



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: Staff Member/Dept:

Agenda Item:

Recommended Motion:

Recommendation to approve the contract with Peak Venture Group, LLC for the replacement of deteriorating siding on the Forest Service Park Buildings.

Reasons for Recommendation:

- The siding on the FSP buildings needs to be replaced as it has seen a significant amount of degradation over the years due to age as well as moisture damage from snow up against the buildings.
- Staff is not fully aware of additional water damage that may reside behind the siding but, with this contract, plans to investigate what additional work may be required.
- The contract is for a not-to-exceed amount of \$50k to allow for the contractor to be able to, pending any additional non-siding work required, replace the siding on multiple buildings but also determine how much time and money it will take to complete all buildings in full.
- In order to reduce overall cost, the City will direct procure the siding material from a local distributor.

Policy Analysis and Background (non-consent items only):

Sustainability Impact:

No direct impact.

Financial Impact:

| | |
|--|---|
| None OR Adequate funds exist in account: | Funds for this project were allocated and approved by council in the FY25 budget as it pertains to Forest Service Park repair/replacement work. |
|--|---|

Attachments:

- | |
|---------------------------|
| 1. PO 25090 |
| 2. Peak Venture Group LLC |



CITY OF KETCHUM

PO BOX 2315 * 191 5TH ST. * KETCHUM, ID 83340
 Administration 208-726-3841 (fax) 208-726-8234

PURCHASE ORDER

BUDGETED ITEM? ___ Yes ___ No

PURCHASE ORDER - NUMBER: 25090

| | |
|--|---|
| To: 6313 PEAK VENTURE GROUP LLC PO BOX 265 KETCHUM ID 83340 | Ship to: CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340 |
|--|---|

| P. O. Date | Created By | Requested By | Department | Req Number | Terms |
|------------|------------|--------------|------------|------------|-------|
| 03/11/2025 | CCHING | CCHING | | | |

| Quantity | Description | Unit Price | Total |
|----------|--|------------|-----------|
| 1.00 | Forest Service Park Roof and Siding Renovations 03-4194-7135 | 50,000.00 | 50,000.00 |
| | SHIPPING & HANDLING | | 0.00 |
| | TOTAL PO AMOUNT | | 50,000.00 |

 Authorized Signature



CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT is made this 7th day of March 2025, between The City of Ketchum, whose address is PO Box 2315 Ketchum, ID 83340 ("Owner"), and Peak Venture Group LLC whose address is PO Box 265, Ketchum, ID 83340 ("Contractor").

RECITALS

A. Owner of certain (improved real property located at 131 River St. East Ketchum ID, 83340, also known as Forest Service Park (hereinafter referred to as the "Property")).

B. Owner is desirous of having constructed on said Property a siding removal and replacement project, and Contractor has advised Owner that it has the ability and expertise to complete this (scope of work).

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises and agreements hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which Owner and Contractor acknowledge, Owner and Contractor hereby agree as follows:

1. Statement of Work. Except as otherwise expressly specified elsewhere in this Contract, Contractor shall furnish all of the following as required to satisfactorily perform all aspects of the work for the construction of the Owner's siding replacement ("Project") personnel, labor, materials, tools, supplies, equipment, transportation, supervision, technical, professional and other services, goods, information, drawings, specifications, data, computer programs, work, and other items furnished under this Contract by Contractor or its Support ("Work").

2. Performance of Work. Contractor shall perform the Work under this Contract in accordance with all the provisions of this Contract and all other specifications, drawings and documents including the estimated Project Total (collectively, the "Construction Documents") enumerated in paragraph 22.

3. Schedule for Performance. Contractor shall promptly commence and diligently prosecute performance of the Work under this Contract. Contractor shall be excused for any delay in the Work caused by acts of God, acts of the Owner, or the Owner's employees, Owner's agents or Owner's contractors, inclement weather, acts of public utilities, public bodies, or other contingencies or factors beyond its control.

a. Contractor shall complete construction of the siding replacement project by continual progress subject to the events creating delay enumerated above and turn possession over to the Owner by January 31, 2025, or other mutually agreed date. This date may be extended by written change order prepared by Contractor and approved by Owner.

