



DAYTON CITY COUNCIL

REGULAR MEETING

111 S 1st Street

ZOOM MEETING - (Login Information is below)

February 9, 2022

6:00 p.m.

PRELIMINARY AGENDA

NOTE: Meetings are open to the public; however, in order to comply with the Governor's social distancing mandate, we are limiting attendance in person to City of Dayton Personnel and those scheduled on the agenda only .

A. Call to order

1. Roll call

B. Approval of agenda

1. ACTION: Consider authorizing 2/09/2022 City Council Agenda as presented

C. Public Comment

D. Ashley Strickland – Columbia County Emergency Management Director

E. Sheriff Joe Helm – Columbia County Sheriff's Office

F. Consent Agenda - Action

1. Approval of January 12, 2022 Regular Council Meeting Minutes.
2. Approval of January 20th, 2022 Special Council Meeting Minutes
3. Approval of Claims Voucher Warrants as audited by the Finance Committee
in the amount of = (Will Update Monday)
4. Approval of Payroll Voucher Warrants for Jan, 2022 = \$85,306.91

G. Items for Council Consideration/Action

1. Consider Authorizing Resolution # 1486 -Authorizing the Mayor to execute a Professional Services Agreement with AHBL, INC. for On-Call Planning and Land Use Services for 2022 .
2. Consider Authorizing Resolution # 1486A -Authorizing the Mayor to execute a Professional Services Agreement with MacKay - Sposito. for On-Call Development Review/Planning Services for 2022.
3. Consider Authorizing Resolution # 1487 -Authorizing the Mayor to hereby resolves that docket item 2021-01 Proposing text amendments to the Dayton Comprehensive Plan, as related to Affordable Housing, be deferred to the 2023 Comprehensive plan amendment cycle.
4. Consider Authorizing Ordinance No. 1989-Authorizing the Mayor to Amend Section 5-2.04 of the Dayton Municipal Code, Amending the 2018 Adopted International Building Codes by Reference .
5. Interviews for vacant City Council Position # 6.

H. Adjourn for Executive Session

- I. Resume Regular meeting
 - J. Mayor Report/Comments
 - K. Standing Committee Reports/Comments
 - L. Department Reports
 - M. Unfinished Business
 - N. New Business
 - O. Final Public Comment
 - P. Adjournment
- *Next City Council meeting is scheduled for 3/9/2022*

City of Dayton is inviting you to a scheduled Zoom meeting.

Topic: Dayton Regular City Council Meeting
Time: February 9th @ 6:00 pm – VIA ZOOM

Join Zoom Meeting
<https://us02web.zoom.us/j/3561226503>

Meeting ID: 356 122 6503

One tap mobile

+12532158782,,3561226503# US (Tacoma)

DAYTON CITY COUNCIL MINUTES

Regular Meeting

Wednesday Jan. 12th, 2022

ZOOM MEETING

Dayton, Washington 99328

A. Call to order

Mayor Weatherford calls the meeting to order at approximately 6:01 p.m.

Roll Call: Present: Councilmembers: Laura Aukerman, Teeny McMunn, Dain Nysoe, Marchand Hovrud, Misty Yost, Tiger Dieu

Staff: Debra Hays, Interim City Clerk, Ryan Paulson Public Works Director

B. Approval of agenda

1. ACTION: Consider authorizing 1/12/2022 City Council Agenda as presented:

Yost makes a motion to authorize 1/12/2022 City Council Agenda as presented; Nysoe seconds the motion. Agenda approved, unanimously.

C. Public Comment

No Public Comment.

D. Ashley Strickland – Columbia County Emergency Management Director –***Strickland report on dispatch logs and updates council on radio project.***

E. Sheriff Joe Helm – Columbia County Sheriff's Office – ***Robbie Patterson reports for Sheriff Helm on acquisition of new deputies.***

F. Consent Agenda - Action

1. Approval of December 1st, 2021, Special City Council Meeting Minutes.
2. Approval of December 15th, 2021, Regular Council Meeting Minutes.
3. Approval of December 29th, 2021, Special City Council Meeting Minutes
4. Approval of Claims Voucher Warrants as audited by the Finance Committee in the amount of \$ 215,720.27 Voucher #53652, 53683, 53684, 53686 thru 53693, 53701 thru 53754
Approval of Payroll Voucher Warrants for December 2021 \$83,733.10 Voucher #53637 thru 53674, 53675 thru 53700

Nysoe makes a motion to authorize Consent Agenda. Yost seconds the motion.

Motion passes 5 to 1 with Aukerman obtaining.

G. Items for Council Consideration/Action

1. Consider appointing _____ to serve as Mayor Pro-Tem for 2022.
Hovrud nominates Dain Nysoe to serve as Mayor Pro-Tem for 2022.
McMunn seconds the motion. Nysoe accepts the nomination.
Motion is approved, unanimously.
2. Consider Authorizing Resolution #1486 – Authorizing the Mayor to execute a Professional Services Agreement with AHBL, INC. for On-Call Planning and Land Use Services for 2022.
Mayor Weatherford explains Resolution #1468 to Council with the assistance of the AHBL, Inc. Representative. Council discusses. Aukerman motions to table authorizing Resolution #1468 – Authorizing the Mayor to execute a Professional Services Agreement with AHBL, INC. for On-Call Planning and Land Use Services for 2022. Hovrud seconds the motion. Motion passes 5 to 1, with McMunn opposing.

H. Mayor Reports/Comments

Mayor Weatherford Thanks Council member Yost for her, salary waiver, donation of \$450.00. Mayor Weatherford also thanks the Public Works Crew for work during the resent snow event. Council discusses issues with snow removal. Public Works Director Ryan Paulson address the issues in regard

to snow removal. Mayor Weatherford tells the council that do to the age of the Personnel policies it may need updating. He also updates council on the wastewater treatment plant project.

Standing Committee Reports/Comments –

Committee Reports were shipped due to committees have not been selected.

I. Department Reports

County Commissioner –**Rundell -Reports on resignation of county Engineer and restructuring of job assignments as well as upcoming job opportunities. He also reminds the Council of the upcoming quarterly Commissioners meeting which will be held on January 20th at 10:00 am.**

Mayor Pro Tem – **Nysoe – No report.**

City Clerk interim – **Debra Hays – Hays updates council on financial packets**

Public Works Director – **Ryan Paulson – Paulson reports on waterline issues, water losses and expense of repairs. He also compliments his crew on all their hard work. Council also expresses their appreciation of the public work crew. Yost address concerns for fire hydrants associated with the loss of presser due to waterline issues. Paulson responds.**

J. Unfinished Business – Nysoe questions staff on job posting. Hays responds.

K. New Business – Mayor Pro Tem Nysoe address mayor and council in regard to committee assignments.

L. Final Public Comment – No Comments.

M. Adjournment

With no further business to come before the Council, the meeting is adjourned at 7:14 pm.

**Yost makes a motion to Adjourn the City Council meeting of January 12th, 2021,
Nysoe seconds the motion. Motion carries, unanimous.**

Next regular City Council meeting is scheduled for 2/9/2021.

City of Dayton

By: Zac Weatherford

Attested:

Approved:

Date

Deb Hays, Interim City Clerk

DAYTON CITY COUNCIL
MINUTES
Special Meeting
Thursday January 20, 2022
ZOOM MEETING
Dayton, Washington 99328

A. Call to order

Mayor Weatherford calls the meeting to order at approximately 6:00 p.m.

