



City of Ketchum

May 2, 2022

Mayor Bradshaw and City Councilors
City of Ketchum
Ketchum, Idaho

Mayor Bradshaw and City Councilors:

Recommendation to approve Contract # 22089 Preventative Maintenance Work and Expansion of the Guy Coles Skate Park

Recommendation and Summary

Staff is recommending the council to approve Contract # 22089 with McDowell Concrete to complete preventive maintenance and expansion of the skate park and adopt the following motion:

"I move to approve Contract # 22089 for an amount not to exceed \$28,000 with McDowell Concrete and authorize the mayor to sign the Contract."

The reasons for the recommendation are as follows:

- This work was Approved by city council on June 7th 2021, but the contractor was not able to do the work before it got to cold.
- Expansion of the park was contemplated as part of the overall master plan and is supported by the skating community.
- Funds exist within the Parks Trust Account from donations and an additional \$8,000 is currently pledged

Introduction and History

Attached is a map which depicts the areas of proposed work by the contractor. The contractor's recommendation for the micro-expansion is based on project scope and availability. There are very few contractors specializing in the high-density concrete shaping required of skatepark construction, and of those contractors, few who are willing to perform work on a project this small. Additionally, these larger skatepark contractors are unlikely to have availability this year. The contractor selected is a former employee of Dreamland Skateparks, is familiar with the Guy Coles Ketchum Skatepark and has availability this year. An additional problem area has been identified since last year and will be addressed. This is the reason for the cost increase.

Financial Impact

The balance in the Guy Coles Skate Park Trust fund is \$18,873.32. There are two pledged donations totaling \$8,000. The remaining \$1,126.68 will come from Facilities Maintenance Professional services account.

Attachments:

- Attachment A: Contract # 22089
- Attachment B: Map of planned work
- Attachment C: Purchase order 22089



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: 22089

To: 5790 MCDOWELL CONCRETE PO BOX 42032 PORTLAND OR 97242	Ship to: CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
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P. O. Date	Created By	Requested By	Department	Req Number	Terms
04/27/2022	bancona	bancona		0	

Quantity	Description	Unit Price	Total
1.00	SKATE PARK EXPANSION 93-4900-6000	28,000.00	28,000.00
	SHIPPING & HANDLING		0.00
	TOTAL PO AMOUNT		28,000.00

 Authorized Signature



City of Ketchum

INDEPENDENT CONTRACTOR AGREEMENT

Contract # 22089

(City of Ketchum/ McDowell Concrete LLC)

THIS INDEPENDENT CONTRACTOR AGREEMENT is made and entered into as of this 2nd day of May, 2022, by and between THE CITY OF KETCHUM, an Idaho municipal corporation (“Ketchum”), and McDowell Concrete LLC, an Oregon limited liability company (“Contractor”).

RECITALS

WHEREAS, Ketchum is a municipal corporation duly organized and existing under the laws of the State of Idaho; and

WHEREAS, Pursuant to Idaho Code §50-301 *et seq.*, Ketchum is empowered to contract and be contracted with; and

WHEREAS, It is deemed in the best interest of Ketchum to contract with Contractor for certain City beautification services as set forth in more detail herein below (the “Services”); and

WHEREAS, Ketchum finds that contracting with Contractor for performance of the Services shall conserve economic resources and improve appearance throughout Ketchum in furtherance of the enjoyment of the residents and visitors of Ketchum.

NOW, THEREFORE, for the consideration recited herein below, Ketchum and Contractor enter this Agreement according to the following terms and conditions:

1. Incorporation of Recitals. The Recitals set forth herein above are hereby incorporated into and made an integral part of this Agreement.
2. The Services. Contractor shall perform excavation and concrete services in Ketchum as follows:
 - a. Contractor shall perform services as outlined in Staff report dated June 7, 2021 and approved by the City Council on June 7, 2021 and amended on April 26, 2022
 - b. Contractor shall provide professionally trained and duly licensed drivers, and safe, licensed, registered, well-maintained equipment necessary to perform excavation and concrete services for the City of Ketchum Skate Park. Ketchum shall have no responsibility for the security or protection of, maintenance of or damage to, Contractor’s supplies or equipment.