4. Compensation. Compensation will be made on a time and materials basis by the owner. Project total is not to exceed \$50,000.00. The project total is the amount of the cost of the work plus 10% builder's fee calculated against the cost of the work. (For example: project total = cost of work + (cost of work * 0.10).

5. Change Orders. Changes in the Work shall be made after execution of the Contract, and without invalidating the Contract, by change Order. A Change Order is a written instrument prepared by the Contractor and signed by the Owner, Contractor and, if applicable, Architect, stating their agreement upon all of the following:

- a. Change in the Work;
- b. The amount of the adjustment, if any, to the Project Total, and
- c. The extent of the adjustment, if any, in the completion time.

If the Change Order provides for an adjustment to the Project Total, the adjustment shall be based on the cost of the Work as defined below plus 10%, as the builder's fee.

The Owner agrees to make requests concerning any changes, additions, or alterations in the Work in writing directly to the Contractor and not to the workers on the job, including subcontractors and subcontractor's workers. Any Change Order shall be subject to all terms and conditions of this Contract.

6. Differing Project Conditions. A differing Project condition is a physical characteristic of the property (including existing structures) that materially changes the construction techniques or requirements necessary to fulfill the terms of this Contract from those reasonably expected at the time of Contract execution. Examples of such conditions include, but are not limited to, (a) subsurface or latent physical conditions at the Project site that differ materially from those indicated in the Construction Documents, (b) unknown or unusual physical conditions at the Project site, (c) unknown conditions in an existing structure that are at variance with the conditions indicated by the Construction Documents, or were unanticipated or not able to be evaluated because they were hidden or covered at the time the Project Total was developed, or (d) conditions that differ materially from those generally recognized as inherent in the work of the type covered by this Contract.

Before disturbing any differing Project condition, the Contractor shall notify the Owner of such condition. The Owner, or Owner's agent, shall investigate the condition within five (5) business days. If the differing site condition will cause an increase in the Contractor's cost of, or the time required for, performance of any part of the Work, the parties will execute a Change Order pursuant to paragraph 5 above.

7. Definitions.

a. "Owner," "Contractor," "Contract Sum," and "Project" shall have their respective meanings specified above.

b. "Support" means the following: Contractor's officers, employees, agents and representatives; Contractor's suppliers and subcontractors of any tier; the respective officers, employees, agents and representatives of Contractor's suppliers and subcontractors of any tier; and any other person or entity acting under the direction or control or on behalf of Contractor or any of Contractor's suppliers or subcontractors of any

tier in connection with or incident to the performance of the Work or this Contract.

c. "Work" shall be as described in paragraph 1 above.

d. "Cost of the Work" shall mean costs necessarily incurred in the proper performance of the Work and paid by the Contractor. Such costs shall include the items set forth in subparagraph (1) below and shall exclude the items set forth in subparagraph (2) below.

(1) Items Included.

(i) Salary or wages paid for labor in the direct employ of the Contractor in the performance of the Work or wage schedule in effect at the time of execution of this Contract, and including such welfare or other benefits, if any, as may be payable with respect thereto.

(ii) Salaries of Contractor's personnel when stationed at the field office, in whatever capacity employed. Personnel engaged at shops or on the road, in expediting the production or transportation of materials or equipment, shall be considered as stationed at the field office and their salaries paid for that portion of their time spent on this Work.

(iii) Cost of contributions, assessments or taxes incurred during the performance of the Work for such items as unemployment compensation and social security, insofar as such cost is based on wages, salaries, or other remuneration paid to employees of the Contractor and included in the Cost of the Work under Subparagraphs (i) and (ii) above.

(iv) The portion of reasonable travel and subsistence expenses of the Contractor or his officers or employees incurred while traveling in discharge of duties connected with the Work.

(v) Cost of all materials, supplies and equipment incorporated in the Work, including costs of transportation thereof.

(vi) Payments made by the Contractor to Subcontractors for Work performed pursuant to Subcontracts under this Contract.

