travel for administrative personnel.

Oversees preparation of reports and recommendations for Council action, attends all City Council meetings and assures follow-up on Council actions and completion of assignments to staff. Serves as a resource to the City Council and staff through positive interactions and collaboration.

Attends a variety of meetings as the City's official staff representative and is required to speak to a wide variety of community groups, service clubs, professional organizations, etc.; serves as local liaison with State and County agencies. Work regularly requires attendance at meetings outside of normal working hours.

Supports the administration of City personnel policies in compliance with appropriate Collective Bargaining Agreements, City Charter, and Civil Service Rules and Regulations. Ensures timely resolution of operational issues, anticipates potential crisis and acts to prevent their occurrence or reduce operational impact.

Contributes to the effective administration of City government by fostering an attitude that encourages cooperation and coordination of efforts and efficient use of resources. Provides continuous effort to improve operations, decrease turnaround times, streamline work processes, and work cooperatively and jointly to provide quality customer service.

Performs such other duties as may be required by the City Council.

MAJOR WORKER CHARACTERISTICS: Considerable knowledge of the principles, procedures and techniques of municipal organization and administrative operations. Knowledge of federal, state and municipal laws and ordinances, and City of Yakima policies and procedures. Knowledge of best principles and techniques of management, supervision, corrective action, progressive discipline and leadership practices; principles and practices of work flow and systems analysis; record keeping systems, processes, and practices; best principles and practices for project and financial management; municipal records retention procedures and techniques. Demonstrates knowledge and sound judgement with regard to public disclosure and confidentiality standards.

Knowledge of principles and practices of a wide variety of departmental and staff municipal functions including, but not limited to, public works, engineering and related services, community and economic development, airport operations, land

use and zoning, public safety services, budgeting, finance, procurement, legal and personnel administration, and labor relations.

Strong working knowledge of: computer spreadsheets; databases; industry applications; Microsoft Office Suite including Excel; report writing tools and office equipment; professional office procedures and practices; and computerized municipal budgetary and fiscal management practices. Ability to operate standard office equipment including but not limited to: computer, copy machine, telephone and mobile devices.

Knowledge of techniques and strategies for dissemination of complex written and verbal information to a wide range of individuals, including the City Council, staff and members of the public, through effective written and oral reports, letters, and other formal communications such as public presentations or news conferences.

Excellent ability to conduct or supervise management and administrative analytical studies and to prepare policy recommendations for action. Ability to analyze and resolve problems; gather, analyze and interpret data; advise and counsel employees and managers.

Outstanding ability to communicate calmly, clearly, concisely, and tactfully in a wide variety of situations, including under stress. Must possess well developed and effective communication skills, both written and oral, with appropriate use of business English and plain English, including but not limited to correct grammar, vocabulary, letter composition, editing, spelling, and punctuation. Must possess the ability to make informative and persuasive presentations to individuals and groups, conduct public meetings, and participate in public forums. Must routinely and regularly maintain confidentiality and discretion through all forms of communication.

Ability to provide effective leadership and guidance to others with strong capacity to establish and maintain cooperative, successful working relationships and public relations credibility with City's management staff, City Council members, employees and employee associations, civic groups, professional organizations, private citizens, the news media, other local, state, and federal officials and legislative representatives.

Ability to absorb and analyze information rapidly, draw sound conclusions, and make decisions and recommendations quickly which address technical, legal, financial, personnel, and other administrative issues. Must be able to work effectively on several projects concurrently; work independently with self-direction and minimal direction or oversight; maintain sustained attention to detail; work under timeline pressures; adapt quickly to changing priorities and demands; prioritize and assign workloads; and make sound decisions within broad guidelines. Ability to respond, implement, and manage an emergency plan of action including but not limited to: technological or operating issues and/or emergency situations.

Knowledge of collective bargaining laws, procedures, and arbitration decisions which impact municipal operations. Must have ability to successfully assist with facilitation and negotiation of collective bargaining agreements in accordance with goals and guidelines of the City Council.

Ability to coordinate the diverse activities of various City departments and City-wide programs and capability to motivate and persuade key staff in City departments to adhere to Council objectives and policies at the City Manager's directions. Ability to work effectively with Yakima City Council and staff to address strategic priorities.

Ability to develop, present and gain acceptance for long-range programs and budgets. Must be able to locate grant resources and prepare grant proposals for projects.

Ability to work extended hours as needed to carry out the executive management and supervisory responsibilities and functions for the City of Yakima.

PHYSICAL DEMANDS: Work is performed primarily in an office environment while sitting at a desk or computer terminal for extended periods of time or while standing for a period of time. Occasionally needs to move inside the office to access file cabinets, office machinery, and department records. Constant use of both hands in reaching/handling/grasping/keyboarding and other fine manipulation while operating computers and performing other duties. Occasional heavy work includes lifting and carrying up to 25 pounds. Occasionally ascends/descends stairs while maintaining balance. Constant use of all senses including feeling/talking/hearing/seeing while performing duties and communicating with co-workers, general public and completing all tasks as assigned. Must be able to distinguish color and maintain long-term and short-term memory. May work in remote locations or in noisy work areas. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

UNUSUAL WORKING CONDITIONS: May work with angry or upset individuals including those who may be unhappy with City policies and/or City decisions. May require extension of workday or work week with short notice including evening or weekend work to address workload and/or when meeting with the public. Required to carry a cell phone and respond to technological or operating issues and/or emergency situations outside the normal work schedule, including weekends and holidays. May require occasional travel from site to site for attendance at meetings, including evening meetings.

LICENSES, REGISTRATIONS AND/OR CERTIFICATES: Must be able to obtain and maintain a valid Washington State Driver's License within 6 months of hire.

MINIMUM REQUIREMENTS: Bachelor's Degree from a four-year college or university in business administration, business, law, public administration, political science, or a closely related field is required. Five (5) years of experience as a City Manager, Assistant City Manager, exempt level department head or other senior administrative officer. Master's Degree is strongly preferred. Must pass background investigation regarding applicant's aptitude, character, judgement, credit, driving record and criminal history.

Council Feedback Received:

Assistant Mayor Brown – consider modification of the minimum requirements:

- Include an alternate qualification allowing candidates with a minimum of 10 years real-world experience as a CEO or CFO in business or executive branch experience.
- Three (3) years of experience as a City Manager, Assistant City Manager, exempt level department head or other senior administrative officer is preferred.



DRAFT



City of Yakima, Wa

invites your interest in the position of

City Manager

129 N. 2nd St. ~ Yakima, WA 98901 ~ yakimawa.gov

Career Opportunity

The City of Yakima is seeking a knowledgeable leader who is approachable, fair, organized, and progressive for the position of City Manager. The City is looking for an individual with common sense and a can-do attitude.

The City seeks a candidate who is a visionary, yet has practical business sense and experience. The City desires a candidate with a heart for a community invested in agriculture and hometown values of integrity, hard work and service to others.

At the City of Yakima, customer service is not just a catch phrase, but a core principle. The best candidate will be respectful of council, staff, and the public, encourage an environment where creativity flourishes, ensure results and accountability. Other important characteristics are experience managing in lean times and the ability to anticipate and resolve issues before they escalate.

The position reports to the City Council and is responsible for the administration and daily management of the municipal government of the City of Yakima including, but not limited to, the supervision and direction of department directors and other staff.

Salary and Benefits

Annual salary range:

\$197,184 to \$239,699

Benefits:

- Longevity Pay (After 5 years)
- 3% employer contribution to 457 deferred compensation plan
- Paid Time Off (PTO)
- Self-insured medical, dental & vision coverage
- Free access to City-owned health clinic
- WA State PERS pension Life insurance
- Voluntary long-term disability, long-term care insurance, & other supplemental insurance
- Wellness Incentive Program
- Flexible Spending Account
- Relocation reimbursement
- Car allowance



QUALIFICATIONS

The ideal candidate will possess a bachelor's degree in Public Administration, Business, Law, Political Science or closely related field and a minimum of five (5) years experience as a City Manager, Assistant City Manager, exempt level department head or other senior administrative officer. A master's degree is strongly preferred.

The successful City Manager candidate will have outstanding interpersonal and communication skills while being open and approachable.

She/he will work in the best interest of the City of Yakima in accordance with the City Charter and policies determined by the City Council.

ESSENTIAL FUNCTIONS

- Plans, directs and coordinates the City's administrative functions. Administers and executes the City's laws and ordinances.
- Prepares/submits annual budget to Council and performs budget administration. Regularly advises Council of the financial conditions, makes recommendations, and submits annual report of the City's finances and activities for the preceding year.
- Recommends measures for Council adoption. Oversees preparation and presentations of reports and recommendations for Council action. Attends all Council meetings and assures follow-up on all actions and staff assignments.
- Possesses appointing authority for department directors. Provides departments direction, problem solving and assistance while encouraging input and communication. Supports the administration of the City's personnel policies in compliance with collective bargaining agreements, City Charter and Civil Service.
- Serves as local liaison with state and county agencies. Attends a variety of meetings as the City's official staff representative, including community groups, service clubs and professional organizations.
- Ensures timely resolution to operational issues, anticipates potential crises and acts to prevent their occurrences or reduce operational impacts.
- Fosters cooperation, coordination and efficient use of resources. Provides ongoing efforts to improve processes and provide quality customer service.

City of Yakima Departments & Staff

The City of Yakima employs 750+ permanent employees in addition to approximately 200 temporary employees.

Operating departments:

- City Administration
- Public Works
- Finance & Budget
- Human Resources
- Community Development
- Yakima Air Terminal
- Municipal Court
- Legal
- Police
- Fire



ECONOMY and COMMUNITY

Yakima has been the cultural, business, educational, healthcare, and governmental focal point of the Central Washington region since it was founded more than 125 years ago.

Originally built along the then-new Northern Pacific Railway line, Yakima has grown from its agricultural roots into a vibrant, diverse, metropolitan city. With a rich history and a bright future, Yakima is the Heart of Central Washington.

Yakima's economy has traditionally revolved around agriculture and a wide variety of crops are grown in the Yakima Valley. These include more than 30 varieties of fruit (apples, cherries, peaches, pears, nectarines, apricots and berries) and vegetables (such as asparagus and eggplant). The Yakima region is well known for producing about 75% of all the hops grown in the United States.

While Yakima still relies on agriculture to drive its economy, over 250 manufacturing firms call the area home and produce a variety of products. They include aircraft parts, wood products, plastic products, recreational vehicles and communications technology.

Tourism is the fastest growing segment of the Yakima economy. More than 70 wineries are located in the Valley and regularly draw visitors to sample and buy internationally renowned varietals. Multiple craft breweries and distilleries utilize home-grown products in their unique offerings.

Yakima is host to many family-friendly facilities and events including the new YMCA/Yakima Rotary Aquatic Center, Capitol Theatre, Sozo Sports Complex, the Central Washington State Fair, a wood bat summer league baseball team, and welcomes numerous regional youth and adult sports tournaments.

Outdoor recreation, including water and snow skiing, fishing, hunting, boating, hiking, horseback riding, and white water rafting, also makes Yakima a favorite destination for people from throughout the Northwest and around the world.

City Government

Yakima is a Charter Civil Service city governed by a seven-member Council operating within the council/manager form of government.

Council members serve staggered four-year terms and are elected as representatives from within the City's seven districts. The mayor is selected by the Council from among its members.

As a full-service city, the 2024 General Government budget is approximately \$75 million and its total budget is just over \$251 million.

Full-time employees consist of approximately 24% in Police, 18% in Fire, 18% in Utilities, 7% in Transit, 4% in Streets/Traffic, and 29% in other City departments and divisions.





GEOGRAPHY and CLIMATE

Yakima is located in the south central region of Washington State, approximately 150 miles east of Seattle. Yakima covers about 28 square miles.

Sunshine is the norm with 270 to 300 blue sky days per year. The area enjoys four separate and distinct seasons, with hot and dry summers while winters are cool with light snowfall.

DEMOGRAPHICS

Yakima is the largest city in Yakima County and serves as the county seat. With a population of more than 98,000, Yakima is the 11th largest city in Washington State.

Most of the people who founded Yakima were of European descent, although significant numbers of African-Americans and Asian-Americans homesteaded in the area as well.

Over the past 30-plus years, the Valley has experienced a large influx of Latino immigrants, accounting for approximately 52% of the population in Yakima County.

Today, the Yakima community enjoys a rich mixture of people from many cultural and ethnic backgrounds -75% of the population have at least a high school diploma and 18% have a bachelor's degree or higher. The median annual household income was estimated to be \$64,910 in 2022.



COST of LIVING

The cost of living in Yakima is below the national average at 95% and there is no state-imposed income tax. The median sales price of a home is approximately \$350,000 and the average commuting time to work is about 15 minutes.

EDUCATIONAL OPPORTUNITIES

Beyond K through 12, the area boasts a private technical college, a community college, a university, a medical school, and a number of vocational education programs.

APPLICATION PROCESS

The City of Yakima is an Equal Opportunity Employer.

How to apply:

Submit an online application at www.yakimawa.gov.

A complete application must include the following attachments:

- Letter of interest and resume
- Name and complete contact information for five references, including at least one current or previous supervisor



**Thank you for
considering the
City of Yakima**

City of Yakima

129 N 2nd Street
Yakima, WA 98901

For more information contact:

Connie Mendoza
Director of Human Resources
Connie.Mendoza@yakimawa.gov
509-249-6868

Helpful links

- **City of Yakima:**
www.yakimawa.gov
- **Greater Yakima Chamber of Commerce** www.yakima.org
- **Yakima Valley Tourism**
www.visityakima.com
- **Downtown Association of Yakima**
www.downtownyakima.com
- **Yakima School District:**
www.yakimaschools.org
- **Yakima County Devt. Assoc.**
www.chooseyakimavalley.com





**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 6.C.
For Meeting of: February 6, 2024

ITEM TITLE: Resolution extending the moratorium regarding parking violations within the downtown area of the City of Yakima

SUBMITTED BY: Sara Watkins, City Attorney

SUMMARY EXPLANATION:

On December 12, 2023, the City, through oral motion, moved for a moratorium on enforcement of parking infractions in the downtown area. The moratorium was for two months, which expires on February 10, 2024. The City Council held a study session to receive public input on downtown parking issues on January 23, 2024. At that meeting, the City Council directed staff to bring back a resolution extending the moratorium an additional 60 days.

The moratorium clarifies that it pertains only to parking enforcement with regards to the time limitations (2-hour free parking) of YMC 9.50.065, as well as the need for a long-term parking permit for long-term parking in City-owned parking lots as required by YMC 9.50.220. The moratorium also specifies that the downtown area is the CBD (Central Business District) zone of the City. This specification is consistent with the messaging from the first moratorium.

As proposed, the Resolution extends the moratorium an additional week beyond the 60 days in order to better align with the April 16, 2024 regular City Council meeting.

ITEM BUDGETED: Yes


STRATEGIC PRIORITY: Neighborhood and Community Building

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Adopt Resolution.

ATTACHMENTS:

Description	Upload Date	Type
 Resolution_Parking Moratorium	2/1/2024	Resolution

RESOLUTION NO. R-2024-

A RESOLUTION extending the moratorium regarding parking violations within the downtown area of the City of Yakima.

WHEREAS, on December 12, 2023, the Council unanimously voted to place a moratorium on parking enforcement for the following sixty (60) days in the downtown; and

WHEREAS, on January 23, 2024, the Council held a study session and took comment from the public regarding downtown parking; and

WHEREAS, the moratorium on parking enforcement downtown is set to expire on February 10, 2024; and

WHEREAS, the City Council wishes to fully evaluate the issues associated with parking downtown, and take into account the comments made at the January 23, 2024 study session, so needs additional time to do so, necessitating an extension of the moratorium; and

WHEREAS, the City Council of the City of Yakima finds that it is in the best interest of the City and its residents, as well as downtown business owners and those visiting downtown, to continue the parking enforcement moratorium with regards to time limitations on streets and in City-owned parking lots, and the need for a long-term parking permit to park in City-owned parking lots, in Yakima's downtown area; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:

1. There is hereby a moratorium on enforcing the time limits regarding on-street and City-owned parking lots found in Yakima Municipal Code section 9.50.065: Parking Time Limits and Yakima Municipal Code section 9.50.220: Long-term Parking Permits, within downtown Yakima.
2. For purposes of this moratorium, downtown Yakima has the same meaning and boundaries as the Central Business District zone in the Yakima Urban Area Zoning Ordinance.
3. This moratorium shall expire at 11:59 p.m. on Friday, April 19, 2024.

ADOPTED BY THE CITY COUNCIL this 6th day of February, 2024.

ATTEST:

Patricia Byers, Mayor

Brandy Bradford, Deputy City Clerk



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 7.A.
For Meeting of: February 6, 2024

ITEM TITLE: Approval of minutes from the January 16, 2024 City Council regular meeting, January 22, 2024 special meeting and January 23, 2024 study session

SUBMITTED BY: Rosalinda Ibarra, City Clerk

SUMMARY EXPLANATION:

See attached.

ITEM BUDGETED:

STRATEGIC PRIORITY:

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Approve minutes.

ATTACHMENTS:

Description	Upload Date	Type
1-16 regular mtg_draft minutes	1/23/2024	Cover Memo
1-22 special mtg_draft minutes	1/25/2024	Cover Memo
1-23 study session_draft minutes	1/29/2024	Cover Memo



MINUTES YAKIMA CITY COUNCIL

January 16, 2024

**City Hall – Council Chambers - 129 N 2nd Street, Yakima, WA
5:30 p.m. Regular Meeting conducted in person and virtually via Zoom.**

1. **Roll Call**

Present: Mayor Patricia Byers presiding; Assistant Mayor Matt Brown; and Councilmembers Reedy Berg, Janice Deccio, Rick Glenn, Danny Herrera and Leo Roy

Staff: Assistant City Manager Rosylen Oglesby, City Attorney Sara Watkins and City Clerk Rosalinda Ibarra

2. **Pledge of Allegiance**

Mayor Byers led the Pledge of Allegiance.

3. **Interpreter Services**

Mayor Byers introduced Jorge Villaseñor who announced interpreter services are available in Spanish.

4. **Public Comment**

David Macias, AFSCME President and City Wastewater Division employee; Tim Sears, City employee; Dustin Miley, City Water Division employee; and, Matt Mayer, City Irrigation Division employee, spoke regarding working conditions, competitive wages, and inability to retain City employees.

Joey Anderson, City resident, spoke about her current living conditions and lack of services available to community members struggling with rental properties and landlord issues.

Kyle Curtis, County Commissioner District 2, welcomed new Council members and expressed interest in collaborating on future projects, such as the crime lab and the homeless response system.

Scott Kracht, spoke regarding several matters.

Natalie McClendon, City resident and chair of the Community Integration Committee (CIC), spoke about public participation barriers. She noted the work that the CIC accomplished in reviewing the single family rehab program and the ability to delve deeper into expanding programs to serve a larger portion of the community.

5. **Open Discussion for the Good of the Order**

A. Appointments to Boards, Commissions and Council Committees

i. Council assignments to Boards, Commissions, and Committees

Councilmembers reviewed the list of boards, commissions, and committees. It was Council consensus to make the following appointments at this time:

- Nominating Committee (members change every year): Brown, Deccio, Byers
- GRIT Steering Committee: Herrera, Deccio
- Yakima Valley Tourism Board of Directors: Deccio
- Lodging Tax Advisory Committee (LTAC): Byers
- Capitol Theatre Board: Deccio
- Choose Yakima Valley (YCDA): Herrera
- Yakima Chamber of Commerce Board: Brown and alternate Glenn
- Supporting Investments in Economic Diversification Board (SIED): Byers and alternate Brown
- Yakima Valley Conference of Governments (YVCOG) Executive Board: Byers
- Yakima Regional Clean Air Board: Deccio
- Yakima County Board of Health: Byers
- Yakima Basin Fish & Wildlife Recovery Board: Herrera
- Yakima Basin Integrated Plan: Byers
- Trans-Action: Byers
- Sports Commission: Herrera
- Homeless Network Executive Committee: Glenn
- Yakima County Homeless Coalition Executive Committee: Brown
- Arts Commission: Deccio
- Parks & Recreation Commission: Brown and alternate Herrera
- Community Integration Committee: Herrera and alternate Deccio
- Yakama Nation Community Contribution Committee: Byers
- Fire Relief & Pension Board: Byers
- Police Relief & Pension Board: Byers

MOTION: Brown motioned and Glenn seconded to set a future study session a discussion about Council committees and boards. The motion carried by unanimous vote.

6. Council Reports

- A. Update regarding calls with FAA and Rep. Newhouse about the airport terminal project

Robert Hodgman, Director of Yakima Air Terminal, provided an update about recent phone calls with Federal Aviation Administration officials and Representative Dan Newhouse regarding the funding for the modernization of the airport terminal project. He noted Representative Newhouse is supportive of the project.

HollyAnna LittleBull, Assistant Director of the Northwest Tribal Technical Assistance Program (NW TTAP), researched and located documents at archives regarding promises to return passenger rail service to the Yakama Nation and restore the North Coast Hiawatha Route. Ms. LittleBull announced that this project will move forward. Three locations have been identified to accommodate a train station and secure parking structures but will require approval by the Yakama Nation.

- B. Discussion about Association of Washington Cities - City Action Days

Assistant City Manager Rosylen Oglesby informed Councilmembers that registration to the Annual Association of Washington Cities, City Action Days is full but the City has an

opportunity to send a delegation to Olympia during this year's legislative session. Mayor Byers and Councilmember Glenn will attend on January 28-30.

C. Discussion regarding recruitment for City Manager

Assistant City Manager Rosylen Oglesby and Director of Human Resources Connie Mendoza presented Council members information to assist in their discussion regarding the recruitment for a new city manager. Regarding the recruitment process, Council was in favor of having an internal recruitment process and include a selection committee, community feedback, and staff engagement. After discussion,

MOTION: Brown moved and Deccio seconded to place on the next business meeting agenda a discussion about the City Manager job description. The motion carried by unanimous vote.

D. Resolution authorizing an agreement with GMP Consultants for Interim City Manager

Greg Prothman from GMP Consultants briefed Council on the proposal to select Dave Zabell as Interim City Manager for the City of Yakima.

The City Clerk read the resolution by title only.

A RESOLUTION approving an agreement with GMP Consultants to provide an Interim City Manager to the City of Yakima.

After discussion,

MOTION: Deccio moved and Herrera seconded to have City Council meet with Mr. Zabell, either individually or as a whole, to get to know him prior to authorizing a contract. The motion carried by a 6-1 vote; Brown voting no.

MOTION: Deccio moved and Brown seconded to have a special meeting on January 22nd at 5:30 p.m. at City Hall to meet with candidate Dave Zabell for potential Interim City Manager and vote on a resolution authorizing a contract with GMP Consultants. The motion carried by unanimous vote.

7. **Consent Agenda**

Mayor Byers referred to the items placed on the Consent Agenda, questioning whether there were any additions or deletions from Council members present. Item F was removed from the consent agenda. The City Clerk read the Consent Agenda items, including resolutions and ordinances, by title. (Items on the Consent Agenda are handled under one motion without further discussion—see motion directly below.)

MOTION: Brown moved and Deccio seconded to approve the consent agenda as read. The motion carried by a 7-0 roll call vote.

- A. Approval of minutes from the January 2, 2024 City Council regular meeting
- B. 2023 4th Quarter Treasury Report
- C. Approve payment of disbursements for the period December 1 – 31, 2023
- D. Resolution ratifying an emergency electrical repair at Lions Pool

RESOLUTION NO. R-2024-013, A RESOLUTION ratifying the declaration of an emergency and authorizing the City Manager to execute all applicable contracts for the emergency electrical repairs required at Lions Pool.

- E. Resolution accepting Change Order No. 1 to City Contract 2023-161 with Industrial Construction of Washington LLC for Project SW2661 DID #29 Stormwater Improvements and Spot Repairs

RESOLUTION NO. R-2024-014, A RESOLUTION accepting Change Order No. 1 to City Contract 2023-161 with Industrial Construction of Washington LLC for Project SW2661 DID #29 Stormwater Improvements and Spot Repairs.

- F. Item F was removed from the Consent Agenda
- G. Resolution amending CDBG recipient agreement between the City of Yakima and City of Yakima Public Works

RESOLUTION NO. R-2024-016, A RESOLUTION amending CDBG Recipient agreement between the City of Yakima and City of Yakima Public Works, A Division of the City of Yakima.

- H. Resolution authorizing a contract with M Sevigny Construction Inc for the Washington Fruit Community Center Roof & HVAC Projects 2653 & 2654

RESOLUTION NO. R-2024-017, A RESOLUTION authorizing an agreement with M Sevigny Construction Inc for the Washington Fruit Community Center HVAC & Roofing Projects 2653 and 2654.

- I. Resolution amending an interlocal agreement between the Washington State Department of Transportation, Yakima County, and the City of Yakima for the Naches-Cowiche Flood Risk Reduction and Floodplain Restoration Project

RESOLUTION NO. R-2024-018, A RESOLUTION amending the Interlocal Agreement between the Washington State Department of Transportation, Yakima County, and the City of Yakima for the Naches-Cowiche Flood Risk Reduction and Floodplain Restoration Project.

- J. Resolution authorizing an agreement with Image Trend for a records management system for the Fire Department

RESOLUTION NO. R-2024-019, A RESOLUTION authorizing an agreement with ImageTrend for Emergency Medical Services (EMS) statewide reporting software for the Fire Department.

- K. Resolution authorizing a separation agreement for City Manager Robert Harrison

RESOLUTION NO. R-2024-020, A RESOLUTION approving the Separation Agreement between City Manager Bob Harrison and the City of Yakima.

- L. Ordinance to create a fund to account for the Aquatic Center at MLK Jr. Park (Second Reading)

ORDINANCE NO. 2024-001, AN ORDINANCE establishing a Special Revenue Fund 132 "Aquatic Center at MLK Jr. Park Fund"; specifying sources of revenue for such fund; and designating the purposes of and the manner of authorizing expenditures from such fund.

Items Removed from the Consent Agenda

- A. Resolution authorizing Supplemental Agreement 1 to the Professional Services

Agreement with HLA Engineering and Land Surveying, Inc. for Project SW2661
DID #29 Stormwater Improvements and Spot Repairs

Item F was removed from the Consent Agenda.

Wastewater Manager Mike Price clarified that the groundwater was not detected during design of the project and therefore required a change to the agreement.

The City Clerk read the resolution by title.

MOTION: Glenn moved and Berg seconded to adopt Resolution on listed as Item F on the Consent Agenda. The motion carried by 7-0 roll call vote.

RESOLUTION NO. R-2024-015, A RESOLUTION authorizing Supplemental Agreement 1 to the Professional Services Agreement with HLA Engineering and Land Surveying Inc. for Project SW2661 DID #29 Stormwater Improvements and Spot Repairs.

DEPARTMENT ITEMS

8. Resolution opening the 2024 Comprehensive Plan Amendment process pursuant to RCW 36.70A.130 and YMC Ch. 16.10

Planning Manager Joseph Calhoun briefed Council on the proposed resolution to open the 2024 Comprehensive Plan Amendment process.

The City Clerk read the resolution by title only.

MOTION: Brown moved and Herrera seconded to adopt the resolution. The motion carried by a 7-0 roll call vote.

RESOLUTION NO. R-2024-021, A RESOLUTION opening the 2024 Comprehensive Plan Amendment process pursuant to RCW 36.70A.130, and YMC Ch. 16.10.

9. Mayoral Proclamation of Emergency regarding Extreme Winter Weather - This item was added to the agenda due to its emergency nature.

Mayor Byers issued an emergency proclamation on January 13, 2024 due to extreme winter weather affecting the City of Yakima. The emergency proclamation expired January 16, 2024.

The City Clerk read the resolution by title only.

MOTION: Brown moved and Deccio seconded to adopt the resolution. The motion carried by a 7-0 roll call vote.

RESOLUTION NO. R-2024-022, A RESOLUTION ratifying and confirming the Mayor's Proclamation of Emergency and Order regarding a state of emergency in the City of Yakima due to the extreme cold temperatures and wind chill.

10. Yakima Fire Department Annual Report for 2022

This item was listed on the meeting agenda as #9.

Yakima Fire Chief Aaron Markham presented the City of Yakima Fire Department 2022 Annual Report. The information related to the Fire Department operations, specific performance measures, response time standards and objectives, call statistics, training, and public education. Chief Markham noted that elected bodies can decide on the response measures; however those levels of service must be met 90% of the time. Major service delivery objectives include fire suppression, emergency medical services, special operations, aircraft rescue and

firefighting, and wildfire fighting.

CITY MANAGER UPDATE

11. Confirm appointment of Troy Clements as Municipal Court Judge

This item was listed on the meeting agenda as #10.

Assistant City Manager Rosylen Oglesby, in an acting City Manager capacity, recommended that Council confirm the appointment of Troy Clements as a Municipal Court Judge for the City of Yakima, effective April 1, 2024. Ms. Oglesby noted that the appointment is valid until the next municipal election in November 2025.

MOTION: Deccio moved and Brown seconded to confirm the appointment of Troy Clements as Municipal Court Judge effective April 1, 2024. The motion carried by unanimous vote.

12. **Other Business**

This item was listed on the meeting agenda as #11.

MOTION: Brown moved and Berg seconded to add to a future study session a discussion regarding memberships Council are currently a part of. The motion carried by unanimous vote.

13. **Adjournment**

This item was listed on the meeting agenda as #12.

MOTION: Brown moved and Deccio seconded to adjourn to the next City Council special meeting on January 22, 2024, at 5:30 p.m. in the Council Chambers. The motion carried by unanimous vote. The meeting adjourned at 7:29 p.m.

CERTIFICATION

READ AND CERTIFIED ACCURATE BY

COUNCIL MEMBER

DATE

COUNCIL MEMBER

DATE

ATTEST:

CITY CLERK

MAYOR



**MINUTES
YAKIMA CITY COUNCIL
SPECIAL MEETING**

January 22, 2024

**City Hall -- Council Chambers - 129 N 2nd Street, Yakima, WA
5:30 p.m. Special Meeting conducted in person and virtually via Zoom.**

1. Roll Call

Present: Mayor Patricia Byers presiding; Assistant Mayor Matt Brown and Councilmembers Reedy Berg, Janice Deccio Rick Glenn, Danny Herrera and Leo Roy

Staff: Assistant City Manager Rosylen Oglesby, City Attorney Sara Watkins, and City Clerk Rosalinda Ibarra

2. Public Comment - Anyone wishing to speak during public comment can fill out a slip and hand it to the City Clerk.

The following members of the public spoke in favor of Dave Zabell and encouraged City Council to authorize his appointment as Interim City Manager: Tom Dittmar (County resident), Rick deVilla (City resident), Charlie Ballard (County resident), Frieda Stephens (City resident), Janet Sedy (City resident), Susan Whitman (County resident and former City Councilmember), Bryan Calamia (City resident), and Kenton Gartrell (City resident and via Zoom).

**3. Resolution authorizing an agreement with GMP Consultants for Interim City Manager
A. Discussion with potential Interim City Manager candidate Dave Zabell**

City Council engaged in discussion with proposed Interim City Manager Dave Zabell regarding his leadership and experience and the City's financial situation. After Council discussion,

The City Clerk read the resolution by title only.

MOTION: Glenn moved and Brown seconded to adopt the resolution. The motion carried by a 7-0 roll call vote.

RESOLUTION NO. R-2024-023, A RESOLUTION authorizing an agreement between the City of Yakima and GMP Consultants to provide an Interim City Manager to the City of Yakima.

City Clerk Ibarra administered the Oath of Office to Interim City Manger Dave Zabell.

4. Adjournment

MOTION: Brown moved and Deccio seconded to adjourn to the next Council study session on January 23, 2024 at 5:30 p.m. in the Bank of America Building at 101 N. 2nd Street, Yakima, WA. The motion carried by unanimous vote. The meeting adjourned at 6:00 p.m.

