

**CITY OF LAKE FOREST PARK
SERVICES AGREEMENT
Agreement Title: 2022-2023 Tree Service**

THIS AGREEMENT made and entered into by and between the **CITY OF LAKE FOREST PARK**, a Washington municipal corporation (the "City"), and Pat's Tree and Landscape, Inc. (the "Contractor").

Contractor Business: Pat's Tree and Landscape, Inc.

Contractor Address: PO Box 82514, Kenmore, WA 98028

Contractor Phone: 425-766-4482

Contact Name Patrick See

Contractor e-mail: pseestrees@hotmail.com

Federal Employee ID No.: 473996047

Authorized City Representative for Jeffrey Perrigo
this contract:

WHEREAS, the City requires vendor support to complete routine tree management services and properly solicited bids from tree service providers included in the Municipal Research Service Center (MRSC) roster to contract with the City for these services; and

WHEREAS, the Contractor submitted the lowest responsible bid in response to the City's Invitation to Bid;

NOW, THEREFORE, the parties herein do mutually agree as follows:

1. Employment of Contractor. The City retains the Contractor to provide the services described in Exhibit A incorporated herein, for 2022-2023 Tree Service ("collectively "Scope of Work" or the "Work"). Any inconsistency between this Agreement and the Scope of Work shall be resolved in favor of this Agreement. The Contractor shall perform the Work according to the terms and conditions of this Agreement.

This Agreement shall have an effective date of December 1, 2022.

The City may revise the Work and the compensation only by a written Change Order signed by the authorized representatives of the parties that shall become a part of this Agreement.

The project manager(s) of the Work shall be Patrick See. The project manager(s) shall not be replaced without the prior written consent of the City.

Exhibit A Work shall commence when the City issues a Work Order(s) and it shall be completed no later than December 1, 2024 ("Contract Time") unless the completion date is extended in writing by the City. Notwithstanding the foregoing, Contractor shall not be responsible for any delay or failure to meet deliverable deadlines if such delay or failure was caused in whole or in part by a delay or failure of the City.

2. Compensation.

A. The total compensation to be paid to Contractor for the Work in Exhibit A, including all services and expenses, shall not exceed one hundred thousand Dollars (\$100,000.00) as shown on Exhibit B, which shall be full compensation ("Contract Price") for the Exhibit A Work. Contractor shall invoice the City monthly on the basis of the portion of the Work completed each month by the Contractor and sub-contractors.

B. Contractor shall be paid in such amounts and in such manner as described in Exhibit B.

C. Contractor shall be reimbursed for Eligible Expenses actually incurred that are approved for reimbursement by the City in writing before the expense is incurred.

D. The City has budgeted for the full Contract Price but does not warrant expressly or by implication that this level of expenditure will occur during the Contract Time. The City does not warrant expressly or by implication that the actual quantities of Work will correspond with the estimated quantities provided in Exhibit B. The actual quantities of Work provided under this Contract may vary substantially from the estimated quantities used to determine the basis of award, and the Contractor is not entitled to any adjustment in its unit prices as a result of any variation, no matter how significant, between the actual Work performed and the estimated quantities used for purposes of determining the basis of award.

E. Individual work orders issued during the contract, if any, are expected to have a minimum value of five hundred dollars (\$500.00). If the City issues a work order to the Contractor valued less than \$500, the Contractor shall be permitted to negotiate cost premiums applicable to such small quantities of Work with the City prior to beginning work on the work order.

F. Portions of the Work performed within public right of way qualify as exempt from sales tax per Washington State Revenue Rule 171 (WAC 458-20-171). No separate, distinct sales tax monies will be reimbursed to the Contractor for execution of tax-exempt Work.

3. Request for Payment.

A. Not more than once every thirty days the Contractor shall send electronically to ap@cityoffp.gov its request for payment of Exhibit A Work, accompanied by evidence satisfactory to the City justifying the request for payment, including a report of Work accomplished and tasks completed, and an itemization of Eligible Expenses with copies of receipts and invoices.

4. Work Product. The Contractor shall submit all reports and other documents specified in Exhibits A according to the schedule established in Exhibits A. If, after review by the City, the information is found to be unacceptable, Contractor, at its expense, shall expeditiously correct such unacceptable work. If Contractor fails to correct unacceptable work, the City may withhold from any payment due an amount that the City reasonably believes will equal the cost of correcting the work.

All reports, drawings, plans, specifications, and intangible property created in furtherance of the Work, and any intellectual property in such documents, are property of the City and may be used by the City for any purpose; provided that re-use without Contractor's permission shall be at the City's sole risk.

5. Termination of Contract. City may terminate this Agreement by sending a written notice of termination to Contractor ("Notice") that specifies a termination date ("Termination Date") at least fourteen (14) days after the date of the Notice. Upon receipt of the Notice, the Contractor shall acknowledge receipt to the City in writing and immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Contractor's material breach, the Contractor shall be paid or reimbursed for all hours worked and Eligible Expenses incurred up to the Termination date, less all payments previously made; provided that work performed after date of the Notice is reasonably necessary to terminate the Work in an orderly manner. The Notice may be sent by any method reasonably believed to provide Contractor actual notice in a timely manner.

6. Assignment of Contract – Subcontractors. Contractor shall not assign this contract or sub-contract or assign any of the Work without the prior written consent of the City.

7. Indemnification. To the extent provided by law and irrespective of any insurance required of the Contractor, the Contractor shall defend and indemnify the City from any and all Claims arising out of or in any way relating to this Agreement; provided, however, the requirements of this paragraph shall not apply to that portion of such Claim that reflects the percentage of negligence of the City compared to the total negligence of all persons, firms or corporations that resulted in the Claim.