(vii) Cost, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less salvage value on such items used but not consumed which remain the property of the Contractor.

(viii) Rental charges of all necessary machinery and equipment, exclusive of hand tools, used at the site of the Work, whether rented from the Contractor or others, including installation, minor repairs and replacements, dismantling, removal, transportation and delivery costs thereof, at rental charges consistent with those prevailing in the area.

(ix) Cost of premiums for all bonds and insurance which the Contractor is required by this Contract to purchase and maintain.

(x) Sales, use or similar taxes related to the Work and for which the Contractor is liable imposed by any governmental authority.

(xi) Permit fees, royalties, damages for infringement of patents and costs of defending suits therefore, and deposits lost for causes other than the Contractor's negligence.

(xii) Losses and expenses, not compensated by insurance or otherwise, sustained by the Contractor in connection with the Work, provided they have resulted from causes other than the fault or neglect of the Contractor. Such losses shall include settlements made with the written consent and approval of the Owner. No such losses and expenses shall be included in the Cost of the Work for the purpose of determining the compensation payable to Contractor under Paragraph 4, above. If, however, such loss requires reconstruction and the Contractor is placed in charge thereof, he shall be paid for his services a fee proportionate to that stated in said Paragraph 4.

(xiii) Minor expenses such as long distance telephone calls, telephone service at the site, and similar petty cash items in connection with the Work.

(xiv) Cost of removal of all debris.

(xv) Costs incurred due to an emergency affecting the safety of persons and property.

(xvi) Utilities used and consumed at the job site, including gas, electricity and water.

(xvii) Other costs incurred in the performance of the Work unless expressly excluded in subparagraph (2), below.

(2) Items Excluded from Cost of the Work.

(i) Salaries or other compensation of the Contractor's personnel at the Contractor's principal office and branch offices.

(ii) Expenses of the Contractor's principal office other than the field office.

(iii) Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work.

(iv) Except as specifically provided for in subparagraph (1)(viii) above or in modifications thereto, rental costs of machinery and equipment.

8. Status of Contractor.

a. Contractor shall be and act as an independent contractor (and not as the agent or representative of Owner) with regard to performance of the Work and this Contract. Contractor shall not represent that it is, or hold itself out as, an agent or representative of Owner. In no event shall Contractor be authorized to enter into any agreements or undertakings for or on behalf of Owner or to act as or be an agent or representative of Owner, provided, however, that the parties acknowledge that in executing Subcontracts with Subcontractors, and performing the Work pursuant hereto, Contractor is acting both in its own capacity and in order to further Owner's interests and Contractor's interest in completing the Work.

b. Subject to compliance with the requirements of this Contract, Contractor shall perform the Work in accordance with its own methods. Contractor shall be fully responsible for the acts, omissions, conduct and performance of all of its Support.

c. Contractor represents that it is, and that at all times during performance of the Work it shall be, fully experienced and properly qualified, licensed, equipped, organized, and financed to perform the Work.

9. Protection of Property and Persons.

Until completion of the Work, Owner shall be responsible for and shall bear any and all risk of loss, deterioration, theft, vandalism, or destruction of or damage to the Work and anything used (or to be used or consumed) in connection with the Work unless such loss, theft, destruction or damage results from the sole negligence of Contractor.

10. Compliance with Laws.

a. Contractor shall use its best efforts to substantially comply with all applicable laws, ordinances, rules, regulations, orders, licenses, permits and other requirements, now of any governmental authority having jurisdiction over the Project.

b. Unless otherwise specified in this Contract, or directed by Owner, Contractor shall obtain, at Owner's expense, all permits, inspections, licenses and fees and shall furnish all bonds, security or deposits required to perform the Work in accordance with this Contract. Contractor shall advise Owner in writing and consult with Owner prior to applying for any permit or other authorization form, or entering into any agreement with, any governmental authority with regard to the Work.

