



Town of Yacolt

Council Meeting Agenda

Monday, January 06, 2020
7:00 PM
Town Hall

Call to Order

Flag Salute

Roll Call

Late Changes to the Agenda

Minutes of Previous Meeting(s)

- [1.](#) Approve 12-16-19 meeting Minutes

Citizen Communication

Anyone requesting to speak to the Council regarding items not on the agenda may come forward at this time. Comments are limited to 3 minutes. Thank you.

Unfinished Business

2. I-1639 Proclamation Draft discussion -refer to 8-19-19 and 12-16-19 meeting packet for documents

New Business

3. Greg Kimsey - Swearing in of Elected Mayor and Council Members
4. Rotate Finance Committee
5. Rotate Mayor Pro Tem
- [6.](#) Citizen's Committee - A Resident would like to bring back the Citizen's Committee
- [7.](#) Jackson Civil Engineering Contract

Public Works Department Report

Town Clerk's Report

Council's Comments

Mayor's Comments

Attorney's Comments

Approve to Pay Bills on Behalf of the Town

Adjourn

**Town of Yacolt
Council Meeting Minutes
Monday, December 16, 2019
7:00 PM
Town Hall**

Call to Order

Mayor Listek called meeting to order at 7:00 pm.

Flag Salute

Roll Call

PRESENT

Mayor Katie Listek
Council Member Michelle Dawson
Council Member Herb Noble
Council Member Marina Viray
Clerk Dawn Salisbury
Public Works Director Tom Esteb
Attorney David Ridenour

ABSENT

Council Member Amy Boget
Council Member Malita Moseley

Motion to excuse Council Members absence due to illness.

Motion made by Council Member Noble, Seconded by Council Member Viray.

Voting Yea: Council Member Dawson, Council Member Noble, Council Member Viray

Late Changes to the Agenda

Council Member Noble added Council Pay as item 6 under Unfinished Business.

Minutes of Previous Meeting(s)

1. Approve 12-2-19 meeting minutes

Motion made by Council Member Noble, Seconded by Council Member Dawson.

Voting Yea: Council Member Dawson, Council Member Noble, Council Member Viray

Citizen Communication

Rhonda Rowe brought up at last meeting in November that our cleaning contractor Sherrie Eddy deserved additional compensation. As she is an independent contractor, we cannot give additional compensation without her raising her rates. Since we couldn't do that, Ms. Rowe, would like the council to give Ms. Eddy a Christmas bonus. The town is not allowed to give Christmas bonuses. Ms. Eddy has been encouraged to raise her rates if needed. Ms. Rowe would also like council to go back to putting 2/3rds property tax into street fund and 1/3rd into general fund. Would like council to reconsider looking at getting Public Works their own shop as previously discussed years ago. Ms. Rowe was also concerned about the \$240 bill for PWD background checks. Clerk Salisbury informed her that Mayor Myers made the decision to do 6 background checks before the interviews due to the time constraints the hiring committee was under.

Larry Blakeman- Friends of the Library - Mayor Listek apologized for missing him on the citizens communication signup sheet. Mr. Blakeman mentioned that he was sure this new council could get the library awning completed soon.

Old Business**2. Electronic Device Policy Review**

Discussion took place. RCW's cover a lot of the policy, policy is redundant with RCW's, are too wordy, and risks involved with the policy were discussed. Need to simplify and possibly combine separate policies into one policy. Goal is to have easy to read, under 2 pages, and simplified policies for the town. Council Member Viray will work with Clerk Salisbury on drafting simplified policy. Will email council members for input and present draft at first meeting in February.

3. Draft Ethics Policy review and discussion only

Need to simplify and possibly combine separate policies into one policy. Goal is to have easy to read, under 2 pages, and simplified policies for the town. Council Member Viray will work with Clerk Salisbury on drafting simplified policy. Will email council members for input and present draft at first meeting in February.

4. I-1639 Proclamation draft

Audience unhappy with simplified proclamation draft and want the longer version. Council Member Dawson to work on draft proclamation and present at next meeting.

5. Hazen Property use - discussion only

Brad Hazen re-introduced his RV Park plans for discussion. He still wants to offer full time and part time rental options. Mr. Hazen also suggested there can be space utilized for farmers market, gathering space or community space if needed. Mr. Hazen would like council to change

the procedures for conditional use permits to keep investment costs down. Many questions were asked, and Mr. Hazen got upset and lashed out at several people when asked to clarify information. Mr. Hazen stated he would put a barb wire fence and leave the property bare if the council doesn't approve his plan. It was suggested that Mr. Hazen put it out to Facebook to see if the community can offer any ideas for money making opportunities with no more than a \$200,000 investment.

