



# STAFF REPORT

## CITY of YORBA LINDA

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### PUBLIC WORKS DEPARTMENT

**DATE:** FEBRUARY 4, 2025

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** JAMIE LAI, P.E., DIRECTOR OF PUBLIC WORKS/CITY ENGINEER  
**PREPARED BY:** COLIN TSUI, P.E., ASSISTANT CIVIL ENGINEER

**SUBJECT:** AMEND THE FISCAL YEAR 2023-2024 ANNUAL PAVEMENT PRESERVATION PROJECT PROFESSIONAL SERVICES AGREEMENTS WITH FOUNTAINHEAD FOR CONSTRUCTION MANAGEMENT/INSPECTION SERVICES AND WITH NINYO & MOORE FOR GEOTECHNICAL/MATERIALS TESTING SERVICES

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### **RECOMMENDATION**

It is recommended that the City Council:

1. Amend the Professional Services Agreement with Fountainhead Consulting Corporation (Fountainhead) in the amount of \$20,000 to provide additional Construction Management and Inspection Services; and
2. Amend the Professional Services Agreement with Ninyo & Moore Geotechnical and Environmental Services Consultants (Ninyo & Moore) in the amount of \$10,258 to provide additional Geotechnical and Materials Testing Services.

### **BACKGROUND**

The treatment area for Zone 5 of the Annual Pavement Preservation Project (APPP) includes cul-de-sacs along the Stonehaven Drive loop. The treatment area for Zone 7 of the APPP includes La Palma Avenue from the western City Limits to Camino de Bryant and the cul-de-sacs along Brush Canyon Drive. The Professional Services Contracts for this APPP project were awarded to Fountainhead and Ninyo & Moore on June 18, 2024.

### **DISCUSSION**

The contractor for the FY 2023-2024 APPP has experienced challenges in the delivery of this project. Delays in the schedule were incurred due to various reasons including materials shipment delays and equipment failures. Quality assurance testing performed by Ninyo & Moore have revealed that there are some sections of asphalt overlay and slurry seal that do not meet project specifications.

The City has relied on its consultants to facilitate construction in the field and ensure the quality of the end product is satisfactory. The circumstances during construction have resulted in additional hours for Fountainhead as well as additional testing and field investigations for Ninyo & Moore. Consequently, when contractor activities result in additional inspection time on behalf of the City, our contract allows for the assessment of liquidated damages which have been tracked for this project which would go towards offsetting project costs.

**FISCAL IMPACT**

Funding for this project comes from a combination of the Ongoing Street Maintenance Program Capital Improvement Program budget (Project Account No. SI241004) and the La Palma Avenue Improvement Project (Project Account No. SI231002). Funding for the amendment will come from the existing project appropriations for the additional expenditures summarized in Table 1 below.

A contract amendment for Fountainhead was previously approved in the amount of \$24,500. This amendment amount was within the 15% project contingency when the initial contract was awarded. The subsequent amendment amount of \$20,000 exceeds the 15% project contingency. Ninyo & Moore’s proposed contract amendment in the amount of \$10,258 exceeds the 15% project contingency. Therefore, both contracts require City Council authorization for the additional funds required. The total authorization request for both contracts amounts to \$30,258. A summary of the expenditures for both consultants is tabulated below.

**Table 1 – Summary of Project Costs**

Item	Cost
Construction Management & Inspection (Fountainhead)	\$169,635
Previously Approved Amendment	\$24,500
<b>Proposed Contract Amendment</b>	<b>\$20,000</b>
<b>REVISED CONTRACT AMOUNT (FOUNTAINHEAD)</b>	<b>\$214,135</b>
Materials Testing (Ninyo & Moore)	\$37,665
<b>Proposed Contract Amendment</b>	<b>\$10,258</b>
<b>REVISED CONTRACT AMOUNT (NINYO &amp; MOORE)</b>	<b>\$47,923</b>

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**ALTERNATIVES**

The City Council may choose to not award the proposed contract amendments to Fountainhead and Ninyo & Moore. Staff does not recommend this alternative because it will limit the City's ability to close out the project and negotiate a satisfactory remedy.

**ATTACHMENTS**

Attachment 1 – Fountainhead (Amendment)

Attachment 2 – Ninyo & Moore (Amendment)

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