Roll Call: Present: Councilmembers: Laura Aukerman, Misty Yost, Teeny McMunn, Marchand Hovrud, Tiger Dieu.

Not attending: Dain Nysoe

B. Approval of agenda

1. ACTION: Consider authorizing 1/20/2022 Special City Council Agenda as presented:

Yost makes a motion to authorize 1/20/2022 Special City Council Agenda as presented; Dieu seconds the motion. Agenda approved, unanimously

C. Items for Council Consideration/Action.

Consider Authorizing Resolution #1486 – Authorizing the Mayor to execute a Professional Services Agreement with AHBL, INC. for On-Call Planning and Land Use Services for 2022.

Council discusses.

Aukerman makes a motion to Table Authorizing Resolution #1468 – Authorizing the mayor to execute a Professional Services Agreement with AHBL, INC. for On-Call Planning and Land Use Services for 2022.

Yost seconds the motion. Council votes 4 to one, with McMunn voting no.

D. Adjournment

With no further business to come before the Council, The Special meeting is adjourned at

7:31 p.m. Yost make a motion to Adjourn the Special meeting of Jan 20, 2022, Dieu seconds the motion. Motion carries, unanimous.

Next regular City Council meeting is scheduled for 2/9/2022. at 6:00 PM

City of Dayton

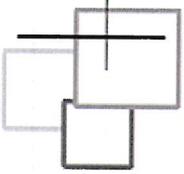
By: Zac Weatherford

Attested:

Approved:

Date

Deb Hays, Interim City Clerk



Register

PAYROLL

Fiscal: 2022

Deposit Period: 2022 - January

Check Period: 2022 - January - 31, 2022 - January - January - 15

Number	Name	Print Date	Clearing Date	Amount
Bank of Eastern Oregon				
Check	7270002352			
53755	Costello, Wyatt M	1/13/2022		\$569.83
53756	Fletcher, Lloyd	1/13/2022		\$1,718.76
53757	Hays, Debra M.	1/13/2022		\$2,372.53
53758	John, Rob	1/13/2022		\$1,800.65
53759	Lambert, Isaiah J	1/13/2022		\$1,727.57
53760	Moton, Donald G.	1/13/2022		\$1,999.46
53761	Paulson, Ryan A	1/13/2022		\$2,211.10
53762	Souza, Marcio	1/13/2022		\$1,665.37
53763	Strickland, Eddie L	1/13/2022		\$2,488.18
53764	Sweetwood, David	1/13/2022		\$2,065.98
53765	Walker, Alan J	1/13/2022		\$1,381.90
53766	Westergreen, Connie	1/13/2022		\$1,559.22
53768	Aukerman, Laura U	1/31/2022		\$138.52
53769	Costello, Wyatt M	1/31/2022		\$893.58
53770	Dieu, Tyler	1/31/2022		\$138.52
53771	Fletcher, Lloyd	1/31/2022		\$1,843.84
53772	Hays, Debra M.	1/31/2022		\$2,400.00
53773	John, Rob	1/31/2022		\$1,800.65
53774	Lambert, Isaiah J	1/31/2022		\$1,637.09
53775	McMunn, Eileen M	1/31/2022		\$138.52
53776	Moton, Donald G.	1/31/2022		\$1,661.02
53777	Nysoe, Dain	1/31/2022		\$138.52
53778	Paulson, Ryan A	1/31/2022		\$2,124.68
53779	Souza, Marcio	1/31/2022		\$1,549.57
53780	Strickland, Eddie L	1/31/2022		\$2,055.61
53781	Sweetwood, David	1/31/2022		\$1,652.56
53782	Walker, Alan J	1/31/2022		\$1,925.08
53783	Weatherford, Zachary M	1/31/2022		\$859.80
53784	Westergreen, Connie	1/31/2022		\$1,740.65
53785	Yost, Misty	1/31/2022		\$138.52
53786	AWC EMPLOYEE BENEFIT TRUST -	1/31/2022		\$225.85
53787	PAYROLL	1/31/2022		\$12,895.39
53788	Council No. 2	1/31/2022		\$401.71
53789	Daniel H Brunner, Chapter 13 Trustee	1/31/2022		\$829.00
53790	Dept of Retirement Systems	1/31/2022		\$9,756.65

Number	Name	Print Date	Clearing Date	Amount
53791	Internal Revenue Service - U S Treasury	1/31/2022		\$15,535.58
53792	Washington State Support Registry	1/31/2022		\$188.00
53793	WSCCCE	1/31/2022		\$1,077.45
	Total		Check	\$85,306.91
	Total		7270002352	\$85,306.91
	Grand Total			\$85,306.91

RESOLUTION NO. 1486

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, COLUMBIA COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN PROFESSIONAL SERVICE AGREEMENT FOR ON CALL LAND USE PLANNING SERVICES WITH AHBL, INC.

WHEREAS, the City Council of the City of Dayton has been duly elected and is authorized to enter into contracts pursuant to RCW 35A.12.190; and

WHEREAS, the City of Dayton has negotiated a Professional Services Agreement with AHBL, INC to provide On-Call Planning for Land Use Services, to the City of Dayton for a period of one year (12) months, unless terminated earlier, in the Form attached here to as Exhibit "A". The Initial Professional Services Agreement Authorization will be NO MORE than \$80,000.00 with an expiration date of December 31, 2022:

WHEREAS, the City Council finds and determines that entering into said Professional Services Agreement with the AHBL, INC is in the best interest of the residents of the City of Dayton and will promote the general health, safety and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Agreement . The Mayor of the City of Dayton, Washington, is hereby authorized to execute a Professional Services Agreement with AHBL, INC , attached here to.

Section 2. Implementation. That the Mayor, or designee, is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 3. Effective Date That this Resolution shall take effect and be in full force upon passage and signatures here on .

Dated and signed this _____ day of February, 2022
City of Dayton

Mayor Zac Weatherford

Attest/Authenticate:

Debra M Hays , Interim City Clerk

Approved as to form :

Quinn Plant, City Attorney



January 4, 2022

REVISED

Mr. Zac Weatherford, Mayor
City of Dayton
111 South 1st Street
Dayton, WA 99328

Project: City of Dayton On-Call Planning 2022, AHBL No. 2210907.30
Subject: Revised Proposal for Land Use Planning Services

Civil Engineers

Dear Mayor Weatherford:

Structural Engineers

Thank you for the opportunity to submit this revised proposal for on-call land use planning services. This scope of work is for assistance to City of Dayton to assist with State Environmental Policy Act (SEPA) processing, permitting, and land use/development projects, as needed to supplement your staffing.

Landscape Architects

We understand that you and the City Clerk (or Deputy City Clerk) will be the primary points of contact at the City for this work.

Community Planners

Under this contract, our role will be to perform as the City's planning staff and our work may include the following:

Land Surveyors

- Provide permit review assistance, as needed.
- Provide long-range planning support, as needed.
- Specific duties may include:
 - Provide training and guidance to staff.
 - Perform quality review and feedback on work items prepared by staff.
 - Attend pre-application meetings.
 - Conduct site visits.
 - Review site plans (for building permits) for zoning compliance.
 - Review applications for code compliance.
 - Review SEPA documentation for purposes of recommending additional studies, SEPA determination, and/or mitigation measures, and serve as the acting SEPA Responsible Official.
 - Process applications such as Conditional Use Permits, Short Plats (administrative review and approval), and Preliminary and Final Plats.
 - Process text amendments to the development code.
 - Communicate and coordinate with applicants, their consultants, and other City staff.
 - Review or prepare staff reports and recommendations.
 - Present reports to the Planning Commission, Hearing Examiner, and City Council.
 - Provide additional planning services, long range planning, and code revision assistance, as needed.

