

AGREEMENT NP2022-08

**PROFESSIONAL SERVICES AGREEMENT TO PROVIDE
CONSULTING SERVICES**

This Professional Services Agreement to Provide Consulting Services (this "Agreement") sets forth the mutual understanding of the City of Newport, Washington (the "Client") and SCJ Alliance, (the "Consultant") on this the 22nd day of February, 2022 (the "Effective Date") for the provision of professional consulting services as more fully set forth below.

RECITALS:

The Consultant possesses a high degree of professional skill and experience and is a unique provider of professional consulting services regarding on-call planning].

The Client desires to hire the Consultant to provide professional consulting services because of its professional skill and experience.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth in this Agreement, the Client and the Consultant, intending to be legally bound, do hereby agree as follows:

1. **CONSULTING SERVICES.** The Consultant agrees to provide the following professional consulting services to the Client (the "Services"), and as more particularly described in Consultant's Scope of Work (the "Proposal"), a copy of which is attached hereto as Exhibit "A" and by this reference incorporated herein:
 - A. **Exhibit A: On-Call Planning - Scope of Work**
 - B. **Exhibit B: SCJ Hourly Rates**
2. **TERM.** The Consultant's engagement and provision of Services will commence upon the Effective Date and will terminate upon written notice from the City. This contract is set to automatically renew for an automatic five (5) year term upon budget allocation from the annual City budget process, (the "Term") unless earlier terminated as provided in Section 6 below.
3. **CONSULTING FEE.**
 - A. **Consulting Fee.** In consideration for providing the Services, the Client agrees to pay the Consultant a consulting fee (the "Consulting Fee") as outlined in Exhibit "B" attached hereto, plus reimbursable expenses, as set forth in Section ___ of the Proposal.
 - B. **Payment Default.** If the Client fails to pay any portion of the Consulting Fee on the requisite payment date, the Consultant will immediately cease all Services,

including but not limited to: (1) development review; (2) meetings; and (3) other planning projects approved in the scope of work.

4. CLIENT INFORMATION AND ACCESS.

- A. To the extent permitted by law, the Client will provide the Consultant with access to relevant personnel, facilities, records, reports and other information (including any information specified in the Consultant's proposal to the Client) accessible by the Client that the Consultant may reasonably request from time-to-time during the Term. The Client acknowledges and agrees that the Consultant's scheduled delivery of the Services is dependent upon the timely access to such personnel, facilities, records, reports and other requested information.
- B. To facilitate such access and Consultant's delivery of the Services, the Client designates the City Administrator, currently Abby Gribi, as the Consultant's primary point of contact for delivery of the Services (the "Client Representative"). The Client Representative will serve as the primary liaison between the Consultant and the Client. The Client Representative will have responsibility for regular communications between the Client and the Consultant as outlined in the Proposal.

Initials of Client Representative: _____

- C. The Client hereby authorizes the Client Representative (1) to act on behalf of the Client in the day-to-day administration and operation of this Agreement and the arrangements it contemplates and (2) to execute and deliver, on behalf of the Client, such notices, approvals, consents, instruments, or other documents as may be necessary or desirable to facilitate or assist the Consultant with the provision of the Services.

5. INTELLECTUAL PROPERTY. As part of the Services, the Consultant will prepare periodic and final reports including demographic and other research reports that will become the property of the Client upon delivery from the Consultant. Any other reports, memoranda, electronic mail, facsimile transmissions or other written documents prepared or used by the Consultants in connection with the Services will remain the property of the Consultant. With the Consultant's prior permission, the Client may use other information provided by the Consultant, such as specifics related to retailers, developers, site information or other "confidential information" for internal purposes while taking reasonable steps to so limit the use of such materials and maintain its confidentiality.

6. TERMINATION, BREACH AND CURE.

- A. **By the Client At-Will.** The Client may terminate this Agreement at any time for any or no reason upon delivery of thirty (30) days' prior written notice to the Consultant. Any portion of the Consulting Fee paid prior to the effective date of such termination of this Agreement is earned when paid and nonrefundable. Within thirty (30) days of such termination of this Agreement, the Consultant will refund

a pro rata portion of the installment of the Consulting Fee previously paid for the contract period during which such termination occurs based upon the mutually agreed percentage of the work not yet completed at the time the notice of termination is received. In no event will termination under this section require the Consultant to refund for work completed, time spent, or cost incurred in connection with Services prior to notice of such termination. .