6. Council Pay

Council Member Noble asked for clarification of when the council pay raise will go into effect. It will go into effect January 1st and only be applied to council members elected in 2020.

New Business

7. Water Shed Alliance -Sunrise O'Mahoney

Sunrise O'Mahoney presented ideas for painting sidewalks leading to storm drains to add art to the town and educate the public on preserving our rivers. Her nonprofit, nonpolitical, organization can help with organization, getting supplies and setting up program to paint storm drains and educate the public.

8. Council Procedures Ordinance Draft - review and discussion

Discussion took place. Original ordinance was repealed in its entirety in 2016 and replaced with an ordinance that covers what is required by the RCW's. As with the other policies, this one is too involved, has too much regulation, etc. Clerk Salisbury and Council Member Viray will look at combining this policy with the others being discussed.

9. Approve Ordinance 579 Amending 2019 budget for actual expenditures and incomes.

Motion made by Council Member Viray, Seconded by Council Member Noble.

Voting Yea: Council Member Dawson, Council Member Noble, Council Member Viray

Public Works Department Report

Amboy Tree Lighting December 18th. Still getting organized but they are ready for snow plowing and have been working on storm drains around town in preparation for the rain coming in. Looking for new reader board ideas. Working on the mole problem in the parks and around town. Jeremy Dawson suggested using Tomcat Mole worms.

Town Clerk's Report

Clark County Auditor Greg Kimsey will be at our 1-6-19 council meeting to swear in our newest council members for their 2020 session.

Mayor pro tem and finance committee will rotate at the 1-6-19 council meeting.

Council's Comments

Council Member Noble asked about Spruce Ave short plat and conditional use permit. The council will review project once it is out of legal review. He also asked if the speed bump invoice has been paid. Clerk Salisbury to check into payment on invoice. Council member Dawson asked about mayor pro tem and financial committee selection and how long they are on the committee. Council Member Viray commented on how wonderful the Christmas Tree Lighting was.

Council Member Dawson asked that information be put on the website about pet licensing requirements and all the loose dogs around town.

Mayor's Comments

Mayor Listek thanked everyone for their hard work and donations for the Christmas Tree Lighting. She hopes to improve upon the events and welcomes any help or ideas to accomplish that.

Mayor Listek thanked Bill Ross for his service to the town and is looking forward to working with the new Public Works Director.

Mayor Listek apologized for missing Larry Blakeman on the citizens communication signup sheet.

Attorney's Comments

Attorney Ridenour discussed planning ordinances and stated it was council's responsibility to approve those decisions. Attorney Ridenour offered copies of a letter he had written to a resident to answer questions on the budgeting process. Attorney Ridenour went over our code book and what resources are available to research codes that are active. He also gave an update on where the town is at on the Hardin property judgement. Attorney Ridenour thanked Bill Eling for his work for the town and stated what an asset he will be in the future if we need help with land use issues.

Approve to Pay Bills on Behalf of the Town

Motion made by Council Member Dawson, Seconded by Council Member Noble.

Voting Yea: Council Member Dawson, Council Member Noble, Council Member Viray

001 General Fund	32,323.26
101 Streets	8821.47
103 Cemetery	-5,205.25
403 Storm Water	<u>4,984.30</u>
	40,923.78

Claims Check #17017 -17031: 23,643.27
Payroll: 17,280.51

Executive Session

None

Adjourn

Mayor Listek adjourned the meeting at 9:05 pm.

Katie Listek, Mayor

Dawn Salisbury, Clerk



Town of Yacolt Request for Council Action

CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

Name:	Vince Myers	Group Name:	
Address:	521 E Timber Way	Phone:	(360) 281-2208
Email Address:		Alt. Phone:	

ITEM INFORMATION:

Item Title: Citizens Committee

Proposed Meeting Date: 1/17/2020

Action Requested of Council: If space available post on reader boards. Post on Town website and Facebook page to request volunteers. Will also post on Yacolt Forum to seek volunteers

Proposed Motion: N/A

Summary/ Background: AT one time the Town had a Citizens Committee, it folded in 2013.
The effort is to revive the Town's Citizens Committee to coordinate events on behalf of the Town.

Preliminary meeting set for the 17th here at Town Hall, after which the volunteers will set the meeting schedule, frequency and location.