Neighbors

Under this contract, you will have the option to authorize separate task orders for large projects. Task orders made by the City shall be issued in writing by a Task Assignment Document (provided in Exhibit C). In response to a Task Assignment Document, AHBL (Consultant) shall prepare a scope of work, professional service budget, project schedule, and identify key staff

TRI-CITIES

5804 Road 90
Suite H
Pasco, WA 99301
509.380.5883 TEL

www.ahbl.com



assignments. The scope of work will be thorough and sufficiently detailed to match the complexity of the project. The Consultant's project manager will also develop a Quality Assurance review schedule, which shall be included in the scope of work. The Community Development Director will review and comment on the scope, schedule, and budget. An Assignment shall become effective when a Task Assignment Document is signed by the Consultant and the City, and the City issues it back to the Consultant with a Notice to Proceed. The exception is that emergency actions requiring an immediate response (less than 24 hours) can be handled by oral authorization. Such oral authorization shall be followed up with a Task Assignment Document within four working days, and any billing rates agreed to orally (for individuals, subcontractors, or organizations whose rates were not previously established in this Agreement) shall be provisional and subject to final negotiation and acceptance by the City.

Once a Task Assignment Document is issued by the City, whether formal or informal, the Consultant's designated project manager will meet with City personnel, as needed, to discuss project specifics, including a site visit to fully understand the desired project outcome. The Consultant will then assemble a project team, including subconsultants if necessary, possessing the specific skills necessary to perform the required work. Roles and responsibilities will be well defined within the project team to provide clear communication and establish accountability. When forming a project team, the Consultant will:

- Be as accurate as possible when identifying key staff that will be assigned project work.
- Achieve concurrence in staffing assignments from the appropriate discipline team leaders and Principal-in-Charge.
- Identify appropriate subconsultants and similarly obtain Principal-in-Charge concurrence.

To avoid conflicts of interest and the appearance of conflicts of interest, any application, submittal, or petition from Consultant (including private applications of Consultant's owners and employees) will not be reviewed or processed under this contract.

Wayne Carlson will serve as Principal-in-Charge and quality review lead for Consultant to provide oversight of our planners and will coordinate with City staff to ensure we are meeting the City's needs. Nicole Stickney will provide project management and staffing, as needed, with support from additional staff members from our Tri-Cities office and planners from our Western Washington offices, as needed. Wayne Carlson will provide quality assurance/quality control, as authorized.

Wayne Carlson and Nicole Stickney will contact the City periodically throughout the term of the contract to discuss staffing needs and adjust staffing levels accordingly. As Principal-in-Charge, Wayne will be involved to ensure that Consultant brings the appropriate additional resources to the projects, as needed. Consultant is accustomed to tracking our time by each project and will format our invoices to reference project elements, if needed.

All planning services, including SEPA review, contract management, quality control, and review by senior staff, and any related assistance or other planning services will be based on the attached rate sheet (Exhibit B). Consultant will seek your authorization for the use of any staff member not included within this scope of work.

The initial authorization on this contract will be \$80,000, with an expiration date of December 31, 2022.

Mr. Zac Weatherford, Mayor
January 4, 2022
2210907.30
Page 3 of 3



If you find this proposal acceptable, please sign and return a copy of the enclosed contract (Exhibit A) to our office. We will return a copy of this contract to you after we have signed it. Our receipt of the signed contract will be our notification to proceed.

If you have any questions, please call me at (509) 380-5883.

Sincerely,

A handwritten signature in black ink that reads "Nicole Stickney".

Nicole Stickney, AICP
Project Manager / Senior Land Use Planner

NS/lsk

Enclosures

c: Accounting

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EXHIBIT A

AHBL, INC. PROFESSIONAL SERVICES AGREEMENT



This Professional Services Agreement "this Agreement" is made this 4th day of **January, 2022**, between **City of Dayton**, the "Client," and **AHBL, Inc. of Tacoma, Washington**, the "Consultant," for **City of Dayton On-Call Planning 2022**, the "Project," **AHBL File No. 2210907.30**.

The Client and Consultant agree as follows:

1. **SERVICES.** The Consultant will perform for the Client the services outlined in the Consultant's proposal letter dated **January 4, 2022**, which is incorporated into this Agreement. Said services will commence upon receipt of a signed copy of this Agreement.

This Agreement is between the parties hereto only and is not intended to benefit any third party nor to create any rights in any person or entity other than the parties hereto.

2. **COMPENSATION FOR SERVICES.** The Client shall pay to the Consultant, as compensation for the services, the amounts as identified in the proposal letter referred to in Paragraph 1. For projects that include time and expenses charges, a schedule of charges can be provided upon request.

3. **REIMBURSABLE EXPENSES.**

3.1 Reimbursable Expenses, surcharged by fifteen percent (15%), are in addition to compensation for Services and include expenses incurred by the Consultant and Consultant's employees and subconsultants in the interest of the Project, as identified in the following clauses.

- 3.1.1 Expense of transportation in connection with the Project, expenses in connection with authorized out-of-town travel, long-distance communications, and fees paid for securing approvals of authorities having jurisdiction over the Project.
- 3.1.2 If authorized in advance by the Client, expenses of overtime work requiring higher than regular rates.
- 3.1.3 Expense of renderings, models, and mock-ups requested by the Client.
- 3.1.4 Reprographics, copy expenses, and other expenses connected with the project.

4. **BILLING AND PAYMENT.**

4.1 **Initial Payment.** The Client shall make an initial payment of **zero and no** hundredths dollars (**\$0.00**) upon execution of this Agreement. This payment shall be applied against the final invoice. Invoices shall be submitted by the Consultant monthly and are due upon presentation and shall be considered PAST DUE if not paid within thirty (30) calendar days after the invoice date, regardless of whether the Client has secured project financing or the Client has received payment from its client, as the case may be.

4.2 **Interest.** If payment is not received by the Consultant within sixty (60) calendar days of the date of the invoice, the Client shall pay an additional charge of one and one-half percent (1.5%) (or the maximum allowable by law, whichever is lower) of the PAST DUE amount per month. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal. The right to charge and collect interest is in addition to, and not substitution for, the right to suspend or terminate in the event of the Client's failure to make timely payments.

4.3 **Suspension or Termination of Service.** If the Client fails to pay amounts within sixty (60) calendar days of the date of the invoice, this shall constitute a material breach of this Agreement, and the Consultant may, at any time, and without waiving any other rights against the Client and without thereby incurring any liability whatsoever to the Client, suspend services under this Agreement or terminate this Agreement. The Client agrees to release the Consultant from any consequences of such suspension or termination of services due to the Client's non-payment of the Consultant's fees.

4.4 **Set-offs, Backcharges, Discounts.** Payment of invoices is in no case subject to unilateral discounting or set-offs by the Client. Payment is due regardless of suspension or termination of this Agreement by either party. If the Client objects to any portion of an invoice, the Client shall so notify the Consultant in writing within thirty (30) calendar days of receipt of the invoice. The Client shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated above shall be paid by the Client on all disputed invoiced amounts resolved in the Consultant's favor and unpaid for more than sixty (60) calendar days after date of invoice.