CERTIFICATION

READ AND CERTIFIED ACCURATE BY

COUNCIL MEMBER

DATE

COUNCIL MEMBER

DATE

ATTEST:

CITY CLERK

MAYOR

DRAFT



**MINUTES
YAKIMA CITY COUNCIL
STUDY SESSION**

January 23, 2024

Bank of America Building - 101 N 2nd Street, Yakima, WA

5:30 p.m.

1. Roll Call

Present: Mayor Patricia Byers presiding; Assistant Mayor Matt Brown and Councilmembers Reedy Berg, Janice Deccio, Rick Glenn, Danny Herrera and Leo Roy

Staff: Interim City Manager Dave Zabell, Assistant City Manager Rosylen Oglesby, City Attorney Sara Watkins, City Clerk Rosalinda Ibarra, and Deputy City Clerk Brandy Bradford

2. Public comment - Anyone wishing to speak during public comment can fill out a slip and hand it to the City Clerk.

Assistant Mayor Brown opened the work session with audience participation and encouraged ideas and suggestions regarding the downtown parking situation.

Michelle Emmons, downtown business owner of Vintage Me Boutique, inquired about the possibility of raising sales tax and shared frustration regarding excessive cost of monthly parking passes, especially for part-time employees.

Amanda Evans, downtown business owner of Healing Hands Massage, spoke against the two-hour parking time limit as many of her customer services are 90-minutes to 2 hours. She suggested additional taxes or additional fees for downtown business licenses to support parking.

Mark Peterson, County resident, former downtown business owner and current downtown property owner, spoke against City management and staff's ability to manage downtown needs including public safety, economic development, downtown parking and snow removal.

Rebecca Gibbs, Yakima resident and downtown business owner of Soul Seeker, noted that there's no shortage of parking in the downtown area. She expressed interest in fundraising opportunities or consultants to help change the perception of the area.

Corie Ratliff, downtown business owner of Mama Corie's Kitchen, expressed frustrations with the deteriorating conditions of the downtown area, the City's inability to maintain it, and the street parking spaces being occupied by County employees.

Raul Martinez, Yakima resident, suggested increasing the parking time limits and offering dynamic pricing as possible solutions. He highlighted the importance of including all stakeholders that will be affected by any changes.

Ben Hittle, owner and resident of downtown property, provided background information about City Manager Harrison's presentation regarding the downtown parking analysis recommendations of RCW Consulting at the DAY breakfast meeting in fall of 2022. Downtown property owners Mann, Hittle, and Mercy came up with some of the parking rules currently in place. Moving forward, Mr. Hittle suggested implementing options already available through the enforcement software system being used by YPD by having the capability to add more time and charge/pay for additional hours.

Evan Belfiglio, Yakima resident, mentioned that downtown businesses experienced slower service and less business overall due to parking enforcement. He stated there's plenty of parking spaces available but people do not want to drive to the downtown area and there is not enough alternative transportation options. He suggested increasing time limits, lowering prices for monthly parking passes for employees.

Philip Rush, downtown business owner and resident, has experienced a drop in business following the parking enforcement actions as people don't want to come downtown and not enough information regarding enforcement times.

Rick Devilla, City resident and downtown business owner, stated his business purchased parking passes for their employees and reported employees were receiving parking tickets even after showing they had a valid paid parking permit. Mr. Devilla suggested extending the moratorium until a new plan is established and supported by the community.

Mark Shervey, City resident and downtown business owner, didn't believe there was a problem with downtown parking until the City had a budget shortfall. Also noted a drop in sales due to the recent enforcement of parking. The current solution is stifling growth in the downtown area. He believes that extending the moratorium will allow sales to go back up.

Bryan Martinez, Yakima resident, questioned what kind of community Council is trying to build. Employees of downtown businesses should not subsidize the parking for the community. He noted a lack of alternative transportation in Yakima such as inadequate bike infrastructure and a limited transit system. He also agreed with the dynamic pricing suggestion and use of parking meters.

Joe Mann, downtown property and business owner, provided response to question regarding how the \$50 monthly permit fee was decided. Mr. Mann provided historical information regarding downtown parking lots and inquired as to how much City employees pay for parking.

Kenton Gartrell, City resident, suggested that the Planning Commission review this issue and provide recommendations to City Council. He encouraged the use of recycled materials made in Yakima as a funding mechanism to help pay for parking lots and fix roads.

Kennedy Wilson-Avalos, General Manager of EZ Tiger, commented that the cost of a parking pass is too expensive for downtown employees, the two-hour limit is limited, the parking ticket is too high. She suggested minimum fees for patrons of the downtown area, exemptions for minimum wage workers, and dynamic pricing options. She also pointed out problems with unhoused and criminal behavior causing damage and disruption to businesses.

Alex Durrin, Alexandra's on 2nd, reported purchasing \$5000 worth of parking passes for employees and not able to roll those forward or receive a refund when the moratorium was placed. She expressed lack of trust with City as being the largest problem with parking. Also suggested extending the moratorium for parking until new plan is in place, better options for passholders and increased law enforcement to address safety concerns, and agreed with a dynamic pricing model.

Noemi Sanchez, downtown resident and employee, commented that minimum wage employees cannot afford parking passes to live and/or work; unpaid tickets going to collections is contributing to keeping low wage residents further into poverty. She also noted the lack of parking enforcement notices in Spanish.

Jeanna Hernandez, spoke about the City's responsibility to provide basic services such as water, sewer, garbage, transportation and investing in the community is necessary. She stated that the budget process should be more open and transparent to community and suggested private/public partnerships for parking lot maintenance.

Michael Morrison, expressed an increased need for housing and services for unhoused individuals in the community. He suggested building relationships with private parking garage owners to increase the parking availability and increase the communication efforts about future parking plans prior to implementation.

Dennis Rose, downtown resident and business owner, expressed there's an image problem with the downtown area regarding safety and noted that parking is a symptom of that problem.

Cindy Simmons, talked about the public trust with the City and asked for improved transparency, addressing safety issues from the unhoused population. She favored the idea of fundraisers, community events and suggested a lottery for monthly parking passes for employees.

Gen Ramirez, Selah resident, commented about the lack of trust and transparency between the City and the public and willingness to contribute towards parking lot maintenance.

Dimitri Ray, owner of the Alignment Company, stated that the cost of monthly passes is too high and should be decreased. He doesn't agree with increasing taxes, and highlighted the importance of improving Yakima's image. He suggested providing incentives for business owners and having community events as a business driver for the downtown community.

Charlie Robin, CEO of Capitol Theater, noted that the parking issues in Yakima are more about proximity and not lack of parking. He expressed concerns about safety in the downtown area and suggested the creation of a creative district as a driver of downtown improvements including incentives to raise revenues. Mr. Robins acknowledged the great staff members of the City of Yakima.

3. Downtown Parking Enforcement Moratorium

In response to the downtown parking enforcement moratorium placed on December 12, 2023, Councilmembers discussed thoughts after hearing from the community. Councilmember Deccio agreed with addressing the public safety and image problem.

Councilmember Glenn expressed interest in building relationships with community members to have more successful businesses downtown. Councilmember Herrera favored more community events and community involvement. Councilmember Berg suggested extending the moratorium, building the trust and transparency image, and addressing the parking fees. Councilmember Roy wants to work towards providing free downtown parking and looking at public/private partnerships to maintain the parking lots. Assistant Mayor Brown supported the idea of pausing the enforcement until a more solid solution has been identified. Mayor Byers thanked the community for attending and sharing their feelings and concerns regarding parking and other issues. After discussion,

MOTION: Brown moved and Berg seconded to direct staff to prepare a resolution for the next business meeting to extend the downtown parking moratorium for 60 days. Motion carried by unanimous vote.

4. Adjournment

MOTION: Brown moved and Deccio seconded to adjourn to the next Council regular meeting on February 6, 2024, beginning with Executive Session at 4:30 p.m. in the Council Chambers at City Hall. The motion carried by unanimous vote. The meeting adjourned at 7:48 p.m.

CERTIFICATION

READ AND CERTIFIED ACCURATE BY

COUNCIL MEMBER DATE

COUNCIL MEMBER DATE

ATTEST:

CITY CLERK

MAYOR



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 7.B.
For Meeting of: February 6, 2024

ITEM TITLE: Project Completion and Contract Acceptance with Leslie & Campbell Inc for the Yakima Convention & Event Center Roof Replacement Project 2755

SUBMITTED BY: *Connie Upton, Yakima Convention & Event Center General Manager (509) 576-6370

SUMMARY EXPLANATION:

City Project #2755 provided for the Yakima Convention & Event Center Roof Replacement. The City contracted with Leslie & Campbell Inc to provide construction of the roof replacement for the Yakima Convention & Event Center.

Final inspection for this project was made and the recommendation is that the project be accepted. Project completion is subject to issuance of Certificate of Payment by the Department of Revenue and authorizations from state agencies allowing final payment. A final retainage payment of \$19,999.85 is due from the City to Leslie & Campbell Inc.

Project Manager: Connie Upton
Contractor: Leslie & Campbell Inc
Contract Awarded: 08/18/23
Contract Cost: \$433,196.75
Retainage Due: \$19,999.85

The total contract cost is for construction only and does not include engineering and other costs. City Council action is required to accept the project and approve the final construction costs.

ITEM BUDGETED: Yes

STRATEGIC PRIORITY: Public Safety

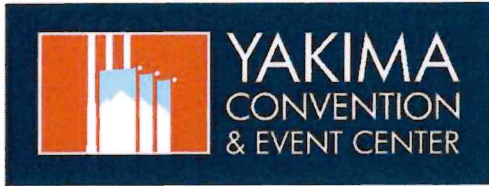
APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Accept Project.

ATTACHMENTS:

Description	Upload Date	Type
 Completion Letter	12/26/2023	Backup Material



November 29, 2023

Leslie & Campbell Inc.
506 Ahtanum Road
Union Gap, WA 98903

Attn: Dan Leslie

RE: Yakima Convention & Event Center
City of Yakima Project No. 2755

Dear Dan:

Be advised that work on the above referenced project was completed on November 17, 2023.

Please make sure your company and your subs, if used, file your Affidavit of Prevailing Wages to Labor & Industries.

Thank you for the service your company provided for the Yakima Convention Center and the City of Yakima, we look forward to working with you again.

Should you have any questions, please contact me at 509-576-6370.

Sincerely,

A handwritten signature in black ink that reads "Connie Upton, GM". The signature is written in a cursive, flowing style.

Connie Upton
General Manager
Yakima Convention & Event Center
10 N. 8th Street
Yakima, WA 98901



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 7.C.
For Meeting of: February 6, 2024

ITEM TITLE: Project Completion and Contract Acceptance with Central Washington Asphalt Inc for the Summitview Avenue Project 2566

SUBMITTED BY: Scott Schafer, Director of Public Works
* Bill Preston, PE, City Engineer (509) 576-6754

SUMMARY EXPLANATION:

City Project #2566 provided for the milling and overlaying of approximately 1.63 miles of roadway and ADA curb ramp improvements on Summitview Avenue from 40th Ave. to 48th Ave. and 56th Ave. to 72nd Ave. Final inspection for the project was made and the recommendation is that the project be accepted. Project completion is subject to issuance of Certificate of Payment by the Department of Revenue and authorizations from state agencies allowing final payment. A final payment of \$0 is due from the City to the contractor for the completion of the work.

Contractor: Central Washington Asphalt Inc
Total Contract Cost: \$2,134,993.75
Retainage Due: \$0

The total contract cost is for construction only and does not include engineering and other costs. City Council action is required to accept the project and approve the final construction costs.

ITEM BUDGETED: Yes

STRATEGIC PRIORITY: Public Safety

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Accept Project.

ATTACHMENTS:

Description	Upload Date	Type
<input type="checkbox"/> Completion Letter	1/8/2024	Backup Material

January 8, 2024

Central Washington Asphalt, Inc.
P.O. Box 939
Moses Lake, WA 98837

Attn: Justin Crump

Re: City of Yakima
Summitview Avenue Resurfacing
Fed Aid Project No: NHPP-4596(007)
City of Yakima Project No. AT2566
HLA Project No.: 22039C
Physical Completion

Dear Justin:

Effective May 18, 2023, Physical Completion has been established for the above referenced project. Please note that physical completion does not constitute project acceptance.

Please call me at (509) 966-7000, should you have any questions.

Very truly yours,

Benjamin A. Annen, PE

BAA/jld

Copy: Bill Preston, PE – City of Yakima
Taylor Denny, Angie Ringer, Eric Hovorka – HLA



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 7.D.
For Meeting of: February 6, 2024

ITEM TITLE: Resolution ratifying the declaration of an emergency and authorizing Professional Services Agreement with HLA Engineering and Land Surveying, Inc. for the S. 2nd Avenue Waterline Project

SUBMITTED BY: Scott Schafer, Public Works Director
*Mike Shane, Water/Irrigation Manager

SUMMARY EXPLANATION:

South 2nd Avenue from Division Avenue to West Pine Street has an existing 100-year-old 12-inch cast iron water main buried beneath the roadway. Since 2003, there have been a total of 7 waterline breaks along this approximate 1,300 ft. section of South 2nd Avenue; most recently on November 10th and November 16th, 2023. Each of the most recent waterline breaks on South 2nd Avenue has resulted in significant damage to the roadway and surrounding businesses.

Given the recent history of the breaks, the damage that has been caused to private property and the inevitable breaks that will continue to occur, replacement of this waterline became an emergency. An emergency was declared by the City Manager on November 29, 2023 and subsequently an Agreement with HLA Engineering and Land Surveying, Inc. in the amount of \$60,000.00 to provide engineering design services for the South 2nd Avenue Watermain Replacement Project No. AC2795 was signed. Since the Agreement amount exceeded \$50,000, this requires ratification by City Council via resolution in accordance with City of Yakima Administrative Code ADM 3-500 City Procurement Manual requiring approval by City Council for the emergency costs.

ITEM BUDGETED: Yes

STRATEGIC PRIORITY: Public Safety

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Adopt Resolution.

ATTACHMENTS:

Description	Upload Date	Type
📄 S. 2nd Ave. Emergency Resolution	2/1/2024	Resolution
📄 S. 2nd Ave. Emergency Declaration	2/1/2024	Backup Material
📄 S. 2nd Ave. HLA Prof. Svc Agrmnt	1/11/2024	Backup Material

RESOLUTION NO. R-2024-_____

A RESOLUTION ratifying the declaration of an emergency and authorizing Professional Services Agreement with HLA Engineering and Land Surveying, Inc.

WHEREAS, the City of Yakima owns, operates and maintains the domestic water supply and storage systems in accordance with applicable Federal, State and Local regulations; and

WHEREAS, the City of Yakima Water/Irrigation Division has experienced a number of breaks along a portion of 100-year old water main on South 2nd Avenue between Division Avenue and East Pine Street, causing damage to both public and private infrastructure; and

WHEREAS, the City of Yakima Water/Irrigation Division determined that this portion of water main on South 2nd Avenue between Division Avenue and East Pine Street required replacement; and

WHEREAS, an emergency was declared by the City Manager on November 29, 2023 to allow for the water main replacement; and

WHEREAS, the City Manager has signed a Professional Services Agreement with HLA Engineering and Land Surveying, Inc. in the amount of \$60,000 for engineering design services for the South 2nd Avenue Watermain Replacement Project AC2795; and

WHEREAS, the Professional Services Agreement exceeds \$50,000, resulting in the need to seek ratification by City Council via resolution, in accordance with City of Yakima Administrative Code ADM 3-500 City Procurement Manual which requires approval by City Council for emergency cost; and

WHEREAS, the City Council deems it to be in the best interest of the City and its residents to ratify the City Manager's declaration of an emergency, and authorize the Professional Services Agreement with HLA Engineering and Land Surveying, Inc. attached hereto and incorporated herein by this reference, to perform the required design engineering services for the South 2nd Avenue Watermain Replacement Project AC2795; now, therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:

The emergency, as declared on November 29, 2023 by the City Manager, is hereby ratified, the City Council resolves that there was an emergency, and the Professional Services Agreement with HLA Engineering and Land Surveying, Inc. as approved by the City Manager is hereby ratified and approved.

ADOPTED BY THE CITY COUNCIL this 6th day of February, 2024.

Patricia Byers, Mayor

ATTEST:

Brandy Bradford, Deputy City Clerk



City of Yakima

Emergency Purchase Justification

2312E⁴

Requestor Name: Mike Shane, Water/Irrigation Manager	Your Department/Division: Public Works, Water/Irrigation
Requestor Phone: 509-576-6480	Requisition (PR) Number: NA
Cost Estimated (Incl. TAX): \$ 520,000.00	Funding Source Account No.: AC2792/6534
Requested Vendor: HLA Engineering and Land Surveying, Inc.	Is Budget Amendment Required: No
Vendor's Address: 2803 River Rd., Yakima, WA 98902	Vendor E-Mail : bannen@hlacivil.com
Vendor Contact Name: Ben Annen	Vendor Phone: 509-966-7000

1. What is the emergency situation? Describe damages or loss of property or essential services that are/may be a result of this emergency. (Attach extra sheet if necessary.)

Multiple waterline failures within the past 7 years, 2 w/in a recent one-week period. See attached.

2. What labor and/or materials are required? Attach a copy of your quote or estimate.

Design, engr. svc, construction install. for replacement of the existing waterline. See attached.

3. Did vendor quote prevailing wages, if applicable (e.g. repairs, construction, maintenance)? Yes ☒ No ☐

4. Was vendor informed of the Intent and Affidavit filing requirements with L&I? Yes ☒ No ☐

5. Does vendor have a current certificate of insurance on file with the City? Check ICE:

<http://cityice/purchasing/contractor-list/> Yes ☒ No ☐

6. Are federal funds being used? If federal funds are being used, a SAM check must be completed before work begins and a cost price analysis must be done at earliest opportunity and a copy sent to Purchasing (see City Purchasing Manual for form).

Yes ☐ No ☒

STATEMENT OF NEED:

My division's recommendation for an emergency purchase order and waiver of the quote or bid requirements is based upon an objective review of the emergency situation and appears to be in the best interest of the City.

I understand that if this purchase is over \$49,999, or if any change orders to this purchase increase the amount to \$50,000 or over, that our division must initiate and prepare necessary information (Resolution) to advise City Council that there has been an emergency situation requiring immediate action.

1. Mike Shane Digitally signed by Mike Shane
Date: 2023.11.27 08:33:25 -08'00'
Signature of Division Manager

11/27/2023
Date

2. Scott Schafer Digitally signed by Scott Schafer
Date: 2023.11.27 08:37:18 -08'00'
Signature of Department Head

11/27/23
Date

3. Susan Knotts, Buyer II, In lieu of Purchasing Manager
Recommendation of Approval by Purchasing Manager

11/27/2023
Date

4. Mark Ralston
Approval by Director of Finance and Budget

11/29/2023
Date

5. Bob Harrison Digitally signed by Bob Harrison
Date: 2023.11.29 09:12:31 -08'00'
Approval by City Manager

Date

Please complete entire form and forward to Purchasing.
Purchasing will forward to the Finance Director and City Manager for final approval.

02/2023

Clear Form

2nd Avenue waterline break Emergency justification:

Background:

South 2nd Avenue from Division Avenue to West Pine Street has an existing 100-year-old 12" cast iron water main buried beneath the roadway. We have thousands of feet of the same size, type and era of waterline throughout the City. The City has experienced waterline breaks of this type of pipe in areas such as East Yakima Avenue (twice), North Front Street (twice), and East I Street. The section of waterline on South 2nd Avenue has seen an unusual number of breaks in recent years.

Since 2003, there have been a total of 7 waterline breaks along this ~1,300 ft. section of South 2nd Avenue; 2003, 2007, 2009, 2020 and 2022 and two in the last week (Nov. 10 and Nov. 16, 2023). See the attached figure below for break locations.

Each of the most recent waterline breaks on South 2nd Avenue has resulted in property damage to surrounding businesses and the roadway. The most significant impacts have been to NW Liquidators at 511/513 South 2nd Avenue. There are currently 4 pending claims with NW Liquidators as a result of the waterline breaks at an estimated amount of over \$1.6M. Any additional waterline breaks will result in additional property damage and continued claims.

Given the recent history of the breaks, the damage that has been caused to private property and the inevitable breaks that will continue to occur, replacement of this waterline has become an emergency. The cost to the City's Water utility to make the unscheduled, emergency repairs; the loss of water (estimated at approx. 2.5 million gallons with the last two breaks); the disruption to business owners dealing with the cleanup and damage to their property; and the continued efforts of our insurance adjuster working to resolve and pay the damage claims, cost the City millions of dollars to mitigate.

Temporary emergency measures:

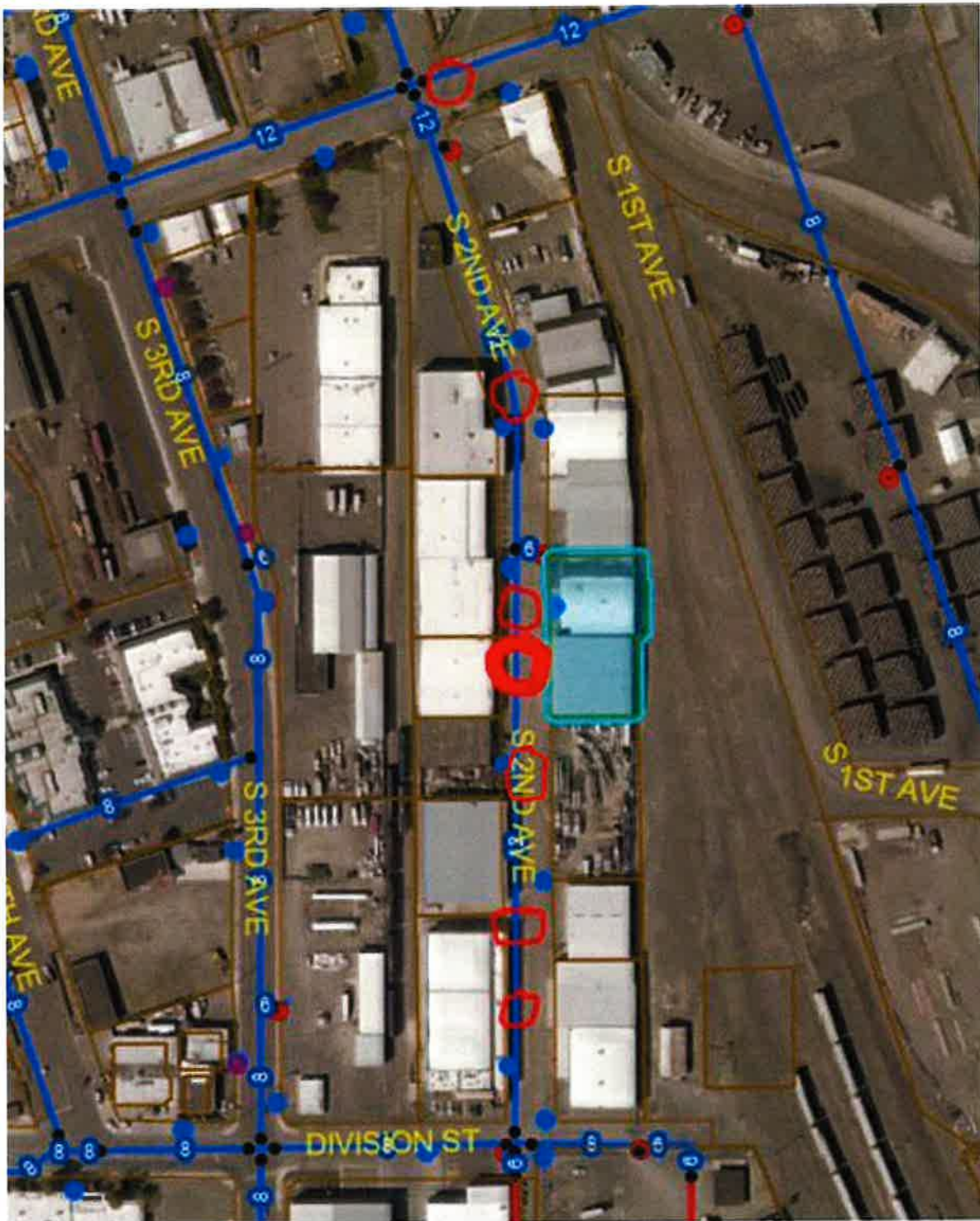
The City repairs each waterline break as quickly and efficiently as possible utilizing our own crews. As with all emergency repairs, just the immediate repair is completed and other problems, known or unknown, may not be addressed. As a result, this section of waterline has at least seven emergency repairs affecting the integrity and functionality of entire system. Typical temporary emergency repair includes: replacing the damaged portion of waterline with new ductile iron (DI) pipe, excavation, cleanup, and repair of the damage roadway.

Permanent repairs:

Due to these recent waterline breaks, and the apparent inevitable future breaks, the Water Division is requesting an "Emergency Declaration" to permanently replace the waterline in South 2nd Avenue from Division Street to West Pine Street. To prevent future breaks the pipe needs to be replaced with new 12" DI pipe, including new valves, fire hydrants and water services. Upon approval, and in accordance with RCW 39.08.060 (emergency work) the Water Division will move forward with developing a Professional Services Agreement and Scope of Work with a consultant to provide engineering services for the project. The City does not have the capacity or expertise to perform this work in-house. As this is an emergency, the consultant must have the capacity, expertise, and availability to start on the project immediately. Estimated cost for design is \$60,000 and \$60,000 for Construction Engineering. We expect the design to take approximately one month after which the project will be bid using the standard bid and award requirements. The preliminary estimated cost of construction to replace the waterline is approximately \$350,000 - \$400,000. Budget is available in the Water (477) fund to complete the project. Expected completion of the replacement is March, 2024.

Request:

The Water Division is requesting an Emergency Declaration by the City Manager for the permanent replacement of this section of waterline. Without the designation, the City will continue to experience waterline breaks that could cost millions of dollars in damage, lost water, and claims.







For City of Yakima Use Only:	
Contract No.	2024-012
Project No.	2312E AC2792
Resolution No.	N/A 6534
SOQ No.	

**AGREEMENT
BETWEEN
CITY OF YAKIMA, WASHINGTON
AND**

HLA ENGINEERING AND LAND SURVEYING, INC.

FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on this 4 day of Jan., 2024, by and between the City of Yakima, Washington, a municipal corporation with its principal office at 129 North Second Street, Yakima, WA 98901, (hereinafter referred to as "CITY"), and HLA Engineering and Land Surveying, Inc., with its principal office at 2803 River Road, Yakima, WA 98902, (hereinafter referred to as "ENGINEER"); said corporation being licensed and registered to do business in the State of Washington, and will provide engineering services under this Agreement for **SOUTH SECOND AVENUE WATERMAIN REPLACEMENT** on behalf of the City of Yakima, Project No. 2312E AC2792/6534, herein referred to as the "PROJECT."

WITNESSETH:

RECITALS

WHEREAS, CITY desires to retain the ENGINEER to provide engineering services for design and construction of the PROJECT, as described in this Agreement and subsequent Amendments thereto; and

WHEREAS, ENGINEER represents that it has available and offers to provide personnel with knowledge and experience necessary to satisfactorily accomplish the work within the required time and that it has no conflicts of interest prohibited by law from entering into this Agreement;

NOW, THEREFORE, CITY and ENGINEER agree as follows:

SECTION 1 INCORPORATION OF RECITALS

1.1 The above recitals are incorporated into these operative provisions of the Agreement.

SECTION 2 SCOPE OF SERVICES

- 2.0.1 ENGINEER agrees to perform those services described hereafter. Unless modified in writing by both parties, duties of ENGINEER shall not be construed to exceed those services specifically set forth herein.
- 2.0.2 ENGINEER shall use its best efforts to maintain continuity in personnel and shall assign, Michael T. Battle, PE as Principal-in-Charge throughout the term of this Agreement unless other personnel are approved by the CITY.
- 2.1 Basic Services: ENGINEER agrees to perform those tasks described in Exhibit A, entitled "Scope of Services" (WORK) which is attached hereto and made a part of this Agreement as if fully set forth herein.
- 2.2 Additional Services: CITY and ENGINEER agree that not all WORK to be performed by ENGINEER can be defined in detail at the time this Agreement is executed, and that additional WORK related to the PROJECT and not covered in Exhibit A may be needed during performance of this Agreement. CITY may, at any time, by written order, direct the ENGINEER to revise portions of the PROJECT WORK previously completed in a satisfactory manner, delete portions of the PROJECT, or request that the ENGINEER perform additional WORK beyond the scope of the PROJECT WORK. Such changes hereinafter shall be referred to as "Additional Services."

- 2.2.1 If such Additional Services cause an increase or decrease in the ENGINEER'S cost of, or time required for, performance of any services under this Agreement, a contract price and/or completion time adjustment pursuant to this Agreement shall be made and this Agreement shall be modified in writing and accepted by the parties hereto.
- 2.2.2 Compensation for each such request for Additional Services shall be negotiated by the CITY and the ENGINEER according to the provisions set forth in Exhibit B, attached hereto and incorporated herein by this reference, and if so authorized, shall be considered part of the PROJECT WORK. The ENGINEER shall not perform any Additional Services until so authorized by CITY and agreed to by the ENGINEER in writing.
- 2.3 The ENGINEER must assert any claim for adjustment in writing within thirty (30) days from the date of the ENGINEER's receipt of the written notification of change.

SECTION 3 TERM

- 3.1 The term of this AGREEMENT shall be for the period of three (3) years from the date of contract execution.

SECTION 4 CITY'S RESPONSIBILITIES

- 4.1 CITY-FURNISHED DATA: The CITY will provide to the ENGINEER all technical data in the CITY'S possession relating to the ENGINEER'S services on the PROJECT including information on any pre-existing conditions known to the CITY that constitute hazardous waste contamination on the PROJECT site as determined by an authorized regulatory agency.
- 4.2 ACCESS TO FACILITIES AND PROPERTY: The CITY will make its facilities reasonably accessible to ENGINEER as required for ENGINEER'S performance of its services and will provide labor and safety equipment as reasonably required by ENGINEER for such access.
- 4.3 TIMELY REVIEW: The CITY will examine the ENGINEER'S studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as CITY deems appropriate; and render in writing decisions required of CITY in a timely manner. Such examinations and decisions, however, shall not relieve the ENGINEER of any contractual obligations nor of its duty to render professional services meeting the standards of care applicable to its profession.
- 4.4 CITY shall appoint a CITY'S Representative with respect to WORK to be performed under this Agreement. CITY'S Representative shall have complete authority to transmit instructions and receive information. ENGINEER shall be entitled to reasonably rely on such instructions made by the CITY'S Representative unless otherwise directed in writing by the CITY, but ENGINEER shall be responsible for bringing to the attention of the CITY'S Representative any instructions which the ENGINEER believes are inadequate, incomplete, or inaccurate based upon the ENGINEER'S knowledge.
- 4.5 Any documents, services, and reports provided by the CITY to the ENGINEER are available solely as additional information to the ENGINEER and will not relieve the ENGINEER of its professional duties and obligations under this Agreement or at law. The ENGINEER shall be entitled to reasonably rely upon the accuracy and the completeness of such documents, services and reports, but shall be responsible for exercising customary professional care in using and reviewing such documents, services, and reports and drawing conclusions from them.

SECTION 5 AUTHORIZATION, PROGRESS, AND COMPLETION

- 5.1 In signing this Agreement, CITY grants ENGINEER specific authorization to proceed with WORK described in Exhibit A. The time for completion is defined in Exhibit A, or as amended.