- B. **By the Client Upon the Consultant's Default.** The Client may notify the Consultant within ninety (90) days of the day that the Client knows or should have known that the Consultant breached this Agreement. The Consultant will have thirty (30) days following receipt of such notice to cure any alleged breach. If the Consultant fails to cure any alleged breach within that 30-day period, then the Client may terminate this Agreement and shall provide written notice of the termination, which shall be effective as of the date of such notice. Within thirty (30) days of such termination of this Agreement, the Consultant will refund a pro rata portion of the installment of the Consulting Fee previously paid for the contract period during which such termination occurs based upon the number of days remaining in such contract period.
- C. **By the Consultant At-Will.** The Consultant may terminate this Agreement at any time for any or no reason upon delivery of thirty (30) days' prior written notice to the Client. Within thirty (30) days of such termination of this Agreement, the Consultant will refund a pro rata portion of the installment of the Consulting Fee previously paid for the contract period during which such termination occurs based upon the number of days remaining in such contract period.
- D. **By the Consultant Upon the Client's Default.** The Consultant may notify the Client within ninety (90) days of the day that the Consultant knows or should have known that the Client breached this Agreement. The Client will have thirty (30) days following receipt of such notice to cure any alleged breach. If the Client fails to cure any alleged breach within that 30-day period, then the Consultant may terminate this Agreement and shall provide written notice of the termination, which shall be effective as of the date of such notice. The pro rata portion of the installment of the Consulting Fee previously paid for the contract period prior to the effective date of such termination shall be retained by Consultant as an earned fee. The remaining pro rata portion of the installment of the Consulting Fee previously paid for the contract period from and after the effective date of such termination, based upon the number of days remaining in the terminated contract period, shall be refunded to Client by Consultant within thirty (30) days of such termination of this Agreement.

- 7. **NOTICES.** Any notice or communication in connection with this Agreement will be in writing and either delivered personally, sent by certified or registered mail, postage prepaid, delivered by a recognized overnight courier service, or transmitted via facsimile or other electronic transmission, addressed as follows:

Client:

City of Newport
Attn: City Administrator
200 S. Washington Ave.
Newport, WA 99156

Phone: 509.447.6496

Email: cityofnewport@newport-wa.org

Consultant:

SCJ Alliance Consulting Services
Attn: Rachel Granrath, Planning Manager
108 N Washington St Ste 300
Spokane, WA 99201

Phone: 509.835.3770

Email: rachel.granrath@scjalliance.com

or to such other address as may be furnished in writing by either party in the preceding manner. Notice shall be deemed to have been properly given for all purposes: (A) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier, (B) if personally delivered, on the actual date of delivery, (C) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the third business day following the date of mailing, or (D) if sent by facsimile or email of a PDF document (with confirmation of transmission), then on the actual date of delivery if sent prior to 5:00 p.m. Pacific Time, and on the next business day if sent after such time.

8. **INDEPENDENT CONTRACTOR.** The Consultant, in its capacity as a professional consultant to the Client, is and will be at all times an independent contractor. The Consultant does not have the express, implied or apparent authority either (A) to act as the Client's agent or legal representative or (B) to legally bind the Client, its officers, agents or employees.
9. **INDEMNITY.** The Consultant shall indemnify and hold harmless the Client, its agents, and employees from and against any and all liability arising from injury or death to persons or damage to property resulting from the negligent acts or omissions of the Consultant, its agents, servants, officers, or employees. For purposes of this Contract, the Consultant waives its immunity under Title 51 RCW. This waiver is specifically negotiated between the Parties.
10. **STANDARD TERMS.**
 - A. **Affiliated Services:** The Client acknowledges that certain affiliates of the Consultant provide real estate brokerage and management services for which they are paid brokerage, development, leasing, management and similar fees. In connection with the Services and with the prior written permission of the Client, such affiliates may be engaged to provide such services in consideration for the payment of such fees.
 - B. **Applicable Laws:** The Consultant will abide by all laws, rules and regulations applicable to the provision of the Services. This Agreement shall be construed under the laws of Washington State. Any action at law, suit in equity or judicial

proceedings regarding this Agreement shall be instituted only in courts of competent jurisdiction within Pend Oreille County, Washington.

