



MASTER SERVICE AGREEMENT

This agreement is entered into this 21st day of October 2024 by and between the City of Lynden, hereinafter referred to as "Client", and MSNW Group LLC, hereinafter referred to as "Contractor" (the "**MSA**").

WHEREAS:

- (a) Client has control and/or ownership of a property or properties (the "**Property**"); and
- (b) It is anticipated that from time to time Contractor will be requested by Client to provide certain landscaping services for the Property (the "**Services**").

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants set forth below, and for other good and valuable consideration, the sufficiency of which is acknowledged by Client and Contractor, the parties agree as follows:

1. **Scope of Agreement.**

- a. Services. Contractor shall perform the Services in accordance with this MSA and as provided in any fully executed statement of work, purchase order, or other ordering document as mutually agreed by the parties in writing (each, a "**SOW**"). Contractor may contract with or use subcontractors to perform some of the Services in Contractor's sole discretion. This MSA is a non-exclusive agreement as to Client and Contractor and Company. Nothing herein requires any minimum number of SOWs be executed hereunder. The details of the method and manner for performance of the Services by Contractor shall be determined by Contractor in its sole discretion, except as otherwise specifically agreed by the parties in writing. It is expressly understood and agreed that any and all Services requested by Client and accepted by Contractor shall be controlled and governed by the provisions of this MSA.
- b. Estimates & Proposals/Change Orders. Estimates and proposals are not binding until memorialized in a fully executed SOW. Any material change to a SOW shall be set forth in a change order by a writing duly executed by the parties, or their authorized representatives (a "**Change Order**").
- c. Modifications. Should the parties hereto enter into any SOW especially prepared to provide for a particular job to be done by Contractor, then, except to the extent expressly modified in a writing signed by both parties which refers to the conflicting term of this MSA, the terms of this MSA shall prevail with respect to any conflict between the terms of such SOW and this MSA. To acknowledge or document various events during the Services, a party may from time to time sign the other party's various forms, such as proposals, quotes, exhibits, purchase orders, and work orders, but terms and conditions included on such forms do not amend, modify, waive, or release any aspect of this MSA unless expressly agreed to by a writing signed in accordance with this Section 1.c.
- d. Agreement. The term "this Agreement" or "the Agreement" means this MSA together with any SOW that incorporates this MSA.

- 2. **Payment.** Fees for the Services will be as set forth in a SOW. Unless otherwise specified in the SOW, invoices will be due and payable upon receipt. If the Client fails to pay in accordance with the deadlines set forth in the Agreement, then the unpaid balance shall bear interest at the rate of 1 ½% per month calculated daily.
- 3. **Non-Solicitation.** Client agrees that during the term of the Agreement, Client shall not directly or indirectly solicit or assist in the solicitation of any person to leave employment who is an employee of the Contractor. In addition to all other rights and remedies allowed by law, a violation of this provision shall allow Contractor to terminate the Agreement for cause.
- 4. **Term and Termination.** This MSA shall become effective upon execution by Contractor and Client and shall continue in force and effect until December 31, 2024 unless extended by mutual agreement. Written notice of termination, by either Contractor or Client, should be delivered to the other sixty (60) days prior to the end of the contract; provided, however, that any Services in progress on the effective date of such termination shall be controlled and governed by this MSA until its completion in accordance with the terms of the SOW. In other words, termination of this MSA does not terminate Services being performed pursuant to a SOW.
- 5. **Force Majeure.** Contractor shall in no way be responsible for any failure to perform the Services due to the act or negligence of the Client or any employee or other representative of the Client or due to strikes, lockouts, fire, flood, adverse weather conditions, governmental orders, unavoidable casualties, or by any other cause of any kind whatsoever beyond the control of the Contractor.