SECTION 6 COMPENSATION

- 6.1 COMPENSATION ON A TIME SPENT BASIS AT SPECIFIC HOURLY RATES: For the services described in Exhibit A, compensation shall be according to Exhibit C - Schedule of Specific Hourly Rates, attached hereto and incorporated herein by this reference, on a time spent basis plus reimbursement for direct non-salary expenses.
- 6.1.1 DIRECT NON-SALARY EXPENSES: Direct Non-Salary Expenses are those costs incurred on or directly for the PROJECT including, but not limited to, necessary transportation costs, including current rates for ENGINEER'S vehicles; meals and lodging; laboratory tests and analyses; printing, binding and reproduction charges; all costs associated with other outside nonprofessional services and facilities; special CITY-requested and PROJECT-related insurance and performance warranty costs; and other similar costs. Reimbursement for Direct Non-Salary Expenses will be on the basis of actual charges plus a reasonable markup, not to exceed ten percent (10%), and on the basis of current rates when furnished by ENGINEER. Estimated Direct Non-Salary Expenses are shown in Exhibit B.
- 6.1.1.1 Travel costs, including transportation, lodging, subsistence, and incidental expenses incurred by employees of the ENGINEER and each of the Subconsultants in connection with PROJECT WORK; provided, as follows:
- ♦ That a maximum of U.S. INTERNAL REVENUE SERVICE allowed cents per mile will be paid for the operation, maintenance, and depreciation costs of company or individually owned vehicles for that portion of time they are used for PROJECT WORK. ENGINEER, whenever possible, will use the least expensive form of ground transportation.
 - ♦ That reimbursement for meals inclusive of tips shall not exceed a maximum of forty dollars (\$40) per day per person. This rate may be adjusted on a yearly basis.
 - ♦ That accommodation shall be at a reasonably priced hotel/motel.
 - ♦ That air travel shall be by coach class, and shall be used only when absolutely necessary.
- 6.1.2 Telephone charges, computer charges, in-house reproduction charges, first class postage, and FAX charges are not included in the direct expense costs, but are considered included in the Schedule of Specific Hourly Billing Rates.
- 6.1.3 Professional Subconsultants. Professional Subconsultants are those costs for engineering, architecture, geotechnical services and similar professional services approved by the CITY. Reimbursement for Professional Subconsultants will be on the basis of actual costs billed plus a reasonable markup, not to exceed ten percent (10%) for services provided to the CITY through this Agreement. Estimated Subconsultant costs are shown in Exhibit B.
- 6.2 Unless specifically authorized in writing by the CITY, the total budgetary amount for this PROJECT shall not exceed Sixty Thousand Dollars (\$60,000). The ENGINEER shall make all reasonable efforts to complete the WORK within the budget and will keep CITY informed of progress toward that end so that the budget or WORK effort can be adjusted if found necessary. The ENGINEER is not obligated to incur costs beyond the indicated budget, as may be adjusted, nor is the CITY obligated to pay the ENGINEER beyond these limits. When any budget has been increased, the ENGINEER'S excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase, and provided that the City was informed in writing at the time such costs were incurred.

- 6.3 The ENGINEER shall submit to the CITY's Representative an invoice each month for payment for PROJECT services completed through the accounting cut-off day of the previous month. Such invoices shall be for PROJECT services and WORK performed and costs incurred prior to the date of the invoice and not covered by previously submitted invoices. The ENGINEER shall submit with each invoice a summary of time expended on the PROJECT for the current billing period, copies of subconsultant invoices, and any other supporting materials and details determined necessary by the CITY to substantiate the costs incurred. CITY will use its best efforts to pay such invoices within thirty (30) days of receipt and upon approval of the WORK done and amount billed. CITY will notify the ENGINEER promptly if any problems are noted with the invoice. CITY may question any item in an invoice, noting to ENGINEER the questionable item(s) and withholding payment for such item(s). The ENGINEER may resubmit such item(s) in a subsequent invoice together with additional supporting information requested.
- 6.4 If payment is not made within sixty (60) days following receipt of approved invoices, interest on the unpaid balance shall accrue beginning with the sixty-first (61st) day at the rate of 1.0% per month or the maximum interest rate permitted by law, whichever is less; provided, however, that no interest shall accrue pursuant to Chapter 39.76 RCW when before the date of timely payment a notice of dispute is issued in good faith by the CITY to the ENGINEER pursuant to the terms of RCW 39.76.020(4).
- 6.5 Final payment of any balance due the ENGINEER for PROJECT services will be made within forty-five (45) days after satisfactory completion of the services required by this Agreement as evidenced by CITY's written acceptance and after such audit or verification as CITY may deem necessary, together with ENGINEER's execution and delivery of a release of all known payment claims against CITY arising under or by virtue of this Agreement, other than such payment claims, if any, as may be specifically exempted by the ENGINEER from the operation of the release in stated amounts to be set forth therein.
- 6.6 Payment for any PROJECT services and WORK shall not constitute a waiver or release by CITY of any claims, right, or remedy it may have against the ENGINEER under this Agreement or by law, nor shall such payment constitute a waiver, remission, or discharge by CITY of any failure or fault of the ENGINEER to satisfactorily perform the PROJECT WORK as required under this Agreement.

SECTION 7 RESPONSIBILITY OF ENGINEER

- 7.1 The ENGINEER shall be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all plans, designs, drawings, specifications, reports, and other services furnished by the ENGINEER under this Agreement. The ENGINEER shall, without additional compensation, correct or review any errors, omissions, or other deficiencies in its plans, designs, drawings, specifications, reports, and other services. The ENGINEER shall perform its WORK according to generally accepted civil engineering standards of care and consistent with achieving the PROJECT WORK within budget, on time, and in compliance with applicable laws, regulations, and permits.
- 7.2 CITY'S review or approval of, or payment for, any plans, drawings, designs, specifications, reports, and incidental WORK or services furnished hereunder shall not in any way relieve the ENGINEER of responsibility for the technical adequacy, completeness, or accuracy of its WORK and the PROJECT WORK. CITY'S review, approval, or payment for any of the services shall not be construed to operate as a waiver of any rights under this Agreement or at law or any cause of action arising out of the performance of this Agreement.

- 7.3 In performing WORK and services hereunder, the ENGINEER and its subcontractors, subconsultants, employees, agents, and representatives shall be acting as independent contractors and shall not be deemed or construed to be employees or agents of CITY in any manner whatsoever. The ENGINEER shall not hold itself out as, nor claim to be, an officer or employee of CITY by reason hereof and shall not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of CITY. The ENGINEER shall be solely responsible for any claims for wages or compensation by ENGINEER's employees, agents, and representatives, including subconsultants and subcontractors, and shall save and hold CITY harmless therefrom.
- 7.4 INDEMNIFICATION AND HOLD HARMLESS:
- a. ENGINEER shall take all necessary precautions in performing the WORK to prevent injury to persons or property. The ENGINEER agrees to release, indemnify, defend, and hold harmless the CITY, its elected and appointed officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers from all liabilities, losses, damages, and expenses related to all claims, suits, arbitration actions, investigations, and regulatory or other governmental proceedings arising from or in connection with this Agreement or the acts, failures to act, errors or omissions of the ENGINEER, or any of ENGINEER's agent(s) or subcontractor(s), in performance of this Agreement, except for claims caused by the CITY's sole negligence.
 - b. **Industrial Insurance Act Waiver.** It is specifically and expressly understood that the ENGINEER waives any immunity that may be granted to it under the Washington State industrial insurance act, Title 51 RCW, solely for the purposes of this indemnification. ENGINEER's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. ENGINEER shall require that its subcontractors, and anyone directly or indirectly employed or hired by ENGINEER, and anyone for whose acts ENGINEER may be liable in connection with its performance of this Agreement, comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, and assume all potential liability for actions brought by their respective employees. The Parties acknowledge that they have mutually negotiated this waiver.
 - c. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the ENGINEER and the CITY, the ENGINEER's liability, including the duty and cost to defend, shall be only to the extent of the ENGINEER's negligence.
 - d. Nothing contained in this Section or this Agreement shall be construed to create a liability or a right of indemnification in any third party.
 - e. The terms of this Section shall survive any expiration or termination of this Agreement.
- 7.5 In any and all claims by an employee of the ENGINEER, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligations under this Agreement shall not be limited in any way by any limitation on the amount or types of damages, compensation, or benefits payable by or for the ENGINEER or a subcontractor under workers' or workmens' compensation acts, disability benefit acts, or other employee benefit acts. The ENGINEER specifically and expressly waives its immunity under the Industrial Insurance Act, Title 51, RCW. Such waiver has been mutually negotiated by the ENGINEER and the CITY.

- 7.6 It is understood that any resident engineering or inspection provided by ENGINEER is for the purpose of determining compliance with the technical provisions of PROJECT specifications and does not constitute any form of guarantee or insurance with respect to the performance of a contractor. ENGINEER does not assume responsibility for methods or appliances used by a contractor, for a contractor's safety programs or methods, or for contractors' compliance with laws and regulations. CITY shall use its best efforts to ensure that the construction contract requires that the contractor(s) indemnify and name CITY, the CITY's and the ENGINEER's officers, principals, employees, agents, representatives, and engineers as additional insureds on contractor's insurance policies covering PROJECT, exclusive of insurance for ENGINEER professional liability.
- 7.7 ENGINEER shall be solely responsible for and shall pay all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury insurance, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the CITY is assessed a tax or assessment as a result of this Agreement, ENGINEER shall pay the same before it becomes due.
- 7.8 SUBSURFACE INVESTIGATIONS: In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observation, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER, to the extent that ENGINEER has exercised the applicable and appropriate standard of professional care, thoroughness and judgment in performing such investigations.

SECTION 8 PROJECT SCHEDULE AND BUDGET

- 8.1 The general PROJECT schedule and the budget for both the entire PROJECT and its component tasks shall be as set forth in this Agreement and attached Exhibits. The PROJECT schedule and performance dates for the individual tasks shall be mutually agreed to by the CITY and the ENGINEER within fifteen (15) days after execution of this Agreement. The performance dates and budgets for tasks may be modified only upon written agreement of the parties hereto. The performance date for tasks and the completion date for the entire PROJECT shall not be extended, nor the budget increased because of any unwarranted delays attributable to the ENGINEER, but may be extended or increased by the CITY in the event of a delay caused by special services requested by the CITY or because of unavoidable delay caused by any governmental action or other conditions beyond the control of the ENGINEER which could not be reasonably anticipated or avoided.
- 8.2 Not later than the tenth (10th) day of each calendar month during the performance of the PROJECT, the ENGINEER shall submit to the CITY's Representative a copy of the current schedule and a written narrative description of the WORK accomplished by the ENGINEER and subconsultants on each task, indicating a good faith estimate of the percentage completion thereof on the last day of the previous month. Additional oral or written reports shall be prepared at the CITY's request for presentation to other governmental agencies and/or to the public.

SECTION 9 REUSE OF DOCUMENTS

- 9.1 All internal WORK products of the ENGINEER are instruments or services of this PROJECT. There shall be no reuse, change, or alteration by the CITY or others acting through or on behalf of the CITY without written permission of the ENGINEER, which shall not be unreasonably withheld and will be at the CITY's sole risk. The CITY agrees to indemnify the ENGINEER and its officers, employees, subcontractors, and affiliated corporations from all claims, damages, losses, and costs including, but not limited to, litigation expenses and attorney's fees arising out of or related to such unauthorized reuse, change, or alteration; provided, however, that the ENGINEER will not be indemnified for such claims, damages, losses, and costs including, without limitation, litigation expenses and attorney fees if they were caused by the ENGINEER's own negligent acts or omissions.

- 9.2 The ENGINEER agrees that any and all plans, drawings, designs, specifications, computer programs, technical reports, operating manuals, calculations, notes, and other WORK submitted or which are specified to be delivered under this Agreement or which are developed or produced and paid for under this Agreement, whether or not complete, shall be owned by and vested in the CITY.
- 9.3 All rights to patents, trademarks, copyrights, and trade secrets owned by ENGINEER (hereinafter "Intellectual Property") as well as any modifications, updates or enhancements to said Intellectual Property during the performance of the WORK remain the property of ENGINEER, and ENGINEER does not grant CITY any right or license to such Intellectual Property.

SECTION 10 AUDIT AND ACCESS TO RECORDS

- 10.1 The ENGINEER, including its subconsultants, shall maintain books, records, documents and other evidence directly pertinent to performance of the WORK under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The CITY, or the CITY's duly authorized representative, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying for a period of three years after completion of the PROJECT. The CITY shall also have access to such books, records, and documents during the performance of the PROJECT WORK, if deemed necessary by the CITY, to verify the ENGINEER's WORK and invoices.
- 10.2 Audits conducted pursuant to this section shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or auditing agency.
- 10.3 The ENGINEER agrees to the disclosure of all information and reports resulting from access to records pursuant to this section provided that the ENGINEER is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include ENGINEER's written comments, if any.
- 10.4 The ENGINEER shall ensure that the foregoing paragraphs are included in each subcontract for WORK on the PROJECT.
- 10.5 Any charges of the ENGINEER paid by the CITY which are found by an audit to be inadequately substantiated shall be reimbursed to the CITY.

SECTION 11 INSURANCE

- 11.1 At all times during performance of the WORK or obligations under this Agreement, ENGINEER shall secure and maintain in effect insurance to protect the CITY and the ENGINEER from and against all claims, damages, losses, and expenses arising out of or resulting from the performance of this Agreement. ENGINEER shall provide and maintain in force insurance in limits no less than those stated below, as applicable. The CITY reserves the right to require higher limits should it deem it necessary in the best interest of the public. If ENGINEER carries higher coverage limits than the limits stated below, such higher limits shall be shown on the Certificate of Insurance and Endorsements and ENGINEER shall be named as an additional insured for such higher limits.

ENGINEER shall provide a Certificate of Insurance to the CITY as evidence of coverage for each of the policies and outlined herein. A copy of the additional insured endorsement attached to the policy shall be included with the certificate. This Certificate of insurance shall be provided to the CITY prior to commencement of work. Failure to provide the CITY with proof of insurance and/or to maintain such insurance outlined herein shall be a material breach of this Agreement and a basis for termination.

Failure by the CITY to demand such verification of coverage with these insurance requirements or failure of the CITY to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of ENGINEER's obligation to maintain such insurance.

ENGINEER's insurance coverage shall be primary insurance with respect to those who are Additional Insureds under this Agreement, and any insurance, self-insurance or insurance pool coverage maintained by the CITY shall be in excess of the ENGINEER's insurance and neither the CITY nor its insurance providers shall contribute to any settlements, defense costs, or other payments made by ENGINEER's insurance. All additional insured endorsements required by this Section shall include an explicit waiver of subrogation.

11.1.1 Commercial General Liability Insurance. Before this Agreement is fully executed by the parties, ENGINEER shall provide the CITY with a certificate of insurance as proof of commercial liability insurance and commercial umbrella liability insurance with a total liability limit of the limits required in the policy, subject to minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) general aggregate. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Agreement. The policy shall name the CITY, its elected and appointed officials, officers, agents, employees, and volunteers as additional insureds. The insured shall not cancel or change the insurance without first giving the CITY thirty (30) calendar days prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

11.1.2. Commercial Automobile Liability Insurance.

a. If ENGINEER owns any vehicles, before this Agreement is fully executed by the parties, ENGINEER shall provide the CITY with a certificate of insurance as proof of commercial automobile liability insurance and commercial umbrella liability insurance with a total liability limit of the limits required in the policy, subject to minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage. Automobile liability will apply to "Any Auto" and be shown on the certificate.

b. If ENGINEER does not own any vehicles, only "Non-owned and Hired Automobile Liability" will be required and may be added to the commercial liability coverage at the same limits as required in that section of this Agreement, which is Section 11.1.1 entitled "Commercial General Liability Insurance".

c. Under either situation described above in Section 11.1.2.a. and Section 11.1.2.b., the required certificate of insurance shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Agreement. The policy shall name the CITY, its elected and appointed officials, officers, agents, employees, and volunteers as additional insureds. The insured shall not cancel or change the insurance without first giving the CITY thirty (30) calendar days prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

11.1.3. Statutory workers' compensation and employer's liability insurance as required by state law.

- 11.1.4. **Professional Liability Coverage.** Before this Contract is fully executed by the parties, ENGINEER shall provide the CITY with a certificate of insurance as proof of professional liability coverage with a total liability limit of the limits required in the policy, subject to minimum limits of Two Million Dollars (\$2,000,000.00) per claim, and Two Million Dollars (\$2,000,000.00) aggregate. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The insured shall not cancel or change the insurance without first giving the CITY thirty (30) calendar days prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide. If the policy is written on a claims made basis the coverage will continue in force for an additional two years after the completion of this contract.

Failure of either or all of the additional insureds to report a claim under such insurance shall not prejudice the rights of the CITY, its elected and appointed officials, officers, employees, agents, and representatives there under. The CITY and the CITY's elected and appointed officials, officers, principals, employees, representatives, and agents shall have no obligation for payment of premiums because of being named as additional insureds under such insurance. None of the policies issued pursuant to the requirements contained herein shall be canceled, allowed to expire, or changed in any manner that affects the rights of the CITY until thirty (30) days after written notice to the CITY of such intended cancellation, expiration or change.

- 11.2 If at any time during the life of the Agreement, or any extension, ENGINEER fails to maintain the required insurance in full force and effect, all work under the Agreement shall be discontinued immediately. Any failure to maintain the required insurance may be sufficient cause for the CITY to terminate the Agreement.

SECTION 12 SUBCONTRACTS

- 12.1 ENGINEER shall be entitled, to the extent determined appropriate by ENGINEER, to subcontract any portion of the WORK to be performed under this Agreement. However, ENGINEER shall be considered the Prime Contractor hereunder and shall be the sole point of contact with regard to all contractual matters arising hereunder, including the performance of WORK and payment of any and all charges resulting from contractual obligations.
- 12.2 Any subconsultants or subcontractors to the ENGINEER utilized on this PROJECT, including any substitutions thereof, will be subject to prior approval by CITY, which approval shall not be unreasonably withheld. Each subcontract shall be subject to review by the CITY's Representative, if requested, prior to the subconsultant or subcontractor proceeding with the WORK. Such review shall not constitute an approval as to the legal form or content of such subcontract. The ENGINEER shall be responsible for the architectural and engineering performance, acts, and omissions of all persons and firms performing subcontract WORK.
- 12.3 CITY does not anticipate ENGINEER subcontracting with any additional persons or firms for the purpose of completing this Agreement.
- 12.4 The ENGINEER shall submit, along with its monthly invoices, a description of all WORK completed by subconsultants and subcontractors during the preceding month and copies of all invoices thereto.
- 12.5 If dissatisfied with the background, performance, and/or general methodologies of any subcontractor, the CITY may request in writing that the subcontractor be removed. The ENGINEER shall comply with this request at once and shall not employ the subcontractor for any further WORK under this Agreement.

SECTION 13 ASSIGNMENT

- 12.1 This Agreement is binding on the heirs, successors and assigns of the parties hereto. This Agreement may not be assigned by CITY or ENGINEER without prior written consent of the other, which consent will not be unreasonably withheld. The ENGINEER for itself and its heirs, executors, administrators, successors and assigns, does hereby agree to the full performance of all of the covenants herein contained upon the part of the ENGINEER. It is expressly intended and agreed that no third-party beneficiaries are created by this Agreement, and that the rights and remedies provided herein shall inure only to the benefit of the parties to this Agreement.

SECTION 14 INTEGRATION

- 14.1 This Agreement represents the entire understanding of CITY and ENGINEER as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

SECTION 15 JURISDICTION AND VENUE

- 15.1 This Agreement shall be administered and interpreted under the laws of the State of Washington. Jurisdiction of litigation arising from this Agreement shall be in Washington State. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it conflicts with said laws, but the remainder of this Agreement shall be in full force and effect. Venue for all disputes arising under this Agreement shall lie in a court of competent jurisdiction in Yakima County, Washington.

SECTION 16 EQUAL EMPLOYMENT and NONDISCRIMINATION

- 16.1 During the performance of this Agreement, ENGINEER and ENGINEER's subconsultants and subcontractors shall not discriminate in violation of any applicable federal, state and/or local law or regulation on the basis of age, sex, race, creed, religion, color, national origin, marital status, disability, honorably discharged veteran or military status, pregnancy, sexual orientation, and any other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under this Agreement. ENGINEER agrees to comply with the applicable provisions of State and Federal Equal Employment Opportunity and Nondiscrimination statutes and regulations.

SECTION 17 SUSPENSION OF WORK

- 17.1 CITY may suspend, in writing by certified mail, all or a portion of the WORK under this Agreement if unforeseen circumstances beyond CITY's control are interfering with normal progress of the WORK. ENGINEER may suspend, in writing by certified mail, all or a portion of the WORK under this Agreement if unforeseen circumstances beyond ENGINEER's control are interfering with normal progress of the WORK. ENGINEER may suspend WORK on the PROJECT in the event CITY does not pay invoices when due, except where otherwise provided by this Agreement. The time for completion of the WORK shall be extended by the number of days WORK is suspended. If the period of suspension exceeds ninety (90) days, the terms of this Agreement are subject to renegotiation, and both parties are granted the option to terminate WORK on the suspended portion of PROJECT in accordance with SECTION 18.

SECTION 18 TERMINATION OF WORK

- 18.1 Either party may terminate this Agreement, in whole or in part, if the other party materially breaches its obligations under this Agreement and is in default through no fault of the terminating party. However, no such termination may be effected unless the other party is given: (1) not less than fifteen (15) calendar days written notice delivered by certified mail, return receipt requested, of intent to terminate; and (2) an opportunity for consultation with the terminating party and for cure within the 15-day notice period before termination. Notice shall be considered issued within seventy-two (72) hours of mailing by certified mail to the place of business of either party as set forth in this Agreement.
- 18.2 In addition to termination under subsection 18.1 of this Section, CITY may terminate this Agreement for its convenience, in whole or in part, provided the ENGINEER is given: (1) not less than fifteen (15) calendar days written notice delivered by certified mail, return receipt requested, of intent to terminate; and (2) an opportunity for consultation with CITY before the effective termination date.
- 18.3 If CITY terminates for default on the part of the ENGINEER, an adjustment in the contract price pursuant to the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other WORK, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to the extent of any additional costs or damages CITY has incurred, or is likely to incur, because of the ENGINEER'S breach. In such event, CITY shall consider the amount of WORK originally required which was satisfactorily completed to date of termination, whether that WORK is in a form or of a type which is usable and suitable to CITY at the date of termination and the cost to CITY of completing the WORK itself or of employing another firm to complete it. Under no circumstances shall payments made under this provision exceed the contract price. In the event of default, the ENGINEER agrees to pay CITY for any and all damages, costs, and expenses whether directly, indirectly, or consequentially caused by said default. This provision shall not preclude CITY from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by contract retainage or other withheld payments.
- 18.4 If the ENGINEER terminates for default on the part of CITY or if CITY terminates for convenience, the adjustment pursuant to the Agreement shall include payment for services satisfactorily performed to the date of termination, in addition to termination settlement costs the ENGINEER reasonably incurs relating to commitments which had become firm before the termination, unless CITY determines to assume said commitments.
- 18.5 Upon receipt of a termination notice under subsections 18.1 or 18.2 above, the ENGINEER shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to CITY all originals of data, drawings, specifications, calculations, reports, estimates, summaries, and such other information, documents, and materials as the ENGINEER or its subconsultants may have accumulated or prepared in performing this Agreement, whether completed or in progress, with the ENGINEER retaining copies of the same.
- 18.6 Upon termination under any subparagraph above, CITY reserves the right to prosecute the WORK to completion utilizing other qualified firms or individuals; provided, the ENGINEER shall have no responsibility to prosecute further WORK thereon.
- 18.7 If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER has not so failed, the termination shall be deemed to have been effected for the convenience of CITY. In such event, the adjustment pursuant to the Agreement shall be determined as set forth in subparagraph 18.4 of this Section.
- 18.8 If, because of death, unavailability or any other occurrence, it becomes impossible for any key personnel employed by the ENGINEER in PROJECT WORK or for any corporate officer of the ENGINEER to render his services to the PROJECT, the ENGINEER shall not be relieved of its obligations to complete performance under this Agreement without the concurrence and written approval of CITY. If CITY agrees to termination of this Agreement under this provision, payment shall be made as set forth in subparagraph 18.3 of this Section.

SECTION 19 DISPUTE RESOLUTION

- 19.1 In the event that any dispute shall arise as to the interpretation or performance of this Agreement, or in the event of a notice of default as to whether such default does constitute a breach of the contract, and if the parties hereto cannot mutually settle such differences, then the parties shall first pursue mediation as a means to resolve the dispute. If neither of the afore mentioned methods are successful then any dispute relating to this Agreement shall be decided in the courts of Yakima County, in accordance with SECTION 15. If both parties consent in writing, other available means of dispute resolution may be implemented.

SECTION 20 NOTICE

- 20.1 Any notice required to be given under the terms of this Agreement shall be directed to the party at the address set forth below. Notice shall be considered issued and effective upon receipt thereof by the addressee-party, or seventy-two (72) hours after mailing by certified mail to the place of business set forth below, whichever is earlier.

CITY: City of Yakima
129 N 2nd Street
Yakima, WA 98901
Attn: Mike Shane, Water/Irrigation Manager

ENGINEER: HLA Engineering and Land Surveying, Inc. (HLA)
2803 River Road
Yakima, WA 98902
Attn: Michael T. Battle, PE, President

SECTION 21 INSPECTION AND PRODUCTION OF RECORDS

- 21.1 The records relating to the WORK shall, at all times, be subject to inspection by and with the approval of the CITY, but the making of (or failure or delay in making) such inspection or approval shall not relieve ENGINEER of responsibility for performance of the WORK in accordance with this Agreement, notwithstanding the CITY's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. ENGINEER shall provide the CITY sufficient, safe, and proper facilities, and/or send copies of the requested documents to the CITY. ENGINEER's records relating to the WORK will be provided to the CITY upon the CITY's request.
- 21.2 ENGINEER shall promptly furnish the CITY with such information and records which are related to the WORK of this Agreement as may be requested by the CITY. Until the expiration of six (6) years after final payment of the compensation payable under this Agreement, or for a longer period if required by law or by the Washington Secretary of State's record retention schedule, ENGINEER shall retain and provide the CITY access to (and the CITY shall have the right to examine, audit and copy) all of ENGINEER's books, documents, papers and records which are related to the WORK performed by ENGINEER under this Agreement. Prior to converting any paper records to electronic format and/or destroying any records, ENGINEER shall contact CITY's Records Administrator (509-575-6037) to discuss retention. In no event shall any record relating to the WORK be destroyed without CITY consultation.
- 21.3 All records relating to ENGINEER's services under this Agreement must be made available to the CITY, and the records relating to the WORK are City of Yakima records. They must be produced to third parties, if required pursuant to the Washington State Public Records Act, Chapter 42.56 RCW, or by law. All records relating to ENGINEER's services under this Agreement must be retained by ENGINEER for the minimum period of time required pursuant to the Washington Secretary of State's records retention schedule.
- 21.4 The terms of this section shall survive any expiration or termination of this Agreement.

SECTION 22 COMPLIANCE WITH THE LAW

- 22.1 ENGINEER agrees to perform all WORK under and pursuant to this Agreement in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise, including policies adopted by the CITY, as those laws, ordinances, rules, regulations, and policies now exist or may hereafter be amended or enacted. ENGINEER shall procure and have all applicable and necessary permits, licenses and approvals of any federal, state, and local government or governmental authority or this PROJECT, pay all charges and fees, and give all notices necessary and incidental to the due and lawful execution of the work.
- 22.2 ENGINEER shall procure and have all applicable and necessary permits, licenses and approvals of any federal, state, and local government or governmental authority or this project, pay all charges and fees, and give all notices necessary and incidental to the due and lawful execution of the work.
- a. Procurement of a City Business License. ENGINEER must procure a City of Yakima Business License and pay all charges, fees, and taxes associated with said license.
 - b. ENGINEER must provide proof of a valid Washington department of Revenue state excise tax registration number, as required in Title 85 RCW.
 - c. ENGINEER must provide proof of a valid Washington Unified Business Identification (UBI) number. ENGINEER must have a current UBI number and not be disqualified from bidding on any public works contract under RCW 39.06.101 or 36.12.065(3).
 - d. ENGINEER must provide proof of a valid Washington Employment Security Department number as required by Title 50 RCW.
 - e. Foreign (Non-Washington) Corporations: Although the CITY does not require foreign corporate proposers to qualify in the City, County or State prior to submitting a proposal, it is specifically understood and agreed that any such corporation will promptly take all necessary measures to become authorized to conduct business in the City of Yakima, at their own expense, without regard to whether such corporation is actually awarded the contract, and in the event that the award is made, prior to conducting any business in the CITY.

SECTION 23 MISCELLANEOUS PROVISIONS

- 23.1 Nondiscrimination. During the performance of this Agreement, the ENGINEER agrees as follows: The ENGINEER shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, sexual orientation, gender identity, pregnancy, veteran's status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 USC 12101 et seq.). This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of WORK under this Agreement. In the event of the ENGINEER's noncompliance with the non-discrimination clause of this contract or with any such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the ENGINEER may be declared ineligible for any future CITY contracts.
- 23.2 Pay transparency nondiscrimination. The ENGINEER will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information.

- 23.3 Severability. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.
- 23.4 Agreement documents. This Agreement, the Request for Qualifications & Proposals No. _____, titled _____ Scope of Work, conditions, addenda, and modifications and ENGINEER's proposal (to the extent consistent with Yakima City documents) constitute the Agreement Documents and are complementary. Specific Federal and State laws and the terms of this Agreement, in that order respectively, supersede other inconsistent provisions. These Agreement Documents are on file in the Office of the Purchasing Manager, 129 No. 2nd St., Yakima, WA, 98901, and are hereby incorporated by reference into this Agreement.
- 23.5 Notice of change in financial condition. If, during this Agreement, the ENGINEER experiences a change in its financial condition that may affect its ability to perform under the Agreement, or experiences a change of ownership or control, the ENGINEER shall immediately notify the CITY in writing. Failure to notify the CITY of such a change in financial condition or change of ownership or control shall be sufficient grounds for termination.
- 23.6 No conflicts of interest. ENGINEER represents that it or its employees do not have any interest and shall not hereafter acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. ENGINEER further covenants that it will not hire anyone or any entity having such a conflict of interest during the performance of this Agreement.
- 23.7 Promotional advertising prohibited. Reference to or use of the CITY, any of its departments, agencies or other subunits, or any official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the CITY. Release of broadcast emails pertaining to this procurement shall not be made without prior written authorization of the CITY.
- 23.8 Time is of the essence. Timely provision of the WORK required under this Agreement shall be of the essence of the Agreement, including the provision of the WORK within the time agreed or on a date specified herein.
- 23.9 Waiver of breach. A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.
- 23.10 Force Majeure. ENGINEER will not be responsible for delays in delivery due to acts of God, fire, strikes, riots, delay in transportation, or those effects of epidemics or pandemics that could not have been reasonably anticipated or mitigated through acts of the ENGINEER; provided ENGINEER notifies the CITY immediately in writing of such pending or actual delay. Normally in the event of such delays, the date of delivery of WORK will be extended for a period of time equal to the time lost due to the reason for delay.
- 23.11 Authority. The person executing this Agreement on behalf of ENGINEER represents and warrants that they have been fully authorized by ENGINEER to execute this Agreement on its behalf and to legally bind ENGINEER to all terms, performances, and provisions of this Agreement.
- 23.12 Survival. The foregoing sections of this Agreement, inclusive, shall survive the expiration or termination of this Agreement, in accordance with their terms.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective authorized officers or representatives as of the day and year first above written.

CITY OF YAKIMA

HLA ENGINEERING AND LAND SURVEYING,
INC.


Signature


Signature

Printed Name: Robert Harrison

Printed Name: Michael T. Battle, PE

Title: City Manager

Title: President

Date: Jan. 4, 2024

Date: 12/15/23

Attest 
City Clerk



Resolution: R-2023- N/A
Contract 2024- 012

List of Exhibits attached to this contract

Exhibit A – Scope of Work
Exhibit B – Professional Fee
Exhibit C – Schedule of Rates

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

I certify that I know or have satisfactory evidence that Robert Harrison is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the CITY MANAGER of the CITY OF YAKIMA, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Seal or Stamp

(Signature)

Title

Printed Name

My commission expires: _____

STATE OF WASHINGTON

)

) ss.