11. Liens.

a. Contractor shall promptly pay (and secure the discharge of any liens asserted by) all persons and entities (including, but not limited to, Contractor's Support) furnishing labor, equipment, materials or other items in connection with the performance of the Work. Contractor shall furnish to Owner such releases of liens.

b. In connection with the foregoing, the parties acknowledge and agree that Contractor's payment practice regarding Subcontractors shall be as follows: (i) Contractor shall pay Subcontractors and demand that a duly executed lien release with respect to such payment be immediately forwarded to Contractor and (ii) if such lien release is not received by Contractor before the Subcontractor's next request for payment is received, Contractor shall refuse to pay on such subsequent request until the lien release is received.

12. Contract Sum and Progress Payments.

An initial sum of \$0.00 shall be paid by the Owner to the Contractor at contract signing to be used as a retainer. Progress billings will be submitted monthly for work completed. This payment arrangement will continue through the completion of the project. Retainer will be applied by Contractor to final billing only.

The Contractor can request prepayment or deposits to be made to suppliers of materials over and above the working funds at any time by providing the Owner with sufficient documentation at which time the Owner can elect to either pay the Contractor or write a joint check to the supplier and the Contractor.

Progress billings shall be submitted no more frequent than every 14 calendar days by the Contractor to the Owner. The progress billings will include the following: a schedule of

values approved by the Owner and Contractor, paid invoices from suppliers or contractors showing how the previous money was expended by the contractor, time sheets from contractors forces showing time and days worked and any required documentation to be sufficient enough for Agent to verify Work has progressed in accordance with the request for payment. The Owner shall pay Contractor the approved amount within ten calendar days of receipt of progress billing.

Interest shall begin to accrue on any delinquent amount the Contractor has expended of his own funds at the rate of 1.5% percent per month until the payment is made.

13. Termination.

a. If Owner does not fund a pay application in the allotted time, the Contractor shall have the option to discontinue Work on the Project until such time as the aforesaid payment is made. After the Contractor provides seven (7) days written notice to the Owner, the Contractor may terminate this Contract and recover from the Owner payment for all unpaid Work and demobilization costs and profit upon the following events:

- i. Construction is stopped for a period of at least 30 days due to the actions or neglect of Owner;
- ii. Construction is stopped for a period of at least 30 days due to an order by a court or other public authority having jurisdiction;
- iii. Construction is stopped for a period of at least 30 days for any of the reasons enumerated in paragraph 3 of this Contract; or
- iv. Owner fails to make payments to Contractor as provided for herein.

b. Owner may terminate this Contract at any time for the material default of Contractor. No such termination shall be effective until Owner has given Contractor the opportunity to cure the default. Owner shall give Contractor notice in writing stating that Contractor has thirty (30) days to cure the specified default and, that if not so cured, or if reasonable steps by Contractor have not been commenced to cure, then Owner will terminate the Contract.

14. Insurance.

a. Contractor shall ensure that, with respect to all persons performing the Work, Contractor or its Support maintains in effect at all times during the performance of the Work coverage or insurance in accordance with the applicable laws relating to workers' compensation and employer's liability insurance regardless of whether such coverage or insurance is mandatory or merely elective under the law.

b. Fire, and other casualty insurance, with course of construction / builders risk coverage, theft, vandalism and malicious mischief provisions shall be obtained by Owner at Owner's expense.

c. The Contractor agrees to obtain and provide the Owner with a Certificate of insurance showing evidence of the following coverage's, naming The City of Ketchum the certificate holder and additional insured, on an occurrence basis. Such certificate must be accompanied by an additional insured endorsement page- Form CG 2010.

COMMERCIAL GENERAL LIABILITY:

| | |
|--------------------------------|-------------|
| General Aggregate: | \$2,000,000 |
| Products completed Operations | |
| Aggregate: | \$2,000,000 |
| Personal & Advertising Injury: | \$1,000,000 |
| Each Occurrence: | \$1,000,000 |

AUTO LIABILITY:

| | |
|------------------------|-----------|
| Combined Single Limit: | \$500,000 |
|------------------------|-----------|

WORKMANS' COMPENSATION:

Statutory

EMPLOYER LIABILITY:

\$100,000 Minimum

15. Assignment: Beneficiaries; Successors.

a. Neither party shall assign all or any part of this Contract or any of its rights hereunder without the prior written consent of the other party.

b. If Contractor is composed of more than one person or entity, each such person or entity shall be jointly and severally liable under this Contract. This Contract shall be fully binding upon the parties and their successors, assigns and legal representatives.