5. **TERMINATION.** This Agreement may be terminated by either party upon seven (7) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination. Upon termination, Consultant shall be compensated for all services performed to the date of receipt of notice of termination, plus reimbursable expenses then due, plus reasonable additional expenses that may be incurred in the closing of the project records and project activities.

6. **OWNERSHIP OF DOCUMENTS.** Plans, reports, and specifications are instruments of service and shall remain the property of Consultant, whether the project for which they are made is executed or not. The Consultant shall retain all ownership rights, including the copyright. Submission to public agencies and Project contractor(s) shall not be deemed publication in derogation of the Consultant's retained rights. The Client shall be permitted to retain copies, including reproducible copies, of plans, reports, and specifications for information and reference in connection with Client's use and occupancy. The plans, reports, and specifications shall not be used by the Client on other projects, for additions to this Project, or for completion of this Project by others except by agreement in writing with appropriate compensation to, and protection from liability for, Consultant, provided Consultant is not in material breach of this Agreement.

- 6.1 **Electronic Media.** The Client may retain copies of drawings, reports, and/or specifications in electronic form. Any use or reuse of, or changes to, the electronic media will be at the Client's sole risk. The Client will defend, indemnify, and hold harmless the Consultant from any and all claims resulting from use or reuse of, or changes to, the electronic media by the Owner or the Owner's transferee.

7. OPINIONS OF PROBABLE COST. Because Consultant does not have control over the cost of labor, materials, or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, opinions of probable cost, when provided, are made on the basis of the Consultant's experience and qualification, and represent the Consultant's best judgment as a design professional generally familiar with the construction industry. However, Consultant cannot and does not guarantee that proposals, bids, or the construction cost will not vary from opinions of probable cost prepared for the Client. If the Client wishes greater assurance as to the construction cost, the client shall employ an independent cost estimator.
8. RISK ALLOCATION. In the execution of its services, the Consultant will exercise its best professional judgment. No other warranties, expressed or implied, are given.

Client recognizes the inherent risk of claims associated with the service to be provided by Consultant. In partial consideration of Consultant's commitment to perform the services under this Agreement, Client and Consultant agree:

- 8.1 To limit the aggregate amount of damages the Client may recover against the Consultant (along with its officers, directors, and employees) arising under or related to this Agreement to \$50,000 or the amount of compensation paid to the Consultant pursuant to this Agreement, whichever is greater. The types of claims to which this limitation applies include, without limitation, claims based on negligence, professional errors or omissions, professional malpractice, indemnity, contribution, breach of contract, breach of expressed warranty, breach of implied warranty and strict liability.
- 8.2 The Consultant shall indemnify the Client (along with its officers, directors, and employees) against damages, losses, and liability, including reasonable attorneys' fees and expenses recoverable under applicable law, to the extent they are caused by the negligent acts or omissions of the Consultant or its consultants in the performance of professional services under this Agreement.
- 8.3 The Client shall indemnify the Consultant (along with its officers, directors, and employees) against damages, losses, and liability, including reasonable attorneys' fees and expenses recoverable under applicable law, to the extent they are caused by the negligent acts or omissions of the Client or its consultants under this Agreement.
- 8.4 Consequential Damages. The Client and the Consultant waive consequential damages for claims, disputes and other matters in question arising out of or related to this Agreement or the breach or alleged breach of this Agreement.
9. DISPUTES.
- 9.1 Mediation. Any dispute between the Client and the Consultant arising out of or relating to this Agreement shall be submitted to non-binding mediation. The Client agrees to participate in the mediation process in good faith upon receiving written notice, within the time limitation set forth below, from the Consultant of the Consultant's election to subject a dispute to mediation ("Notice of Election to Mediate"). Prior to commencing litigation against the Consultant, the Client shall, within the time limitation set forth below, provide the Consultant with written notice of the Client's claim(s) setting forth the nature of the dispute and the Client's claim(s), the amount in controversy, a brief summary of the factual circumstances surrounding such dispute and claim(s), and a statement of the Client's intention to commence litigation ("Notice of Intent to Litigate"). If within fourteen (14) days following the Consultant's receipt of Notice of Intent to Litigate the Consultant has not given the Client Notice of Election to Mediate, the Client may commence litigation. The Consultant may specifically enforce this mediation provision, whether through a motion to compel mediation or otherwise. Unless the Client and the Consultant subsequently agree otherwise in writing, the mediation will be conducted under the auspices of the American Arbitration Association acting under its Construction Industry Mediation Rules. Each party shall pay one-half of the mediator's charges and one-half of the mediation service's charges. The parties shall participate in the mediation process in good faith.
- 9.2 Litigation. If the Consultant elects not to mediate a dispute or if mediation is conducted but does not fully resolve all disputes and/or claims, either the Client or the Consultant may commence litigation. In that case, both parties agree that venue of any litigation shall be in Pierce County, Washington. If litigation is not commenced within ninety (90) days of the termination of the mediation proceedings between the parties or after Consultant's written election not to submit the dispute to mediation, the claims that were the subject of the mediation proceedings shall be forever barred.
- 9.3 Time Limitation. Any litigation arising out of or related to this Agreement, or the breach or alleged breach of this Agreement, must be commenced within one year of the date on which the Consultant last performs services pursuant to this Agreement. Claims by one party against the other, whether the basis of any such claim is known or unknown, shall be forever barred if not commenced within that one-year time period. This limitation period shall be tolled upon the Consultant's service of a Notice of Election to Mediate or the Client's service of a Notice of Intention to Litigate, and shall recommence running upon the termination of mediation proceedings or, in the event the Consultant does not elect to mediate, fourteen (14) days following service of the Notice of Intent to Litigate.

10. SPECIAL PROVISIONS.

- 10.1 Hidden Conditions. Inasmuch as the review of an existing building and/or site requires that certain assumptions be made regarding existing conditions, and because some of these assumptions may not be verifiable without expending additional sums of money or destroying otherwise adequate or serviceable portions of the building and/or site, the Client agrees not to make any claims against the Consultant if it develops that the conditions that were encountered were not anticipated by Consultant.
- 10.2 Subconsultants. It is recognized and understood that some of the professional services required by this Agreement may be of a specialized nature that cannot be provided by Consultant in-house. Such specialized services include, but are not limited to, materials testing, mechanical, electrical, architectural, acoustical, and geotechnical Engineering, laboratory planning and design, professional cost estimating, LCC/energy analysis, acoustical Engineering, telecommunications Engineering, and other services identified elsewhere in this Agreement. Consultant shall, upon request received from the Client, procure such services from subconsultants subject to Client approval, and shall enter into agreements with the subconsultants. A copy of the agreements with the subconsultants shall be provided to the Client upon receipt of a written request. As the Client's agent, Consultant shall coordinate the activities of the subconsultants in the providing of their services under this Agreement.
- 10.3 Waiver of Claims. If the client declines to retain the Consultant to perform construction phase services, then the Client waives any claim that might otherwise be made against the Consultant (or its officers, directors, or employees) arising out of or related to use of drawings, reports and/or specifications prepared by the Consultant, except to the extent that the Client establishes that the claim against the Consultant would have existed even if the Consultant had performed construction phase services.