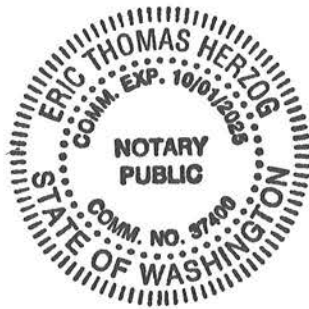
COUNTY OF YAKIMA

)

I certify that I know or have satisfactory evidence that Michael T. Battle, PE is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the President of HLA Engineering and Land Surveying, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12/15/23

Seal or Stamp



(Signature)

Title

Printed Name

My commission expires:

10/1/25

EXHIBIT A

SCOPE OF WORK

CITY OF YAKIMA

SOUTH SECOND AVENUE WATERMAIN REPLACEMENT

The City of Yakima (CITY) desires to improve system operations and reduce unscheduled repairs by replacing approximately 1,400 linear feet of existing 12-inch cast iron watermain with new 12-inch ductile iron watermain in South Second Avenue, between West Pine Street and Division Street. Improvements will include new crossing connections, water services, valves, fire hydrants, and related surface repairs.

HLA Engineering and Land Surveying, Inc. (ENGINEER), shall provide professional services for the CITY as outlined in the Work Task descriptions below.

1.0 Design Engineering

- 1.1 Provide complete PROJECT management to deliver the PROJECT within mutually determined expectations.
- 1.2 Attend kick-off meeting with the CITY to identify extent and type of improvements.
- 1.3 Provide preliminary cost estimate(s) for CITY selected initial improvements.
- 1.4 Conduct a topographic survey of the PROJECT area as required to complete design, plans, and specifications, including call for utility locates.
- 1.5 Research and identify existing easements and right of way limits for the PROJECT.
- 1.6 Attend meetings with the CITY to address technical aspects of the work related to scope, design, and schedule of the PROJECT. Up to two (2) meetings are anticipated.
- 1.7 Perform field investigations necessary to design the identified improvements.
- 1.8 Complete review of the existing system, connection locations, and provide any change in improvement recommendations from CITY selected initial improvements.
- 1.9 Review and identify public and private utilities within the PROJECT area.
- 1.10 Prepare the preliminary design. Present, review, and discuss preliminary plans with the CITY at 30%, 60%, and 90%.
- 1.11 Provide quality assurance and quality control review for each level of design completion (30%, 60%, and 90%).
- 1.12 Coordinate CITY reviews and incorporate CITY comments for each level of design completion (30%, 60%, and 90%).
- 1.13 Based on approved preliminary plans, perform the final design, and provide final plans and specifications to the CITY in electronic format suitable for printing and use at time of bid advertisement. It is anticipated HLA will prepare one (1) complete set of plans and specifications for one bid call; additional bid packages will be considered additional services.
- 1.14 Prepare Engineer's Estimate of construction cost.
- 1.15 Prepare advertisement for bids. CITY will transmit to newspaper(s) for publication. All advertising fees to be paid by the CITY.

- 1.16 Post documents to HLA website, notify potential bidders and utility companies of PROJECT posting, and maintain planholder list.
- 1.17 Answer and supply information as requested by prospective bidders.
- 1.18 Prepare and issue addenda to contract documents, if necessary.
- 1.19 Attend the bid opening and participate in the evaluation process.
- 1.20 Prepare summary of bids received and review bidder's qualifications and responsiveness.
- 1.21 Make recommendation of construction contract award to the lowest responsible bidder.
- 1.22 Prepare Notice of Intent to Award to Contractor.
- 1.23 Assemble construction Contracts and coordinate execution of the Contract with the CITY and Contractor, including review of bond and insurance requirements.

2.0 Construction Engineering

Construction engineering will be added by an amendment to this Agreement once the CITY moves forward with construction.

3.0 Additional Services

Provide professional engineering services for additional work requested by the CITY that is not included in this Agreement.

4.0 Items to be Furnished and Responsibility of the CITY

The CITY will provide or perform the following:

- 4.1 Provide full information as to CITY requirements for the PROJECT.
- 4.2 Provide all available information pertinent to the PROJECT relative to completion of design and construction of the PROJECT.
- 4.3 Provide staff and equipment to pothole at specific areas of potential conflict or interest, necessary to confirm the design.
- 4.4 Contact property owners affected by the PROJECT and gain necessary access to property for field investigation, design, and construction of improvements.
- 4.5 Examine all documents presented by HLA and provide written decisions within a reasonable time so as not to delay the work of HLA.
- 4.6 Obtain approval of all required governmental authorities for the PROJECT, and approvals and consents from other individuals as necessary for completion of the PROJECT. Pay all review fees and costs associated with obtaining such approvals.
- 4.7 Pay for advertising, notices, or other publications as may be required.

TIME OF PERFORMANCE:

The services called for in this Agreement shall be completed as follows:

1.0 Design Engineering

Design engineering, including plans, specifications, and cost estimate shall be completed within ninety (90) calendar days following receipt of this signed Agreement. It is anticipated one complete bid package will be prepared for all improvements. If the CITY directs a portion of the work and/or multiple bid packages, then time of completion to prepare multiple bid packages will be mutually agreed and included by amendment to this agreement.

2.0 Construction Engineering

Time of completion for work directed by the CITY for construction engineering shall be negotiated and mutually agreed upon when services are requested by the CITY and per execution of an amendment to this Agreement.

3.0 Additional Services

Time for completion of work directed by the CITY under additional services shall be negotiated and mutually agreed upon at the time service is requested by the CITY.

FEE FOR SERVICES:

For the services furnished by HLA as described within this Agreement, the CITY agrees to pay HLA the fees as set forth below. The amounts listed below may be revised only by written agreement of both parties. A fee breakdown is provided in EXHIBIT B attached.

1.0 Design Engineering

Work directed by the CITY for design engineering shall be performed on a time-spent basis at the hourly billing rates provided in EXHIBIT C of the Agreement (City Contract No. 2023-____, Resolution No. R-2023-____), plus reimbursement for direct non-salary expenses as described in section 6.1.1 for the estimated maximum fee of \$60,000.

2.0 Construction Engineering

Work directed by the CITY for construction engineering shall be negotiated and mutually agreed upon when services are requested by the CITY.

3.0 Additional Services

Additional work requested by the CITY not included above shall be authorized by the CITY and agreed to by HLA in writing prior to proceeding with services. HLA shall perform additional services as directed/authorized by the CITY on a time-spent basis at the hourly billing rates provided in EXHIBIT C, plus reimbursement for direct non-salary expenses as described in section 6.1.1.

End of Exhibit A

EXHIBIT B

PROFESSIONAL FEE

Project Title: South Second Avenue Watermain Replacement											
Client: City of Yakima											
HLA Project No. 24032											
Date: December 6, 2023				ENGINEER'S HOURLY ESTIMATE							
Task No.	Project Task	Senior Principal Engineer	Licensed Principal Engineer	Project Engineer I	Licensed Land Surveyor	Two Man Survey Crew	Contract Admin III	CAD Technician	Admin/ Clerical	Total Hours	Task Direct Costs
		\$263	\$235	\$174	\$191	\$270	\$159	\$153	\$102		
1.0 Design Engineering											
1.1	Project Management	8	4	0	0	0	0	0	0	12	\$3,044
1.2	Project Kick-off Meeting	2	2	2	0	0	0	0	0	6	\$1,344
1.3	Preliminary cost estimates for identified improvements	2	2	8	0	0	0	0	0	12	\$2,388
1.4	Detailed topographic survey	0	0	0	4	12	0	4	0	20	\$4,616
1.5	Review existing easements and right-of-way	0	2	4	8	4	0	4	0	22	\$4,386
1.6	Field investigations	0	4	4	0	0	0	0	0	8	\$1,636
1.7	Review and provide improvement recommendations	4	2	2	0	0	0	0	0	8	\$1,870
1.8	Review public and private utilities	0	8	8	2	0	0	0	0	18	\$3,654
1.9	Preliminary Engineering Design (30%, 60% and 90%)	2	2	32	0	0	0	4	4	44	\$7,584
1.10	In-house project review, quality control (30%, 60% and 90%)	4	8	2	4	0	4	4	4	30	\$5,700
1.11	Review w/and incorporate Agency comments (30%, 60% and 90%)	2	4	24	0	0	0	4	4	38	\$6,662
1.12	Final design, plans, and specifications	2	4	8	0	0	0	2	4	20	\$3,572
1.13	Prepare Engineer's Estimate of construction cost	0	4	8	0	0	0	0	0	12	\$2,332
1.14	Prepare Bid Advertisement for City Transmittal to Newspaper	0	1	2	0	0	2	0	2	7	\$1,105
1.15	Maintain HLA website for bidding purposes including Planholders list	0	0	0	0	0	0	0	4	4	\$408
1.16	Answer and Supply Information as Requested by Prospective Bidders	0	2	4	0	0	2	0	0	8	\$1,484
1.17	Prepare and Issue Addenda to Contract Documents	0	2	2	0	0	0	0	2	6	\$1,022
1.18	Attend Bid Opening and Bid Evaluation	0	2	2	0	0	4	0	0	8	\$1,454
1.19	Prepare Tabulation of Bids and Review Bidder Qualifications	0	1	2	0	0	8	0	0	11	\$1,855
1.20	Make Recommendation of Award	1	1	1	0	0	2	0	0	5	\$990
1.21	Prepare Notice of Intent to Award	0	1	1	0	0	2	0	2	6	\$931
1.22	Contract Execution, Bond and Insurance Review	0	1	1	0	0	8	0	2	12	\$1,885
Labor Subtotal		27	57	117	18	16	32	22	28	317	\$59,922
EXPENSES:											
Expenses:		Cost/Unit	Ground	Days	Days	Miles		Units			
Mileage		\$0.66				50					\$30
Total 1.0 Design Engineering											\$60,000

End of Exhibit B

EXHIBIT C

SCHEDULE OF RATES FOR

HLA Engineering and Land Surveying, Inc.

Effective January 1, 2024, through December 31, 2024

Senior Principal Engineer	\$263.00 per hour
Licensed Principal Engineer	\$235.00 per hour
Licensed Principal Land Surveyor	\$235.00 per hour
Licensed Professional Engineer	\$212.00 per hour
Other Licensed Professional	\$212.00 per hour
Project Engineer II	\$194.00 per hour
Construction Supervisor	\$194.00 per hour
Licensed Professional Land Surveyor	\$191.00 per hour
Project Engineer I	\$174.00 per hour
Contract Administrator III	\$159.00 per hour
Senior Resident Engineer	\$159.00 per hour
Senior Planner	\$157.00 per hour
CAD Technician	\$153.00 per hour
Engineering Technician III	\$143.00 per hour
Planner	\$143.00 per hour
Resident Engineer	\$143.00 per hour
Surveyor	\$141.00 per hour
Surveyor on Two Man Crew	\$135.00 per hour
Contract Administrator II	\$133.00 per hour
Engineering Technician II	\$123.00 per hour
Surveyor on Three Man Crew	\$118.00 per hour
Contract Administrator I	\$102.00 per hour
Engineering Technician I	\$102.00 per hour
Administrative/Clerical	\$102.00 per hour
Vehicle Mileage	Federal Rate

Schedule of Rates may be adjusted during the term of this Agreement to the HLA Standard Hourly Rates in effect at the time.

End of Exhibit C



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 7.E.
For Meeting of: February 6, 2024

ITEM TITLE: Resolution authorizing a contract agreement with Andrew Kottkamp for Hearing Examiner Pro Tem services

SUBMITTED BY: Sara Watkins, City Attorney
*Joseph Calhoun, Planning Manager

SUMMARY EXPLANATION:

The City of Yakima currently contracts with Gary Cuillier and Patrick Spurgin for hearing examiner services. There is an upcoming matter where neither Mr. Cuillier nor Mr. Spurgin are available to act as hearing examiner. As such, the City needs to contract with a second hearing examiner pro tem to hear this upcoming matter. Mr. Kottkamp serves as the hearing examiner for a number of Washington municipalities and has agreed to act as a hearing examiner pro tem for the City of Yakima under similar terms and conditions as Mr. Spurgin.

While the amount of the proposed agreement falls within the City Manager's authority, per YMC 1.03.020 appointment of hearing examiners shall be by the City Council.

ITEM BUDGETED: Yes

STRATEGIC PRIORITY: Neighborhood and Community Building

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Adopt Resolution.

ATTACHMENTS:

Description	Upload Date	Type
☐ Res-City & Hearing Exam'r Pro Tem Contract	1/17/2024	Resolution
☐ PSA_City & Hearing Exam'r Pro Tem Andrew Kottkamp	1/17/2024	Contract

RESOLUTION NO. R-2024-

A RESOLUTION authorizing a contract agreement with Andrew Kottkamp for Hearing Examiner Pro Tem services.

WHEREAS, the City of Yakima's Department of Community Development receives land use applications that staff and professionals review; and

WHEREAS, the City of Yakima Planning Division provides staff recommendations for applications regarding development projects and land use review within the City of Yakima that must be reviewed by an appointed hearing examiner or hearing examiner pro tem for consistency and compliance with all of the adopted development regulations and comprehensive plan policies; and

WHEREAS, the City's development regulations often require that public hearings on land use and development applications be conducted and, in some instances, that additional professional review be provided by a technically experienced land use attorney appointed by the City Council to perform hearing examiner services; and

WHEREAS, the City Council previously directed the City Manager to sign contracts with Gary Cuillier and Patrick Spurgin for hearing examiner and hearing examiner pro tem services; and

WHEREAS, there is a matter currently pending which neither Mr. Cuillier nor Mr. Spurgin are able to hear, so an additional hearing examiner pro tem needs to hear the matter; and

WHEREAS, Andrew Kottkamp is qualified and agrees to provide hearing examiner pro tem services in the event neither Mr. Cuillier nor Mr. Spurgin are available, in accordance with the City of Yakima municipal code and laws of the state of Washington; and

WHEREAS, the City Council of the City of Yakima finds it to be in the best interest of the City and its residents to enter into a contract with Andrew Kottkamp for hearing examiner pro tem services; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:

The City Manager is hereby authorized to execute the attached and incorporated Professional Services Contract for City of Yakima Hearing Examiner Pro Tem with Andrew Kottkamp to provide professional hearing examiner services to the City of Yakima in accordance with City ordinances and state law.

ADOPTED BY THE CITY COUNCIL this 6th day of February, 2024.

Patricia Byers, Mayor

ATTEST:

Rosalinda Ibarra, City Clerk

**PROFESSIONAL SERVICES CONTRACT
FOR
CITY OF YAKIMA HEARING EXAMINER PRO TEM**

PARTIES:

The parties to this contract are the CITY OF YAKIMA, 129 N. Second Street, Yakima, Washington 98901 ("City" herein), and ANDREW KOTTKAMP, Attorney at Law, 435 Orondo Avenue, Wenatchee, Washington 98801 ("Kottkamp" or "Examiner" herein).

RECITALS:

1. City of Yakima utilizes a Hearing Examiner for land use matters occurring throughout the City, as well as other matters as outlined in the Yakima Municipal Code.

2. The City contracts with a Hearing Examiner, Gary Cuillier, and Hearing Examiner Pro Tem, Pat Spurgin, however, the City has a need for another Hearing Examiner Pro Tem for cases where both have a conflict or are unavailable to hear a matter before a hearing examiner.

3. Andrew Kottkamp is willing and able to perform the duties of Hearing Examiner Pro Tem when the City's other two contracted examiners are unavailable or have a conflict with a case, and can serve on a case-by-case basis as Hearing Examiner Pro Tem of the City of Yakima.

AGREEMENT:

1. **Engagement of Hearing Examiner.** The City hereby hires Kottkamp, and Kottkamp agrees to serve, as Hearing Examiner Pro Tem for the purposes set forth in the City's various ordinances and land use regulations. Unless terminated pursuant to paragraph 13, the term of the engagement of the Hearing Examiner shall be for one (1) year and be on an "on-call" basis to take cases where the City's Hearing Examiner, and Hearing Examiner Pro Tem, are both unavailable and/or have a conflict of interest.

2. **Character and Extent of Services.** Kottkamp shall perform the services of Hearing Examiner Pro Tem for the City as required in the City's ordinances, as well as other duties as may be assigned by the Code Administration or Planning Manager from time to time.

3. **Case Assignment.** The Community Development Director, or their designee, is responsible for assigning cases. Cases will only be assigned to Kottkamp if the City's Hearing Examiner and Hearing Examiner Pro Tem Pat Spurgin are unavailable or unable to serve.

4. **Additional Duties.** The Pro Tem shall coordinate with the Hearing Examiner when appropriate in order to insure consistency of analysis and efficient decision-making. The Pro Tem's duty to determine matters efficiently shall include the duty to issue written findings and conclusions for all matters coming before the Examiner within ten (10) working days of the conclusion of the hearing on each matter unless a longer period is agreed to in writing by the applicant.

5. **Liaison.** The Community Development Director or their representative, shall serve as the City's liaison with the Pro Tem.

6. Independent Contract. The relationship of the Pro Tem to the City is that of an independent contractor rendering professional services. The Pro Tem shall have no authority to execute contracts or to make commitments on behalf of the City, except as authorized herein or by City ordinances, and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the City and the Pro Tem.

7. Professional Fees. The Pro Tem shall be paid by the City for professional services rendered under this contract at the rate of One Hundred Sixty Five Dollars (\$165.00) per hour.

7.1 In addition to hourly compensation, in the event that the Community Development Director requests the Pro Tem to undertake out-of-town travel, training activities, acquisition of specialized reference materials, and participation or membership in planning related organizations, the Pro Tem shall be reimbursed for direct non-salary expenses incurred for such out-of-town travel, training costs, costs for specialized reference materials, and planning related membership participation or membership fees.

7.2 The payment provided in this section shall be full compensation for services rendered, including all labor, materials, supplies, equipment, and necessary incidentals.

8. Itemized Statements. By the 5th day of each month the Pro Tem will provide to the City an itemized statement for services and expenses incurred during the previous month. There shall be an attachment itemizing services rendered for administrative matters, a second attachment itemizing services rendered for substantive matters, and a third attachment itemizing out of pocket expenses.

9. Payment Schedule. The City will strive to make payments within thirty (30) days of the date a statement for services is received.

10. Facilities to be Furnished by Hearing Examiner. The Pro Tem shall furnish and maintain an office, equipment, library, and clerical staff suitable and adequate for performing the services to be rendered pursuant to this contract. The City shall provide at its expense hearing rooms, recording equipment, and related supplies.

11. Ownership of Documents. The record developed before the Pro Tem, including the Pro Tem's decision or recommendation, shall be the property of the City. The Pro Tem's work product, consisting of notes, research, and preliminary drafts, shall be the property of the Pro Tem.

12. Right to Terminate Contract. The Hearing Examiner Pro Tem may be removed by the City Council pursuant to YMC 1.43.040. For purposes of this paragraph, "cause" shall include, but not be limited to, a determination by the City Council that the Pro Tem is not giving due consideration to proper procedure or is not conducting hearings in a prudent manner, giving due regard to the appearance of fairness doctrine, laws regarding conflicts of interest, and/or other laws, procedures, and regulations dealing with the subject matter under consideration.

The City or the Pro Tem may terminate this contract for cause or without cause upon giving the other party ninety (90) days written notice. The Pro Tem shall continue to work on any pending matters, and the City shall pay for such work, even if it occurs after the 90-day period.

13. No Personal Liability. The City shall defend, indemnify and hold harmless the Pro Tem from all liability, loss or damage, including costs of defense they may suffer as a result of claims, demands, actions, damages, costs or judgments which result from the activities to be performed by the Pro Tem pursuant to this Agreement. This defense and indemnity agreement does not apply to claims arising from bad faith or malicious performance by the Pro Tem of their duties herein.

14. Non-Assignment. This contract is personal to the Pro Tem and is not assignable by the Pro Tem to any other individual.

15. Amendment. This contract can only be amended by the written agreement of both parties.

16. Interest of Public Officials. No member of the governing body of the City and no officer, employee, or agent of the City shall have any personal financial interest, direct or indirect, in this contract. The Pro Tem shall take appropriate steps to assure compliance.

17. Interest of Pro Tem. The Pro Tem covenants that they presently have no interest and shall not acquire an interest, direct or indirect, in any property, which is the subject of a proceeding before the Pro Tem, which would conflict in any manner or degree with the performance of their services hereunder.

19. Term. This contract shall be deemed to have commenced on the date of signature and shall terminate December 31, 2024, unless prior to said date it is renewed for an additional period on terms agreeable to the City and the Pro Tem.

EXECUTED this ____ day of January, 2024.

CITY OF YAKIMA

By: _____
_____, City Manager

ATTEST:

By: _____
Rosalinda Ibarra
City Clerk

EXECUTED this 10 day of January, 2024.

HEARING EXAMINER PRO TEM

By: Andrew Kottkamp
Andrew Kottkamp



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 7.F.
For Meeting of: February 6, 2024

ITEM TITLE: Resolution accepting an Agreement with KPG Psomas for Division & 3rd Ave Signal Installation Project 2598

SUBMITTED BY: Scott Schafer, Director of Public Works
*Bill Preston, City Engineer - (509) 576-6754

SUMMARY EXPLANATION:

The City of Yakima is seeking approval to enter into an Agreement with KPG Psomas for professional engineering services on the design of the Division & 3rd Ave Signal installation Project 2598. This project includes surveying, preparing the signalization design, plans, specifications and construction engineering and is being conducted to improve vehicular and pedestrian safety.

Funding for the Division & 3rd Ave. Signal Installation project includes \$312,500 SIED Grant and \$312,500 SIED Loan. It also includes Transportation Benefit District (TBD) funds to provide \$125,000 in match and will be used to repay the SIED loan. The Agreement with KPG Psomas for engineering services is in an amount not to exceed \$171,244 and has been attached for City Council review.

ITEM BUDGETED: Yes

STRATEGIC PRIORITY: Economic Development

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Adopt Resolution.

ATTACHMENTS:

Description	Upload Date	Type
<input type="checkbox"/> Resolution	2/2/2024	Resolution
<input type="checkbox"/> Consultant Agreement	1/22/2024	Contract

RESOLUTION NO. R-2024-

A RESOLUTION authorizing agreement with KPG Psomas for the S 3rd Ave & Division St. Signalization Project 2598.

WHEREAS, the improvement of city streets for public safety is a priority for the City. The City plans to construct and install a traffic signal at S 3rd Ave & Division St. to improve vehicular and pedestrian safety; and

WHEREAS, the City desires to enter into a contract with KPG Psomas to perform professional engineering services for the S 3rd Ave & Division St Project; and

WHEREAS, the S 3rd Ave & Division St. Signalization Project includes surveying, preparing the signalization design, plans specifications, and construction engineering; and

WHEREAS, Resolution R-2023-159 authorized the acceptance of a Supporting Investments in Economic Development (SIED) grant of \$312,500 and a SIED loan of \$312,500 from Yakima County for the S 3rd Ave & Division St. Signalization Project; and

WHEREAS, the City will be utilizing Transportation Benefit District funds to provide match and to repay the SIED loan; and

WHEREAS, the City of Yakima used the procedure established by Washington State law for the bidding and awarding of public capital improvement projects; and

WHEREAS, KPG Psomas was determined to be qualified to perform the needed construction work; and

WHEREAS, the contract will be null and void if bond, certificate, and required insurance certificate and endorsement are not received within specified timeframe; and

WHEREAS, the Scope of Work and Budget included in this contract meets the needs and requirements of the City of Yakima for this project; and

WHEREAS, the City Council of the City of Yakima finds that entering into the contract with KPG Psomas for design of the Division St. & S. 3rd Ave Signalization project is in the best interests of the City and its residents; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:

The City Manager is hereby authorized to execute a contract with KPG Psomas, attached hereto and incorporated herein by this reference, not to exceed One Hundred Seventy One Thousand, Two Hundred Forty Four dollars (\$171,244) to provide engineering services outlined in the contract.

ADOPTED BY THE CITY COUNCIL this 6th day of February, 2024.

ATTEST:

Patricia Byers, Mayor

Brandy Bradford, Deputy City Clerk

**AGREEMENT
BETWEEN
CITY OF YAKIMA, WASHINGTON
AND
KPG Psomas Inc.
FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into on this _____ day of _____, 2024, by and between the City of Yakima, Washington, a municipal corporation with its principal office at 129 North Second Street, Yakima, WA 98901, (hereinafter referred to as "CITY"), and **KPG Psomas, Inc.** with its principal office at **23 South Wenatchee Avenue, Suite 223, Wenatchee, WA 98801**, (hereinafter referred to as "ENGINEER"); said corporation being licensed and registered to do business in the State of Washington, and will provide engineering design services under this Agreement for **S. 3rd Avenue & Division St. Signalization** on behalf of the City of Yakima, Project No. **2598**, herein referred to as the "PROJECT."

**WITNESSETH:
RECITALS**

WHEREAS, CITY desires to retain the ENGINEER to provide engineering services for design and construction of the PROJECT, as described in this Agreement and subsequent Amendments thereto; and

WHEREAS, ENGINEER represents that it has available and offers to provide personnel with knowledge and experience necessary to satisfactorily accomplish the work within the required time and that it has no conflicts of interest prohibited by law from entering into this Agreement;

NOW, THEREFORE, CITY and ENGINEER agree as follows:

SECTION 1 INCORPORATION OF RECITALS

1.1 The above recitals are incorporated into these operative provisions of the Agreement.

SECTION 2 SCOPE OF SERVICES

2.0.1 ENGINEER agrees to perform those services described hereafter. Unless modified in writing by both parties, duties of ENGINEER shall not be construed to exceed those services specifically set forth herein.

2.0.2 ENGINEER shall use its best efforts to maintain continuity in personnel and shall assign, **Nandez Miller** as Principal-in-Charge throughout the term of this Agreement unless other personnel are approved by the CITY.

2.1 Basic Services: ENGINEER agrees to perform those tasks described in Exhibit A, entitled "**Scope of Work**" (WORK) which is attached hereto and made a part of this Agreement as if fully set forth herein.

2.2 Additional Services: CITY and ENGINEER agree that not all WORK to be performed by ENGINEER can be defined in detail at the time this Agreement is executed, and that additional WORK related to the Project and not covered in Exhibit A may be needed during performance of this Agreement. CITY may, at any time, by written order, direct the ENGINEER to revise portions of the PROJECT WORK previously completed in a satisfactory manner, delete portions of the PROJECT, or request that the ENGINEER perform additional WORK beyond the scope of the PROJECT WORK. Such changes hereinafter shall be referred to as "Additional Services."

- 2.2.1 If such Additional Services cause an increase or decrease in the ENGINEER'S cost of, or time required for, performance of any services under this Agreement, a contract price and/or completion time adjustment pursuant to this Agreement shall be made and this Agreement shall be modified in writing and accepted by the parties hereto.
- 2.2.2 Compensation for each such request for Additional Services shall be negotiated by the CITY and the ENGINEER according to the provisions set forth in Exhibit B, attached hereto and incorporated herein by this reference, and if so authorized, shall be considered part of the PROJECT WORK. The ENGINEER shall not perform any Additional Services until so authorized by CITY and agreed to by the ENGINEER in writing.
- 2.3 The ENGINEER must assert any claim for adjustment in writing within thirty (30) days from the date of the ENGINEER's receipt of the written notification of change.

SECTION 3 TERM

- 3.1 The term of this AGREEMENT shall be for the period of three (3) years from the date of contract execution.

SECTION 4 CITY'S RESPONSIBILITIES

- 4.1 CITY-FURNISHED DATA: The CITY will provide to the ENGINEER all technical data in the CITY'S possession relating to the ENGINEER'S services on the PROJECT including information on any pre-existing conditions known to the CITY that constitute hazardous waste contamination on the PROJECT site as determined by an authorized regulatory agency.
- 4.2 ACCESS TO FACILITIES AND PROPERTY: The CITY will make its facilities reasonably accessible to ENGINEER as required for ENGINEER'S performance of its services and will provide labor and safety equipment as reasonably required by ENGINEER for such access.
- 4.3 TIMELY REVIEW: The CITY will examine the ENGINEER'S studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as CITY deems appropriate; and render in writing decisions required of CITY in a timely manner. Such examinations and decisions, however, shall not relieve the ENGINEER of any contractual obligations nor of its duty to render professional services meeting the standards of care applicable to its profession.
- 4.4 CITY shall appoint a CITY'S Representative with respect to WORK to be performed under this Agreement. CITY'S Representative shall have complete authority to transmit instructions and receive information. ENGINEER shall be entitled to reasonably rely on such instructions made by the CITY'S Representative unless otherwise directed in writing by the CITY, but ENGINEER shall be responsible for bringing to the attention of the CITY'S Representative any instructions which the ENGINEER believes are inadequate, incomplete, or inaccurate based upon the ENGINEER'S knowledge.
- 4.5 Any documents, services, and reports provided by the CITY to the ENGINEER are available solely as additional information to the ENGINEER and will not relieve the ENGINEER of its professional duties and obligations under this Agreement or at law. The ENGINEER shall be entitled to reasonably rely upon the accuracy and the completeness of such documents, services and reports, but shall be responsible for exercising customary professional care in using and reviewing such documents, services, and reports and drawing conclusions from them.

SECTION 5 AUTHORIZATION, PROGRESS, AND COMPLETION

- 5.1 In signing this Agreement, CITY grants ENGINEER specific authorization to proceed with WORK described in Exhibit A. The time for completion is defined in Exhibit A, or as amended.

SECTION 6 COMPENSATION

- 6.1 COMPENSATION ON A TIME SPENT BASIS AT SPECIFIC HOURLY RATES: For the services described in Exhibit A, compensation shall be according to Exhibit C - Schedule of Specific Hourly Rates, attached hereto and incorporated herein by this reference, on a time spent basis plus reimbursement for direct non-salary expenses.
- 6.1.1 DIRECT NON-SALARY EXPENSES: Direct Non-Salary Expenses are those costs incurred on or directly for the PROJECT including, but not limited to, necessary transportation costs, including current rates for ENGINEER'S vehicles; meals and lodging; laboratory tests and analyses; printing, binding and reproduction charges; all costs associated with other outside nonprofessional services and facilities; special CITY-requested and PROJECT-related insurance and performance warranty costs; and other similar costs. Reimbursement for Direct Non-Salary Expenses will be on the basis of actual charges plus a reasonable markup, not to exceed ten percent (10%), and on the basis of current rates when furnished by ENGINEER. Estimated Direct Non-Salary Expenses are shown in Exhibit B.
- 6.1.1.1 Travel costs, including transportation, lodging, subsistence, and incidental expenses incurred by employees of the ENGINEER and each of the Subconsultants in connection with PROJECT WORK; provided, as follows:
- ♦ That a maximum of U.S. INTERNAL REVENUE SERVICE allowed cents per mile will be paid for the operation, maintenance, and depreciation costs of company or individually owned vehicles for that portion of time they are used for PROJECT WORK. ENGINEER, whenever possible, will use the least expensive form of ground transportation.
 - ♦ That reimbursement for meals inclusive of tips shall not exceed a maximum of forty dollars (\$40) per day per person. This rate may be adjusted on a yearly basis.
 - ♦ That accommodation shall be at a reasonably priced hotel/motel.
 - ♦ That air travel shall be by coach class, and shall be used only when absolutely necessary.
- 6.1.2 Telephone charges, computer charges, in-house reproduction charges, first class postage, and FAX charges are not included in the direct expense costs, but are considered included in the Schedule of Specific Hourly Billing Rates.
- 6.1.3 Professional Subconsultants. Professional Subconsultants are those costs for engineering, architecture, geotechnical services and similar professional services approved by the CITY. Reimbursement for Professional Subconsultants will be on the basis of actual costs billed plus a reasonable markup, not to exceed ten percent (10%) for services provided to the CITY through this Agreement. Estimated Subconsultant costs are shown in Exhibit B.
- 6.2 Unless specifically authorized in writing by the CITY, the total budgetary amount for this PROJECT shall not exceed **One Hundred Seventy One Thousand Two Hundred Forty Four Dollars (\$171,244.00)**. The ENGINEER shall make all reasonable efforts to complete the WORK within the budget and will keep CITY informed of progress toward that end so that the budget or WORK effort can be adjusted if found necessary. The ENGINEER is not obligated to incur costs beyond the indicated budget, as may be adjusted, nor is the CITY obligated to pay the ENGINEER beyond these limits. When any budget has been increased, the ENGINEER'S excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase, and provided that the City was informed in writing at the time such costs were incurred.
- 6.3 The ENGINEER shall submit to the City's Representative an invoice each month for payment for PROJECT services completed through the accounting cut-off day of the previous month. Such invoices shall be for PROJECT services and WORK performed and costs incurred prior to the date of the invoice and not covered by previously submitted invoices. The ENGINEER shall

submit with each invoice a summary of time expended on the PROJECT for the current billing period, copies of subconsultant invoices, and any other supporting materials and details determined necessary by the City to substantiate the costs incurred. CITY will use its best efforts to pay such invoices within thirty (30) days of receipt and upon approval of the WORK done and amount billed. CITY will notify the ENGINEER promptly if any problems are noted with the invoice. CITY may question any item in an invoice, noting to ENGINEER the questionable item(s) and withholding payment for such item(s). The ENGINEER may resubmit such item(s) in a subsequent invoice together with additional supporting information requested.