Staff Contact(s): N/A



Town of Yacolt

Request for Council Action

CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

Name:	Town Clerk	Group Name:	Staff
Address:	P.O. Box 160 Yacolt, WA 98675	Phone:	360-686-3922
Email Address:	clerk@townofyacolt.com	Alt. Phone:	

ITEM INFORMATION:

Item Title:	Town Engineer - 2020 Contract.
Proposed Meeting Date:	January 6, 2020.
Action Requested of Council:	Approve contract with Jackson Civil Engineering, LLC for general engineering services through calendar year 2020.
Proposed Motion:	"I move that the Council approve proposed Resolution #591, authorizing the Mayor to sign the attached contract with Jackson Civil Engineering for engineering services.
Summary/ Background:	<p>When contracting for engineering services, a municipality is required to comply with the provisions of RCW 39.80. That Chapter requires government agencies, (including towns), to "publish in advance" a description of their projected needs for engineering services. (RCW 39.80.030) The publication must give information to potentially interested parties on a number of different subjects. (See, generally, RCW 39.80) For Yacolt's purposes, the publication must be made "annually". (RCW 39.80.040) The publication must seek information on the "qualifications and performance data" of interested firms. <i>Id.</i> The publication may <u>not</u> seek bids based on price or cost. <i>Id.</i> Agencies are expected to negotiate the contract price with the most <i>qualified</i> bidder, rather than contract directly with a <i>lowest cost</i> bidder. (RCW 39.80.050) If the agency is unable to negotiate a fair and reasonable price with a qualified bidder, the agency may negotiate with another qualified bidder, and so on. <i>Id.</i></p>

The Town published a Request for Qualifications (RFQ) in the Reflector on November 13 and November 20 of 2019. The Town received only one proposal, from Jackson Civil Engineering. Jackson Civil Engineering has served satisfactorily as Yacolt's Town Engineer over the past several years.

Staff recommends approval of the contract that is attached to proposed Resolution #591 below. The 2020 contract is nearly identical to the contract approved by the Council in May of 2018, with the following notable changes:

1. Section 3 - Duration: The contract would terminate on December 31, 2010.
2. Section 6 - Compensation: Devin Jackson's services would be billed at the hourly rate of \$150.00, (up from \$120.00). Also, sub-sections B, C and D describe rates for services that were not specifically described in the 2018 version of the contract.

The Town Attorney has approved the form of the Agreement.

Enclosures:

Draft Resolution #591 Approving the Engineering Agreement, (with proposed Agreement attached as Exhibit A).

**Staff
Contact(s):**

Dawn Salisbury, Town Clerk; David W. Ridenour, Town Attorney.

Resolution #591

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT,
WASHINGTON, APPROVING AN AGREEMENT FOR ENGINEERING SERVICES
FOR CALENDAR YEAR 2020 WITH JACKSON CIVIL ENGINEERING, LLC,
AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT.**

Whereas, the Town of Yacolt, (hereafter “Town” or “Yacolt”), desires to retain the services of an engineer to provide professional engineering services as needed by the Town during calendar year 2020;

Whereas, the Town advertised a Request for Qualifications, (hereafter “RFQ”), pursuant to RCW 39.80 to identify an engineer that best meets the Town’s forecasted engineering needs by publishing such RFQ in The Reflector on November 13 and November 20, 2019;

Whereas, the Town received one response to the RFQ from Jackson Civil Engineering, LLC, which was reviewed by the Mayor, Town Clerk and Public Works Director;

Whereas, the Town has negotiated an Agreement for Engineering Services with Jackson Civil Engineering, LLC, and that Agreement has been reviewed and approved by the Town Attorney;

Whereas, the Town’s Mayor, Town Clerk and Public Works Director determined that Jackson Civil Engineering, LLC, is qualified and able to perform the duties of Town Engineer for the Town of Yacolt, and have recommended that the firm of Jackson Civil Engineering, LLC, be selected by the Town Council to serve as the Town Engineer during calendar year 2020; and,

Whereas, the Town Council of the Town of Yacolt is in regular session this 6th day of January, 2020, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it Resolved by the Town Council of the Town of Yacolt, Washington, as follows:

Section 1: That the Agreement for Engineering Services, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, is hereby accepted and approved by the Town Council. The Mayor of the Town of Yacolt is hereby authorized to execute the Agreement for Engineering Services for and on behalf of the Town of Yacolt.