11. MISCELLANEOUS PROVISIONS.

- 11.1 Information Provided by Client. The Consultant shall indicate to the Client the information needed for rendering of services hereunder. The Client shall provide to the Consultant such information, and the Consultant is entitled to rely upon the accuracy and completeness thereof.
- 11.2 Environmental Hazards Waiver and Indemnity. The Consultant and the Consultant's subconsultant(s) shall have no responsibility for the discovery, presence, handling, removal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. It is further understood and agreed that Consultant will not contract to perform any services in connection with the detection, removal, abatement, disposal or eradication of any hazardous or potentially hazardous substances or materials located in, on, under, over, about or in any other way connected with the project or project site and that the incorporation into the contract of any specifications pertaining to such matter will be done only in accordance with the direction of the Client and their subconsultants without any responsibility or liability whatsoever of Consultant or their insurers in regard thereto.
- 11.3 Taxes. In the event that federal, state, and/or local legislative action imposes new or additional tax measures that will affect Consultant's cost of doing business, Client and Consultant agree that all professional fees negotiated in compensation for this project shall be adjusted to reflect such increases in taxation. Adjustments shall include, but not be limited to, compensation for potential new and/or the retroactive application of state sales tax on professional services, and increases in state and local business and occupation taxes.
- 11.4 Assignment. Neither the Client nor the Consultant shall assign or transfer this Agreement, or any interest in this Agreement or any cause of action arising under or related to it, without the written consent of the other, which consent may be withheld at the discretion of either party.
- 11.5 Construction Observation. The Consultant shall, if within the scope of services of this Agreement, visit the site at intervals appropriate to the stage of construction or as otherwise agreed by the Client and Consultant in writing to become generally familiar with the progress and quality of the construction. However, the Consultant shall not be required to make exhaustive or continuous onsite observations or any inspections to check the quality or quantity of the construction. The Consultant shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Contractor's Work (Work). The Consultant shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents. The Consultant shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.
- 11.6 Submittal Review. The Consultant shall review and take other appropriate action upon contractor's submittals such as shop drawings, product data and samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the plans and specifications. The Consultant's actions shall be taken with reasonable promptness. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the contractor. The Consultant's review shall not constitute review or approval of safety precautions or of construction means, methods, techniques, sequences, or procedures. The Consultant's review of a specific item shall not indicate review or approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems, or equipment is required by the plans and specifications, the Consultant shall be entitled to rely upon such certification to establish that the materials, systems, or equipment will meet the performance criteria required by the plans and specifications.
- 11.7 Property Insurance. The Client will assure that the Consultant is named as an additional insured on the builder's risk insurance policy and any other property policy carried by the Project owner and/or the Project prime construction contractor during the construction. The Client will furnish the Consultant with a certified copy of the policy or policies showing the Consultant's status as additional insured upon receipt of a request from the Consultant.
- 11.8 Governing Law. This Agreement shall be governed by the internal laws of the State of Washington.
- 11.9 Merger. This Agreement states the entire agreement between the Client and the Consultant with respect to its subject matter and supersedes all prior and contemporaneous negotiations, commitments, understandings, and agreements with respect to its subject matter. This Agreement shall not be modified or amended except by way of an instrument signed by both the Client and the Consultant.
- 11.10 Signing Authority. Each individual signing this Agreement on behalf of a named party warrants that he or she has the authority to sign on behalf of his or her principal and to bind his or her principal to this Agreement and its terms.

Client

CITY OF DAYTON

By: _____
Signature

Printed Name / Title

Date: _____

AHBL, INC.

Civil & Structural Engineers - Landscape Architects -
Community Planners - Land Surveyors
2215 North 30th Street, Suite 300
Tacoma, WA 98403
(253) 383-2422

By: 
Principal in Charge - Wayne E. Carlson, FAICP, LEED AP

Date: _____

(AHBL File No. 2210907.30)

EXHIBIT B



SCHEDULE OF CHARGES & COMPENSATION

Principal.....	225.00/Hour	Director of Landscape Architecture	160.00/Hour
Associate Principal.....	200.00/Hour	Senior Landscape Architect	145.00/Hour
Senior Project Manager	185.00/Hour	Landscape Architect 2.....	130.00/Hour
Project Manager.....	170.00/Hour	Landscape Architect 1.....	120.00/Hour
Senior Planning Project Manager.....	160.00/Hour	Senior Landscape Designer.....	120.00/Hour
Planning Project Manager	150.00/Hour	Landscape Designer 3	110.00/Hour
Survey Project Manager	160.00/Hour	Landscape Designer 2	100.00/Hour
Assistant Project Manager.....	125.00/Hour	Landscape Designer 1	90.00/Hour
Senior Engineer	160.00/Hour	Senior Landscape Technician.....	130.00/Hour
Project Engineer 4.....	140.00/Hour	Landscape Technician 3	105.00/Hour
Project Engineer 3.....	130.00/Hour	Landscape Technician 2	90.00/Hour
Project Engineer 2.....	120.00/Hour	Landscape Technician 1	80.00/Hour
Project Engineer 1.....	105.00/Hour	Senior Survey Technician	130.00/Hour
Senior Engineer Technician.....	130.00/Hour	Survey Technician 3	120.00/Hour
Engineer Technician 3	120.00/Hour	Survey Technician 2.....	105.00/Hour
Engineer Technician 2	105.00/Hour	Survey Technician 1	90.00/Hour
Engineer Technician 1	90.00/Hour	Survey Crew	200.00/Hour
Project Administrator.....	100.00/Hour	1-Person Survey Crew	130.00/Hour
Project Expeditor.....	80.00/Hour	Graphic Designer.....	110.00/Hour
Planner 5	145.00/Hour	Technical Editor.....	105.00/Hour
Planner 4	130.00/Hour	Word Processor/Sr. Administrative Asst.....	85.00/Hour
Planner 3	115.00/Hour	Administrative Assistant	75.00/Hour
Planner 2	100.00/Hour	Outside Consultants	Separate Fee Proposal
Planner 1	75.00/Hour	Geotechnical Engineers	Separate Fee Proposal
Planning Technician.....	50.00/Hour	Environmental Consultants	Separate Fee Proposal

Large Format Bond.....	0.50/sf
Large Format High Density Color Bond	2.00/sf
Large Format Mylar	2.00/sf
Small Format Color Bond 11 X 17.....	0.50/Sheet
Small Format Color Bond 8.5 X 11.....	0.40/Sheet

The Schedule of Charges and Compensation is subject to change.

Charges are made for technical typing, as in the preparation of reports, and for technical clerical services directly related to projects. Direct charges are not made for general secretarial services, office management, accounting, or maintenance.

EXHIBIT C

Formal Task Assignment Document

AHBL Job No. 2210907.30

Task Number _____

The general provisions and clauses of the Consultant On-Call Services Contract dated _____ shall be in full force and effect for this Task Assignment.

Location of Project: _____

Project Title: _____

Maximum Amount Payable Per Task Assignment: _____

Completion Date: _____

Description of Work:
(Note attachments and give brief description)

Mayor or City Clerk Signature: _____ Date: _____

Oral Authorization Date: _____ See Letter Dated: _____

Consultant Signature: _____ Date: _____

Agency Approving Authority: _____ Date: _____

RESOLUTION NO. 1486A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, COLUMBIA COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN PROFESSIONAL SERVICE AGREEMENT FOR ON CALL DEVELOPMENT REVIEW/PLANNING SERVICES WITH MACKAY-SPOSITO

WHEREAS, the City Council of the City of Dayton has been duly elected and is authorized to enter into contracts pursuant to RCW 35A.12.190; and

WHEREAS, the City of Dayton has negotiated a Development Review/Planning Services with MacKay-Sposito to provide Planning Services, to the City of Dayton for a period of one year (12) months, unless terminated earlier, in the Form attached here to as Exhibit "A". The Initial Professional Services Agreement Authorization will be NO MORE than the Fee Schedule attached for services ,with an expiration date of December 31, 2022:

WHEREAS, the City Council finds and determines that entering into said Professional Services Agreement with the MacKay-Sposito is in the best interest of the residents of the City of Dayton and will promote the general helath, saftey and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Agreement .The Mayor of the City of Dayton, Washington, is hereby authorized to execute a Professional Services Agreement with MacKay-Sposito, attached here to.