- 6.4 If payment is not made within sixty (60) days following receipt of approved invoices, interest on the unpaid balance shall accrue beginning with the sixty-first (61st) day at the rate of 1.0% per month or the maximum interest rate permitted by law, whichever is less; provided, however, that no interest shall accrue pursuant to Chapter 39.76 RCW when before the date of timely payment a notice of dispute is issued in good faith by the CITY to the ENGINEER pursuant to the terms of RCW 39.76.020(4).
- 6.5 Final payment of any balance due the ENGINEER for PROJECT services will be made within forty-five (45) days after satisfactory completion of the services required by this Agreement as evidenced by CITY's written acceptance and after such audit or verification as CITY may deem necessary, together with ENGINEER's execution and delivery of a release of all known payment claims against CITY arising under or by virtue of this Agreement, other than such payment claims, if any, as may be specifically exempted by the ENGINEER from the operation of the release in stated amounts to be set forth therein.
- 6.6 Payment for any PROJECT services and WORK shall not constitute a waiver or release by CITY of any claims, right, or remedy it may have against the ENGINEER under this Agreement or by law, nor shall such payment constitute a waiver, remission, or discharge by CITY of any failure or fault of the ENGINEER to satisfactorily perform the PROJECT WORK as required under this Agreement.

SECTION 7 RESPONSIBILITY OF ENGINEER

- 7.1 The ENGINEER shall be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all plans, designs, drawings, specifications, reports, and other services furnished by the ENGINEER under this Agreement. The ENGINEER shall, without additional compensation, correct or review any errors, omissions, or other deficiencies in its plans, designs, drawings, specifications, reports, and other services. The ENGINEER shall perform its WORK according to generally accepted civil engineering standards of care and consistent with achieving the PROJECT WORK within budget, on time, and in compliance with applicable laws, regulations, and permits.
- 7.2 CITY'S review or approval of, or payment for, any plans, drawings, designs, specifications, reports, and incidental WORK or services furnished hereunder shall not in any way relieve the ENGINEER of responsibility for the technical adequacy, completeness, or accuracy of its WORK and the PROJECT WORK. CITY'S review, approval, or payment for any of the services shall not be construed to operate as a waiver of any rights under this Agreement or at law or any cause of action arising out of the performance of this Agreement.
- 7.3 In performing WORK and services hereunder, the ENGINEER and its subcontractors, subconsultants, employees, agents, and representatives shall be acting as independent contractors and shall not be deemed or construed to be employees or agents of CITY in any manner whatsoever. The ENGINEER shall not hold itself out as, nor claim to be, an officer or employee of CITY by reason hereof and shall not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of CITY. The ENGINEER shall be solely responsible for any claims for wages or compensation by ENGINEER's employees, agents, and representatives, including subconsultants and subcontractors, and shall save and hold CITY harmless therefrom.

7.4 INDEMNIFICATION AND HOLD HARMLESS:

- a. ENGINEER shall take all necessary precautions in performing the WORK to prevent injury to persons or property. The ENGINEER agrees to release, indemnify, defend, and hold harmless the City, its elected and appointed officials, officers, employees, agents, representatives, insurers, attorneys, and volunteers from all liabilities, losses, damages, and expenses related to all claims, suits, arbitration actions, investigations, and regulatory or other governmental proceedings arising from or in connection with this Agreement or the acts, failures to act, errors or omissions of the ENGINEER, or any of ENGINEER's agent(s) or subcontractor(s), in performance of this Agreement, except for claims caused by the City's sole negligence.
- b. **Industrial Insurance Act Waiver.** It is specifically and expressly understood that the ENGINEER waives any immunity that may be granted to it under the Washington State industrial insurance act, Title 51 RCW, solely for the purposes of this indemnification. ENGINEER's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third party under workers' compensation acts, disability benefit acts or any other benefits acts or programs. ENGINEER shall require that its subcontractors, and anyone directly or indirectly employed or hired by ENGINEER, and anyone for whose acts ENGINEER may be liable in connection with its performance of this Agreement, comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, and assume all potential liability for actions brought by their respective employees. The Parties acknowledge that they have mutually negotiated this waiver.
- c. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the ENGINEER and the City, the ENGINEER's liability, including the duty and cost to defend, shall be only to the extent of the ENGINEER's negligence.
- d. Nothing contained in this Section or this Agreement shall be construed to create a liability or a right of indemnification in any third party.
- e. The terms of this Section shall survive any expiration or termination of this Agreement.

7.5 In any and all claims by an employee of the ENGINEER, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligations under this Agreement shall not be limited in any way by any limitation on the amount or types of damages, compensation, or benefits payable by or for the ENGINEER or a subcontractor under workers' or workmens' compensation acts, disability benefit acts, or other employee benefit acts. The ENGINEER specifically and expressly waives its immunity under the Industrial Insurance Act, Title 51, RCW. Such waiver has been mutually negotiated by the ENGINEER and the CITY.

7.6 It is understood that any resident engineering or inspection provided by ENGINEER is for the purpose of determining compliance with the technical provisions of PROJECT specifications and does not constitute any form of guarantee or insurance with respect to the performance of a contractor. ENGINEER does not assume responsibility for methods or appliances used by a contractor, for a contractor's safety programs or methods, or for contractors' compliance with laws and regulations. CITY shall use its best efforts to ensure that the construction contract requires that the contractor(s) indemnify and name CITY, the CITY's and the ENGINEER's officers, principals, employees, agents, representatives, and engineers as additional insureds on contractor's insurance policies covering PROJECT, exclusive of insurance for ENGINEER professional liability.

7.7 ENGINEER shall be solely responsible for and shall pay all taxes, deductions, and assessments, including but not limited to federal income tax, FICA, social security tax, assessments for unemployment and industrial injury insurance, and other deductions from income which may be required by law or assessed against either party as a result of this Agreement. In the event the City is assessed a tax or assessment as a result of this Agreement, ENGINEER shall pay the same before it becomes due.

- 7.8 **SUBSURFACE INVESTIGATIONS:** In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observation, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of the ENGINEER, to the extent that ENGINEER has exercised the applicable and appropriate standard of professional care, thoroughness and judgment in performing such investigations.

SECTION 8 PROJECT SCHEDULE AND BUDGET

- 8.1 The general PROJECT schedule and the budget for both the entire PROJECT and its component tasks shall be as set forth in this Agreement and attached Exhibits. The project schedule and performance dates for the individual tasks shall be mutually agreed to by the CITY and the ENGINEER within fifteen (15) days after execution of this Agreement. The performance dates and budgets for tasks may be modified only upon written agreement of the parties hereto. The performance date for tasks and the completion date for the entire PROJECT shall not be extended, nor the budget increased because of any unwarranted delays attributable to the ENGINEER, but may be extended or increased by the CITY in the event of a delay caused by special services requested by the CITY or because of unavoidable delay caused by any governmental action or other conditions beyond the control of the ENGINEER which could not be reasonably anticipated or avoided.
- 8.2 Not later than the tenth (10th) day of each calendar month during the performance of the PROJECT, the ENGINEER shall submit to the CITY's Representative a copy of the current schedule and a written narrative description of the WORK accomplished by the ENGINEER and subconsultants on each task, indicating a good faith estimate of the percentage completion thereof on the last day of the previous month. Additional oral or written reports shall be prepared at the CITY's request for presentation to other governmental agencies and/or to the public.

SECTION 9 REUSE OF DOCUMENTS

- 9.1 All internal WORK products of the ENGINEER are instruments or services of this PROJECT. There shall be no reuse, change, or alteration by the CITY or others acting through or on behalf of the CITY without written permission of the ENGINEER, which shall not be unreasonably withheld and will be at the CITY's sole risk. The CITY agrees to indemnify the ENGINEER and its officers, employees, subcontractors, and affiliated corporations from all claims, damages, losses, and costs including, but not limited to, litigation expenses and attorney's fees arising out of or related to such unauthorized reuse, change, or alteration; provided, however, that the ENGINEER will not be indemnified for such claims, damages, losses, and costs including, without limitation, litigation expenses and attorney fees if they were caused by the ENGINEER's own negligent acts or omissions.
- 9.2 The ENGINEER agrees that any and all plans, drawings, designs, specifications, computer programs, technical reports, operating manuals, calculations, notes, and other WORK submitted or which are specified to be delivered under this Agreement or which are developed or produced and paid for under this Agreement, whether or not complete, shall be owned by and vested in the CITY.
- 9.3 All rights to patents, trademarks, copyrights, and trade secrets owned by ENGINEER (hereinafter "Intellectual Property") as well as any modifications, updates or enhancements to said Intellectual Property during the performance of the WORK remain the property of ENGINEER, and ENGINEER does not grant CITY any right or license to such Intellectual Property.

SECTION 10 AUDIT AND ACCESS TO RECORDS

- 10.1 The ENGINEER, including its subconsultants, shall maintain books, records, documents and other evidence directly pertinent to performance of the WORK under this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The CITY, or the CITY's duly authorized representative, shall have access to such books, records, documents, and other evidence for inspection, audit, and copying for a period of three

years after completion of the PROJECT. The CITY shall also have access to such books, records, and documents during the performance of the PROJECT WORK, if deemed necessary by the CITY, to verify the ENGINEER's WORK and invoices.

- 10.2 Audits conducted pursuant to this section shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the reviewing or auditing agency.
- 10.3 The ENGINEER agrees to the disclosure of all information and reports resulting from access to records pursuant to this section provided that the ENGINEER is afforded the opportunity for an audit exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report and that the final audit report will include ENGINEER's written comments, if any.
- 10.4 The ENGINEER shall ensure that the foregoing paragraphs are included in each subcontract for WORK on the Project.
- 10.5 Any charges of the ENGINEER paid by the CITY which are found by an audit to be inadequately substantiated shall be reimbursed to the CITY.

SECTION 11 INSURANCE

- 11.1 At all times during performance of the WORK or obligations under this Agreement, ENGINEER shall secure and maintain in effect insurance to protect the CITY and the ENGINEER from and against all claims, damages, losses, and expenses arising out of or resulting from the performance of this Agreement. ENGINEER shall provide and maintain in force insurance in limits no less than those stated below, as applicable. The CITY reserves the right to require higher limits should it deem it necessary in the best interest of the public. If ENGINEER carries higher coverage limits than the limits stated below, such higher limits shall be shown on the Certificate of Insurance and Endorsements and ENGINEER shall be named as an additional insured for such higher limits.

ENGINEER shall provide a Certificate of Insurance to the City as evidence of coverage for each of the policies and outlined herein. A copy of the additional insured endorsement attached to the policy shall be included with the certificate. This Certificate of insurance shall be provided to the City prior to commencement of work. Failure to provide the City with proof of insurance and/or to maintain such insurance outlined herein shall be a material breach of this agreement and a basis for termination.

Failure by the City to demand such verification of coverage with these insurance requirements or failure of the City to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of ENGINEER's obligation to maintain such insurance.

ENGINEER's insurance coverage shall be primary insurance with respect to those who are Additional Insureds under this Agreement, and any insurance, self-insurance or insurance pool coverage maintained by the City shall be in excess of the ENGINEER's insurance and neither the City nor its insurance providers shall contribute to any settlements, defense costs, or other payments made by ENGINEER's insurance. All additional insured endorsements required by this Section shall include an explicit waiver of subrogation.

- 11.1.1 **Commercial General Liability Insurance.** Before this Agreement is fully executed by the parties, ENGINEER shall provide the CITY with a certificate of insurance as proof of commercial liability insurance and commercial umbrella liability insurance with a total liability limit of the limits required in the policy, subject to minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) general aggregate. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Agreement. The policy shall name the CITY, its elected and appointed officials, officers, agents, employees, and volunteers as additional insureds. The insured shall not cancel or change the insurance without first giving the CITY thirty (30) calendar days prior written notice. The insurance shall be with an insurance

company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

11.1.2. Commercial Automobile Liability Insurance.

a. If ENGINEER owns any vehicles, before this Agreement is fully executed by the parties, ENGINEER shall provide the CITY with a certificate of insurance as proof of commercial automobile liability insurance and commercial umbrella liability insurance with a total liability limit of the limits required in the policy, subject to minimum limits of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage. Automobile liability will apply to "Any Auto" and be shown on the certificate.

b. If ENGINEER does not own any vehicles, only "Non-owned and Hired Automobile Liability" will be required and may be added to the commercial liability coverage at the same limits as required in that section of this Agreement, which is Section 10.1.1 entitled "Commercial General Liability Insurance".

c. Under either situation described above in Section 10.1.2.a. and Section 10.1.2.b., the required certificate of insurance shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Agreement. The policy shall name the CITY, its elected and appointed officials, officers, agents, employees, and volunteers as additional insureds. The insured shall not cancel or change the insurance without first giving the CITY thirty (30) calendar days prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

11.1.3. Statutory workers' compensation and employer's liability insurance as required by state law.

11.1.4. **Professional Liability Coverage.** Before this Contract is fully executed by the parties, ENGINEER shall provide the City with a certificate of insurance as proof of professional liability coverage with a total liability limit of the limits required in the policy, subject to minimum limits of Two Million Dollars (\$2,000,000.00) per claim, and Two Million Dollars (\$2,000,000.00) aggregate. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The insured shall not cancel or change the insurance without first giving the CITY thirty (30) calendar days prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide. If the policy is written on a claims made basis the coverage will continue in force for an additional two years after the completion of this contract.

Failure of either or all of the additional insureds to report a claim under such insurance shall not prejudice the rights of the CITY, its elected and appointed officials, officers, employees, agents, and representatives there under. The CITY and the CITY's elected and appointed officials, officers, principals, employees, representatives, and agents shall have no obligation for payment of premiums because of being named as additional insureds under such insurance. None of the policies issued pursuant to the requirements contained herein shall be canceled, allowed to expire, or changed in any manner that affects the rights of the CITY until thirty (30) days after written notice to the CITY of such intended cancellation, expiration or change.

11.2 If at any time during the life of the Agreement, or any extension, ENGINEER fails to maintain the required insurance in full force and effect, all work under the Agreement shall be discontinued immediately. Any failure to maintain the required insurance may be sufficient cause for the City to terminate the Agreement.

SECTION 12 SUBCONTRACTS

- 12.1 ENGINEER shall be entitled, to the extent determined appropriate by ENGINEER, to subcontract any portion of the WORK to be performed under this Agreement. However, ENGINEER shall be considered the Prime Contractor hereunder and shall be the sole point of contact with regard to all contractual matters arising hereunder, including the performance of WORK and payment of any and all charges resulting from contractual obligations.
- 12.2 Any subconsultants or subcontractors to the ENGINEER utilized on this PROJECT, including any substitutions thereof, will be subject to prior approval by CITY, which approval shall not be unreasonably withheld. Each subcontract shall be subject to review by the CITY's Representative, if requested, prior to the subconsultant or subcontractor proceeding with the WORK. Such review shall not constitute an approval as to the legal form or content of such subcontract. The ENGINEER shall be responsible for the architectural and engineering performance, acts, and omissions of all persons and firms performing subcontract WORK.
- 12.3 CITY does not anticipate ENGINEER subcontracting with any additional persons or firms for the purpose of completing this Agreement.
- 12.4 The ENGINEER shall submit, along with its monthly invoices, a description of all WORK completed by subconsultants and subcontractors during the preceding month and copies of all invoices thereto.
- 12.5 If dissatisfied with the background, performance, and/or general methodologies of any subcontractor, the City may request in writing that the subcontractor be removed. The ENGINEER shall comply with this request at once and shall not employ the subcontractor for any further WORK under this Agreement.

SECTION 13 ASSIGNMENT

- 12.1 This Agreement is binding on the heirs, successors and assigns of the parties hereto. This Agreement may not be assigned by CITY or ENGINEER without prior written consent of the other, which consent will not be unreasonably withheld. The ENGINEER for itself and its heirs, executors, administrators, successors and assigns, does hereby agree to the full performance of all of the covenants herein contained upon the part of the ENGINEER. It is expressly intended and agreed that no third party beneficiaries are created by this Agreement, and that the rights and remedies provided herein shall inure only to the benefit of the parties to this Agreement.

SECTION 14 INTEGRATION

- 14.1 This Agreement represents the entire understanding of CITY and ENGINEER as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

SECTION 15 JURISDICTION AND VENUE

- 15.1 This Agreement shall be administered and interpreted under the laws of the State of Washington. Jurisdiction of litigation arising from this Agreement shall be in Washington State. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it conflicts with said laws, but the remainder of this Agreement shall be in full force and effect. Venue for all disputes arising under this Agreement shall lie in a court of competent jurisdiction in Yakima County, Washington.

SECTION 16 EQUAL EMPLOYMENT and NONDISCRIMINATION

- 16.1 During the performance of this Agreement, ENGINEER and ENGINEER's subconsultants and subcontractors shall not discriminate in violation of any applicable federal, state and/or local law or regulation on the basis of age, sex, race, creed, religion, color, national origin, marital status, disability, honorably discharged veteran or military status, pregnancy, sexual orientation, and any

other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under this Agreement. ENGINEER agrees to comply with the applicable provisions of State and Federal Equal Employment Opportunity and Nondiscrimination statutes and regulations.

SECTION 17 SUSPENSION OF WORK

- 17.1 CITY may suspend, in writing by certified mail, all or a portion of the WORK under this Agreement if unforeseen circumstances beyond CITY's control are interfering with normal progress of the WORK. ENGINEER may suspend, in writing by certified mail, all or a portion of the WORK under this Agreement if unforeseen circumstances beyond ENGINEER's control are interfering with normal progress of the WORK. ENGINEER may suspend WORK on the PROJECT in the event CITY does not pay invoices when due, except where otherwise provided by this Agreement. The time for completion of the WORK shall be extended by the number of days WORK is suspended. If the period of suspension exceeds ninety (90) days, the terms of this Agreement are subject to renegotiation, and both parties are granted the option to terminate WORK on the suspended portion of Project in accordance with SECTION 18.

SECTION 18 TERMINATION OF WORK

- 18.1 Either party may terminate this Agreement, in whole or in part, if the other party materially breaches its obligations under this Agreement and is in default through no fault of the terminating party. However, no such termination may be effected unless the other party is given: (1) not less than fifteen (15) calendar days written notice delivered by certified mail, return receipt requested, of intent to terminate; and (2) an opportunity for consultation with the terminating party and for cure within the 15-day notice period before termination. Notice shall be considered issued within seventy-two (72) hours of mailing by certified mail to the place of business of either party as set forth in this Agreement.
- 18.2 In addition to termination under subsection 18.1 of this Section, CITY may terminate this Agreement for its convenience, in whole or in part, provided the ENGINEER is given: (1) not less than fifteen (15) calendar days written notice delivered by certified mail, return receipt requested, of intent to terminate; and (2) an opportunity for consultation with CITY before the effective termination date.
- 18.3 If CITY terminates for default on the part of the ENGINEER, an adjustment in the contract price pursuant to the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other WORK, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to the extent of any additional costs or damages CITY has incurred, or is likely to incur, because of the ENGINEER'S breach. In such event, CITY shall consider the amount of WORK originally required which was satisfactorily completed to date of termination, whether that WORK is in a form or of a type which is usable and suitable to CITY at the date of termination and the cost to CITY of completing the WORK itself or of employing another firm to complete it. Under no circumstances shall payments made under this provision exceed the contract price. In the event of default, the ENGINEER agrees to pay CITY for any and all damages, costs, and expenses whether directly, indirectly, or consequentially caused by said default. This provision shall not preclude CITY from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by contract retainage or other withheld payments.
- 18.4 If the ENGINEER terminates for default on the part of CITY or if CITY terminates for convenience, the adjustment pursuant to the Agreement shall include payment for services satisfactorily performed to the date of termination, in addition to termination settlement costs the ENGINEER reasonably incurs relating to commitments which had become firm before the termination, unless CITY determines to assume said commitments.
- 18.5 Upon receipt of a termination notice under subsections 18.1 or 18.2 above, the ENGINEER shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to CITY all originals of data, drawings, specifications, calculations,

reports, estimates, summaries, and such other information, documents, and materials as the ENGINEER or its subconsultants may have accumulated or prepared in performing this Agreement, whether completed or in progress, with the ENGINEER retaining copies of the same.

- 18.6 Upon termination under any subparagraph above, CITY reserves the right to prosecute the WORK to completion utilizing other qualified firms or individuals; provided, the ENGINEER shall have no responsibility to prosecute further WORK thereon.
- 18.7 If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER has not so failed, the termination shall be deemed to have been effected for the convenience of CITY. In such event, the adjustment pursuant to the Agreement shall be determined as set forth in subparagraph 18.4 of this Section.
- 18.8 If, because of death, unavailability or any other occurrence, it becomes impossible for any key personnel employed by the ENGINEER in PROJECT WORK or for any corporate officer of the ENGINEER to render his services to the PROJECT, the ENGINEER shall not be relieved of its obligations to complete performance under this Agreement without the concurrence and written approval of CITY. If CITY agrees to termination of this Agreement under this provision, payment shall be made as set forth in subparagraph 18.3 of this Section.

SECTION 19 DISPUTE RESOLUTION

- 19.1 In the event that any dispute shall arise as to the interpretation or performance of this Agreement, or in the event of a notice of default as to whether such default does constitute a breach of the contract, and if the parties hereto cannot mutually settle such differences, then the parties shall first pursue mediation as a means to resolve the dispute. If neither of the afore mentioned methods are successful then any dispute relating to this Agreement shall be decided in the courts of Yakima County, Washington, in accordance with SECTION 14. If both parties consent in writing, other available means of dispute resolution may be implemented.

SECTION 20 NOTICE

- 20.1 Any notice required to be given under the terms of this Agreement shall be directed to the party at the address set forth below. Notice shall be considered issued and effective upon receipt thereof by the addressee-party, or seventy-two (72) hours after mailing by certified mail to the place of business set forth below, whichever is earlier.

CITY: City of Yakima
129 N 2nd Street
Yakima, WA 98901
Attn: Bill Preston

ENGINEER: KPG Psomas Inc.
23 South Wenatchee Avenue, Suite 223
Wenatchee, WA 98801
Attn: Karissa Witthuhn

SECTION 21 INSPECTION AND PRODUCTION OF RECORDS

- 21.1 The records relating to the WORK shall, at all times, be subject to inspection by and with the approval of the City, but the making of (or failure or delay in making) such inspection or approval shall not relieve ENGINEER of responsibility for performance of the WORK in accordance with this Agreement, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. ENGINEER shall provide the City sufficient, safe, and proper facilities, and/or send copies of the requested documents to the City. ENGINEER's records relating to the WORK will be provided to the City upon the City's request.
- 21.2 ENGINEER shall promptly furnish the City with such information and records which are related to the WORK of this Agreement as may be requested by the City. Until the expiration of six (6)

years after final payment of the compensation payable under this Agreement, or for a longer period if required by law or by the Washington Secretary of State's record retention schedule, ENGINEER shall retain and provide the City access to (and the City shall have the right to examine, audit and copy) all of ENGINEER's books, documents, papers and records which are related to the WORK performed by ENGINEER under this Agreement. Prior to converting any paper records to electronic format and/or destroying any records, ENGINEER shall contact CITY's Records Administrator (509-575-6037) to discuss retention. In no event shall any record relating to the WORK be destroyed without CITY consultation.

21.3 All records relating to ENGINEER's services under this Agreement must be made available to the City, and the records relating to the WORK are City of Yakima records. They must be produced to third parties, if required pursuant to the Washington State Public Records Act, Chapter 42.56 RCW, or by law. All records relating to ENGINEER's services under this Agreement must be retained by ENGINEER for the minimum period of time required pursuant to the Washington Secretary of State's records retention schedule.

21.4 The terms of this section shall survive any expiration or termination of this Agreement.

SECTION 22 COMPLIANCE WITH THE LAW

22.1 ENGINEER agrees to perform all WORK under and pursuant to this Agreement in full compliance with any and all applicable laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether federal, state, local, or otherwise, including policies adopted by the City, as those laws, ordinances, rules, regulations, and policies now exist or may hereafter be amended or enacted. ENGINEER shall procure and have all applicable and necessary permits, licenses and approvals of any federal, state, and local government or governmental authority or this project, pay all charges and fees, and give all notices necessary and incidental to the due and lawful execution of the work.

22.2 ENGINEER shall procure and have all applicable and necessary permits, licenses and approvals of any federal, state, and local government or governmental authority or this project, pay all charges and fees, and give all notices necessary and incidental to the due and lawful execution of its work.

- a. Procurement of a City Business License. ENGINEER must procure a City of Yakima Business License and pay all charges, fees, and taxes associated with said license.
- b. ENGINEER must provide proof of a valid Washington department of Revenue state excise tax registration number, as required in Title 85 RCW.
- c. ENGINEER must provide proof of a valid Washington Unified Business Identification (UBI) number. ENGINEER must have a current UBI number and not be disqualified from bidding on any public works contract under RCW 39.06.101 or 36.12.065(3).
- d. ENGINEER must provide proof of a valid Washington Employment Security Department number as required by Title 50 RCW.
- e. Foreign (Non-Washington) Corporations: Although the City does not require foreign corporate proposers to qualify in the City, County or State prior to submitting a proposal, it is specifically understood and agreed that any such corporation will promptly take all necessary measures to become authorized to conduct business in the City of Yakima, at their own expense, without regard to whether such corporation is actually awarded the contract, and in the event that the award is made, prior to conducting any business in the City.

SECTION 23 MISCELLANEOUS PROVISIONS

23.1 Nondiscrimination. During the performance of this Agreement, the ENGINEER agrees as follows: The ENGINEER shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, sexual orientation, gender identity, pregnancy, veteran's status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 USC 12101 et seq.). This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising,

layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of WORK under this Agreement. In the event of the ENGINEER's noncompliance with the non-discrimination clause of this contract or with any such rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and the ENGINEER may be declared ineligible for any future City contracts.

- 23.2 Pay transparency nondiscrimination. The ENGINEER will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information.

- 23.3 Severability. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

- 23.4 Agreement documents. This Agreement, the Request for Qualifications & Proposals No. _____, titled _____ Scope of Work, conditions, addenda, and modifications and ENGINEER's proposal (to the extent consistent with Yakima City documents) constitute the Agreement Documents and are complementary. Specific Federal and State laws and the terms of this Agreement, in that order respectively, supersede other inconsistent provisions. These Agreement Documents are on file in the Office of the Purchasing Manager, 129 No. 2nd St., Yakima, WA, 98901, and are hereby incorporated by reference into this Agreement.

- 23.5 Notice of change in financial condition. If, during this Agreement, the ENGINEER experiences a change in its financial condition that may affect its ability to perform under the Agreement, or experiences a change of ownership or control, the ENGINEER shall immediately notify the City in writing. Failure to notify the City of such a change in financial condition or change of ownership or control shall be sufficient grounds for termination.

- 23.6 No conflicts of interest. ENGINEER represents that it or its employees do not have any interest and shall not hereafter acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. ENGINEER further covenants that it will not hire anyone or any entity having such a conflict of interest during the performance of this Agreement.

- 23.7 Promotional advertising prohibited. Reference to or use of the City, any of its departments, agencies or other subunits, or any official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the City. Release of broadcast emails pertaining to this procurement shall not be made without prior written authorization of the City.

- 23.8 Time is of the essence. Timely provision of the WORK required under this Agreement shall be of the essence of the Agreement, including the provision of the WORK within the time agreed or on a date specified herein.

- 23.9 Waiver of breach. A waiver by either party hereto of a breach of the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.

- 23.10 Force Majeure. ENGINEER will not be responsible for delays in delivery due to acts of God, fire, strikes, riots, delay in transportation, or those effects of epidemics or pandemics that could not have been reasonably anticipated or mitigated through acts of the ENGINEER; provided

ENGINEER notifies the City immediately in writing of such pending or actual delay. Normally in the event of such delays, the date of delivery of WORK will be extended for a period of time equal to the time lost due to the reason for delay.

- 23.11 Authority. The person executing this Agreement on behalf of ENGINEER represents and warrants that they have been fully authorized by ENGINEER to execute this Agreement on its behalf and to legally bind ENGINEER to all terms, performances, and provisions of this Agreement.
- 23.12 Survival. The foregoing sections of this Agreement, inclusive, shall survive the expiration or termination of this Agreement, in accordance with their terms.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective authorized officers or representatives as of the day and year first above written.

CITY OF YAKIMA

KPG Psomas Inc.

Signature

Printed Name: _____

Printed Name: _____

Title: City Manager

Title: _____

Date: _____

Date: _____

Attest _____
City Clerk

List of Exhibits attached to this contract

Exhibit A – Scope of Work
Exhibit B – Professional Fee
Exhibit C – Schedule of Rates

STATE OF WASHINGTON

)

) ss.

COUNTY OF YAKIMA

)

I certify that I know or have satisfactory evidence that Bob Harrison is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the CITY MANAGER of the CITY OF YAKIMA, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Seal or Stamp

(Signature)_____
Title_____
Printed Name

My commission expires: _____

STATE OF WASHINGTON

)

) ss.

COUNTY OF YAKIMA

)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the _____ of _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

Seal or Stamp

(Signature)

Title

Printed Name

My commission expires: _____

EXHIBIT A
SCOPE OF WORK



**Scope of Work
City of Yakima
South 3rd Avenue and Division Street Intersection Signalization
KPG Psomas Project No. 9YAK01XXXX
January 12, 2024**

Project Description

The City of Yakima has received funding through Yakima County's Supporting Investment in Economic Development (SIED) program, combined with local City funds, to install a traffic signal system at the intersection of S 3rd Avenue and Division Street and replace existing curb ramps with new ramps that are compliant with ADA accessibility guidelines. The project was initiated by Yakima Chief Hops to increase safety for pedestrians crossing between the Yakima Chief Hops buildings at the SE and SW corners of the intersection. The City has commissioned a traffic study at this intersection, indicating that a traffic signal is warranted.

Scope of Work

A summary of the anticipated overall project elements is provided below. The Consultant will lead the development of the traffic signal and site civil project components, including design, plan production, contract specifications, and opinion of probable construction cost.

This scope of work includes the following roles:

- Task 1. Project Management
- Task 2. Site Survey
- Task 3. Geotechnical Exploration & Report
- Task 4. Plans, Specifications and Opinion of Probable Construction Cost

The specific scope of work for these improvements is described in the following tasks.

TASK 1 – Project Management

The Consultant will provide continuous project management and administrative services including:

1. Project set-up.
2. Preparation of monthly invoices with progress reports.
3. Schedule and budget monitoring.
4. Change management, including preparation of supplemental agreements.
5. Record keeping and project closeout.