- c. Contractor shall communicate directly with the Facilities Maintenance Supervisor regarding work to be performed as outlined in attached documentation and is required to obtain permission prior to performing any work outside the attached document's scope.
 - d. Contractor shall provide all tools, equipment, materials and services to complete and perform the Services, including without limitation, fuel for Contractor's trucks and all maintenance and repair of Contractor's trucks and trailers.
 - e. Ketchum shall not provide meals or any benefits whatsoever to Contractor, its officers, directors, shareholders, members, managers, agents or employees at any time, including without limitation, during breaks.
3. Payment for Services.
 - a. In exchange for services, Ketchum will pay contractor based upon review and approval of work invoiced. Total amount of contract is not to exceed \$28,000.
4. Waiver. If Contractor requests Ketchum's assistance in any matter such as labor, equipment, or traffic control and Ketchum is able and willing to assist Contractor, Contractor hereby agrees to hold Ketchum, its employees and elected officials harmless and waives, releases, acquits, and forever discharges and indemnifies Ketchum, its employees and elected officials from any and all actions, causes of action, claims, demands, damages, costs, loss of service, expenses and compensation, in any manner related to or arising from such assistance. Such assistance shall be purely voluntary and this Paragraph 4 shall not create or imply the creation of any agreement or obligation on the part of Ketchum.
5. Time of Performance. Contractor shall provide the Services starting May 9, 2022 and shall complete such services in a professional and timely manner.
6. Term. This Agreement shall be effective as of the date first above written, and be in full force and effect until May 1, 2023, at which time it shall terminate and neither Party hereto shall have any continuing obligations to the other hereunder. The City may terminate this agreement for any reason upon thirty days written notice to Contractor.
7. Independent Contractor. Ketchum and Contractor hereby agree that Contractor shall perform the Services exclusively as an independent contractor and not as employee or agent of Ketchum. The Parties do not intend to create through this Agreement any partnership, corporation, employer/employee relationship, joint venture or other business entity or relationship other than that of independent contractor. Contractor, its managers, members, directors, officers, shareholders, agents and employees shall not receive nor be entitled to any employment-related benefits from Ketchum including without limitation, workers compensation insurance, unemployment insurance, health insurance, retirement benefits or any benefit that Ketchum offers to its employees. Contractor shall be solely responsible for the payment of all payroll and withholding taxes for amounts paid to Contractor under this Agreement and for Contractor's payments for work performed in performance of this Agreement by Contractor's managers, members, directors, officers, shareholders, agents and

employees; and Contractor hereby releases, holds harmless and agrees to indemnify Ketchum from and against any and all claims or penalties, including without limitation the 100% penalty, which in any manner relate to or arise from any failure to pay such payroll or withholding taxes.

8. Warranty. Contractor warrants that all equipment used to perform this Agreement will function safely, properly, and efficiently and that all services will be performed in a safe, professional and workmanlike manner. Contractor agrees and warrants that all of Contractor's drivers are duly licensed to and capable of operating the equipment contemplated in this Agreement safely and efficiently in adverse or extreme road and weather conditions and that Contractor and its drivers shall obey all traffic laws, drive safely and professionally, and act in a polite professional manner. Contractor warrants and agrees that under no circumstances while performing the Services shall Contractor or any of its drivers be under the influence of any alcohol or other legal or illegal drugs or substances which may impair their driving skills, reaction time or judgment.

9. Indemnification. Contractor agrees to indemnify and hold Ketchum harmless from and against all claims, suits, damages (including without limitation, damages to persons and property including deaths), costs, losses, and expenses, in any manner related to or arising from the acts or omissions of Contractor, its managers, members, directors, officers, shareholders, agents and employees.

10. Registration. Contractor agrees to maintain all registration, license and insurance as required by the laws and decisions of the State of Idaho for all trucks and trailers used in the performance of this Agreement throughout the term of this Agreement. Contractor shall furnish proof of said registration, license and insurance to Ketchum prior to performing any of the Services or being entitled to any pay there for.

11. Insurance. Contractor shall maintain public liability insurance in the amount of \$500,000.00 and workers compensation insurance from an insurance carrier licensed to do business in the State of Idaho, and furnish proof of said insurance to Ketchum prior to performing any of the Services or being entitled to any pay there for.

12. Compliance with Laws/Public Records. Contractor, its managers, members, directors, officers, shareholders, agents, and employees shall comply with all federal, state and local laws, rules and ordinances. This Agreement does not relieve Contractor of any obligation or responsibility imposed upon Contractor by law. Without limitation, Contractor hereby acknowledges that all writings and documents, including without limitation email, containing information relating to the conduct or administration of the public's business prepared by Contractor for City regardless of physical form or characteristics may be public records pursuant to Chapter 1 of Title 74 of Idaho Code Contractor further acknowledges that, subject to certain limitations, the public may examine and take a copy of all such public writings and records. Accordingly, Contractor shall maintain such writings and records in such a manner that they may readily identified, retrieved and made available for such inspection and copying.

13. Notice. All notices, requests, demands or other communication required or provided for under this Agreement, other than instructions given by Ketchum pursuant to Paragraph 2 herein above shall be in writing. Notices to Ketchum and the Contractor shall be addressed as follows:

KETCHUM:

CITY OF KETCHUM
BOX 2315
Ketchum, ID 83340

CONTRACTOR:

McDowell Concrete
P.O. Box42032
Portland,OR 97242

14. Non-Assignment. Contractor hereby acknowledges that Ketchum has agreed to enter this Agreement based in part on Contractor's unique skills and reputation for professional work. Accordingly, Contractor may not assign or transfer in any manner this Agreement or any of Contractor's right, title or interest in or to this Agreement without the prior written consent of Ketchum which may be withheld for any reason.

15. Amendments. This Agreement may only be changed, modified, or amended in writing executed by all parties.

16. Headings. The headings in the Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

17. Attorney Fees and Costs. In the event that either party hereto is required to retain the services of an attorney to enforce any of its rights hereunder, the non-prevailing party shall pay to the prevailing party all reasonable costs and attorney fees incurred in such enforcement, whether or not litigation is commenced and including reasonable costs and attorney fees on appeal.