6. **Independent Contractor.** It is acknowledged and agreed that the Contractor is not an employee of the Client and is acting as an independent contractor. This Agreement does not create, and shall not be construed by the parties hereto or any third party as creating, any agency, partnership, joint venture, or employment relationship between the parties hereto.
7. **Indemnification.** Both parties agree to defend, protect, indemnify, and hold harmless one another and their respective directors, officers, employees, agents, and representatives, against and from any liabilities, loss, claims, acts or suits, including costs and reasonable attorneys' fees, arising out of or resulting from claims or actions for bodily injury, property damage or injury or damage caused by any negligent act or omission, willful misconduct or breach of this Agreement by such party and such party's employees and agents. However, neither party shall be obligated to indemnify or hold the other harmless against liability for damages caused by or resulting from the sole negligence of that party and each party shall only be liable to defend and indemnify the other to the extent of such party's own negligence. This foregoing indemnification obligation shall survive termination of this Agreement.
8. **LIMITATION ON DAMAGES.** Except as otherwise provided in this MSA, no party shall be liable to the other for any consequential, indirect, exemplary, or punitive damages arising in connection with this Agreement without regard to the nature of the claim (e.g., breach of contract, negligence or otherwise), even if such party has been advised of the possibility of such damages.
9. **Notices.** All notices required by this Agreement shall be in writing and shall be hand delivered, sent via electronic mail with a delivery receipt, or sent via the U.S. Mail (return receipt requested) with postage prepaid. Notices to Client shall be addressed to: City of Lynden, 300 4th Street, Lynden, WA; notices to Contractor shall be addressed to: MSNW, Attn: Contracts Administrator, 2257 Northgate Spur, Ferndale, WA. 98248, or if sent via electronic mail shall be addressed to: accounting@msnwggroup.com. The foregoing addresses may be changed by either party by providing the other party written notice of a new address. All notices sent pursuant to this paragraph shall be deemed to have been received by the recipient on the date of hand delivery, the date the electronic mail was received by notice of delivery receipt or the third (3rd) business day following the mailing thereof.
10. **Insurance.** Contractor shall provide a certificate of insurance naming the Client as additional insured as follows: 1) General Liability \$1,000,000 per occurrence, \$2,000,000 aggregate, and 2) Automobile Liability \$1,000,000 and 3) Worker's Compensation and Employer's Liability in the amount required by law and paid to date.
11. **Governing Law; Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington, and the venue of any disputes hereunder shall be Whatcom County, Washington.
12. **Attorneys Fees.** In the event a dispute arises between the parties hereunder, whether in connection with the MSA or a SOW, the prevailing party of any such dispute shall be entitled to recover its reasonable attorneys' fees and costs.
13. **Amendments.** No amendment of this Agreement will be effective unless in a signed writing.
14. **Severability.** In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable in any respect, such holding will not affect any other provisions of this Agreement, which will remain in full force and effect.
15. **Waiver.** Any waiver on the part of Contractor or Client or of any term or condition of this Agreement shall not constitute a precedent or bind either party to a waiver of any succeeding breach of the same or any other term or condition of this Agreement.
16. **Execution Warranty.** The persons signing below represent and warrant that they have all requisite power, authority, and authorization to execute this MSA on behalf of the parties for whom they sign, and that by signing below, this MSA shall be fully binding upon and enforceable against all such parties and their affiliates.

City of Lynden Water Treatment Plant Date
By: Scott Korthuis, Mayor

MSNW Group, LLC Date
By: Terell Weg, President & CEO



Exhibit to MSA Landscaping Services

Date: 9/13/2024

This Statement of Work ("SOW") is subject to the terms and conditions of the Master Services Agreement (the "MSA") between **City of Lynden**, hereinafter referred to as "Client", and **MSNW Group LLC**, hereinafter referred to as "**Contractor**". The terms below shall be in addition to all terms contained in the MSA, which will continue in full force and effect except to the extent expressly modified below with reference to any conflict between the terms of this SOW and the MSA.