Assumptions:

1. The project duration will be eight months.
2. No Federal funds involved in the project.

Deliverables:

1. Monthly invoice with progress reports (8 months).
2. Project schedule and updates using Microsoft Project (PDF).

TASK 2 – Site Survey

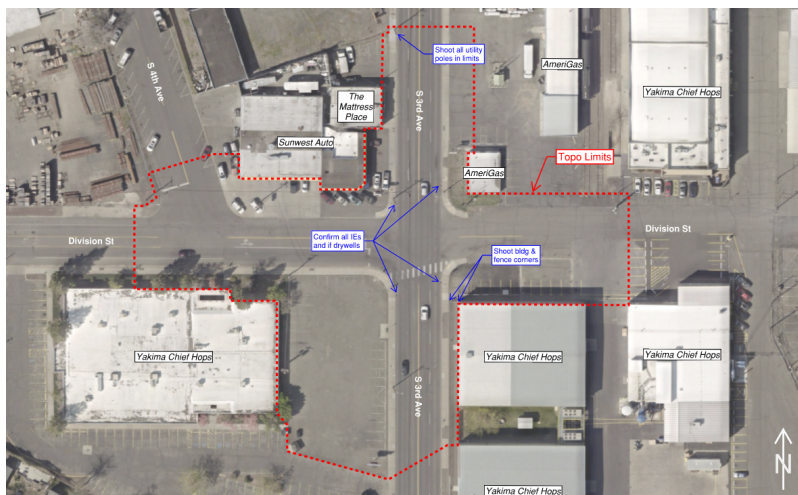
Task 2.1 – Survey Control

Establish horizontal and vertical control points within the project limits. Basis of control will be NAD 83/2011 and NAVD88 for horizontal and vertical respectively. Approximately 4 control points will be established at the site for continued use.

Task 2.2 – Topographic Mapping

Field mapping within the project limits will include topography, man-made surface features, limits of vegetation, trees (6" DBH or larger), overhead utilities, and painted underground utilities. Irrigation systems will not be included. Perform measure-downs of existing storm drain and sanitary sewer structures, indicating rim and pipe invert elevations. Document the approximate size, type, material, and general condition of the structures. These observations will be made from the surface. Any required pipe video inspection, potholing or smoke testing needed to verify the condition or connectivity of drainage features is outside the scope of this task.

The limits of topographic mapping are limited to the area within the boundary outlined below:



Task 2.3 – Locate Paint Marks by Locator

The Consultant will survey the location of the locate paint marks. While every reasonable effort will be made by the Consultant to depict the location of underground utilities based on utility locates, the Consultant is not liable for errors or omissions by utility locators, or erroneous or insufficient information shown on utility record drawings.

Task 2.4 – Base Map and DTM Preparation

Prepare 1"=20' topographic base map and digital terrain model (DTM) in AutoCAD Civil3D format version 2022 of the project to the City's CAD standards. The base map will include information collected in the tasks above. One-foot contours will be generated from the DTM.

Task 2.5 – ROW and Parcel Lines

Road rights of way within the project limits will be determined from available public records (i.e. records of survey, plats, state right-of-way plans, etc.) and found survey monuments. Parcel lines will be developed from available GIS information. Right-of-way and parcel information will be added to the base map provided with 2.4.

Assumptions:

1. Underground utility locates will be conducted via 811 "One-Call" request and/or by the City.

Deliverables:

1. One Autodesk Civil 3D electronic copy.

TASK 3 – Geotechnical Exploration & Report (Aspect Consulting)

The Consultant will subcontract with Aspect Consulting to provide geotechnical exploration and reporting in accordance with Exhibit A-1.

TASK 4 – Plans, Specifications and Opinion of Probable Construction Cost

For the purposes of this Scope of Work, it is assumed that the following plan sheets will be prepared and incorporated into the Project at the milestones shown below.

Sheet Title	Sheet Count	10%-level	60%-level	100%-level
Cover Sheet	1	(Scroll Plot – see Task 4.1)	X	X
Legend & Abbreviations	1		X	X
Survey Control & Alignment	1		X	X
Typical Sections & Details	1		X	X
Site Preparation & TESC	1		X	X
Surfacing Plan	1		X	X
Curb Ramp Layout	2		X	X
Stormwater & Utilities Layout	1		X	X
Signal & Illumination Plans and Notes	2		X	X
Pole Specifications Sheet	1		X	X
Signal & Illumination Details	1			X
Signing & Channelization Plans	2		X	X
TOTAL SHEETS			14	15

Task 4.1 – Initial Design Concepts (10% Design)

This task will include preparation a 10% design-level scroll plot showing the conceptual design overlaid on the topographic survey basemap. The scroll plot will show the traffic signal layout, new ADA-compliant curb ramps, required utilities modifications, surface restoration, and channelization, including evaluation of the need for roadway widening and an additional turn lane.

Assumptions:

1. In lieu of a design review and comment period, City staff will be present at a 10% Design review meeting to assist in making decisions about project components.
2. The Consultant will document decisions made at the 10% Design review meeting for use in advancing design to 60% design-level.
3. The Consultant will use Synchro modeling software using the data from the traffic analysis to develop a preliminary signal phasing operation model. The Consultant will not prepare signal timing plans.
4. The intent of the design is that it will fit within existing public right of way. The Consultant will not provide right of way acquisition services.
5. The Consultant will use AGI32 lighting analysis software to confirm that intersection lighting levels meet design guidelines.
6. The Consultant will prepare and submit an application to Pacific Power to provide electrical service to the traffic signal.

Deliverables:

1. 10% design-level scroll plot (one 22"x34" hard copy and PDF) showing full project limits.

2. 10% design-level Opinion of Probable Construction Cost (one 8.5"x11" hard copy and PDF).
3. 10% design review meeting notes (PDF).

Task 4.2 – Signal Pole Design and Specification Sheet

The Consultant will incorporate comments from the 10% design review meeting into final pole design calculations and prepare a Signal Pole Specification sheet. The purpose of this sheet is to support early procurement of signal poles or to determine if the City has signal poles in their possession that can be used for the project.

Assumptions:

1. This submittal will be provided after the 10% Design review meeting, but prior to the 60% Design submittal. The Consultant will endeavor to provide this submittal to the City within 30 calendar days of the 10% design review meeting; however, certain information, such as utility pothole data, may need to be obtained before this submittal can be completed.

Deliverables:

1. Signal pole plan sheet (11"x17" PDF).
2. Signal pole specifications (8.5"x11" PDF).

Task 4.3 – Progress Design (60% Design)

The Consultant will advance the design to a 60% level and prepare a plan set that will include the following:

- Horizontal and vertical layout of curbs and gutters, sidewalks, and curb ramps.
- Restoration limits.
- Modifications to the existing stormwater system.
- Public/private utility impacts and proposed pothole locations.
- Signal and illumination equipment layout.

Assumptions:

1. City staff will perform Consultant-recommended potholing to obtain critical information for project design.
2. Details such as profile locations of proposed utilities will not be shown.
3. The proposed improvements will not trigger water quality or flow control requirements.
The Consultant will prepare a brief (not to exceed 4 pages) memo documenting the project stormwater requirements in accordance with the Eastern Washington Stormwater Manual.
4. Stormwater conveyance analysis will not be required.

5. The Consultant will complete a SEPA Environmental checklist, with information based on the 60% design, if it is determined that a SEPA process is required. The Consultant will submit the completed checklist to the City. For purposes of this scope of services, the Consultant has assumed that the City will be the SEPA lead agency and that they will issue a SEPA determination consistent with their SEPA rules. The City will be responsible for finalizing the checklist, making required publications, and responding to public and agency comments, and will be responsible for any publication or permit fees.

Deliverables:

1. Plan set (11"x17" PDF).
2. Index of special provisions for Divisions 2 through 9 (8.5"x11" PDF).
3. Opinion of Probable Construction Cost (8.5"x11" PDF).
4. SEPA Environmental Checklist (Word document), if required.

Task 4.4 – Final Design (100% & Bid-Ready Design & PS&E)

The Consultant will incorporate City comments from 60% submittal review and revise the design based on information gathered from the City's potholing work, and will coordinate with franchise utilities for relocations or adjustments. The Consultant will advance the design and submit a 100% design-level set of plans, specifications, and opinion of probable construction cost to the City for a final review and brief comment period. After addressing the City's final comments, the Consultant will prepare the stamped bid set of contract documents.

Assumptions:

1. City staff will review the 100% design-level submittal package and provide limited comments.
2. The Consultant will incorporate minor comments on the 100% submittal and produce a signed, bid-ready set of plans, specifications, and opinion of probable construction cost.

Deliverables:

1. 100% design-level plan set (11"x17" PDF).
2. 100% design-level specifications, including City-provided front end documents, and Division 2 – 9 special provisions (8.5"x11" PDF).
3. 100% Opinion of Probable Construction Cost (8.5"x11" PDF).
4. Signed, Bid-Ready Final Plans, Specifications and Opinion of Probable Construction Cost (1 full-size hard copy of the plans, 2 half-size hard copies of the plans, and 2 hard copies of the specifications).

Task 4.5 – Bidding Support

This task includes supporting the City during the bidding period, from the start of construction advertisement through bid tabulation and contract award. This task includes reviewing and drafting responses to bidder questions, preparation of addenda, and bid tabulation.

Assumptions:

1. Bidder correspondence will be coordinated through the City.

Deliverables:

1. Up to three addenda (PDF).
2. Bid tabulation (PDF).

Optional Additional Services

The following services are not included in this scope of work but may be added by supplemental amendment as mutually agreed upon by the City and Consultant:

- Construction observation, documentation, and engineering
- Environmental permitting (NEPA, critical areas, etc.)
- Right-of-way acquisition
- Cultural resources investigation and reporting
- Procurement of traffic signal equipment or other materials prior to construction
- Public outreach

EXHIBIT B
Professional Fees



Client:	City of Yakima
Project Name:	South 3rd Avenue & Division Street Intersection Signalization
KPG Psomas Inc. Project Number:	9YAK01XXXX
Date:	1/5/2024

Task No.	Task Description	Labor Hour Estimate											Total Hours and Labor Cost Computations by Task	
		Engineering Manager I	Engineering Manager II	Senior Engineer I	Design Engineer III	Senior Project Manager Survey	Survey Crew II (W/Equip)	Project Surveyor II	Surveyor II	Senior Transportation Planner	Senior CAD Technician	Senior Admin		
		\$226.00	\$262.00	\$194.00	\$151.00	\$250.00	\$270.00	\$172.00	\$128.00	\$204.00	\$139.00	\$139.00	Hours	Totals
Task 1 - Project Management														
Task Total		16	2	0	0	0	0	0	0	0	0	16	34	\$ 6,364.00
Task 2 - Site Survey														
Task Total		0	0	0	0	4	24	8	24	0	0	0	60	\$ 11,928.00
Task 3 - Geotechnical Exploration & Report														
Task Total		4	0	0	2	0	0	0	0	0	0	0	6	\$ 1,206.00
Task 4 - Preparation of Plans, Specifications, and Opinion of Probably Construction Cost														
Task Total		124	6	284	256	0	0	0	0	16	76	0	762	\$ 137,176.00
Task 5 - Construction Services (Optional)														
Task Total		0	0	0	0	0	0	0	0	0	0	0	0	\$ -
Total Labor Hours and Fee		144	8	284	258	4	24	8	24	16	76	16	862	\$ 156,674.00
Subconsultants														
Aspect Consulting (Geotechnical)													\$ 13,770.00	
												Subtotal	\$ 13,770.00	
Total Subconsultant Expense													\$ 13,770.00	
Reimbursable Direct Non-Salary Costs														
Mileage at current IRS rate (\$0.67/mile)													\$ 400.00	
Per Diem for Survey Crew													\$ 400.00	
Total Reimbursable Expense													\$ 800.00	
Management Reserve													\$ -	
Total Estimated Budget													\$ 171,244.00	

EXHIBIT "C"**SCHEDULE OF RATES**

KPG Psomas Inc.
Summary of Negotiated Costs
Effective January 1, 2024 through December 31, 2024

Classification	2024 Inclusive Rate (Rounded to \$1)
Principal	290
Engineering Manager I	226
Engineering Manager II	262
Asst. Engineering Manager	215
Senior Engineer I	194
Senior Engineer II	205
Project Engineer I	166
Project Engineer II	187
Design Engineer I	133
Design Engineer II	139
Design Engineer III	151
Engineering Technician	114
Technician	101
Engineering Assistant	91
Senior Project Manager Survey	250
Survey Crew I (w/Equip)	212
Survey Crew II (w/Equip)	270
Field Surveyor I	103
Field Surveyor II	134
Field Surveyor III	151
Project Surveyor I	154
Project Surveyor II	172
Surveyor I	94
Surveyor II	128
Surveyor III	143
Urban Design Manager	220
Senior Landscape Architect I	181
Senior Landscape Architect II	200
Project Landscape Architect I	155
Project Landscape Architect II	166
Landscape Designer I	105
Landscape Designer II	116
Landscape Designer III	133
Landscape Assistant	90
Senior Transportation Planner	204
Transportation Planner	122
Environmental Manager	226
Senior Environmental Planner I	181
Senior Environmental Planner II	245
Managing Biologist I	181
Managing Biologist II	202
Managing Biologist III	229
Senior Archaeologist	167
GIS Manager	160
Senior Biologist I	136
Senior Biologist II	157
Word Processor	118
Biologist I	79
Biologist II	106
Biologist III	127
Environmental Planner	157
Editor	91
GIS Tech	87
Cultural Resource Specialist	82
Senior Construction Manager	244
Construction Manager	196
Senior Resident Engineer	188
Resident Engineer	154
Assistant Resident Engineer	136
Senior Construction Observer	190
Construction Observer I	106
Construction Observer II	130
Construction Observer III	142
Construction Technician	97
Document Control Specialist I	115
Document Control Specialist II	135
Document Control Specialist III	146
Document Control Admin	104
Construction Assistant	91
CAD Manager	179
Senior CAD Technician	139
CAD Technician	124
Business Manager	177
Senior Admin	139
Office Admin	110
Office Assistant	98
Subs billed at cost plus 5%.	
Reimbursables billed at actual costs.	
Mileage billed at the current approved IRS mileage rate.	



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 8.
For Meeting of: February 6, 2024

ITEM TITLE: 2023 Vacant Building Safety Project 4th Quarter Report

SUBMITTED BY: *Glenn Denman, Code Administration Manager

SUMMARY EXPLANATION:

Attached is a quarterly report on implementation efforts of the Vacant Building Safety Project.

ITEM BUDGETED: NA

STRATEGIC PRIORITY: Neighborhood and Community Building

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

ATTACHMENTS:

Description	Upload Date	Type
 Vacant Building 4th Quarter Report	1/25/2024	Cover Memo

2023 Code Compliance Building Safety Program Report

- ▶ Code Compliance Statistics
- ▶ Dangerous Buildings
- ▶ Current Safety/Nuisance
Property Cases

Code Compliance Division Statistics

Description	Total
Number of complaints received in 2023	2107
Number of complaints investigated found to be no violation	222
Number of confirmed code violations	1885 (76.60%)
Number of cases with voluntary compliance	1614 (86%)
Number of current open cases	531
Number of inoperable vehicles addressed	1404
Cases with exterior structure violations	632
Cases with exterior property violations	1258
Cases with structures ordered to be boarded	38
Cases with structures unfit for human occupancy	14
Cases with imminent danger	19
Landlord tenant issues	8
Individual code violations addressed	4221
Graffiti complaints responded to	1428

Most Common IPMC Violations

Violation Type	Description	Total
IPMC 302.8	Inoperable Motor vehicles	1404
IPMC 302.1	Sanitation – rubbish, waste or vehicle hulks	1357
YMC 11.40.104.7	Permits Required – work with no permit	138
IPMC 302.4	Weeds - dry and 12" or higher	127
IPMC 304.2	Protective Treatment – lack of siding or paint	67
IPMC 302.7	Accessory structures – disrepair fences, garages, sheds	64
YMC 11.40.302.8.1	Parking in the front yard	60
IPMC 304.6	Exterior walls – hazardous condition	49
IPMC 304.13	Window, skylight and door frames - disrepair	47
IPMC 304.3	Premise Identification – clearly visible address from street	35



BEFORE



AFTER



BEFORE



AFTER



BEFORE

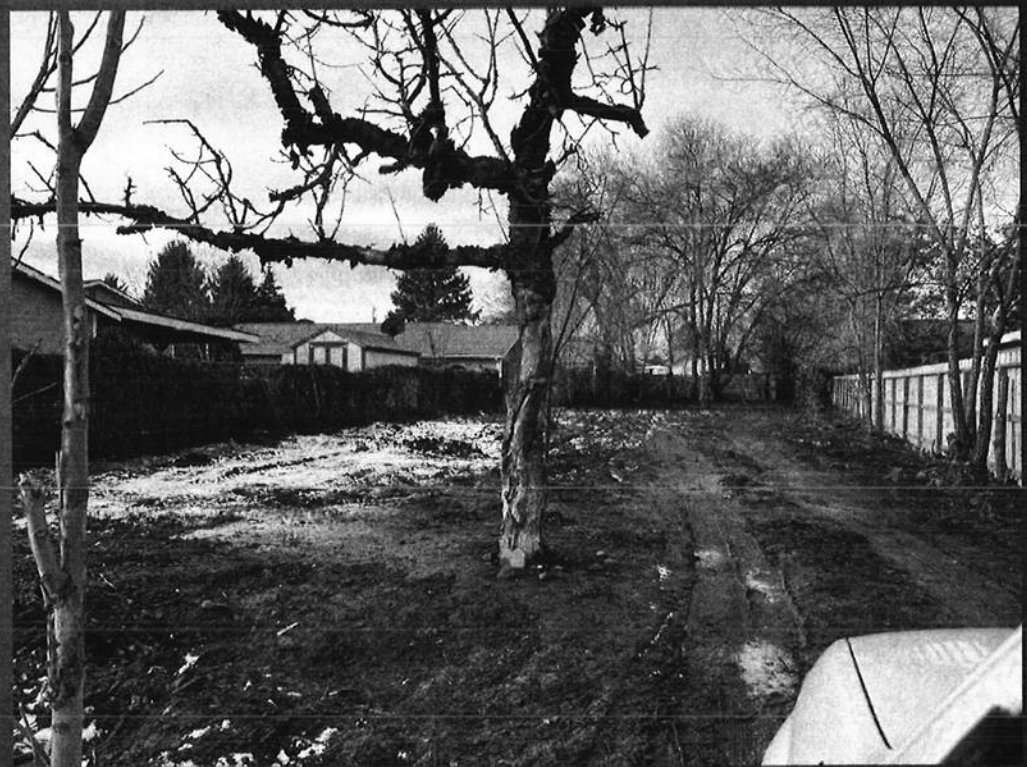
Slide 1 of 3



BEFORE



AFTER



Slide 3 of 3

BEFORE



AFTER



▶ ADDITIONAL SAFETY/NUISANCE

CASES

BEFORE



AFTER



▶ ADDITIONAL SAFETY/NUISANCE

CASES

BEFORE



AFTER



▶ ADDITIONAL SAFETY/NUISANCE

CASES

BEFORE



AFTER



▶ ADDITIONAL SAFETY/NUISANCE

CASES

BEFORE



AFTER



► Ongoing Safety/Nuisance Cases

Front Yard



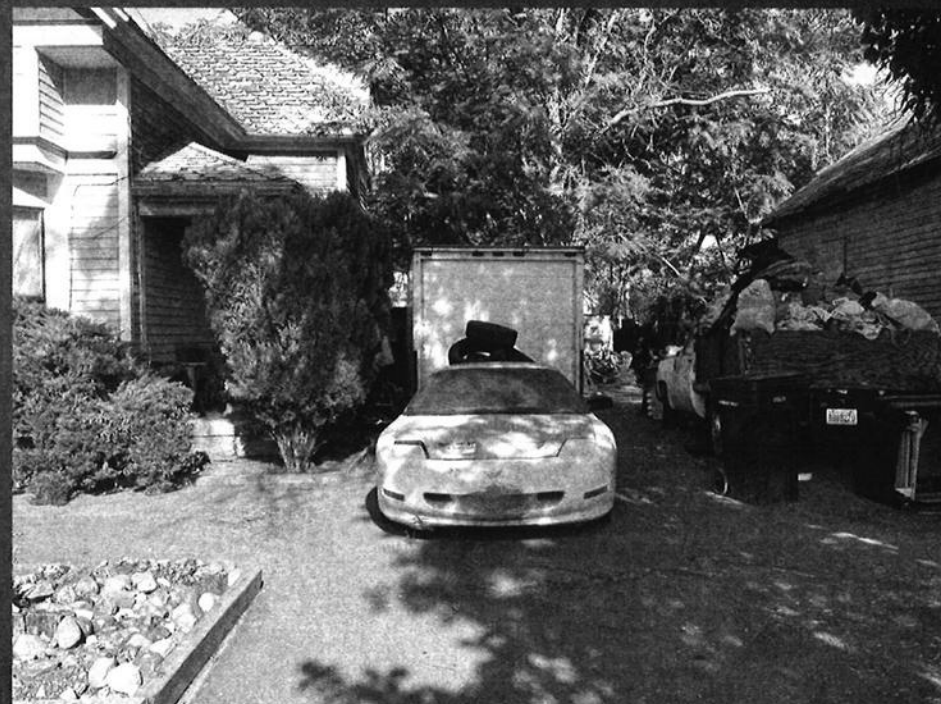
Back yard



► Ongoing Safety/Nuisance Cases

Slide 1 of 2

Front Yard



► Ongoing Safety/Nuisance Cases

Slide 2 Of 2

Back yard



► Ongoing Safety/Nuisance Cases

Slide 1 of 2

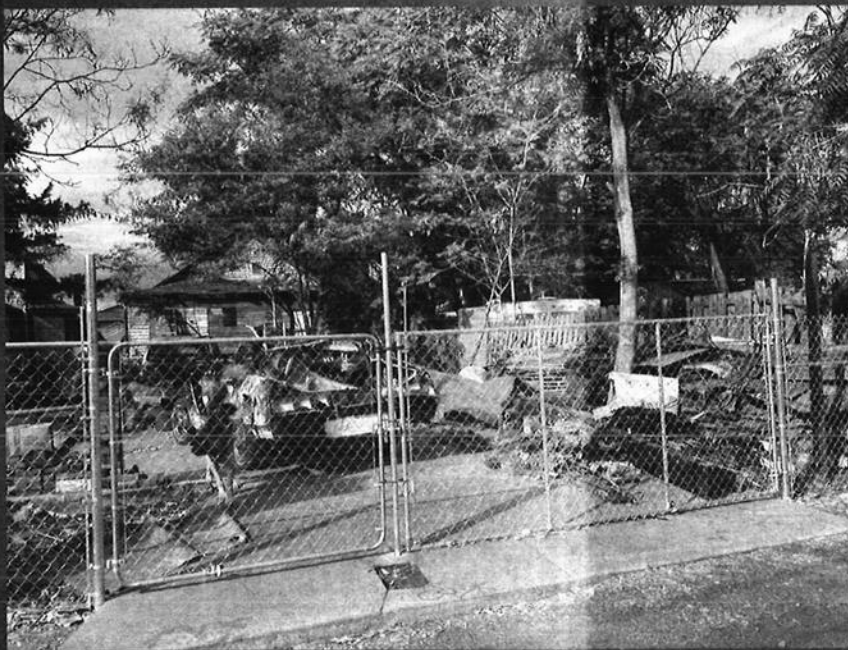
Front Yard



► Ongoing Safety/Nuisance Cases

Slide 2 of 2

Back Yard



► Ongoing Safety/Nuisance Cases



► Ongoing Safety/Nuisance Cases

Slide 1 of 2

Front Yard



► Ongoing Safety/Nuisance Cases

Back Yard

Slide 2 of 2



► Ongoing Safety/Nuisance Cases





**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 9.
For Meeting of: February 6, 2024

ITEM TITLE: Resolution authorizing a Professional Services Agreement with Annie Murphey Consulting LLC to serve as the domestic violence high risk team coordinator

SUBMITTED BY: *Cynthia Martinez, Senior Assistant City Attorney
Chad Janis, Lieutenant, Yakima Police Department

SUMMARY EXPLANATION:

In 2023 the City of Yakima in partnership with the YWCA received a Washington State Department of Commerce Violence Against Women Grant to support the implementation of the Domestic Violence High Risk Team (DVHRT). The Grant provides funds for a Team Coordinator to manage the project. The Yakima High Risk Team members have been identified, training has started, and the project has commenced. The goal of the DVHRT project is to ensure high risk victims have increased access to support and high-risk offenders are held accountable.

Annie Murphy is a natural choice to serve as the coordinator. Murphy initiated domestic violence advocacy in the Spokane region in 2012, began leading Spokane Regional Domestic Violence Coalition (SRDVC) in 2015, through the federal process of nonprofit status in 2019, and became the Executive Director in 2020. She has extensive experience working with Coalitions and coordination of multi-sector groups. She has worked with the courts, law enforcement, advocacy groups, and other community stakeholders for many years in these types of efforts and understands the politics and dynamics of launching new and preventative efforts in communities.

Ms. Murphy has worked with the City of Yakima in the past and served as a mentor during the implementation of the City of Yakima Domestic Violence Coalition. She is familiar with our community and is willing to serve as the coordinator for the DVHRT Project. The job description and budget included in the Agreement were supplied by the Grantor. This item, for Council's consideration, presents a Professional Services Agreement to secure Murphy Consulting LLC (Ms. Murphy) to serve as the DVHRT Coordinator.

ITEM BUDGETED: Yes

STRATEGIC PRIORITY: Public Safety

APPROVED FOR SUBMITTAL BY THE CITY MANAGER**RECOMMENDATION:**

Adopt Resolution.

ATTACHMENTS:

Description	Upload Date	Type
<input type="checkbox"/> Res-City & Murphey Consulting Contract	1/25/2024	Resolution
<input type="checkbox"/> Agreement_City & Murphey Consulting LLC	1/25/2024	Contract
<input type="checkbox"/> DVHRT Coordinator Job Description	1/25/2024	Exhibit

RESOLUTION NO. R-2024-

A RESOLUTION authorizing a Professional Services Agreement between the City of Yakima and Annie Murphey Consulting LLC to serve as the Domestic Violence High Risk Team Coordinator.

WHEREAS, the Management Team has come together to form a Coordinated Community Response Team (CITY CCRT) comprised of Criminal Justice professionals and providers serving victims and their children, who connect daily to address emergent intimate partner domestic violence (DV) events; and

WHEREAS, the City of Yakima Police Department (YPD), supported by the Management Team, received a Washington State Department of Commerce Community Service Division Office of Crime Victims Advocacy Violence Against Women Grant to fund the implementation of DV High Risk Team (DVHRT) to better support high risk DV victims and high-risk offender accountability; and

WHEREAS, the grant of funds allocates money for a DVHRT Coordinator from October 2023 through June 2024, and the Washington State Department of Commerce Community Service Division Office of Crime Victims Advocacy Violence Against Women has authorized the City of Yakima to back date this Agreement to October 2023; and

WHEREAS, YPD and the Management Team finds that retaining the services of a DVHRT Coordinator who is experienced in the cycle of DV, providing DV victim services to victims, DV prosecution, and project management skills will be best situated to ensure the tasks and actions described in the Job Description will be accomplished. See Exhibit A; and

WHEREAS, Annie Murphey, Primary of Murphey Consulting, LLC has 15 years' experience working with youth, adults, and families experiencing substance use disorder, mental health, and domestic violence, a majority of which are justice-involved, is interested in coordinating the implementation of the DVHRT for the City of Yakima and YPD and the Management group find her to be the best choice for the coordinator role; and

WHEREAS, the City Council of the City of Yakima finds it to be in the best interest of the City and its residents to enter into a contract with Annie Murphey Consulting LLC to serve as the DVHRT Coordinator; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:

The City Manager is hereby authorized to execute the attached and incorporated Professional Services Agreement between the City of Yakima and Annie Murphey Consulting LLC to serve as the Domestic Violence High Risk Team Coordinator for the City of Yakima in accordance with City ordinances and state law.

ADOPTED BY THE CITY COUNCIL this 6th day of February, 2024.

Patricia Byers, Mayor

ATTEST:

Rosalinda Ibarra, City Clerk

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF YAKIMA
AND
ANNIE MURPHEY CONSULTING LLC**

WHEREAS, the Management Team has come together to form a Coordinated Community Response Team (CITY CCRT) comprised of Criminal Justice professionals and providers serving victims and their children, who connect daily to address emergent intimate partner domestic violence (DV) events; and

WHEREAS, the City of Yakima Police Department (YPD), supported by the Management Team, received a Washington State Department of Commerce Community Service Division Office of Crime Victims Advocacy Violence Against Women Grant to fund the implementation of DV High Risk Team(DVHRT) to better support high risk DV victims and high-risk offender accountability; and

WHEREAS, the grant of funds allocates money for a DVHRT Coordinator from October 2023 through June 2024, and the Washington State Department of Commerce Community Service Division Office of Crime Victims Advocacy Violence Against Women has authorized the City of Yakima to back date this Agreement to October 2023; and

WHEREAS, YPD and the Management Team finds that retaining the services of a DVHRT Coordinator who is experienced in the cycle of DV, providing DV victim services to victims, DV prosecution, and project management skills will be best situated to ensure the tasks and actions described in the Job Description will be accomplished. See Exhibit A; and

WHEREAS, Annie Murphey, Primary of Murphey Consulting, LLC has 15 years' experience working with youth, adults, and families experiencing substance use disorder, mental health, and domestic violence, a majority of which are justice-involved, is interested in coordinating the implementation of the DVHRT for the City of Yakima and YPD and the Management group find her to be the best choice for the coordinator role; and

WHEREAS, the City Council of the City of Yakima finds it to be in the best interest of the City and its residents to enter into a contract with Annie Murphey Consulting LLC to serve as the DVHRT Coordinator; now, therefore, and

NOW, THEREFORE, it is hereby agreed as follows:

A. Parties

This Professional Services Agreement ("AGREEMENT") is entered into between Annie Murphey Consulting LLC, here after referred to as the Contractor, and the City of Yakima ("City") for the purpose of retaining Annie Murphey to coordinate the implementation of a DV High Risk Team to better support high risk DV victims and high-risk offender accountability.

B. Term

The term shall begin October 1, 2023, and end June 30, 2024, unless the grant is extended or the grant funds are withdrawn by the funder.

C. Scope of Work

The Contractor will coordinate with an interdisciplinary management team in the implementation of a DVHRT project and will be responsible for overseeing the development, implementation, coordination, and operation of the project. The position will ensure that the planned activities, objectives, and goals are being accomplished, and serve as the liaison across the partner agencies and organizations. The position will be expected to facilitate communication, collaboration, and negotiation between the multi-disciplinary team. See job description Exhibit A, which is incorporated into this agreement by this reference.

The City agrees that Annie Murphey Consulting LLC, has discretion in how to approach the project. The approach shall be compliant with the grantee's requirements.

1. Grants and Information to the Management Group and Coalition

- a. Provide information on trainings, seminars or other events that further the implementation of the DVHRT project.
- b. Facilitate information sharing and encourage collaboration.
- c. Act as an information resource for stakeholders, service providers, and community members seeking information or opportunities to serve.
- d. Represent the City of Yakima coalition at meetings regarding the DVHRT project.

Contractor should work to foster a spirit of collaboration among stakeholders so that they can work together on the project, and to provide more opportunities to create services geared towards supporting victims of intimate partner violence. In doing this, Contractor should use its skills, knowledge and resources to create the best way for the Management Team and Coalition to fulfill the goals and objectives of a DVHRT.