- C. **Insurance:** During the term of the Agreement, the Consultant will maintain in force at its sole expense, the following minimum insurance coverages:
1. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability Insurance in the amount of \$1,000,000; and
 2. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate for bodily injury and property damage; and
 3. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$1,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.
 4. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from Consultant or its insurer(s) to the Client.
- D. **Third Party Beneficiaries:** This Agreement is for the sole benefit of the parties to this Agreement and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- E. **Entire Agreement:** This Agreement, together with any exhibits or duly authorized written amendments hereto, constitutes the entire agreement of the Parties, as a complete and final integration thereof with respect to its subject matter. Any prior written or oral understandings and agreements between the Parties are merged into this Agreement, which alone fully and completely expresses their understanding. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.
- F. **Further Assurances:** Each party hereby agrees to perform any further acts and to execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.
- G. **Force Majeure:** Neither party to this Agreement will hold the other party responsible for damages or delay in performance caused by acts of God, strikes,

lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

- H. **Amendment in Writing:** This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by a duly authorized officer of the Consultant and the Client.
- I. **Binding Effect:** This Agreement will bind the Parties and their respective successors and assigns. If any provision in this Agreement will be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.
- J. **Captions:** The captions of this Agreement are for convenience and reference only, are not a part of this Agreement and in no way define, describe, extend, or limit the scope or intent of this Agreement.
- K. **Construction:** This Agreement will be construed in its entirety according to its plain meaning and will not be construed against the party who provided or drafted it.
- L. **Prohibition on Assignment:** No party to this Agreement may assign its interests or obligations hereunder without the written consent of the other party obtained in advance of any such assignment. No such assignment will in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning party will in all respects remain liable hereunder irrespective of such assignment.
- M. **Waiver:** Non-enforcement of any provision of this Agreement by either party will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remaining terms and conditions of this Agreement.
- N. **Survival:** Section 5 and Section 10(H) will survive termination of this Agreement.
- O. **Counterparts:** This Agreement may be executed in counterparts, each of which will be deemed to be an original, and such counterparts will, together, constitute and be one and the same instrument.
- P. **Nondiscrimination:** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Parties agree to comply with, and to require that all subcontractors comply with, federal, state and local nondiscrimination laws, including but not limited to: the Civil Rights Act of 1964,

the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the Americans With Disabilities Act, to the extent those laws are applicable.

- Q. Anti-Kickback:** No officer or employee of the Client or the Consultant, having the power or duty to perform an official act or action related to this Agreement, shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Agreement.

IN WITNESS WHEREOF, the Client and the Consultant have caused this Agreement to be executed by their duly authorized officers to be effective as of the Effective Date.

CLIENT

City of Newport, Washington




Keith Campbell, Mayor

Date Signed: 2-22-22

CONSULTANT

SCJ Alliance, Consulting Services



By: William Grimes
Title: Principal
Date Signed: 2-23-22

ATTEST:



Nickole North, City Clerk/Treasurer

By:
Title:
Date Signed: _____



Exhibit A
Scope of Work
On-Call Planning: City of Newport, Washington

Prepared For: City of Newport
Attn: Abby Gribbi

Prepared By: Rachel Granrath, Planning Manager

Date Prepared: February 04, 2022

Scope Overview

SCJ Alliance (SCJ) would like to present the following scope of work to provide planning services for the City of Newport. These services may include short and long-term planning support, development review, permitting, and meeting attendance. SCJ will provide planning services to the City on an hourly basis.

SCJ scope of services for this effort consists of the following phases of work:

Phase 01 - General Planning Assistance, Staff Meetings, Commission and Council Meetings

- Task 01:** General Planning Assistance
- Task 02:** Staff Meetings
- Task 03:** Planning Commission and Council Meetings

Phase 02 - Development Review, General Development Review and Inquiries

The following tasks include current development that is under review or currently a land use process. As requested by the City we will add tasks to track our time relating to land use applications so that the City can recover associated costs with development from applicants as applicable.