Statement of Work

Property Address:

City of Lynden –Water Treatment Plant
300 4th St
Lynden WA 98264

Service Charge: \$685.00 per month

TURF MAINTENANCE AND MOWING

- ☐ All turf areas shall be inspected and all litter and debris removed prior to each mowing.
- ☐ The turf shall be cut at a uniform height (no scalping or uneven cutting). Mower blades shall be maintained in a good condition for an even cut. Excess clippings shall be collected for a neat appearance.

EDGING

- ☐ All sidewalks, curbs, concrete slabs and planting bed edges shall be mechanically edged as needed to maintain a neat, clean appearance (approximately twice per month). Low visibility areas such as road shoulders, outlying tree circles, bed edges etc., may be chemically contained, but at no time will there be more than 2" of visual desiccated plant growth along the contained areas.

TRIMMING OR WEED EATING

- ☐ Trimming shall be performed around all road signs, business signs, guard posts, trees, shrubs, utility poles and other obstacles paying special care to not damage trees and shrubs. The grass to be trimmed shall not be trimmed to less than the desired height of cut determined by the mowing operation.

TURF FERTILIZATION/HERBICIDE APPLICATION

- ☐ Fertilizer shall be applied in order to keep a full lush green lawn year round and to promote healthy root growth.
- ☐ Contractor shall monitor continuously for weed infestations and shall take timely measures to treat them with appropriate herbicide.
- ☐ All precautions shall be taken in the handling and application of all sprays as stated on the herbicide label and state approved guidelines.

SWEEP / BLOW WALKS

- ☐ At the conclusion of each visit, walks adjacent to work areas are to be swept or blown clean.

SHRUB BED MAINTENANCE

- ☐ All grounds will be policed at each visit for weeds and debris.
- ☐ All planter beds, tree circles, sidewalk cracks, etc. are to be sprayed to control weeds. Chemical herbicide is not a substitute for hand weeding required for complete removal.
- ☐ All planter beds are to have one to two applications of pre-emergence herbicide per year. Pre-emergence herbicides shall be of the non-leaching type with minimal soil contaminating levels. Labor for pre-emergence is included but chemicals will be extra.



- ❑ All planter beds in high traffic areas are to be raked through twice per month to remove debris and promote an attractive appearance.
- ❑ Fertilizing of all shrubs to be done twice per year, trees once per year and ground cover twice per year with a well balanced slow release type fertilizer.

PRUNING

- ❑ Pruning shall be done to present a well-sculpted appearance. Dead, damaged and diseased portions of the plant will be removed. All cuts shall be flush and clean, leaving no stubs or tearing of bark. Prune shrubbery to maintain proper size in relationship to adjacent plantings and intended function.
- ❑ Prune trees as required, removing weak branching patterns and maintaining balance of head growth development. We will bid any tree trimming over 6 feet.
- ❑ Prune groundcover plantings as required to restrain perimeter growth to within planting bed areas where adjacent to walks and curbs. Tip prune selected branches of low growing shrub or groundcover masses to maintain even overall heights and promote fullness.

LEAF AND DEBRIS REMOVAL

- ❑ Removal of all leaves and debris from all lawns, planter beds, mechanical areas i.e. heat pumps, generator areas etc., and walkways will be completed throughout the year as needed to maintain a clean appearance throughout. Any extra leaf or debris removal not completed on regular visit will be at a time and material basis.

LANDSCAPING SERVICES PROVIDED FOR A FEE PER BID NOT IN CONTRACT

- ❑ Turf aeration and thatching
- ❑ Flowers
- ❑ Tree and shrub planting
- ❑ Major pruning of trees and plants
- ❑ Bark dusting, chipping or mulch
- ❑ Pest control - treat for fungus, moss and pests (insects, worms etc) in landscape areas as needed.
- ❑ Design and installation of new landscape