Section 2. Implementation. That the Mayor, or designee, is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 3. Effective Date That this Resolution shall take effect and be in full force upon passage and signatures here on .

Dated and signed this _____ day of February, 2022

City of Dayton

Mayor Zac Weatherford

Attest/Authenticate:

Debra M Hays , Interim City Clerk

Approved as to form :

Quinn Plant, City Attorney

Typical Scope of Work

Development Review/Planning Services

1.0 PROJECT MANAGEMENT

MacKay Sposito will oversee project tasks and coordinate with City representatives to manage the scope, schedule, and budget for development review and additional services.

1.1 CONTRACT ADMINISTRATION, INVOICING, AND PROGRESS REPORTS

- 1.1.1 MacKay Sposito will prepare and submit monthly invoices. Each invoice will include the following: dates of services provided, staff names, number of hours worked per requested project reviews during the billing period with billing rates shown; expenses and associated mark-ups; total cost for labor and expenses for the billing period. Invoices will also include a brief summary of the work completed during the invoice period and any out-of-scope items that are being tracked.

Deliverables: Monthly invoices with status report, Invoice Summary Report

2.0 DEVELOPMENT REVIEW/PLANNING

2.1 CITY PROJECT

- 2.1.1 Work under this task entails organization of individual Projects received and for the tracking in monthly invoice summaries for work performed to complete Development Review service tasks. Each project sent to MacKay Sposito will be tracked and given a corresponding number, starting with 2.1, 2.2, and so forth. Time spent for work completed in Task 2 will be tracked by individual project in this subtask.

Specific tasks to be performed and services to be provided by MacKay Sposito' development review are as follows:

- Assess project documents and establish level of effort in support of work tasks based on size and types of documents to be reviewed.
 - Coordinate via phone, email, and file share site with the City to complete the agreed upon work tasks.
 - Provide City with plan mark-ups, checklist, and comment log in Word format.
 - Virtual meeting with City to discuss review comments generated.
- 2.1.2 Provide review of applicable planning documents.
- 2.1.3 Review submitted plans against development standards and zoning codes;

- 2.1.4 Provide a memorandum with review comments and plan markups for the agency;
- 2.1.5 Attend a review meeting with the agency to discuss review comments and provide recommendations, if needed;
- 2.1.6 Provide subsequent review of plans, as needed, to ensure that any/all review comments have been met and the plans meet the standards of the zoning code.

Deliverables:

- *Development review document mark-ups*
- *Completed Checklist*
- *Comment Log*

PROJECT ASSUMPTIONS:

MacKay Sposito has made the following assumptions to develop the scope of services, exclusions, and fees for this project:

1. City will triage the review comment list and provide the developer with final comments.
2. Public hearings or public meetings are not anticipated but may be required for MacKay Sposito to attend.
3. The use of Bluebeam will be used for PDF mark-ups.

CLIENT RESPONSIBILITIES:

1. Provide initial notification including description of requested development review, project plans, Conditions of Approval, and all supporting documentation. All files to be provided in an electronic format (PDF, Excel, or Word).
2. Provide MacKay Sposito with a City review checklist for codes and standards.
3. Provide example development review.
4. Client's representative will act as the principal project spokesperson and present the project at any required public meetings or public hearings with possible support from MacKay Sposito.

EASTERN WASHINGTON
2022 HOURLY RATE SCHEDULE

Job Description	Regular
Planning Manager	\$200.00
Planner	\$150.00
Planning Technician	\$120.00

PROFESSIONAL SERVICES AGREEMENT

MacKay Sposito, Inc.
Development Review Assistance

THIS AGREEMENT is entered into between the [REDACTED], a municipal corporation, hereinafter referred to as "the City", and **MacKay Sposito, Inc.** hereinafter referred to as the "Consultant," jointly referred to as "Parties."

IN CONSIDERATION of the terms and conditions contained herein, the Parties agree as follows:

1. **Project Designation.** The Consultant is retained by the City to perform professional services in connection with the project designated as the **Development Review Assistance.**
2. **Scope Of Services.** Consultant agrees to perform the services, identified on Exhibit "A" attached hereto and incorporated herein by reference, including the provision of all labor, materials, equipment and supplies.
 - A. **Representations.** City has relied upon the qualifications of Consultant in entering into this Agreement. By execution of this Agreement, Consultant represents it possesses the ability, skill, and resources necessary to fulfill the Scope of Services and is familiar with all current laws, rules, and regulations which reasonably relate to the Scope of Services. No substitutions of agreed-upon personnel shall be made without the prior written consent of City.

Consultant represents that the compensation as stated in Paragraph 4 herein is adequate and sufficient for the timely provision of all professional services required to complete the Scope of Services under this Agreement.

Consultant shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the City shall not be responsible for discovering deficiencies therein. Consultant shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in City-furnished information.

- B. **Standard of Care.** Consultant shall exercise the degree of skill and diligence normally employed by professional consultants engaged in the same profession, and performing the same or similar services at the time such services are performed.
- C. **Modifications to Scope of Work.** The City may modify the Scope of Work whenever necessary or advisable. Consultant shall accept modifications when ordered in writing by the City Manager or designee, so long as the change in work is within the scope of Consultant's area of practice. Compensation for such modifications or changes shall be mutually agreed between the Parties. Consultant shall make such revisions in the works as are necessary to

correct errors or omissions appearing therein when required to do so by the City without additional compensation.

3. Time For Performance. Consultant shall perform all services and provide all work product required pursuant to this Agreement by **December 31, 2022**, unless an extension of such time is granted in writing by the City.
4. Payment. The Consultant shall be paid by the City for completed work and for services rendered under this agreement as follows:
 - A. Payment for the work provided by Consultant shall be made as provided on Exhibit "B" attached hereto, provided that the total amount of payment to Consultant shall not exceed [REDACTED] (which includes Washington State Sales Tax if any is applicable). Consultant shall not perform any extra, further, or additional services for which it will request additional compensation from City without a prior written agreement for such services and payment therefore.
 - B. The Consultant may submit vouchers to the City once per month during the progress of the work for payment for project completed to date. Such vouchers will be checked by the City, and upon approval thereof, payment will be made to the Consultant in the amount approved. Payment to the Consultant of partial estimates, final estimates, and retained percentages shall be subject to controlling laws.
 - C. Final payment of any balance due the Consultant of the total Agreement price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this Agreement and its acceptance by the City.
 - D. Payment as provided in this section shall be full compensation for work performed, services rendered and for all materials, supplies, equipment and incidentals necessary to complete the work.
 - E. The Consultant's records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the City and of the State of Washington for a period of three (3) years after final payments. Copies shall be made available upon request.
5. Ownership And Use Of Documents. All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with Consultant's endeavors. Any reuse of such documents, drawings, specifications, and other materials outside the scope of work for which they were developed without Consultant's review and approval shall be at the City's sole risk.