D. Compensation and Billing Procedure

City shall pay the Contractor a monthly salary and benefits per the schedule below. The expectation is that the Contractor will devote the time necessary to fulfill the scope of work outlined above. It is anticipated that it will take 45 hours per month to fulfill the scope of work outlined above and the work may ebb and flow with some months heavy on time balanced by lighter months. The City recognizes that the contractor has been working on the project since October 2023 and the Contractor may bill the City for back pay to the beginning of the grant period. The Contractor may not bill for the writing of the grant or any work performed before the grant period of October 1, 2023. Contractor shall invoice monthly and provide a Bi-Monthly report with a summary of the work performed in accordance with the AGREEMENT. Contractor will be available to attend a council meeting if requested to present on the project progress.

The Grant also provides for travel costs (hotel, and per diem) up to \$3,000. These costs shall be reimbursed upon the request of the Contractor and the approval of the City. Receipts need to be provided. Other costs may also be covered by allocated Grant funds, prior approval from Chad Janis should be sought prior to expending other funds.

Murphey Consulting, LLC Time	\$81.25/hour x 45 hours/month x 9 months	\$32,906.25
Insurance	\$5000 for additional insurance required by YPD	\$ 5,000.00
Mileage	\$0.655/mile x 100 miles/month x 9 months	\$ 589.50
Supplies	\$50/month x 9 months	\$ 450.00
Consultant total		\$38,945.75

	October 2023- June 2024	Grant Total
Monthly Salary	\$4,327.33	\$38,946.00

E. Independent Contractor

Contractor and the City understand and expressly agree that Contractor is an independent contractor in the performance of each and every part of this AGREEMENT. Contractor expressly represents, warrants and agrees that its status as an independent contractor in the performance of the work and services required under this AGREEMENT is consistent with and meets the six-part independent contractor test set forth in RCW 51.08.195. Contractor as an independent contractor, assumes the entire responsibility for carrying out and completing the work and/or services required under this AGREEMENT. Contractor shall be responsible for ensuring that all employees, agents and subcontractors are licensed and authorized to operate the equipment necessary to perform this AGREEMENT, with all required fees and permits paid and in good standing, in accordance with law. Contractor and its employees shall make no claim of City employment nor shall claim against the City any related employment benefits, social security, and/or retirement benefits. Nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership or agency between Contractor and any City of Yakima officer, employee or agent.

F. Communication

Contractor and the City will be in regular communication regarding the DVHRT project. Contractor and the City will assign a specific liaison who will be the contact person for this AGREEMENT. It is expected that Contractor and the City will work together where appropriate to facilitate implement the goals of the Washington State Department of Commerce Community Service Division Office of Crime Victims Advocacy Violence Against Women Grant to fund the implementation of DV High Risk Teams (DVHRT).

Contractor shall provide, upon request, any information the City requests that will aid the City in reporting requirements or presentations related to the Department of Commerce DVHRT implementation Grant. Contractor shall provide, upon request, any documents, forms, evaluations, or other information that the City believes would aid in extension of this grant or any other grant opportunity for the Yakima Domestic Violence Coalition or any other program or project for which the City of Yakima is seeking grant funding that is related to this project.

G. Indemnification and Hold Harmless

Contractor agrees to protect, defend, indemnify, and hold harmless, the City, its elected and appointed officials, officers, employees, agents, and volunteers from any and all claims, demands, losses, liens, liabilities, penalties, fines, lawsuits, administrative and other proceedings and all judgments, awards, losses, liabilities, damages (including punitive or exemplary damages), penalties, fines, costs and expenses (including attorneys' fees and disbursements) for, arising out of, or related to any actual or alleged death, injury, damage or destruction to any person or any property (including but not limited to any actual or alleged violations of civil rights) to the extent caused by, arising out of, or relating to any act, and/or omission (whether intentional, willful, reckless, negligent, inadvertent or otherwise) resulting from, arising out of, or related to Contractor, its officers, employees, agents, volunteers and/or subcontractors, actions services, work or materials pursuant to this AGREEMENT.

Contractor specifically and expressly waives its immunity under industrial insurance, Title 51 RCW, or immunity under any other provision of law to the extent of the obligations assumed by the parties protected hereunder. Contractor and the City acknowledge and agree that this waiver was mutually negotiated.

Nothing contained herein shall be construed to create a liability or a right of indemnification in any third party.

The City agrees to release, indemnify, defend and hold the Contractor, its officers, directors, shareholders, partners, employees, agents, representatives, and sub-contractors harmless from any and all claims, demands, actions, suits, causes of action, arbitrations, mediations, proceedings, judgements, awards, injuries, damages, liabilities, losses, fines, fees, penalties, expenses, attorney's fees, costs, and/or litigation expenses to or any and all persons or entities, including without limitation, their respective agents, licenses, or representatives, arising from or resulting from activities connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City.

H. Insurance

1. **Commercial Liability Insurance.** At all times during the term of this AGREEMENT Contractor shall secure and maintain in effect, and provide the City with a certificate of insurance as proof of, commercial liability insurance with a total minimum liability limit of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) general aggregate. The certificate shall clearly state who the provider is, the coverage agreement, the policy number, and when the policy and provisions provided are in effect. The policy shall name the City, its elected and appointed officials, officers, agents, employees, and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

2. **Commercial Automobile Liability Insurance.** At all times during the term of this AGREEMENT Contractor shall secure and maintain in effect, and provide the City with a certificate of insurance as proof of, commercial automobile liability insurance with a total minimum liability limit of Two Million Dollars (\$2,000,000.00) per occurrence combined single limit bodily injury and property damage. Automobile liability will apply to "Any Auto" and include, but not be

limited to, owned, non-owned and hired vehicles, and be shown on the certificate. The certificate shall clearly state who the provider is, the coverage agreement, the policy number, and when the policy and provisions provided are in effect. The policy shall name the City, its elected and appointed officials, officers, agents, employees and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) calendar days prior notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington.

3. **Professional Liability Insurance.** Contractor shall provide evidence of Professional Liability insurance covering professional errors and omissions. Contractor shall provide the City with a certificate of insurance as proof of professional liability insurance with a minimum liability limit of Two Million Dollars (\$2,000,000.00) per claim combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) aggregate. The certificate shall clearly state who the provider is, the coverage agreement, the policy number, and when the policy and provisions provided are in effect. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide. If the policy is written on a claim made basis the coverage will continue in force for an additional two years after the completion of this contract. If insurance is on a claim made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract.

4. **City Does Not Provide Insurance.** It is understood that the City does not maintain any form of insurance for Contractor, its officers, employees, agents, instructors, volunteers, agents, and/or subcontractors.

5. **Insurance Provided by Subcontractors.** Contractor shall insure that all subcontractors it utilizes for work and/or services related to this AGREEMENT shall comply with all of the above insurance requirements.

6. **Workers' Compensation.** Contractor agrees to pay all premiums provided for by the Workman's Compensation Act of the State of Washington. Evidence of Contractor's workers' compensation coverage will be furnished to the City. Contractor holds the City harmless for any injury or death to Contractor's employees while performing the work under this AGREEMENT. Contractor agrees to assume full liability for all claims arising from this AGREEMENT including claims resulting from negligent acts of all subcontractor(s). Contractor is responsible to ensure subcontractor(s) have insurance as needed. Failure of subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

I. Modification or Amendments

This AGREEMENT shall only be modified or amended upon agreement by both parties in writing.

J. Termination

Either party may terminate this AGREEMENT on thirty (30) days' prior written notice for any reason, whether or not there is a breach or default, with or without cause. Upon receipt of a notice of termination, Contractor shall, except as otherwise directed by the City, immediately stop performance of the services to the extent specified in the notice. If Contractor is providing notice of termination, the notice shall be accompanied by an effective date of termination and Contractor shall continue working under the terms of the AGREEMENT and the scope of work herein until the final date of this AGREEMENT, unless otherwise agreed to by the parties. This AGREEMENT may also be terminated in whole or in part by mutual agreement of the parties.

K. Records

Contractor shall maintain (in accordance with generally accepted accounting practices) books, accounts, records, documents and other materials related directly or indirectly to the work done under this AGREEMENT. All such books, accounts, records, documents and other materials shall be subject to inspection and audit at reasonable times by representatives of the City. Contractor shall make such books, accounts, records, documents and other materials available and afford the proper facilities for such inspection and/or audit within forty-eight (48) hours of inspection/audit notification from the City. Such books, accounts, records, documents and other materials may be copied by representatives of the City as part of such inspection/audit. However, the making of (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of this AGREEMENT, notwithstanding the City's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. Contractor shall preserve and make available all such books, accounts, records, documents and other materials for a period of at least six (6) years after termination of this AGREEMENT.

Contractor shall promptly furnish the City with such information related to services and/or work performed pursuant to this AGREEMENT as may be requested. Until the expiration of six (6) years after termination of this AGREEMENT, or for a longer period if required by law or by the Washington State Secretary of State's record retention schedule, Contractor shall provide the City access to (and the City shall have the right to examine, audit and copy) all of Contractor's books, documents, papers and records which are related to the services and work performed under this AGREEMENT.

The City is required by law to comply with the Washington State Public Records Act (PRA), Chapter 42.56 RCW. All records relating to Contractor's services under this AGREEMENT must be retained and made available to the City, and also produced to third parties, if required, pursuant to the PRA or by law. All determinations of records subject to release under the PRA, or otherwise required by law, shall be at the sole discretion of the City. This AGREEMENT and all public documents associated with this AGREEMENT shall be available to the City for inspection and copying by the public where required by the PRA or other law, to the extent that public records in the custody of Contractor are needed for the City to respond to a request under the PRA, as determined by the City. If Contractor considers any portion of any records provided to the City under this AGREEMENT, whether in electronic or hard copy form, to be protected from disclosure under law, Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the City receives a request under the PRA to inspect or copy the information so identified, and determines that the release of the information is required or otherwise appropriate, the City shall release the information as provided by law. The City shall not be liable to Contractor for releasing records. The City shall not be liable to Contractor for any records that the City releases in compliance with the PRA, this section, or in compliance with an order of a court of competent jurisdiction.

L. Severability

If any provision of this AGREEMENT is in direct conflict with any statutory provision of the State of Washington, or if a court of competent jurisdiction holds any part, term or provision of this AGREEMENT to be illegal or invalid in whole or in part, the validity of the remaining provisions shall not be affected and the parties' rights and obligations shall be construed and enforced as if the AGREEMENT did not contain the particular provision in conflict with law or deemed invalid. Should the City determine that the severed portions substantially alter this AGREEMENT so that

the original intent and purpose of the AGREEMENT no longer exists, the City may, in its sole discretion, terminate this AGREEMENT, effective immediately upon notice of termination.

M. Non-Waiver of Breach

A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this AGREEMENT shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay or failure of either party to insist upon strict performance of any agreement, covenant or condition of this AGREEMENT, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition or right.

N. Survival

Any provision of this AGREEMENT which imposes an obligation after termination or expiration of this AGREEMENT shall survive the term or expiration of this AGREEMENT and shall be binding on the parties to this AGREEMENT.

O. Governing Law and Venue

This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Washington. The venue for any action to enforce or interpret this AGREEMENT shall lie in the Superior Court of Washington in Yakima County.

P. Assignment

The Contractor shall not assign any interest (including subcontracts) in this agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of City. Any such assignments or subcontracts shall be submitted for City's review ninety (90) days prior to the desired effective date. Approval by City shall not be deemed to increase in any manner the total compensation provided for in this agreement.

Q. Conflict of Interest and Ethics Laws

A. The Contractor **hereby** covenants that neither the Contractor nor any officer, member or employee of the Contractor has interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities under this agreement.

B. Neither the Contractor nor any officer, member or employee of the Contractor shall, prior to the completion of such work and payment for such work, acquire any interest, personal or otherwise, direct or indirect, which is incompatible or in conflict with or would compromise in any manner or degree with the discharge and fulfillment of his or her functions and responsibilities with respect to the carrying out of such work.

C. The Contractor shall not promise or give to any City employee anything of value that is of such character as to manifest a substantial and improper influence upon the employee with respect to his or her duties. The Contractor shall not solicit a City employee to violate any City rule or policy relating to the conduct of contracting parties.

R. Nondiscrimination

During the performance of the Agreement, the Contractor shall not discriminate in violation of any applicable federal state, and/or local law or regulation on the basis of age, sex, gender, race, creed, religion, color, national origin, marital status, disability, honorably discharged veteran or military status, pregnancy, sexual orientation, and any other classification protected under federal, state, or local law. This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of services under this agreement.

S. The Americans with Disabilities Act

Contractor shall comply with the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. (ADA) and its implementing regulations and Washington State's anti-discrimination law as contained in RCW Chapter 49.60 and its implementing regulations with regard to the activities and services provided pursuant to this Agreement. The ADA provides comprehensive civil rights to individuals with disabilities in the area of employment, public accommodations, public transportation, state and local government services and telecommunications.

T. Debarment Certification

Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency (debarred). The Contractor shall immediately notify the City if during the term of the agreement it becomes debarred. In the event of such debarment, the **City may immediately terminate this Agreement by giving written notice to Contractor.**

U. Notices

Unless stated otherwise herein, all notices and demands shall be in writing and sent to the parties at their addresses as follows:

CITY:	Dave Zabell Interim City Manager City Hall – First Floor 129 North Second Street Yakima, WA 98901	Yakima Police Department c/o Chad Janis, Lieutenant 200 South Third Street Yakima, WA 98901
CONTRACTOR:	Annie Murphey Consulting LLC 12208 South Madison Road Valleyford, WA 99036	

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when hand-delivered at the addresses specified above, or three (3) days after the date of mailing to the addresses specified above.

U. Integration

This written document constitutes the entire agreement between the City and Contractor. There are no other oral or written agreements between the parties as to the subjects covered herein.

CITY OF YAKIMA

Dave Zabell
Interim City Manager

Date: _____
Attest: _____

Rosalinda Ibarra, City Clerk

Contract Number: _____

Resolution Number: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

I certify that I know or have satisfactory evidence that Dave Zabell is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the Interim City Manager of the City of Yakima, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature)

Title

Printed Name _____

My commission expires: _____

STATE OF WASHINGTON

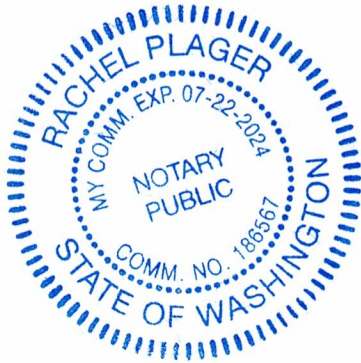
)

) ss.

COUNTY OF Spokane

)

I certify that I know or have satisfactory evidence that Annie Murphey is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument, and acknowledged it as the owner of Murphey Consulting LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: January 24, 2024

A handwritten signature in blue ink, appearing to read "R Plager", written over a horizontal line.

(Signature)

Agency & Grants Manager

Title

Rachel Plager

Printed Name

My commission expires: 7/22/2024



EXHIBIT A

DOMESTIC VIOLENCE HIGH RISK TEAM COORDINATOR JOB DESCRIPTION

- I. **DVHRT Summary:** The DVHRT Model framework is built on three fundamental strategies: early identification of high-risk cases, engagement of a multi-disciplinary team, and individualized intervention plans that incorporate the entire domestic violence response system with the goals of increasing victim safety and holding offenders accountable. The DVHRT Model incorporates evidence-based risk assessment into a community's domestic violence response system to identify cases at high risk of lethality/serious assault. Once identified, individual cases are then monitored by a multidisciplinary team that shares case information and implements intervention plans to mitigate the danger. The DVHRT also identifies and closes systemic gaps in the response system and measures case outcomes through data collection and analysis.

- II. **Position Requirements:** The DVHRT Coordinator oversees and manages all operations of the DVHRT. She/he will provide direction and oversight to the DVHRT and drive systemic change to improve victim safety and offender accountability.

The ideal candidate will have a bachelor's degree in a human service or related field and/or a minimum of five years of experience working in the field of domestic violence. The candidate should have considerable knowledge of the criminal justice system, the domestic violence response in the community, crisis intervention practices, community resources and advocacy. The candidate should be able to coordinate and maintain effective working relationships with relevant partner organizations and stakeholders. The candidate should be able to perform job duties with a high degree of initiative and independent judgment.

III. **Job Functions:**

A. Meeting Preparation and Facilitation:

- Effectively facilitate all DVHRT meetings in a manner that builds trust and increases collaboration between disciplines.
- Ensure that new cases are presented to the DVHRT when appropriate and assists with the preparation of cases for presentation and discussion at the DVHRT.

- Working in partnership with administrative support:
 - Create and provide meeting agendas and all other necessary case information and documentation to DVHRT members prior to each meeting.
 - Ensure that minutes are taken at every meeting and provided to DVHRT members in a timely fashion.
 - Ensure that attendance is taken at every meeting and maintain an attendance log to track attendance.

B. Case Coordination and Advocacy:

- Ensure that current, active high risk cases are monitored and reviewed regularly.
- Ensure that ongoing case updates are provided to DVHRT members between meetings when necessary and ensure that there is a process for accepting cases between meetings.
- Assist advocates within the domestic violence service agencies in coordinating necessary victims' services for cases accepted to the DVHRT.
- Act as a liaison between the advocate(s) assigned to high-risk cases and the DVHRT, ensuring that appropriate information is shared quickly and efficiently between the DVHRT, the advocate(s) and the victim.
- Lead critical incident reviews for any intimate partner homicides.

C. Operations and Communications:

- Develop policies and practices that encourage smooth team operation and improve the domestic violence response system.
- Develop and maintain an efficient system of communication between all DVHRT members to increase successful interventions. Act as the point of contact for members.
- Facilitate a meeting of all partner organizations at least annually to evaluate how effectively the DVHRT is functioning.

D. Record-Keeping and Case Information:

- Provide team members with meaningful and concise information about DVHRT case information and outcomes.
- Submit periodic reports to the community on team intervention outcomes and critical insights gained.
- Working in partnership with administrative support:
 - Maintain all DVHRT files and confidential client records with diligent and complete record-keeping.
 - Submit DVHRT data to the Geiger Institute on a monthly basis.

E. Technical Support and Training:

- Provide and/or coordinate technical support and training to DVHRT members to ensure allied professionals are up-to-date on best practices in the domestic violence field and onboard new team members, as needed.



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 10.
For Meeting of: February 6, 2024

ITEM TITLE: Resolution authorizing the City Manager to execute an Interlocal Agreement with the Washington Traffic Safety Commission for funding a Law Enforcement Liaison

SUBMITTED BY: *Shawn Boyle, Police Captain
Matthew Murray, Chief of Police

SUMMARY EXPLANATION:

The Washington Traffic Safety Commission will provide the funds not to exceed \$3,000 to assist in providing a Law Enforcement Liaison to collaborate with local jurisdictions in promoting Target Zero.

ITEM BUDGETED: No

STRATEGIC PRIORITY: Public Safety

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Adopt resolution.

ATTACHMENTS:

Description	Upload Date	Type
<input type="checkbox"/> Resolution	2/1/2024	Resolution
<input type="checkbox"/> agreement	1/25/2024	Contract

RESOLUTION NO. R-2024-

A RESOLUTION authorizing the City Manager of the City of Yakima to execute an Interlocal Agreement Between the City of Yakima and the Washington Traffic Safety Commission for funding a Law Enforcement Liaison.

WHEREAS, the Law Enforcement Liaison program provides an opportunity to work with state and local organizations to develop and implement statewide initiatives focusing on traffic safety education and law enforcement; and

WHEREAS, the Washington Traffic Safety Commission will provide the funds not to exceed \$3,000 to assist in providing a Law Enforcement Liaison to collaborate with local jurisdictions in promoting Target Zero, now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF YAKIMA:

The City Manager of the City of Yakima is hereby authorized and directed to sign the attached and incorporated Interagency Agreement between the Washington Traffic Safety Commission and the Yakima Police Department.

ADOPTED BY THE CITY COUNCIL this 6th day of February, 2024.

ATTEST:

Patricia Byers, Mayor

Brandy Bradford, Deputy City Clerk



INTERAGENCY AGREEMENT

BETWEEN THE

Washington Traffic Safety Commission

AND

Yakima Police Department

THIS AGREEMENT is made and entered into by and between the Washington Traffic Safety Commission, hereinafter referred to as “WTSC,” and Yakima Police Department, hereinafter referred to as “SUB-RECIPIENT.”

NOW THEREFORE, in consideration of the authority provided to WTSC in RCW 43.59 and RCW 39.34, terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties mutually agree as follows:

1. PURPOSE OF THE AGREEMENT:

The purpose of this Agreement is to provide funding, provided by the United States Department of Transportation (USDOT) National Highway Traffic Safety Administration (NHTSA) and allowed under the Assistance Listing/Catalog of Federal Domestic Assistance (CFDA) #20.600, for traffic safety grant project 2024-Sub-grants-5193-Region 13 Law Enforcement Liaison.

2. PERIOD OF PERFORMANCE

The period of performance of this Agreement shall commence upon the date of execution by both parties or October 15, 2023, whichever is later, and remain in effect until September 30, 2024, unless terminated sooner, as provided herein.

3. STATEMENT OF WORK

The SUB-RECIPIENT shall carry out the provisions of the traffic safety project described here as the Statement of Work (SOW). If the SUB-RECIPIENT is unable to fulfill the SOW in any manner on this project, the SUB-RECIPIENT must contact the WTSC program manager immediately and discuss a

potential amendment. All Federal and State regulations will apply.

3.1 SCOPE OF WORK

3.1.1 Problem ID and/or Opportunity

The Law Enforcement Liaison (LEL) program provides an opportunity for the WTSC to work with local law enforcement agencies to develop and implement statewide initiatives focusing on traffic safety education and culture change at the local level. The frequency of contact with local law enforcement is important to help facilitate their cooperation in achieving the Washington State Traffic Safety Commission's (WTSC) mission of building partnerships to save lives and prevent injuries on our roadways for the health, safety, and benefit of our communities. The LEL program provides the conduit to make those connections while helping the WTSC and local coordinators implement agency strategies.

3.1.2 Project Purpose and Strategies

The purpose of this project is to increase law enforcement participation in traffic safety enforcement and to serve as a resource for the regional Target Zero Manager. This is accomplished by empowering the local LEL by providing them training, funding, technical assistance, and access to a larger community of LELs.

WTSC sees the following as some key qualities of an effective LEL -

- Demonstrated knowledge, understanding, and application of WA traffic safety laws.
- Strong interpersonal skills and good oral communications skills.
- Knowledge of general police methods, practices, and procedures.
- Solid connections with law enforcement agencies within the region.

3.2 PROJECT GOALS

- 1) Support participation in regional traffic safety activities, with a goal of 75% of law enforcement agencies in the region participating in HVE events in the fiscal year.
- 2) Provide leadership in the development of professional development for traffic safety minded officers, with the long term goal of increasing the number of law enforcement agency leaders/admin who believe that traffic safety is a priority.
- 3) Provide guidance/feedback on law enforcement topics to the regional Target Zero Manager and traffic safety coalition (if applicable).

3.2.1 The objectives, measures and timelines listed in Appendix A will be reviewed at least annually by the designated contacts of the SUB-RECIPIENT and WTSC, and may be updated pursuant to clause 6 of this AGREEMENT. For the purposes of this section only, the parties' DESIGNATED CONTACTS, as

listed in clause 42, are authorized to execute these amendments to Appendix A.

3.3. COMPENSATION

3.3.1 The cost of accomplishing the work described in the SOW will not exceed \$3,000.00, for the entire period of performance, as allocated to each year of this agreement in Section 3.4 PROJECT COSTS. Unspent contract funds from each year do NOT carry over into subsequent years and each year's budget is independent of the others.

3.3.2 Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount in a written Amendment to this Agreement executed by both parties.

3.3.3 After the first year, continuation is subject to funding availability, agreement on future objectives and measures, and satisfactory progress toward completion of agreed upon goals (as determined by WTSC), as set forth in the SOW.

3.3.4 If the SUB-RECIPIENT intends to charge indirect costs, an Indirect Cost Rate must be established in accordance with WTSC policies, and an approved cost allocation plan may be required to be submitted to the WTSC before any performance is conducted under this Agreement. Indirect cost rates are subject to change based on updated Indirect Rate Letters from a cognizant federal agency or approved cost allocation plans. If the indirect rate increases, the budget will be modified by deducting the amount of the indirect rate increase from other budget categories so that the total budget does not increase. The total budget may not increase without an amendment to this agreement executed by both parties.

3.3.5 WTSC will only reimburse the SUB-RECIPIENT for travel related expenses for travel defined in the scope of work and budget or for which approval was expressly granted. The SUB-RECIPIENT must submit a travel authorization form (A-40) to request approval for any travel not defined in the SOW and for all travel outside of the continental United States.

3.3.6 WTSC will reimburse travel related expenses consistent with the written travel policies of the SUB-RECIPIENT. If no written policy exists, state travel rates and policies (SAAM Chapter 10) apply. If WTSC makes travel arrangements on behalf of the SUB-RECIPIENT, state travel policies must also be followed. Washington State Administrative & Accounting Manual (SAAM) Chapter 10 can be obtained at this website: <https://www.ofm.wa.gov/sites/default/files/public/legacy/policy/10.htm>. If for any reason, this information is not available at this website, contact the WTSC office at 360-725-9860 to obtain a copy. If following state travel policies, the SUB-RECIPIENT must provide appropriate documentation (receipts) to support reimbursement requests, including the A-40 Travel Authorization form if required.

3.3.7. Any equipment that will be purchased under this agreement with a purchase price over \$5,000 must be pre-approved by NHTSA prior to purchase. Pre-approval must also be gained if funding from this

agreement is used to purchase a portion of an item with a purchase price of \$5,000 or higher. Approval for these purchases will be facilitated by WTSC. WTSC will notify the SUB-RECIPIENT when approval has been gained or denied. Failure to receive pre-approval will preclude reimbursement. SUB-RECIPIENT will provide WTSC with purchase price, quote, manufacturer, description of its use in the project, and documentation showing that it is made in America. Any equipment purchased with NHTSA funds, must be used exclusively for traffic safety purposes or the cost must be pro-rated.

3.3.8. All equipment must be inventoried by the SUB-RECIPIENT. The SUB-RECIPIENT agrees to maintain the equipment, continue to use it for project purposes, and report on its status to WTSC each year when requested.

3.3.9. Equipment is defined as any asset with a useful life greater than one year AND a unit cost of \$5,000 or greater, and small and attractive assets. Small and attractive assets are the following if they a unit cost of \$300 or more:

- Laptops and Notebook Computers
- Tablets and Smart phones

Small and attractive assets also include the following if they have a unit cost of \$1000 or more:

- Optical Devices, Binoculars, Telescopes, Infrared Viewers, and Rangefinders
- Cameras and Photographic Projection Equipment
- Desktop Computers (PCs)
- Television Sets, DVD Players, Blu-ray Players and Video Cameras (home type)

3.4 PROJECT COSTS

The costs for the work under the SOW to be provided by the SUB-RECIPIENT are as follows:

Year 1: \$3,000.00

APPLICABLE STATE AND FEDERAL TERMS AND CONDITIONS:

4. ACTIVITY REPORTS

The SUB-RECIPIENT will submit progress reports on the activity of this project in the form provided by

the WTSC using the WTSC Enterprise Management System (WEMS) Progress Reporting process or other alternate means pre-approved by WTSC. The SUB-RECIPIENT will include copies of publications, training reports, advertising, social media posts, meeting agendas, and any statistical data generated in project execution in the reports. The final report will be submitted to WTSC within 30 days of termination of this Agreement. WTSC reserves the right to delay the processing of invoices until activity reports are received and approved.

5. ADVANCE PAYMENTS PROHIBITED

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

6. AGREEMENT ALTERATIONS AND AMENDMENTS

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

7. ALL WRITINGS CONTAINED HEREIN

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

8. ASSIGNMENT

The SUB-RECIPIENT may not assign the work to be provided under this Agreement, in whole or in part, without the express prior written consent of the WTSC, which consent shall not be unreasonably withheld. The SUB-RECIPIENT shall provide the WTSC a copy of all third-party contracts and agreements entered into for purposes of fulfilling the SOW. Such third-party contracts and agreements must follow applicable federal, state, and local law, including but not limited to procurement law, rules, and procedures. If any of the funds provided under this Agreement include funds from NHTSA, such third-party contracts and agreements must include the federal provisions set forth in this Agreement in sections 32 through 41.

9. ATTORNEYS' FEES

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

10. BILLING PROCEDURE

The SUB-RECIPIENT shall submit monthly invoices for reimbursement to WTSC with supporting documentation as WTSC shall require. All invoices for reimbursement shall be submitted through the WEMS invoicing process, or via alternate method if approved by WTSC. Payment to the SUB-RECIPIENT for approved and completed work will be made by warrant or account transfer by WTSC.

within 30 days of receipt of such properly documented invoices acceptable to WTSC. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 45 days after the expiration date of this Agreement. All invoices for goods received or services performed on or prior to June 30, must be received by WTSC no later than August 10 of the same calendar year. All invoices for goods received or services performed between July 1 and September 30, must be received by WTSC no later than November 10 of the same calendar year. WTSC reserves the right to delay the processing of invoices until activity reports required by Section 4 of this agreement, are received and approved.

11. CONFIDENTIALITY / SAFEGUARDING OF INFORMATION

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

12. COST PRINCIPLES

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

13. COVENANT AGAINST CONTINGENT FEES

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

14. DISPUTES

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

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

14.3 In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in the superior court situated in Thurston County, Washington.

15. GOVERNANCE

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

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

15.2.1. Applicable federal and state statutes and rules

15.2.2. Terms and Conditions of this Agreement

15.2.3. Any Amendment executed under this Agreement

15.2.4. Any SOW executed under this Agreement

15.2.5. Any other provisions of the Agreement, including materials incorporated by reference

16. INCOME

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

17. INDEMNIFICATION

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

17.2. The SUB-RECIPIENT agrees that its obligations under this Section extend to any claim, demand and/or cause of action brought by, or on behalf of, any of its employees or agents in the performance of this agreement. For this purpose, the SUB-RECIPIENT, **by mutual negotiation**, hereby waives with respect to WTSC only, any immunity that would otherwise be available to it against such claims under the

Industrial Insurance provisions chapter 51.12 RCW.

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

18. INDEPENDENT CAPACITY

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

19. INSURANCE COVERAGE

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

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

20. LICENSING, ACCREDITATION, AND REGISTRATION

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

21. RECORDS MAINTENANCE

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

21.2. Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving them a reasonable opportunity to respond. Each party will utilize reasonable

security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

22. RIGHT OF INSPECTION

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

23. RIGHTS IN DATA

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

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

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

24. SAVINGS

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

25. SEVERABILITY

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

26. SITE SECURITY

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

27. TAXES

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

28. TERMINATION FOR CAUSE

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

29. TERMINATION FOR CONVENIENCE

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

30. TREATMENT OF ASSETS

30.1. Title to all property furnished by the WTSC shall remain property of the WTSC. Title to all property furnished by the SUB-RECIPIENT for the cost of which the SUB-RECIPIENT is entitled to be reimbursed as a direct item of cost under this Agreement shall pass to and vest in the WTSC upon delivery of such

property by the SUB-RECIPIENT. Title to other property, the cost of which is reimbursable to the SUB-RECIPIENT under this Agreement, shall pass to and vest in the WTSC upon (i) issuance for use of such property in the performance of this Agreement, or (ii) commencement of use of such property in the performance of this Agreement, or (iii) reimbursement of the cost thereof by the WTSC in whole or in part, whichever first occurs.

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

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

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

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

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

31. WAIVER

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

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

32. BUY AMERICA ACT

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

basis and justification, and which is approved by the Secretary of Transportation.

33. DEBARMENT AND SUSPENSION

Instructions for Lower Tier Certification

33.1. By signing this Agreement, the SUB-RECIPIENT (hereinafter in this section referred to as the “lower tier participant”) is providing the certification set out below and agrees to comply with the requirements of 2 CFR part 180 and 23 CFR part 1200.