Section 2: This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

Resolved by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 6th day of January, 2020.

TOWN OF YACOLT

Katie Listek, Mayor

Attest:

Dawn Salisbury, Town Clerk

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes: _____
Nays: _____
Absent: _____
Abstain: _____

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of Resolution #591 of the Town of Yacolt, Washington, entitled "A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON, APPROVING AN AGREEMENT FOR ENGINEERING SERVICES FOR CALENDAR YEAR 2020 WITH JACKSON CIVIL ENGINEERING, LLC, AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT", as approved according to law by the Yacolt Town Council on the date therein mentioned.

Attest:

Dawn Salisbury, Town Clerk

Published: _____
Effective Date: _____
Resolution Number: 591

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT is by and between the Town of Yacolt, a municipal corporation located in the County of Clark, State of Washington, (hereinafter referred to as the "Town"), and Jackson Civil Engineering, LLC, a Washington licensed limited liability company, (hereinafter referred to as the "Engineer").

The parties recite and declare that:

1. The Town is in need of an engineer to perform and render engineering services to the Town.
2. The Engineer employs persons who, through education and experience, possess the requisite skills to provide competent engineering services for the Town.
3. The Town is, therefore, desirous of engaging the services of the Engineer.
4. The Town performed a qualifications-based public competitive bidding and procurement process pursuant to RCW 39.80, and found the Engineer best met the qualifications required by the Town for the Town's forecasted engineering needs.

For the reasons set forth above and in consideration of the mutual covenants and promises of the parties hereto, the Engineer and the Town agree as follows:

Section One – Acceptance of Contractual Relationship:

The Town hereby retains the Engineer as its Town Engineer to perform and render engineering services as described in Section Five, below.

Section Two – Character of Contractual Relationship:

The Engineer is an independent contractor and not a Town employee. As the Engineer is customarily engaged in an independently established trade which encompasses the specific services provided to the Town hereunder, no agent, employee, representative or sub-consultant of the Engineer shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the Town. In the performance of the work, the Engineer is an independent contractor with the ability to control and direct the performance and details of the work, the Town being interested only in the results obtained under this Agreement. None of the benefits provided by the Town to its employees, including, but not limited to, compensation, insurance, and unemployment insurance, are available from the Town to the employees, agents, representatives, or sub-consultants of the Engineer. The Engineer may not sign any contract on behalf of the Town, and may not obligate the Town in any way without the Town's express written consent.

Section Three – Duration and Scope of Relationship:

The term of this Agreement shall be from January 1, 2020, continuing thereafter through December 31, 2020, unless and until terminated pursuant to Section Eight, below. This Agreement may be extended for additional periods of time upon the mutual written agreement of the Town and the Engineer.

The Town reserves the right to contract with other engineers for project-specific engineering as required by Washington public contracting requirements, or as the Town deems appropriate.

Section Four - Place of Work:

It is understood that the Engineer's service will be rendered largely at the Engineer's office in Washougal, but that the Engineer will, on request and as work requires, come to the Yacolt Town Hall or such other places as designated by the Town, to work on Town projects and meet with the Town's representatives.

Section Five - Nature of Duties:

As Town Engineer, the Engineer shall perform engineering services as requested by the Town, manage and oversee construction contracts, prepare engineering and project estimates, prepare documents necessary and proper in connection with the business of the Town, and, in general, to render such engineering services of every kind and nature as the Town shall require or deem proper in its business. The Engineer shall exercise the degree of skill and diligence normally employed by professional engineers engaged in the same profession, and performing the same or similar services at the time such services are performed. The Engineer warrants that it has the requisite training, skill, and experience necessary to provide the engineering services and is appropriately accredited and licensed by all applicable agencies and governmental entities.

Section Six - Compensation:

The Town agrees to pay the Engineer:

- A. \$150.00 per hour for all services rendered by Devin Jackson Principal, in increments of ¼ hour.
- B. \$130.00 per hour for all services rendered by Civil Engineer, in increments of ¼ hour.
- C. \$81.00 per hour for all services rendered by Engineering Technician, in increments of ¼ hour.
- D. \$165.00 per hour for all services rendered by 2-person crew, in increments of ¼ hour.
- E. Invoice amount plus 15% for all subcontractors rendering services on behalf of Jackson Civil Engineering, LLC.
- F. If Jackson Civil Engineering, LLC hires additional employees, the rate of compensation for services rendered by those employees shall be determined by mutual written agreement between the Town and Jackson Civil Engineering, LLC prior to the performance of work.
- G. In addition to the compensation set forth above, the Town shall reimburse the Engineer for all reasonable and necessary expenses which may be paid or incurred by Engineer on behalf of the Town, subject to Town review and audit of receipts in support thereof.