6. Indemnification. Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Consultant's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liability to which it applies, City's personnel-related costs, reasonable attorneys' fees, the reasonable value of any services rendered by the office of the City Attorney, outside consultant costs, court costs, fees for collection, and all other claim-related expenses. This duty shall apply at both the trial and appellate court levels, whether or not a trial or appeal ever takes place, and shall additionally include any hearings before federal or state administrative agencies. The City shall have the right to select the attorney or attorneys to represent the City in such an action.

However, 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 Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

The provisions of this section shall survive the expiration or termination of this Agreement. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

7. Insurance Requirements:

A. Insurance Term

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

B. No Limitation

The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance

The Consultant shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

D. Minimum Amounts of Insurance

The Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

E. Other Insurance Provision

The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Proof of Coverage

The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Agreement before commencement of the work. It shall be the Consultant's sole responsibility to ensure it has in fact procured the insurance

requirements as outlined in this Agreement and maintains said insurance requirements for the duration of this Agreement independent of the insurance terms that are reflected on the original certificate and the copy of the amendatory endorsement provided to the City. The City shall not have an independent duty to verify that the original certificates and the copy of the amendatory endorsements provided to the City satisfy the insurance requirements as outlined by this Agreement.

H. Notice of Cancellation

The Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

I. Failure to Maintain Insurance

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

J. City Full Availability of Consultant Limits

If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

8. Independent Consultant. The Consultant and the City agree that the Consultant is an independent Consultant with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto.

Neither Consultant nor any employee of Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Consultant, or any employee of Consultant.

9. Covenant Against Contingent Fees. The Consultant warrants that it has not employed or retained any company or person, other than a bonafide employee working solely for the Consultant, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall

have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

10. Discrimination Prohibited. During the performance of this Agreement, the Consultant, for itself, its assignees, and successors in interest agrees to comply with the following laws and regulations:
- Title VI of the Civil Rights Act of 1964
(42 USC Chapter 21 Subchapter V Section 2000d through 2000d-4a)
 - Federal-aid Highway Act of 1973
(23 USC Chapter 3 Section 324)
 - Rehabilitation Act of 1973
(29 USC Chapter 16 Subchapter V Section 794)
 - Age Discrimination Act of 1975
(42 USC Chapter 76 Section 6101 et seq.)
 - Civil Rights Restoration Act of 1987
(Public Law 100-259)
 - Americans with Disabilities Act of 1990
(42 USC Chapter 126 Section 12101 et. seq.)
 - 49 CFR Part 21
 - 23 CFR Part 200
 - RCW 49.60.180

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

The City is an equal opportunity provider and employer.

11. Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions. By executing this Agreement, the Consultant certifies to the best of its knowledge and belief that it and its principals:
- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph B of this certification; and

D. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

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

12. Assignment. The Consultant shall not sublet or assign any of the services covered by this Agreement without the express written consent of the City.
13. Subcontracts. Except as otherwise provided herein, Consultant shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of City.
14. Confidentiality. Consultant may, from time-to-time, receive information which is deemed by City to be confidential. Consultant shall not disclose such information without the prior express written consent of City or upon order of a court of competent jurisdiction.
15. Non-Waiver. Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.
16. City's Right to Terminate Agreement. Should the Consultant neglect to perform the work properly, or fail to perform any provision of this Agreement, the City, after thirty days' written notice to the Consultant, and its surety, if any, may, without prejudice to any other remedy the City may have, make good the deficiencies and may deduct the cost thereof from the payment then or thereafter due the Consultant or, at the City's option, may terminate this Agreement and take possession of all materials, tools, appliances and finish the work by such means as the City sees fit, and if the unpaid balance of the Agreement price exceeds the expense of finishing the work, such excess shall be paid to the Consultant, but if such expense exceeds such unpaid balance, the Consultant shall pay the difference to the City.
17. Notices. Notices to the [REDACTED] shall be sent to the following address:

[REDACTED]

Notices to Consultant shall be sent to the following address:

Mackay Sposito, Inc.
Attn: Erin Toman, Land Development Services Manager
18405 SE Mill Plain Blvd., Suite 100
Vancouver, WA 98683
etoman@mackaysposito.com

18. Integrated Agreement. This Agreement together with attachments or addenda, represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements written or oral. This Agreement may be amended only by written instrument signed by both City and Consultant.
19. No Oral Representations Or Changes To Agreement. The [REDACTED] has not made any oral changes to this Agreement. To the extent that either Party to this Agreement relied upon any oral representation of the other Party, the Parties agree that all oral representations were merged and incorporated into this Agreement so that this Agreement is the complete agreement between the Parties. The Parties further agree and acknowledge that no representative of the City is authorized to grant oral permission to change the terms of the Agreement and reliance upon such oral representation is unreasonable on behalf of the Consultant. Any change to the Agreement shall be by written modification of the Agreement signed by both parties or by a written change order presented to the City and signed by the City Manager or his/her designee.
20. Compliance With Laws. Consultant shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services to be rendered under this Agreement.
21. Attorney Fees. In the event of a lawsuit, arbitration or other action to interpret or enforce any provision of this Agreement brought by either party, then the prevailing party shall be awarded such sum for attorney fees as a court or arbitrator may deem reasonable, together with the costs associated with such suit, arbitration or action including expert witness fees.
22. Jurisdiction and Venue. This Agreement is entered into in [REDACTED]. Disputes between City and Consultant shall be resolved in the Superior Court of the State of Washington in Clark County. Notwithstanding the foregoing, Consultant agrees that it may, at City's request, be joined as a party in any arbitration proceeding between City and any third party that includes a claim or claims that arise out of, or that are related to Consultant's services under this Agreement. Consultant further agrees that the Arbitrator(s)' decision therein shall be final and binding on Consultant and that judgment may be entered upon it in any court having jurisdiction thereof.
23. Anti-kickback. No officer or employee of City, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in this Agreement, or have solicited, accepted, or granted a present or future gift, favor, service, or other thing of value from any person with an interest in this Agreement.
24. Business Registration. Consultant shall register with the City as a business prior to commencement of work under this Agreement if it has not already done so.
25. Severability. If any section, sentence, clause, or phrase of this Agreement should be held to be invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of any other section, sentence, clause, or phrase of this Agreement.

26. Exhibits. The Exhibits attached and incorporated into this Agreement are:

A. Scope of Services as referenced and incorporated by Paragraph 2 herein.

B. Payment Schedule as referenced and incorporated by Paragraph 4 herein.

C. Title VI Assurance as referenced and incorporated by Paragraph 10 herein.

The Parties executed this Agreement this 12th day of January, 2022.