Contractor agrees that the provisions of this paragraph 7 apply to any claim of injury or damage to the persons or property of Contractor's employees. As to such claims and with respect to the City only, Contractor waives any right of immunity, which it may have under industrial insurance (Title 51 RCW and any amendment thereof or substitution therefore). THIS WAIVER IS SPECIFICALLY NEGOTIATED BY THE PARTIES AND IS SOLELY FOR THE BENEFIT OF THE CITY AND CONTRACTOR.

As used in this paragraph: (1) "City" includes the City's officers, employees, agents, and representatives; (2) "Contractor" includes employees, agents, representatives, sub-contractors; and (3) "Claims" include, but is not limited to, any and all losses, claims, causes of action, demands, expenses, attorney's fees and litigation expenses, suits, judgments, or damage arising from injury to persons or property.

Contractor shall ensure that each sub-contractor shall agree to defend and indemnify the City to the extent and on the same terms and conditions as the Contractor pursuant to this paragraph.

8. Insurance.

A. Contractor shall comply with the following conditions and procure and keep in force at all times during the term of this Agreement, at Contractor's expense, the following policies of insurance with companies authorized to do business in the State of Washington. The Contractor's insurance shall be rated by A. M. Best Company at least "A" or better with a numerical rating of no less than seven (7) and otherwise acceptable to the City.

1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Contractor shall require each sub-contractor to provide Workers' Compensation Insurance for its employees, unless the Contractor covers such employees.

2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

3. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.

4. Each policy shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City.

Upon written request to the City, the insurer will furnish, before or during performance of any Work, a copy of any policy cited above, certified to be a true and complete copy of the original.

B. Before the Contractor performs any Work, Contractor shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the above-required insurance and naming the City of Lake Forest Park, its officers, employees and agents as Additional Insured on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insured. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Contractor's obligations to fulfill the requirements.

C. Contractor shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Contractor shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

D. In case of the breach of any provision of this section, the City may provide and maintain at the expense of Contractor insurance in the name of the Contractor and deduct the cost of providing and maintaining such insurance from any sums due to Contractor under this Agreement, or the City may demand Contractor to promptly reimburse the City for such cost.

9. Independent Contractor. The Contractor is an independent Contractor responsible for complying with all obligations of an employer imposed under federal or state law. Personnel employed by Contractor shall not acquire any rights or status regarding the City.

10. Employment. The Contractor warrants that it did not employ or retain any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement or pay or agree to pay any such company or person any consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right either to terminate this Agreement without liability or to deduct from the Agreement price or consideration or to otherwise recover, the full amount of such consideration.

11. Audits and Inspections. The Contractor shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Contractor's records and documents with respect to all matters covered by this Agreement.

12. City of Lake Forest Park Business License. Contractor shall obtain a City of Lake Forest Park business license before performing any Work.

13. Compliance with Federal, State and Local Laws. Contractor shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of the Work.

14. Prevailing Wages. The work under the Contract may be subject to the prevailing wage requirements of chapter 39.12 RCW, as amended or supplemented. If this Contract is subject to prevailing wage requirements, the Contractor, each of its subcontractor(s) and other person(s) doing any work under the Contract shall pay all laborers, workers or mechanics not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the State of Washington where such labor is performed as required by law. The prevailing rate of wage to be paid to all workman, laborers or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of chapter 39.12 RCW, as amended, and the rules and regulations of the Department of Labor and Industries. The rules and regulations of the Department of Labor and Industries and the schedule of the prevailing wage rates for the Industrial Statistician of the Department of Labor and Industries, are by reference made a part of this contract as though fully set forth herein. These rates may be accessed on the internet at <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>

Pursuant to RCW 39.12, prior to payment by the City, the Contractor must submit -- on behalf of itself and each and every subcontractor at every tier -- a "Statement of Intent to Pay Prevailing Wages," which must be approved by the Department of Labor and Industries prior to its submission. Within fifteen (15) days of the final acceptance of the Contractor's work under this Contract, the Contractor must submit -- on behalf of itself and every subcontractor -- an "Affidavit of Wages Paid".

OR

At the option of the City, the Contractor may use the combined Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid form. Contractor must meet the Washington State Department of Labor and Industries criteria for use of the form. Combined forms may be requested from the City.

15. Waiver. Any waiver by the Contractor or the City of the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.

16. Complete Agreement. This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement, or negotiation whether oral or written not set forth herein.

17. Modification of Agreement. This Agreement may be modified by a Change Order as provided in Section 1, or by a writing that is signed by authorized representatives of the City and the Contractor.

18. Severability. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, the remainder of the Agreement shall remain in full force and effect.

19. Notices.

A. Notices to the City of Lake Forest Park shall be sent to the following address:

City of Lake Forest Park
Attn: Jeffrey Perrigo, Public Works Director
17425 Ballinger Way NE
Lake Forest Park, WA 98155

B. Notices to the Contractor shall be sent to the following address:

Pat's Tree and Landscape, Inc.
Attn: Patrick See
PO Box 82514
Kenmore, WA 98028

20. Venue. This Agreement shall be governed by the law of the State of Washington and venue for any lawsuit arising out of this Agreement shall be in King County.

21. Counterpart Signatures. This Agreement may be executed in one or more counterparts, including by facsimile, scanned or electronic signatures, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement on the dates provided below, with an effective date of the contract of December 1, 2023.

CITY OF LAKE FOREST PARK WASHINGTON	CONTRACTOR:
By: _____ Jeff Johnson, Mayor	By _____
_____	Its:
Date _____	Date: _____
APPROVED AS TO FORM:	

Kim Adams Pratt, City Attorney	
Date: _____	