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

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

33.4. The terms covered transaction, civil judgement, debarment, suspension, ineligible, participant, person, principal, and voluntarily excluded, as used in this clause, are defined in 2 CFR parts 180 and 1200.

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

33.6. The lower tier participant further agrees by signing this Agreement that it will include the clause titled “Instructions for Lower Tier Certification” including the “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions, and will require lower tier participants to comply with 2 CFR part 180 and 23 CFR part 1200.

33.7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility

of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).

33.8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

33.9. Except for transactions authorized under paragraph 33.5. of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

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

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

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

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

34.1. The SUB-RECIPIENT shall:

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

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

34.1.3. Make it a requirement that each employee engaged in the performance of the grant be given a

copy of the statement required by paragraph 34.1.1. of this section.

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

34.1.5. Take one of the following actions within 30 days of receiving notice under paragraph 34.1.4. of this section, with respect to any employee who is so convicted: take appropriate personnel action against such an employee, up to and including termination, and/or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

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

35. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

In accordance with FFATA, the SUB-RECIPIENT shall, upon request, provide WTSC the names and total compensation of the five most highly compensated officers of the entity, if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in federal awards, received \$25,000,000 or more in annual gross revenues from federal awards, and if the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

36. FEDERAL LOBBYING

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

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

36.1.2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal

contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

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

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

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

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

37.1.1. To comply with all federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:

37.1.1.1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252

37.1.1.2. 49 CFR part 21

37.1.1.3. 28 CFR section 50.3

37.1.1.4. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

37.1.1.5. Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.)

37.1.1.6. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.)

37.1.1.7. The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.)

37.1.1.8. The Civil Rights Restoration Act of 1987

37.1.1.9. Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189)

37.1.1.10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

37.1.1.11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency

37.1.1.12. Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government

37.1.1.13. Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation

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

37.1.3. To keep and permit access to its books, records, accounts, other sources of information, and its facilities as required by the WTSC, USDOT, or NHTSA in a timely, complete, and accurate way. Additionally, the SUB-RECIPIENT must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

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

37.1.5. In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the SUB-RECIPIENT hereby gives assurance that it will promptly take any measures necessary to ensure that: “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including NHTSA”.

37.1.6 To insert this clause, including all paragraphs, in every sub-contract and sub-agreement and in every solicitation for a sub-contract or sub-agreement that receives federal funds under this program.

38. POLITICAL ACTIVITY (HATCH ACT)

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

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

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

40. STATE LOBBYING

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

officials to favor or oppose the adoption of a specific pending legislative proposal.

41. CERTIFICATION ON CONFLICT OF INTEREST

41.1. No employee, officer or agent of the SUB-RECIPIENT who is authorized in an official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or personal interest in or a tangible personal benefit from an entity considered for a subaward.

41.2. Based on this policy:

41.2.1. The SUB-RECIPIENT shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents. The code or standards shall provide that the SUB-RECIPIENT's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential sub-awardees, including contractors or parties to subcontracts and establish penalties, sanctions or other disciplinary actions for violations, as permitted by State or local law or regulation.

41.2.2. The SUB-RECIPIENT shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

41.3. No SUB-RECIPIENT, including its officers, employees or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities.

41.3.1. The SUB-RECIPIENT shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to WTSC. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.

42. DESIGNATED CONTACTS

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

The Contact for the SUB-RECIPIENT is:	The Contact for WTSC is:
Shawn Boyle	Jerry Noviello

shawn.boyle@yakimawa.gov
509-728-4541

jnoviello@wtsc.wa.gov
360-725-9897 ext.

43. AUTHORITY TO SIGN

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

IN WITNESS WHEREOF, the parties have executed this Agreement.

Yakima Police Department

Signature

Printed Name

Title

Date

WASHINGTON TRAFFIC SAFETY COMMISSION

Signature

Printed Name

Title

Date

APPENDIX A

Project Costs

Year 1

BUDGET CATEGORY	DESCRIPTION	DIRECT AMOUNT	Indirect Cost Rate	Indirect Amount	Total Budget
Employee salaries and benefits		\$3,000.00	0%	\$0.00	\$3,000.00
Travel		\$0.00	0%	\$0.00	\$0.00
Contract Services		\$0.00	0%	\$0.00	\$0.00
Goods and Services		\$0.00	0%	\$0.00	\$0.00
Equipment		\$0.00	0%	\$0.00	\$0.00
TOTAL		\$3,000.00		\$0.00	\$3,000.00

Important Notes:

1. Indirect cost rates are subject to change based on updated Indirect Rate Letters from a cognizant federal agency or approved cost allocation plans. If the indirect rate increases, the budget will be modified by deducting the amount of the indirect rate increase from other budget categories so that the total budget does not increase.
2. The total annual budget may not increase without a written amendment to this agreement executed by both parties.
3. Adjustments between budget categories within the same year can be made upon mutual agreement of the contact for WTSC and the contact for the SUB-RECIPIENT.

Objectives and Measures

Goal 1 - Support participation in regional traffic safety activities, with a goal of 75% of law enforcement agencies in the region participating in HVE events in the fiscal year.

Objective	Objective Details	Completion Date
Actively participate in your region/county traffic safety task force. Encourage participation in HVE activities from all agencies in the region. Troubleshoot options if an agency is experiencing staffing or political issues that impact their participation in local HVE programming.		09/30/2024
Facilitate the development of performance expectations for HVE participation for your region. Along with the TZM, monitor HVE performance and follow up with officers if their performance doesn't meet the task force's expectations.	The WTSC relies on LELs to ensure that HVE funds are being used in an appropriate and effective manner. Work with your task force to determine appropriate performance expectations and processes for following up when needed.	09/30/2024
Build support for traffic safety by meeting/presenting to department leadership about traffic safety. These can be a great opportunity to gather feedback about their priorities for the region and discuss current/future planned activities.		09/30/2024

Measure	Reporting Frequency	Type	Target
Percent of law enforcement agencies in your region that participate in HVE activities.	Annual	Outcome	75

Goal 2 - Provide leadership in the development of professional development for traffic safety minded officers, with the long term goal of increasing the number of law enforcement agency leaders/admin who believe that traffic safety is a priority.

Objective	Objective Details	Completion Date
Seek out opportunities for professional development for yourself and others in your region that will grow traffic safety leaders in your region.	Some examples of this include the Traffic Safety Champions event, CJTC supervisor training courses, etc.	09/30/2024

Goal 3 - Provide guidance/feedback on law enforcement topics to the regional Target Zero Manager and traffic safety coalition (if applicable).

Objective	Objective Details	Completion Date
Support the TZM in building relationships with law enforcement departments in your region.		09/30/2024



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 11.
For Meeting of: February 6, 2024

ITEM TITLE: Ordinance amending the City of Yakima Municipal Code Section 6.08.015 by adopting Revised Code of Washington 69.50.475, relating to penalties for sales of cannabis by cannabis retail outlets to persons under twenty-one years of age

SUBMITTED BY: Jeffrey Allen Schaap, Senior Assistant City Attorney

SUMMARY EXPLANATION:

The Revised Code of Washington (RCW), 69.50.475, makes the sale of cannabis by cannabis retail outlets to persons under twenty-one years of age a criminal offense punishable as a gross misdemeanor. Employees/owners of said stores can be prosecuted for violations of the statute. In order to prosecute a violation of a state law in Yakima Municipal Court the City must adopt the specific RCW within the Yakima Municipal Code. The Yakima Police Department from time to time conducts enforcement of under age sales, such the sale of liquor by retail establishments to persons under twenty-one years of age. Adoption of RCW 69.50.475, would allow the City to prosecute any violations of the statute in Yakima Municipal Court. The full statute is set out below:

Cannabis retail outlets—Sale to persons under the age of twenty-one—Penalty.

(1) Except as otherwise authorized in this chapter and as provided in subsection (2) of this section, an employee of a retail outlet who sells cannabis products to a person under the age of twenty-one years in the course of his or her employment is guilty of a gross misdemeanor.

(2) An employee of a retail outlet may be prosecuted under RCW 69.50.401 or 69.50.406 or any other applicable provision, if the employee sells cannabis products to a person the employee knows is under the age of twenty-one and not otherwise authorized to purchase cannabis products under this chapter, or if the employee sells or otherwise provides cannabis products to a person under the age of twenty-one outside of the course of his or her employment.

ITEM BUDGETED: NA



STRATEGIC PRIORITY: Public Safety

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

Pass Ordinance.

ATTACHMENTS:

Description		Upload Date	Type
	Ord-YMC 6.08.015_redline	1/24/2024	Ordinance
	Ord-YMC 6.08.015_final	1/24/2024	Ordinance

ORDINANCE NO. 2024-

AN ORDINANCE amending the City of Yakima Municipal Code section 6.08.015 by adopting Revised Code of Washington 69.50.475, relating to penalties for sales of cannabis by cannabis retail outlets to persons under twenty-one years of age.

WHEREAS, by initiative the people of the State of Washington legalized cannabis sales in authorized retail outlets; and

WHEREAS, several cannabis retail outlets exist within the corporate limits of the City of Yakima; and

WHEREAS, it is a criminal offense under the Revised Code of Washington, 69.50.475, punishable as a gross misdemeanor, for cannabis retail outlets to sell cannabis products to persons under twenty-one years of age; and

WHEREAS, the City of Yakima must adopt within the Yakima Municipal Code the aforementioned state law in order to prosecute violations in Yakima Municipal Court; and

WHEREAS, the City Council finds the sale of cannabis by cannabis retail outlets to persons under twenty-one years of age to be contrary to the peace and dignity of the City of Yakima and that adoption of the state law prohibiting such sales is necessary for public safety; now, therefore,

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. The following section, 6.08.015, of the City of Yakima Municipal Code is hereby amended to read as follows:

6.08.015 Statutes adopted.

The following Revised Code of Washington (RCW) sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

69.41.010	Definitions—Legend Drugs.
69.41.030	Possession of Legend Drugs Without Prescription or Order.
9.47A.010	Definition.
9.47A.020	Unlawful inhalation—Exception.
9.47A.030	Possession of certain substances prohibited, when.
9.47A.040	Sale of certain substances prohibited, when.
9.47A.050	Penalty.
69.50.101	Definitions.
69.50.102	Definitions—Drug paraphernalia.
69.50.4011	Counterfeit Substances—Penalty.
69.50.4013	Possession of Controlled Substances—Penalty— Possession of Usable Cannabis, Cannabis Concentrate, or Cannabis Infused Product—Delivery.
69.50.4014	Possession of forty grams or less of marijuana—Penalty.

69.50.412	Prohibited acts.
69.50.4121	Drug paraphernalia—Selling or giving—Penalty.
69.50.445	Opening package of or consuming marijuana, useable marijuana, or marijuana-infused product in view of general public—Penalty.
<u>69.50.475</u>	<u>Cannabis retail outlets—Sale to persons under the age of twenty-one—Penalty.</u>
69.51A.060	Use or Display of Medical Marijuana.

Section 2. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 6th day of February, 2024.

Patricia Byers, Mayor

ATTEST:

Rosalinda Ibarra, City Clerk

Publication Date:

Effective Date:

ORDINANCE NO. 2024-

AN ORDINANCE amending the City of Yakima Municipal Code section 6.08.015 by adopting Revised Code of Washington 69.50.475, relating to penalties for sales of cannabis by cannabis retail outlets to persons under twenty-one years of age.

WHEREAS, by initiative the people of the State of Washington legalized cannabis sales in authorized retail outlets; and

WHEREAS, several cannabis retail outlets exist within the corporate limits of the City of Yakima; and

WHEREAS, it is a criminal offense under the Revised Code of Washington, 69.50.475, punishable as a gross misdemeanor, for cannabis retail outlets to sell cannabis products to persons under twenty-one years of age; and

WHEREAS, the City of Yakima must adopt within the Yakima Municipal Code the aforementioned state law in order to prosecute violations in Yakima Municipal Court; and

WHEREAS, the City Council finds the sale of cannabis by cannabis retail outlets to persons under twenty-one years of age to be contrary to the peace and dignity of the City of Yakima and that adoption of the state law prohibiting such sales is necessary for public safety; now, therefore,

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. The following section, 6.08.015, of the City of Yakima Municipal Code is hereby amended to read as follows:

6.08.015 Statutes adopted.

The following Revised Code of Washington (RCW) sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

69.41.010	Definitions—Legend Drugs.
69.41.030	Possession of Legend Drugs Without Prescription or Order.
9.47A.010	Definition.
9.47A.020	Unlawful inhalation—Exception.
9.47A.030	Possession of certain substances prohibited, when.
9.47A.040	Sale of certain substances prohibited, when.
9.47A.050	Penalty.
69.50.101	Definitions.
69.50.102	Definitions—Drug paraphernalia.
69.50.4011	Counterfeit Substances—Penalty.
69.50.4013	Possession of Controlled Substances—Penalty— Possession of Usable Cannabis, Cannabis Concentrate, or Cannabis Infused Product—Delivery.
69.50.4014	Possession of forty grams or less of marijuana—Penalty.

69.50.412	Prohibited acts.
69.50.4121	Drug paraphernalia—Selling or giving—Penalty.
69.50.445	Opening package of or consuming marijuana, useable marijuana, or marijuana-infused product in view of general public—Penalty.
69.50.475	Cannabis retail outlets—Sale to persons under the age of twenty-one—Penalty.
69.51A.060	Use or Display of Medical Marijuana.

Section 2. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 6th day of February, 2024.

Patricia Byers, Mayor

ATTEST:

Rosalinda Ibarra, City Clerk

Publication Date:

Effective Date:



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 14.A.
For Meeting of: February 6, 2024

ITEM TITLE: Council General Information

SUBMITTED BY: Rosalinda Ibarra, City Clerk

SUMMARY EXPLANATION:

1. Preliminary Council Agendas

ITEM BUDGETED:

STRATEGIC PRIORITY:

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

ATTACHMENTS:

Description	Upload Date	Type
2-13 draft agenda	2/1/2024	Backup Material
2-20 draft agenda	2/1/2024	Backup Material



**AGENDA
YAKIMA CITY COUNCIL
STUDY SESSION
February 13, 2024**

City Hall -- Council Chambers - 129 N 2nd Street, Yakima, WA

5:00 p.m. Study Session --- This meeting will be conducted in person, live streamed at www.yakimawa.gov/council/live-stream/ and telecast live on Y-PAC, Spectrum Cable

Channel 194. You may also participate via Zoom:

<https://cityofyakima.zoom.us/j/97135299962> or call in by dialing 1-253-215-8782 | Webinar ID: 971 3529 9962 | Passcode: 051668 --- Individuals who wish to provide public comment

remotely are encouraged to submit a Public Comment Request Form online at:

www.yakimawa.gov/council/public-comment no later than 3:00 p.m. on the day of the meeting. If you wish to provide public comment in-person, please fill out a "Request for Appearance" form and hand it to the City Clerk before you address City Council.

1. Roll Call
2. Public comment (allow 15 minutes)
3. Discussion regarding Council boards, committees, and commissions
4. Discussion regarding Council memberships
5. Consideration of Naches Avenue Historic Overlay Zone Standards
6. Adjournment

The next meeting is a City Council regular meeting on February 20, 2024 at 5:30 p.m. in the City Hall Council Chambers

Any invocation that may be offered before the official start of the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker.

A Council packet is available for review at the City Clerk's Office and on-line at www.yakimawa.gov. The City provides special accommodations, such as hearing devices, wheelchair space or language interpreters, for City meetings. Anyone needing special assistance please contact the City Clerk's office at (509) 575-6037 at least two business days prior to the meeting. All meetings are live streamed on the City of Yakima website at www.yakimawa.gov and telecast live on Y-PAC, Spectrum Cable Channel 194.



AGENDA YAKIMA CITY COUNCIL

February 20, 2024

City Hall -- Council Chambers - 129 N 2nd Street, Yakima, WA

5:30 p.m. Regular Meeting | 6:00 p.m. Public Hearings --- This meeting will be conducted in person, live streamed at www.yakimawa.gov/council/live-stream/ and telecast live on Y-

PAC, Spectrum Cable Channel 194. You may also participate via Zoom:

<https://cityofyakima.zoom.us/j/97032086214> or call in by dialing 1-253-215-8782 | Webinar ID: 970 3208 6214 | Passcode: 208806 --- Individuals who wish to provide public comment

remotely are encouraged to submit a Public Comment Request Form online at:

www.yakimawa.gov/council/public-comment no later than 3:00 p.m. on the day of the meeting. If you wish to provide public comment in-person, please fill out a "Request for Appearance" form and hand it to the City Clerk before you address City Council.

- 1. Roll Call**
- 2. Pledge of Allegiance**
- 3. Interpreter Services**
- 4. Public Comment**

There will be 35 minutes allotted for public comment with two and a half (2 1/2) minutes per speaker in order to allow as much opportunity as possible for audience participation. Written communication and e-mail messages are strongly encouraged.

- 5. Open Discussion for the Good of the Order**
- 6. Council Reports**
 - A. Council Code of Ethics and Principles of Conduct

7. Consent Agenda

Items listed are considered routine by the City Council and will be enacted by one motion without discussion. A Council member may request to remove an item from the Consent Agenda and, if approved, it will be placed on the regular agenda for discussion and consideration.

- A. Approval of minutes from the February 6, 2024 City Council regular meeting and February 13, 2024 study session
- B. January 2023 Investment Transaction Report
- C. Approve payment of disbursements for the period January 1-31, 2024
- D. Project Completion and Contract Acceptance with Knobel's Electric Inc for the Lion's Pool Project 2600 Emergency Electrical Repair
- E. Project Completion and Contract Acceptance for Flip Flow Terminal Security Exit Lane

Project

- F. Resolution accepting and approving 4th Quarter 2023 Claim Report
- G. Resolution authorizing a Professional Services Agreement HLA Engineering and Land Surveying Inc for Systemic Pedestrian and Bicyclist Data Collection Project 2674
- H. Resolution authorizing Supplemental Agreement 2 to the Professional Services Agreement with Haley & Aldrich Inc for Tiger Oil Project EV2999
- I. Resolution authorizing a contract with Justice Housing Yakima for system development charges and utility infrastructure improvements

DEPARTMENT ITEMS

- 8. 2023 Update on Capital Improvement Projects Report
- 9. Resolution authorizing a Grant Agreement with the Department of Commerce for the development of Gloria's Park, a new City Park adjacent to the SOZO Sports Complex
- 10. Ordinance granting a non-exclusive Franchise to Falcon Video Communications, L.P. I/k/a Charter Communications to operate and maintain a Cable Communications System throughout the city of Yakima

11. Other Business

12. Adjournment

The next meeting is a City Council study session on February 27, 2024, at 5:00 p.m. in the City Hall Council Chambers

13. Council General Information

A. Council General Information

Any invocation that may be offered before the official start of the Council meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the religious beliefs or views of this, or any other speaker.

A Council packet is available for review at the City Clerk's Office and on-line at www.yakimawa.gov. The City provides special accommodations, such as hearing devices, wheelchair space or language interpreters, for City meetings. Anyone needing special assistance please contact the City Clerk's office at (509) 575-6037 at least two business days prior to the meeting. All meetings are live streamed on the City of Yakima website at www.yakimawa.gov and telecast live on Y-PAC, Spectrum Cable Channel 194.



**BUSINESS OF THE CITY COUNCIL
YAKIMA, WASHINGTON
AGENDA STATEMENT**

Item No. 14.B.
For Meeting of: February 6, 2024

ITEM TITLE: Prosecution Division 2023 Year End Report
SUBMITTED BY: Cynthia Martinez, Senior Assistant City Attorney
SUMMARY EXPLANATION:

ITEM BUDGETED:
STRATEGIC PRIORITY:

APPROVED FOR SUBMITTAL BY THE CITY MANAGER

RECOMMENDATION:

ATTACHMENTS:

Description	Upload Date	Type
 COY Prosecution Division 2023 Year End Report	1/29/2024	Cover Memo



**Office of the City Attorney
City of Yakima**

MEMORANDUM

January 23, 2024

TO: Sara Watkins, City Attorney
FROM: Cynthia Martinez, Senior Assistant City Attorney
SUBJECT: Prosecution Division 2023 Year End Report

Charging Unit and Pre-Filing Diversion Program: The Charging Unit and Pre-Filing Diversion Program were implemented in May 2013 as a measure to control case filings and control caseload growth in preparation for the Washington Supreme Court indigent defense caseload limits. These measures have been very successful in reducing costs to the City.

Attached (Exhibit A) is a breakdown of the case types referred to the prosecutor in 2023. Of the 4,283 cases our office reviewed, 3,131 cases were charged, which is within our 3200-caseload limit. 108 individuals were offered the chance to participate in the Pre-Filing Diversion Program (first time offenders), and to date 61 participants have successfully completed the program. We are striving to increase the use of the Pre-Filing Diversion Program, when appropriate.

Prosecution Unit: Staffing has remained stable in the Prosecution Unit in 2023. This will be our third year with the two Unit system: Traffic and Property Crimes Unit and Family and Community Violence Unit.

Traffic and Property Crimes Unit: The prosecutors carry a higher caseload of 900 cases, per prosecutor. This unit mainly works with professional witnesses: Loss Prevention Officers, Department of Licensing, State Toxicologists, BAC Technicians, and YPD Officers. These numbers do not include car and dog impound hearings and contested infraction hearings also handled by this unit (approximately 290 cases a year).

Attached are the statistics concerning DUI and theft cases. Attached (Exhibit B). When looking at the 2023 outcomes please note that there are still a number of 2023 cases pending. You will

January 26, 2024
Page 2

observe an increase in DUI charges (160 more filings over a two-year period). This increase is to be expected given the creation of the two YPD DUI enforcement officer positions and increased traffic crime emphasis.

In July, the Prosecution Division began charging possession of controlled substance (drug) cases, which were formerly felony matters. We handled a total of 59 stand-alone drug cases, which is more than we anticipated. The State Crime Lab initially indicated they would be able to analyze the drug evidence within sixty days, but as time goes on, the wait appears to be increasing. In some cases, we are delaying the filing of charges to wait for test results so as to avoid speedy trial violations.

The State Toxicologist DUI-blood analyses and Eastern State Hospital out-of-custody mental health evaluations are taking well over a year to complete. These delays also frustrate our prosecution efforts.

Family and Community Violence Unit: Prosecutors in this unit handle approximately 650 cases, per prosecutor. The Family and Community Violence cases involve more victim and witness work. Fortunately, the two Domestic Violence Victim Advocacy Coordinators manage that workload. These Coordinators have specialized training to support victims of domestic violence with the goal of keeping them engaged with the prosecution efforts. This year they each handled at least 445 cases.

The unit continues to be involved in the DV Coordinated Community Response Team and the DV Coalition. Attached are the Intimate Partner Domestic Violence (IPDV) numbers, (Exhibit C). When looking at the 2023 outcomes please note that there are still a number of 2023 cases pending. I am pleased to see a decrease in the IPDV numbers. Overall, we received less IPDV referrals in 2023. We declined more cases, but our dismissals are down, which may indicate we were better at choosing which cases to file. It is too early to draw conclusions for 2023. The percent of positive outcomes slightly increased in 2022, which coincides with the implementation of the unit.

Community Diversion Program: The Community Diversion Program was initiated in 2016 with donated grant funds and has been funded by the City Council since that time. The program is designed to connect low level repeat offenders with services that address the issues that are leading to crime. The program is voluntary for individuals who want to make a change in their life. Participants work with Danielle Fish of People for People. She supports participants through the process of drug/alcohol treatment, housing, relicensing, community service hours and preparation to return to work. Employees from Triumph, Comprehensive Healthcare, People for People, Union Gospel Mission, YWCA, and indigent defense service providers meet twice a month to discuss the progress of the participants. The team is also able to leverage other existing service providers in the community

If the participant successfully completes the program, the case is dismissed. If they do not complete, the case is sent back to court for revocation and sentencing. In 2023, the program served 37 participants.

January 26, 2024
Page 3

Officer Training: The Legal Department conducted officer training in August 2023. The training topics included:

- Case Law and Statute Update
- Collection of Evidence to Support Domestic Violence Prosecution
- Report Writing Tips
- Civil Litigation Update

Trespass of Sex Offenders from City Pools: In 2011, the City Council initiated a policy pursuant to RCW 9A.44.193 to trespass of all level 2 and 3 sex offenders living within the City of Yakima and within a five-mile radius of the city from the City of Yakima operated pools. The list of sex offenders was updated in early March 2023 and notices of trespass were served on eight individuals. The statute allows for a broader application and we may be seeking to update this policy in 2024.

eProsecutor: We continue to work towards the implementation of eProsecutor, the case management system that will replace our now defunct JustWare system (the program has been decommissioned by the owner and tech support has ceased). The City and County program administrators have spent many hours working with the Journal Technology programmers. Implementation is scheduled for early fall 2024.

ⁱ Our filing caseload limit is tied to the number of public defense attorneys the City has contracted to handle cases. Public defenders are limited by court rule to 400 cases a year. The City currently contracts with public defense service providers to handle 3200 new cases a year. Expanding the number of cases filed by the prosecutor, means contracting for more public defense services.

Yakima Monthly Case Type Count

Exhibit A

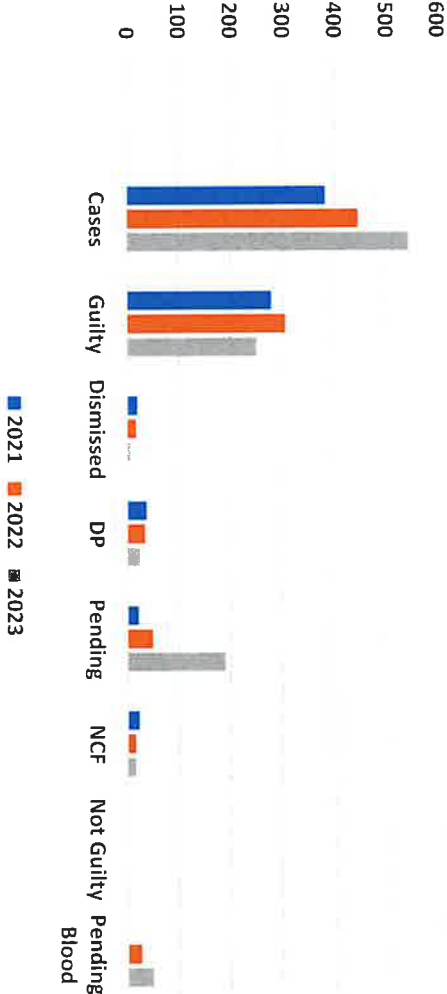
Between: 1/1/2023 - 12/31/2023
Agency For: City of Yakima Prosecution Division

5	January 2023	February 2023	March 2023	April 2023	May 2023	June 2023	July 2023	August 2023	September 2023	October 2023	November 2023	December 2023	Total
Traffic - License	69	45	42	34	48	48	54	49	33	59	51	56	588
Traffic - Other	12	11	17	10	18	15	21	19	24	15	12	15	189
DUI	51	35	43	33	31	37	51	61	59	42	56	46	545
DV Assault	55	41	46	34	73	60	57	56	39	53	31	36	581
DV Malmis & Prop	8	4	4	10	15	12	6	12	8	13	13	13	118
DV Violate Protection Order	33	34	36	30	41	42	26	39	39	26	46	43	435
Obstruction	9	10	13	13	9	10	24	12	16	12	10	16	154
Other	12	8	8	7	8	13	15	17	11	4	7	12	122
Theft	42	30	56	53	53	54	35	42	26	40	30	33	494
Trespass	23	17	25	12	21	20	17	23	10	22	18	24	232
DV Harassment/Stalking	9	7	7	6	1	4	7	3	0	6	1	3	54
Infraction	13	11	16	18	19	22	15	18	20	16	19	29	216
Malicious Mischief	4	3	9	8	5	10	7	4	7	5	2	7	71
Assault	5	17	13	7	15	28	14	13	9	17	10	11	159
Drugs	1	0	2	1	1	0	2	15	19	22	21	16	100
DV Other	4	1	6	4	4	7	5	2	1	6	2	5	47
Fraud	1	0	0	0	0	0	0	0	0	0	0	0	1
Violate Order	2	1	2	3	3	2	5	2	5	2	1	0	28
Harassment	2	1	7	2	6	3	1	4	2	2	2	8	40
Weapons	4	1	1	5	2	4	1	1	2	6	3	1	31
Arson	1	0	0	0	0	1	0	1	0	0	0	3	6
Reckless Endangerment	1	0	0	2	0	2	1	0	1	2	0	0	9
Motor Vehicles	0	1	0	0	0	0	0	0	0	0	0	1	2
Sex - Minor Victim	0	1	0	0	0	0	0	0	1	0	0	0	2
Impound	0	0	1	0	3	2	1	0	4	2	0	3	16
Sex	0	0	1	1	1	0	1	0	0	1	0	4	9
Animals	0	0	0	1	1	1	3	0	3	1	1	3	14
Poss. Stolen Property	0	0	0	0	1	0	0	0	0	1	0	0	2
Escape & Bail Jumping	0	0	0	0	1	0	0	0	0	0	0	0	1
Alcohol	0	0	0	0	0	0	0	1	0	0	0	16	17
Total	361	279	355	294	380	397	369	394	339	375	336	404	4283

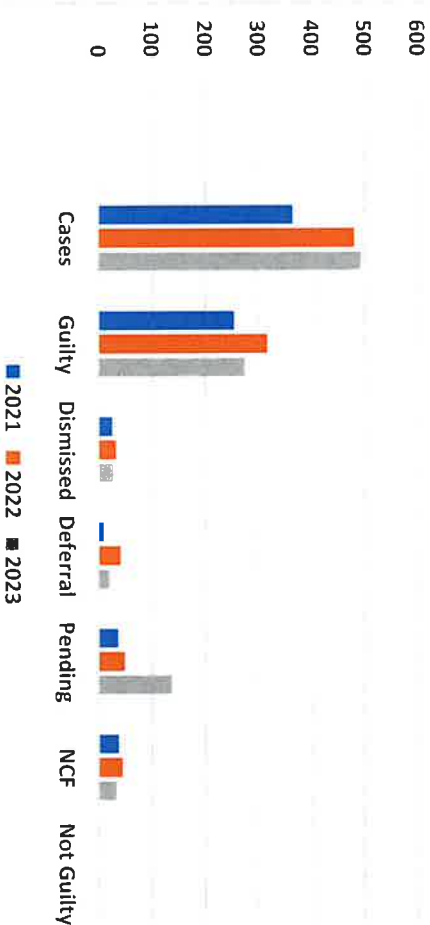
City of Yakima Legal Department - Traffic and Property Crimes Unit

EXHIBIT B

Year	2021	2022	2023
Cases	383	446	545
Guilty	280	306	252
Dismissed	20	17	8
DP	38	34	26
Pending	22	50	191
NCF	23	16	17
Not Guilty	0	0	0
Pending Blood	0	26	51



Year	2021	2022	2023
Cases	365	481	494
Guilty	255	317	275
Dismissed	25	32	28
Deferral	9	40	20
Pending	36	48	137
NCF	37	44	33
Not Guilty	0	0	0



Intimate Partner - DV Statistics

Year	2021	2022	2023
Cases	1014	962	890
Guilty	353	284	148
SOC	148	185	164
Dismissed	242	208	116
Pending	24	36	157
NCF	238	238	291
Not Guilty	4	0	0
Referral	0	0	3

2022 DV-IPV Legal Department Changes:

- Family and Community Violence Unit implemented
- Second DV Advocacy Coordinator hired
- Assigned YPD Detective
- Expedited DV Warrants for gone on arrival cases implemented
- Partnerships with County and other local prosecutors to address high risk defendants
- Daily CCRT calls (Coordinated Community Response Team)
- Attended monthly DV Coalition meeting
- Established Division Goals
- National DV training

2023 DV-IPV Legal Department Changes:

- Spanish O'Courts NCO implemented
- Risk Assessment Use
- DV Coalition Presentation
- Officer Training - Evidence Collection to Support DV Prosecution
- Diversion Programming for Regular Victim Defendants