Section Seven - Other Employment:

The Engineer shall devote all time reasonably necessary to the business of the Town but shall not by this retainer be prevented or barred from taking other employment of a similar or other character by reason of the contractual services herein specified.

Section Eight – Termination:

This Agreement may be terminated by either party at any time on thirty (30) days' prior written notice to the other party.

Section Nine – Modification:

No modification or waiver of this Agreement or of any covenant, condition, or provision herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

Section Ten - Indemnification / Insurance:

The Engineer shall defend, indemnify and hold the Town, its officers, officials, employees, agents 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 Engineer in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Town.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Engineer and the Town, its officers, officials, employees, agents and volunteers, the Engineer's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Engineer's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Engineer'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.

A. Insurance Term:

The Engineer 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 Engineer, its agents, representatives, or employees.

B. No Limitation:

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

C. Minimum Scope of Insurance:

The Engineer 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 written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.

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 Town shall be named as an additional insured under the Engineer's Commercial General Liability insurance policy with respect to the work performed for the Town using an additional insured endorsement at least as broad as ISO 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 Engineer's profession.

D. Minimum Amounts of Insurance:

The Engineer 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 \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

E. Other Insurance Provision:

The Engineer's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain a provision that they are primary insurance with respect to the Town. Any Insurance, self-insurance, or self-insured pool coverage maintained by the Town shall be in excess of the Engineer'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. Verification of Coverage:

The Engineer shall furnish the Town 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 Engineer before commencement of the work.

H. Notice of Cancellation:

The Engineer shall provide to the Town any written notice of any policy cancellation within two business days of its receipt of such notice.

I. Failure to Maintain Insurance:

Failure on the part of the Engineer to maintain the insurance as required shall constitute a material breach of this Agreement, upon which the Town may, after giving five business days' notice to the Engineer to correct the breach, immediately terminate the Agreement, and/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 Town on demand, or at the sole discretion of the Town, offset against funds due the Engineer from the Town.

J. Full Availability of Engineer's Limits:

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

Section Eleven - Notice:

Any notice required under this Agreement shall be deemed sufficient if made in writing and personally delivered or sent by certified mail to either party at the following addresses, or such other address as may hereafter be specified by either party in writing:

Mailing Addresses:	Town of Yacolt P.O. Box 160 Yacolt, WA 98675	Jackson Civil Engineering, LLC P.O. Box 1748 Battle Ground, WA 98601-4687
Physical Addresses:	202 W. Cushman St. Yacolt, WA 98675	32603 S.E. 27 th Street Washougal, WA 98671

Section Twelve – Title VI of the Civil Rights Act of 1964:

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section Thirteen - Access to Records Clause:

The Town and other authorized representatives of the state and federal governments shall have access to any books, documents, papers, and records of the Engineer which are directly pertinent to the Agreement for the purposes of making audit, examination, excerpts, and transcriptions.

The Engineer agrees to maintain such records and follow such procedures as the Town may prescribe. In general, such records will include information pertaining to the Agreement, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this Agreement and work undertaken under this Agreement shall be retained by Engineer for a period of three (3) years, unless a longer

period is required to resolve audit findings or litigation. In such cases, Town shall request a longer period of record retention.

Section Fourteen – Section 109 of the Housing and Community Development Act of 1974, as amended:

No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Section Fifteen - Public Law 101-336. Americans with Disabilities Act of 1990:

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

Section Sixteen – Age Discrimination Act of 1975, as amended:

No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance [42 U.S.C. 610 *et. seq.*]

Section Seventeen – Section 504 of the Rehabilitation Act of 1973, as amended:

No otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funds [29 U.S.C. 794]

Section Eighteen - Complete Agreement:

This written Agreement embodies the whole agreement between the parties and there are no inducements, promises, terms, conditions or obligations made or entered into by either the Town or the Engineer other than contained herein.

Section Nineteen – Confidentiality:

The Engineer may, from time to time, receive information which is deemed by the Town to be confidential. The Engineer shall not disclose such information without the prior express written consent of the Town or upon order of a court of competent jurisdiction.

Section Twenty - Applicable Laws and Standards:

The Parties, in the performance of this Agreement, agree to comply with all applicable federal, state, and local laws and regulations. The Engineer warrants that its designs, construction documents, and services shall conform to all applicable federal, state and local statutes and regulations.