18. No Presumption. No presumption shall exist in favor of or against any party to this Agreement as the result of the drafting and preparation of the document.

19. Governing Law. This Agreement shall be governed by the laws and decisions of the State of Idaho.

20. Entire Agreement. This Agreement contains the entire Agreement between the parties respecting the matters herein set forth and supersedes all prior Agreements between the parties hereto respecting such matter.

21. Execution and Fax Copies and Signatures. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

22. Authority. The parties executing this Agreement warrant, state, acknowledge, and affirm that they have the authority to sign the same and to bind themselves to the terms contained herein.

IN WITNESS WHEREOF, the Parties execute this Agreement as of this 2nd day of May, 2022.

THE CITY OF KETCHUM,
an Idaho municipal corporation

MCDOWELL CONCRETE LLC,
an Oregon limited liability company

By: _____
Neil Bradshaw, Mayor



By: _____
Its: _____

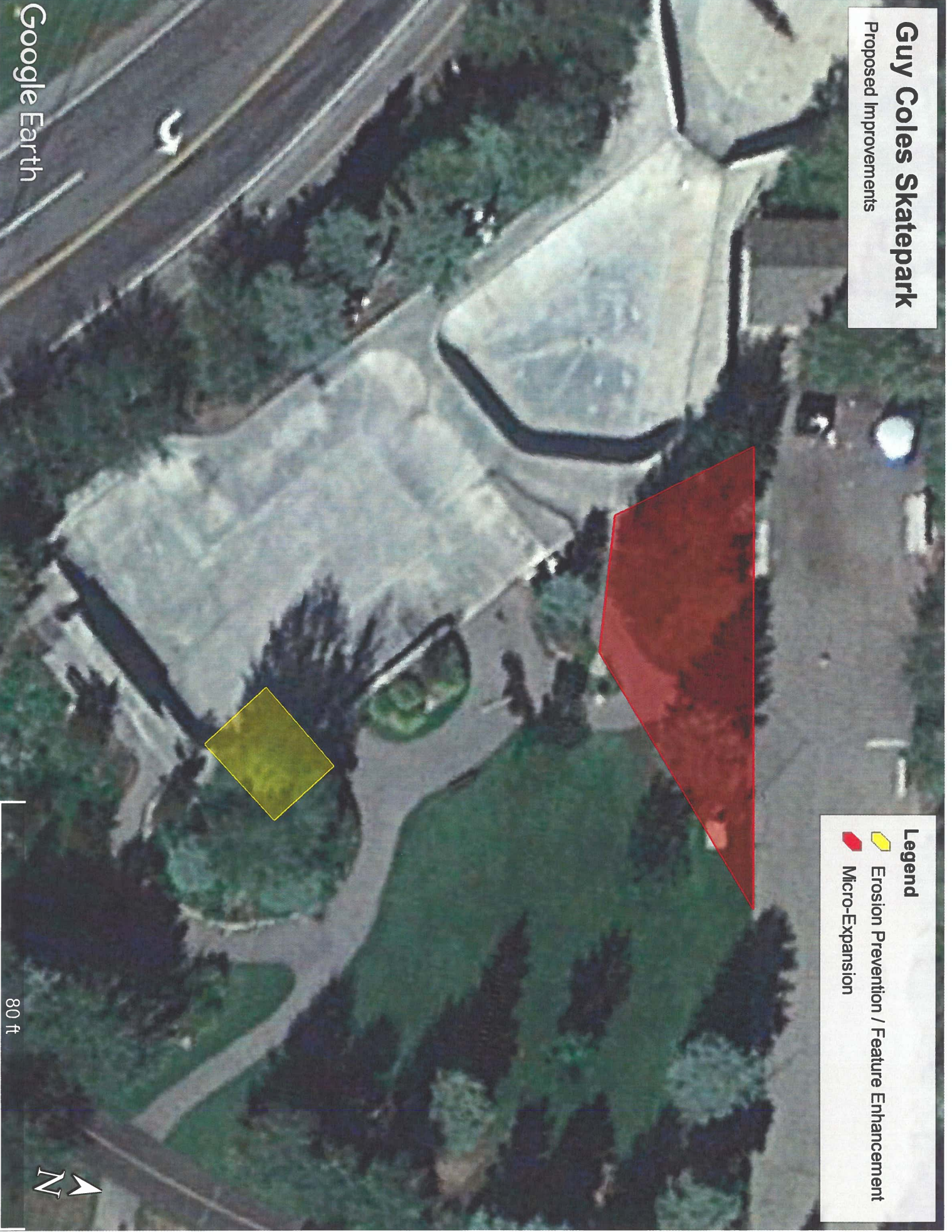
ATTEST:

Shellie Rubel
Treasurer

Guy Coles Skatepark

Proposed Improvements

- Legend**
-  Erosion Prevention / Feature Enhancement
 -  Micro-Expansion



Google Earth

80 ft