- Task 01:** General Development Review and Questions
- Task 02:** Sherman Site
- Task 03:** RV & Campground
- Task 04:** Gary Chantry Annexation
- Task 05:** Clark Annexation
- Task 06:** Winje Short Plat
- Task 07:** Hamel Replat

Phase 03 - Newport Municipal Code: Code Review and Revisions

The following tasks include current projects underway at the City. We will add project specific tasks as requested by the City. This includes zoning, subdivision, or other code revisions that require amendments.

Task 01: General Code Review and Questions

Task 02: Residential Code Update

Task 03: Critical Areas Ordinance Update

Task 04: Development Regulations Update

Phase 04 – Shoreline Master Program Compliance

Additional tasks will be added as shoreline master program tasks are assigned by the City.

Task 01: General Shoreline Questions and Compliance

Phase 05 – Comprehensive Plan Amendments

This phase addresses comprehensive plan amendments, questions or adjustments. The following tasks are typical when updating and maintaining a City’s Comprehensive Plan. If additional tasks are needed, we can amend as requested by the City.

Task 01: General Comprehensive Plan Research

Task 02: Annual Amendments

Task 03: UGA Adjustments

Understanding

- ◆ This is an on-call planning contract that requires task authorization for each task with “upfront” approval from the City prior to engaging in any of the above tasks.
- ◆ SCJ staff are available by phone, email, and in person per City request to ensure efficiency and consistency.

Deliverables

- ◆ All planning documents, including, but not limited to notices, SEPA checklists and application materials, draft and final submittals, staff reports, etc.
- ◆ Meeting summaries.
- ◆ Monthly progress billing emailed in PDF format.

98 Phase 98 - Additional Services

We understand that sometimes things “come up” during a project that we need to work on quickly and are out of the project scope listed above. When things like that develop, we will discuss with you the estimated effort first, and track the time and costs under this separate phase.

99 *Phase 99 - Expenses*

Expenses will be charged on a time-and-materials basis and include items such as travel expenses, mileage, plan reproduction, copies, etc.

END OF PROPOSAL



EXHIBIT B
SCJ Alliance
Billing Rate Schedule – June 2021

Classification	Hourly Billing Rate
Principal	\$160.00 - \$360.00
Senior Consultant	\$135.00 - \$295.00
Senior Project Manager	\$160.00 - \$250.00
PM3 Project Manager	\$150.00 - \$220.00
PM2 Project Manager	\$125.00 - \$195.00
PM1 Project Manager	\$100.00 - \$155.00
Senior Engineer	\$140.00 - \$190.00
E4 Engineer	\$120.00 - \$170.00
E3 Engineer	\$105.00 - \$155.00
E2 Engineer	\$100.00 - \$150.00
E1 Engineer	\$90.00 - \$120.00
Senior Landscape Architect	\$115.00 - \$155.00
L4 Landscape	\$105.00 - \$135.00
L3 Landscape	\$95.00 - \$125.00
L2 Landscape	\$90.00 - \$120.00
L1 Landscape	\$80.00 - \$110.00
Senior Planner	\$125.00 - \$205.00
P4 Planner	\$110.00 - \$160.00
P3 Planner	\$100.00 - \$140.00
P2 Planner	\$85.00 - \$130.00
P1 Planner	\$75.00 - \$110.00
Senior Technician	\$115.00 - \$155.00
T4 Technician	\$110.00 - \$140.00
T3 Technician	\$95.00 - \$135.00
T2 Technician	\$85.00 - \$125.00
T1 Technician	\$80.00 - \$110.00
Construction Inspector	\$75.00 - \$105.00
Graphic Designer	\$100.00 - \$140.00
Project Coordinator II	\$100.00 - \$140.00
Project Coordinator I	\$80.00 - \$110.00
Project Accountant	\$100.00 - \$185.00
Intern	\$70.00 - \$90.00

Other Fees:

- Mileage, direct project expenses, and reproduction costs are billed at cost plus 10%