The law of the State of Washington shall apply in interpreting this Agreement. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Clark County.

Section Twenty-One - Binding Effect and Assignment:

This Agreement shall be binding upon and shall inure to the benefit of the Town and its successors and assigns. Neither this Agreement nor any rights hereunder may be assigned by the Engineer without the written consent of the Town.

Section Twenty-Two - Saving Clause:

If any provision of this Agreement, or the application of such provision to any person or under any circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section Twenty-Three - No Waiver:

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

Section Twenty-Four - Costs and Attorney's Fees:

In the event of any claim or dispute arising out of this Agreement, the party that substantially prevails shall be awarded, in addition to all other relief, all legal fees and other costs and expenses incurred in connection with such claim or dispute.

Section Twenty-Five - Business License:

Prior to commencement of work under this Agreement, the Engineer shall register for a business license in the Town.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates of the signatures below.

TOWN OF YACOLT:

ENGINEER:

Katie Listek, Mayor Date

Devin Jackson, P.E. Date
Principal

ATTEST:

Approved as to Form:

Dawn Salisbury, Clerk Date

David W. Ridenour Date
Town Attorney

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT is by and between the Town of Yacolt, a municipal corporation located in the County of Clark, State of Washington, (hereinafter referred to as the "Town"), and Jackson Civil Engineering, LLC, a Washington licensed limited liability company, (hereinafter referred to as the "Engineer").

The parties recite and declare that:

1. The Town is in need of an engineer to perform and render engineering services to the Town.
2. The Engineer employs persons who, through education and experience, possess the requisite skills to provide competent engineering services for the Town.
3. The Town is, therefore, desirous of engaging the services of the Engineer.
4. The Town performed a qualifications-based public competitive bidding and procurement process pursuant to RCW 39.80, and found the Engineer best met the qualifications required by the Town for the Town's forecasted engineering needs.

For the reasons set forth above and in consideration of the mutual covenants and promises of the parties hereto, the Engineer and the Town agree as follows:

Section One – Acceptance of Contractual Relationship:

The Town hereby retains the Engineer as its Town Engineer to perform and render engineering services as described in Section Five, below.

Section Two – Character of Contractual Relationship:

The Engineer is an independent contractor and not a Town employee. As the Engineer is customarily engaged in an independently established trade which encompasses the specific services provided to the Town hereunder, no agent, employee, representative or sub-consultant of the Engineer shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the Town. In the performance of the work, the Engineer is an independent contractor with the ability to control and direct the performance and details of the work, the Town being interested only in the results obtained under this Agreement. None of the benefits provided by the Town to its employees, including, but not limited to, compensation, insurance, and unemployment insurance, are available from the Town to the employees, agents, representatives, or sub-consultants of the Engineer. The Engineer may not sign any contract on behalf of the Town, and may not obligate the Town in any way without the Town's express written consent.

Section Three – Duration and Scope of Relationship:

The term of this Agreement shall be from January 1, 2020, continuing thereafter through December 31, 2020, unless and until terminated pursuant to Section Eight, below. This Agreement may be extended for additional periods of time upon the mutual written agreement of the Town and the Engineer.

The Town reserves the right to contract with other engineers for project-specific engineering as required by Washington public contracting requirements, or as the Town deems appropriate.

Section Four - Place of Work:

It is understood that the Engineer's service will be rendered largely at the Engineer's office in Washougal, but that the Engineer will, on request and as work requires, come to the Yacolt Town Hall or such other places as designated by the Town, to work on Town projects and meet with the Town's representatives.

Section Five - Nature of Duties:

As Town Engineer, the Engineer shall perform engineering services as requested by the Town, manage and oversee construction contracts, prepare engineering and project estimates, prepare documents necessary and proper in connection with the business of the Town, and, in general, to render such engineering services of every kind and nature as the Town shall require or deem proper in its business. The Engineer shall exercise the degree of skill and diligence normally employed by professional engineers engaged in the same profession, and performing the same or similar services at the time such services are performed. The Engineer warrants that it has the requisite training, skill, and experience necessary to provide the engineering services and is appropriately accredited and licensed by all applicable agencies and governmental entities.