16. Notices. Any notice, request, approval, consent, instruction, direction or other communication under this Contract given by either party to the other party shall be in writing and shall be delivered in person or mailed, properly addressed and stamped with the required postage, to the intended recipient at the address listed above and to the attention of the person specified above.

17. Entire Contract. This Contract embodies the entire agreement between Owner and Contractor. The parties shall not be bound by or liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth in this Contract. No change, amendment or modification of any of the provisions of this Contract shall be valid unless set forth in a written amendment to this Contract signed by both parties.

18. Applicable Law. This Contract, and all questions concerning the capacity of the parties, execution, validity (or invalidity), and performance of this Contract, shall be interpreted, construed and enforced in all respects in accordance with the laws of the state of Idaho.

19. Dispute Resolution.

a. Mediation. Any controversy or claim arising out of or relating to this Contract or breach thereof, shall first be submitted to mediation in accordance with the

American Arbitration Commercial Mediation Rules. Mediation shall be promptly scheduled and held in Blaine County. This agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Contract shall be specifically enforceable under the prevailing law of Idaho. Each party shall bear its own costs and the parties shall split equally the cost and expenses of the mediator.

b. Arbitration. In the event mediation proves unsuccessful, all controversies or claims arising out of, or relating to, this Contract or the breach thereof shall be decided by arbitration. Such arbitration shall be final and binding and conducted by one (1) neutral arbitrator. The arbitration shall be conducted by the American Arbitration Association utilizing its Construction Arbitration Rules unless the parties mutually agree otherwise. Judgment on the arbitrator's award may be entered in any court having jurisdiction thereof. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law of the State of Idaho. Arbitration shall be held in Blaine County, Idaho. The parties shall split equally the American Arbitration Association fees, costs and the arbitrator's fees, costs, and expenses. The arbitrator shall have no authority to consider in its decision, or to actually award, attorney fees, costs or punitive damages.

20. Owners Right to Perform Construction and to Award Separate Contracts. In the event Owner performs construction or operations related to the Work with Owner's own forces or if the Owner awards contracts in connection with other portions of the Work, then Owner agrees to compensate Contractor for any delay or additional costs incurred by Contractor because of such action by Owner.

Owner shall provide for coordination of the activities of Owner's own forces and of each separate contractor employed by Owner with the Work of the Contractor, who shall cooperate with them. Contractor shall, at all times, be given the opportunity to participate with such other separate contractors and Owner in reviewing their construction schedules. Contractor shall then make any revisions to its construction schedule deemed after such joint review and mutual agreement. The construction schedule shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

21. Correction of Work. Within one (1) year of the date of Substantial Completion of the Work, or designated portion thereof, if any of the Work is determined in good faith to be not in accordance with the requirements of the Contract Documents and the NAHB Residential Construction Performance Guidelines 4th edition, the Contractor, at no cost to the Owner, shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given Contractor a written acceptance of such conditions. The Owner shall give such notice no later than ten (10) days after discovery of the condition. During this one (1) year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the right to require correction by the Contractor or to seek compensation for correction Work performed by persons other than Contractor.

22. Enumeration of Contract Documents. The following documents are a material part of this Contract and are incorporated herein by this reference:

Exhibit A: Project Documents

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

PEAK VENTURE GROUP LLC.

By: _____
Cody Colombo, Chief Operating Officer

OWNER

By: _____
The City of Ketchum Representative

Exhibit A

Construction Documents

1. The scope of work is to remove and replace the damaged siding on the various buildings at the referenced property location. After the siding is replaced, the building will be painted.
2. Buildings will be completed 1 at a time, siding removal and replacement and painting before moving to another building.
3. Siding material to be Disdero (1X6 F/J KD WRC WC 117 Primed).
4. Siding material to be furnished by the owner.
5. Contractor to include disposal of old siding, incidentals and consumables for installation of new siding material & paint.