[REDACTED]

CONSULTANT

By

[REDACTED]

[REDACTED]

[REDACTED]

By: Derrick Smith
Title: President

Attest/Authenticated:

[REDACTED]

RESOLUTION NO. 1487

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, COLUMBIA COUNTY, WASHINGTON DEFERRING 2022 DOCKET ITEM

WHEREAS, the City of Dayton, Washington operates under the guidelines of the Growth Management Act (RCW 36.70A) which requires the development and maintenance of a Comprehensive Plan; and,

WHEREAS, the Dayton Planning Commission approved Ordinance 1956, dated January 15, 2019, recommending that the Dayton City Council revising Dayton Municipal Code Chapter 10-09 Comprehensive Plan Docketing Procedures; and,

WHEREAS, the Dayton City Council subsequently approved this amendment as part of the 2020 Periodic Comprehensive Plan Update; and,

WHEREAS, those adopted procedures set forth a timeline for the submission and approval of comprehensive plan docket items; and,

WHEREAS, on June 1, 2021 the Affordable Housing Implementation Task Force Local Policies Subcommittee submitted a docket item regarding affordable housing for inclusion in the 2022 Comprehensive Plan amendment cycle (Attachment A); and,

WHEREAS, due to a turnover in City Staff and a lack of Planning Commission members required to constitute a quorum, this docket item was not discovered in a timely manner and cannot be processed in accordance with DMC 10-09.060 Annual docket application review procedures; and,

WHEREAS, Per DMC 16-09.060(E)(2) docket items may be deferred if it is determined that the item cannot be reasonably reviewed within the existing staffing resources and operational budget of the department;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, HEREBY RESOLVES THAT DOCKET ITEM 2021-01 PROPOSING TEXT AMENDMENTS TO THE DAYTON COMPREHENSIVE PLAN, AS RELATED TO AFFORDABLE HOUSING, BE DEFERRED TO THE 2023 COMPREHENSIVE PLAN AMENDMENT CYCLE.

PASSED by the City Council of the City of Dayton, Washington on this 9th day of, February, 2022.

City of Dayton

Attest:

By: Zac Weatherford, Mayor

Deb Hays, City Clerk

Approved as to form:

Quinn Plant, City Attorney

ORDINANCE NO. 1989

AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON AMENDING SECTION 5-2.04 OF THE DAYTON MUNICIPAL CODE, AMENDING THE 2018 ADOPTED INTERNATIONAL BUILDING CODES BY REFERENCE

WHEREAS, the City of Dayton, Washington is a fully planning city under RCW 36.70A, Growth Management Act; and,

WHEREAS, it is necessary to make certain code text changes to bring consistency of development regulations with the adopted goals, policies, and objectives of the City of Dayton Comprehensive Plan and statewide provisions; and,

WHEREAS, Section 5-2.04 of the Dayton Municipal Code was amended on June 10, 2021 via Ordinance No. 1985, to adopt those Building Codes currently adopted by the State of Washington; and,

WHEREAS, the inclusion of the International Property Maintenance Code and the International Abatement of Dangerous Buildings Code were inadvertently omitted from the code adoption update; and,

WHEREAS, these codes have traditionally been adopted with the State Building Code updates; and,

WHEREAS, the proposed amendments do not change any adopted comprehensive plan policies or land use regulations; and,

WHEREAS, the adoption of this ordinance is categorically exempt from SEPA per WAC 197-11-800(19) Procedural Actions;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1: Amendments. Section 5-2.04 of the Dayton Municipal Code is hereby amended to read as follows:

5-2.04. – Codes Adopted.

The following codes are hereby adopted by the City of Dayton:

- A. The 2018 Edition of the International Building Code, as adopted and hereafter amended by the State Building Code Council in Washington Administrative Code (WAC) Chapter 51-50 is hereby adopted along with Appendix E and ICC/ANSI A117.1- 2009, the 2018 International Existing Building Code, and the International Swimming Pool and Spa Code.

- B. The 2018 Edition of the International Residential Code (IRC), as adopted and hereafter amended by the State Building Code Council in Washington Administrative Code (WAC) Chapter 51-51, as published by the International Code Council, including Appendices F, Q, and U, but excluding Chapter 11, "Energy Efficiency," and Chapters 25 through 43.
- C. The 2018 Edition of the International Mechanical Code, as adopted by the State Building Code Council in Washington Administrative Code (WAC) Chapter 51-52, as published by the International Code Council, including the 2018 International Fuel Gas Code, 2018 NFPA 58 and the 2017 NFPA 54, is hereby adopted.
- D. The 2018 Edition of the International Fire Code, as adopted by the State Building Code Council in Washington Administrative Code (WAC) Chapter 51-54, as published by the International Code Council, including Section 503, Section 507, and Appendix Chapters B, C and D (see International Fire Code Section 101.2.1, 2018 edition).
- E. The 2018 Edition of the Uniform Plumbing Code (UPC), as adopted by the State Building Code Council in Washington Administrative Code (WAC) Chapters 51-56, as published by the International Association of Plumbing and Mechanical Officials (IAPMO), is hereby adopted, including Appendices A, B, and I.
- F. The 2018 Washington State Energy Code, as adopted by the State Building Code Council in Chapter 51-11C and 51-11R WAC, is hereby adopted.
- G. Standards for Accessibility of Buildings and Facilities to Elderly and Handicapped, RCW 70.92.100 through 70.92.160, are hereby adopted by reference.
- H. The National Fuel Gas Code (NFPA 54), as adopted by the State Building Code Council in Chapter 51-52 WAC, and as published by NFPA, is hereby adopted.
- I. The Liquefied Petroleum Gas Code (NFPA 58), as adopted by the State Building Code Council in Chapter 51-52 WAC, and as published by NFPA, is hereby adopted.
- J. The International Property Maintenance Code, 2018 Edition is hereby adopted.
- K. The International Abatement of Dangerous Buildings Code, 1997 Edition is hereby adopted.

Section 2: Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, or phrase of this ordinance.

Section 3: Effective Date. A summary thereof of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF DAYTON, WASHINGTON, AT A REGULAR MEETING THIS 9th DAY OF FEBRUARY, 2022.

City of Dayton

Zac Weatherford, Mayor

Attested/Authenticated by:

Deb Hays, City Clerk

Approved as to form:

Quinn Plant, City Attorney

**ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES
ORDINANCE NUMBER 1989**

**AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON AMENDING SECTION
5-2.04 OF THE DAYTON MUNICIPAL CODE AMENDING THE ADOPTING THE 2018
INTERNATIONAL BUILDING CODES**

The full text of Ordinance 1989, adopted the 9th day of February, 2022, is available for examination at the City Clerk's Office, 111 S. 1st St., Dayton, WA during normal business hours. The full text of the ordinance will be mailed upon request.

By: /s/ Zac Weatherford, Mayor

Attest: /s/ Deb Hays, City Clerk

Approved as to from: /s/ Quinn Plant, City Attorney

Published: _____

The Waitsburg Times

5-2.04. – ~~International~~ Codes Adopted.

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- B. The 2018 Edition of the International Residential Code (IRC), as adopted and hereafter amended by the State Building Code Council in Washington Administrative Code (WAC) Chapter 51-51, as published by the International Code Council, including Appendices F, Q, and U, but excluding Chapter 11, "Energy Efficiency," and Chapters 25 through 43.
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- F. The 2018 Washington State Energy Code, as adopted by the State Building Code Council in Chapter 51-11C and 51-11R WAC, is hereby adopted.
- G. Standards for Accessibility of Buildings and Facilities to Elderly and Handicapped, RCW 70.92.100 through 70.92.160, are hereby adopted by reference.
- H. The National Fuel Gas Code (NFPA 54), as adopted by the State Building Code Council in Chapter 51-52 WAC, and as published by NFPA, is hereby adopted.
- I. The Liquefied Petroleum Gas Code (NFPA 58), as adopted by the State Building Code Council in Chapter 51-52 WAC, and as published by NFPA, is hereby adopted.
- J. **The 2018 International Property Maintenance Code**

K. The 1997 International Abatement of Dangerous Buildings Code