Section Six - Compensation:

The Town agrees to pay the Engineer:

- A. \$150.00 per hour for all services rendered by Devin Jackson Principal, in increments of $\frac{1}{4}$ hour.
- B. \$130.00 per hour for all services rendered by Civil Engineer, in increments of $\frac{1}{4}$ hour.
- C. \$81.00 per hour for all services rendered by Engineering Technician, in increments of $\frac{1}{4}$ hour.
- D. \$165.00 per hour for all services rendered by 2-person crew, in increments of $\frac{1}{4}$ hour.
- E. Invoice amount plus 15% for all subcontractors rendering services on behalf of Jackson Civil Engineering, LLC.
- F. If Jackson Civil Engineering, LLC hires additional employees, the rate of compensation for services rendered by those employees shall be determined by mutual written agreement between the Town and Jackson Civil Engineering, LLC prior to the performance of work.
- G. In addition to the compensation set forth above, the Town shall reimburse the Engineer for all reasonable and necessary expenses which may be paid or incurred by Engineer on behalf of the Town, subject to Town review and audit of receipts in support thereof.

Section Seven - Other Employment:

The Engineer shall devote all time reasonably necessary to the business of the Town but shall not by this retainer be prevented or barred from taking other employment of a similar or other character by reason of the contractual services herein specified.

Section Eight – Termination:

This Agreement may be terminated by either party at any time on thirty (30) days' prior written notice to the other party.

Section Nine – Modification:

No modification or waiver of this Agreement or of any covenant, condition, or provision herein contained shall be valid unless in writing and duly executed by the party to be charged therewith.

Section Ten - Indemnification / Insurance:

The Engineer shall defend, indemnify and hold the Town, its officers, officials, employees, agents 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 Engineer in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Town.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Engineer and the Town, its officers, officials, employees, agents and volunteers, the Engineer's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Engineer's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Engineer'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.

A. Insurance Term:

The Engineer 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 Engineer, its agents, representatives, or employees.

B. No Limitation:

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

C. Minimum Scope of Insurance:

The Engineer 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 written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage.

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 Town shall be named as an additional insured under the Engineer's Commercial General Liability insurance policy with respect to the work performed for the Town using an additional insured endorsement at least as broad as ISO 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 Engineer's profession.

D. Minimum Amounts of Insurance:

The Engineer 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 \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

E. Other Insurance Provision:

The Engineer's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain a provision that they are primary insurance with respect to the Town. Any Insurance, self-insurance, or self-insured pool coverage maintained by the Town shall be in excess of the Engineer'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. Verification of Coverage:

The Engineer shall furnish the Town 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 Engineer before commencement of the work.

H. Notice of Cancellation:

The Engineer shall provide to the Town any written notice of any policy cancellation within two business days of its receipt of such notice.

I. Failure to Maintain Insurance:

Failure on the part of the Engineer to maintain the insurance as required shall constitute a material breach of this Agreement, upon which the Town may, after giving five business days' notice to the Engineer to correct the breach, immediately terminate the Agreement, and/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 Town on demand, or at the sole discretion of the Town, offset against funds due the Engineer from the Town.

J. Full Availability of Engineer's Limits:

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

Section Eleven - Notice:

Any notice required under this Agreement shall be deemed sufficient if made in writing and personally delivered or sent by certified mail to either party at the following addresses, or such other address as may hereafter be specified by either party in writing:

Mailing Addresses:	Town of Yacolt P.O. Box 160 Yacolt, WA 98675	Jackson Civil Engineering, LLC P.O. Box 1748 Battle Ground, WA 98601-4687
Physical Addresses:	202 W. Cushman St. Yacolt, WA 98675	32603 S.E. 27 th Street Washougal, WA 98671

Section Twelve – Title VI of the Civil Rights Act of 1964:

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section Thirteen - Access to Records Clause:

The Town and other authorized representatives of the state and federal governments shall have access to any books, documents, papers, and records of the Engineer which are directly pertinent to the Agreement for the purposes of making audit, examination, excerpts, and transcriptions.

The Engineer agrees to maintain such records and follow such procedures as the Town may prescribe. In general, such records will include information pertaining to the Agreement, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this Agreement and work undertaken under this Agreement shall be retained by Engineer for a period of three (3) years, unless a longer

period is required to resolve audit findings or litigation. In such cases, Town shall request a longer period of record retention.