FREQUENCY SCHEDULE													Total
MONTH	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Visits
CONTRACTED SERVICES													
TURF													
Mowing			2	4	4	4	4	4	4	4	2		32
Hard edging			1	2	2	2	2	2	2	2			15
Soft edging			1	2	2	2	2	2	2	2			15
Fertilization			1		1			1		1			4
Broadleaf Spray				1		1		1		1			4
Blow Walks (Each Visit)	2	2	2	4	4	4	4	4	4	4	4	2	40
Soil test													0
Lime			1										1
ORNAMENTAL BEDS													
Weed patrol	2	2	2	4	4	4	4	4	4	4	2	2	38
Pre-Emergent Application		1				1				1			3
Fertilize Shrubs and Trees				1					1				2
Prune Shrubs & Trees		x					x				x		0
Leaf Removal	2									4	4	2	12
Debris Removal	x	x	x	x	x	x	x	x	x	x	x	x	0
Plant Inspection	1	1	1	1	1	1	1	1	1	1	1	1	12
SPECIAL SERVICES													
Sweeper Truck Services													0
Annual Color Spots													0
Barkdust Application													0
Irrigation Startup/Shutdown			on								off		2
Irrigation Management				1	1	1	1	1	1	1			7



Additional Service Rates:

Janitorial Services	\$60 per hour
Construction Cleanup Services	\$85 per hour
HAZMAT Cleanup Services	\$95 per hour
Window Cleaning Services	\$75 per hour
Floor Strip and Wax - \$.56 per sq ft	\$250 minimum
Carpet Care Services - \$.25 per sq ft	\$250 minimum
Tile Maintenance - \$1.60 per sq ft	\$250 minimum
Water Damage/Water Remediation Services	\$95 per hour
Water Damage/Water Extraction with truck mount unit	\$95 per hour
Landscaping Maintenance Services	\$85 per hour
Landscaping Installation/Project Services	\$85 per hour
Irrigation Installation and Repair Services	\$95 per hour
Pressure Washing with water reclamation	\$95 per hour

Prices are subject to change at Contractor's discretion. Any Additional Services will be billed at a 2-hour minimum. Any emergency call-out (including after hours and holidays) will be billed at 1 ½ time's general hourly rate plus a \$75 emergency call out fee.

Regular business hours are Monday through Friday, 8:00 am until 5:00 pm. Holidays Observed: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day

Terms & Conditions

1. **Term and Termination.** The Contractor shall commence performance of this Contract on the 1st day of January 2024 and shall continue such performance until the 31st day of December 2024 (the "Term"). Unless otherwise terminated, this Contract shall automatically renew for three additional 1-year terms. This SOW may be terminated by either party upon sixty (60) days' written notice. Should either party wish not to renew this SOW upon expiration of the Term, said party shall provide written notice to the other party at least thirty (30) days prior to the expiration of the Term hereof. In the event that the Client terminates the Contract prior to the end of the Term, Client shall pay to the Contractor the full balance owed for Services provided or to be provided that have not yet been recouped by the monthly Service Charge.
2. **Service Charge.** Payment for the Janitorial Services will be made to the Contractor by the Client no later than the first (1st) day of each month (the "Service Charge").
3. **Additional Services.** Services performed which are not specifically described in the Statement of Work will be considered 'Additional Services.' Additional services will be billed separately and will be due upon receipt of invoice. The performance of and the payment for Additional Services are subject to all the terms and conditions of this SOW and the MSA.
4. **Access.** Client shall provide Contractor access to the Property as reasonably necessary to allow Contractor to perform the Services, and/or any 'Additional Services' requested by Client.
5. **Contractor's Obligation.** The Contractor will furnish all materials, labor, and equipment necessary to perform the Services specified above.
6. **Increase Service Charge.** Prevailing wages shall be paid and documented in compliance with RCW 39.12. A cost-of-living increase to encompass the percentage change of prevailing wage may be applied on an annual basis to the labor portion of the contract.
7. **Execution Warranty.** The persons signing below represent and warrant that they have all requisite power, authority, and authorization to execute this SOW on behalf of the parties for whom they sign, and that by signing below, this SOW shall be fully binding upon and enforceable against all such parties and their affiliates.

City of Lynden Water Treatment Plant
By: Scott Korthuis, Mayor

Date