Section Fourteen – Section 109 of the Housing and Community Development Act of 1974, as amended:

No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Section Fifteen - Public Law 101-336, Americans with Disabilities Act of 1990:

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

Section Sixteen – Age Discrimination Act of 1975, as amended:

No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance [42 U.S.C. 610 *et. seq.*]

Section Seventeen – Section 504 of the Rehabilitation Act of 1973, as amended:

No otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funds [29 U.S.C. 794]

Section Eighteen - Complete Agreement:

This written Agreement embodies the whole agreement between the parties and there are no inducements, promises, terms, conditions or obligations made or entered into by either the Town or the Engineer other than contained herein.

Section Nineteen – Confidentiality:

The Engineer may, from time to time, receive information which is deemed by the Town to be confidential. The Engineer shall not disclose such information without the prior express written consent of the Town or upon order of a court of competent jurisdiction.

Section Twenty - Applicable Laws and Standards:

The Parties, in the performance of this Agreement, agree to comply with all applicable federal, state, and local laws and regulations. The Engineer warrants that its designs, construction documents, and services shall conform to all applicable federal, state and local statutes and regulations.

The law of the State of Washington shall apply in interpreting this Agreement. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Clark County.

Section Twenty-One - Binding Effect and Assignment:

This Agreement shall be binding upon and shall inure to the benefit of the Town and its successors and assigns. Neither this Agreement nor any rights hereunder may be assigned by the Engineer without the written consent of the Town.

Section Twenty-Two - Saving Clause:

If any provision of this Agreement, or the application of such provision to any person or under any circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section Twenty-Three - No Waiver:

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

Section Twenty-Four - Costs and Attorney's Fees:

In the event of any claim or dispute arising out of this Agreement, the party that substantially prevails shall be awarded, in addition to all other relief, all legal fees and other costs and expenses incurred in connection with such claim or dispute.

Section Twenty-Five - Business License:

Prior to commencement of work under this Agreement, the Engineer shall register for a business license in the Town.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates of the signatures below.

TOWN OF YACOLT:

ENGINEER:

Katie Listek, Mayor Date

Devin Jackson, P.E. Date
Principal

ATTEST:

Approved as to Form:

Dawn Salisbury, Clerk Date

David W. Ridenour Date
Town Attorney

Resolution #591

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT,
WASHINGTON, APPROVING AN AGREEMENT FOR ENGINEERING SERVICES
FOR CALENDAR YEAR 2020 WITH JACKSON CIVIL ENGINEERING, LLC,
AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT.**

Whereas, the Town of Yacolt, (hereafter “Town” or “Yacolt”), desires to retain the services of an engineer to provide professional engineering services as needed by the Town during calendar year 2020;

Whereas, the Town advertised a Request for Qualifications, (hereafter “RFQ”), pursuant to RCW 39.80 to identify an engineer that best meets the Town’s forecasted engineering needs by publishing such RFQ in The Reflector on November 13 and November 20, 2019;

Whereas, the Town received one response to the RFQ from Jackson Civil Engineering, LLC, which was reviewed by the Mayor, Town Clerk and Public Works Director;

Whereas, the Town has negotiated an Agreement for Engineering Services with Jackson Civil Engineering, LLC, and that Agreement has been reviewed and approved by the Town Attorney;

Whereas, the Town’s Mayor, Town Clerk and Public Works Director determined that Jackson Civil Engineering, LLC, is qualified and able to perform the duties of Town Engineer for the Town of Yacolt, and have recommended that the firm of Jackson Civil Engineering, LLC, be selected by the Town Council to serve as the Town Engineer during calendar year 2020; and,

Whereas, the Town Council of the Town of Yacolt is in regular session this 6th day of January, 2020, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it Resolved by the Town Council of the Town of Yacolt, Washington, as follows:

Section 1: That the Agreement for Engineering Services, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, is hereby accepted and approved by the Town Council. The Mayor of the Town of Yacolt is hereby authorized to execute the Agreement for Engineering Services for and on behalf of the Town of Yacolt.

Section 2: This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

Resolved by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 6th day of January, 2020.

TOWN OF YACOLT

Katie Listek, Mayor

Attest:

Dawn Salisbury, Town Clerk

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes: _____
Nays: _____
Absent: _____
Abstain: _____

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of Resolution #591 of the Town of Yacolt, Washington, entitled "A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON, APPROVING AN AGREEMENT FOR ENGINEERING SERVICES FOR CALENDAR YEAR 2020 WITH JACKSON CIVIL ENGINEERING, LLC, AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT", as approved according to law by the Yacolt Town Council on the date therein mentioned.

Attest:

Dawn Salisbury, Town Clerk

Published: _____
Effective Date: _____
Resolution Number: 591