

CITY OF SNOQUALMIE
AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES
Contract Amendment No. 1
Facilities

This Amendment No. 1 to Agreement for Consulting Services is entered into this ____ day of December, 2024 by and between the City of Snoqualmie, a Washington municipal corporation (“City”) and AtWork Commerical Enterprises, LLC (“Contractor”). City and Contractor are collectively referred to herein as “the Parties.”

WHEREAS, the City and Contractor previously entered into an Agreement for Landscape Maintenance Services on February 3, 2022 (“Agreement”), which provided for Contractor to complete landscape maintenance services at City of Snoqualmie Facilities during the period 2022 thru 2024; and

WHEREAS, Section 7.A. of the Agreement allows at the City’s option, the agreement to be extended for up to two (2) one-year terms with adjusted pricing based on the annual increase in the Consumer Price Index for Seattle-Bremerton for each year of the renewal;

WHEREAS, the City has requested Contractor to provide extended services for the year 2025; and

WHEREAS, Contractor has the resources and capability to perform this work and has provided pricing for such additional work;

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

Section 1. Scope of Work Amended. The February 3, 2022 Agreement is hereby amended to add the additional work tasks set forth in Addendum 2 dated January 2024.

Section 2. Compensation Amended. Section 3 of the February 3, 2022 Agreement (“Compensation”) is hereby amended to increase the year 2025 compensation to be paid Consultant for the work from \$34,578 to \$36,065.

Section 3. Term Amended. Section 7 of the February 3, 2022 Agreement “Term and Termination” is hereby amended to extend the Agreement term thru December 31, 2025.

CITY OF SNOQUALMIE,
WASHINGTON

By: _____

Its: Mayor

Date: _____

Contractor AtWork Commercial Enterprises, LLC.

By: _____

Typed/Printed Name: _____

Its: _____

Date: _____

ATTEST:

Deana Dean, City Clerk

Date: _____

APPROVED AS TO FORM:

David Linehan, City Attorney

Date: _____

Section 00 05 00

LANDSCAPE MAINTENANCE AGREEMENT - FACILITIES

THIS AGREEMENT is made by and between the City of Snoqualmie, a Washington municipal corporation (hereinafter the "City"), and AtWork Commercial Enterprises, organized under the laws of the State of Washington, located and doing business at 1935 152nd PI NE, Bellevue, Washington (hereinafter the "Contractor" or "Vendor").

1. **DESCRIPTION OF WORK.** The Contractor shall do all the work and furnish all labor, materials, tools and equipment for the performance of the work (the "Work") in full compliance with the contract documents entitled **2022-2024 Landscape Maintenance (Facilities and Parks)** ("Contract Documents"), including this Agreement, Invitation to Bid, Instructions to Bidders, General Provisions, Specifications for Landscape Maintenance, Prevailing Wage Rate Requirements, Bid Form and Bid Schedules, Bid Guarantee Bond, Bidder Qualification/Responsibility Information, Performance and Payment Bond, Executed Retainage Forms, and Appendices A-C, all of which are incorporated by reference and made a part of this Agreement.
2. **TIME OF COMPLETION.** Upon the effective date of this Agreement, Vendor shall commence work, and complete the work and provide all goods, materials, and services according to the intervals and on the schedule set forth in the Contract Documents.
3. **COMPENSATION.** The City shall pay the Vendor an amount not to exceed the amount of \$34,578.56 in year 2022, \$34,578.56 in year 2023, and \$34,578.56 in year 2024, including applicable Washington State Sales Tax, for the goods, materials, and services contemplated in this Agreement. The City shall pay the Vendor the annual "not to exceed amount" in twelve (12) equal monthly installments per year.
 - A. **Defective or Unauthorized Work.** The City reserves its right to withhold payment from Vendor and to assess penalties for any defective, incomplete or unauthorized goods, materials or services, as described in the General Provisions. In the event of errors or omissions by the Vendor in the performance of any Work required under this Contract, the Vendor shall make any and all necessary corrections without additional compensation.
 - B. **Replacement Work.** If Vendor is unable, for any reason, to complete any part of this Agreement, the City may obtain the goods, materials or services from other sources, and Vendor shall be liable to the City for any additional costs incurred by the City. "Additional costs" shall mean all reasonable costs, including legal costs and attorney fees, incurred by the City beyond the maximum Agreement price specified above. The City further reserves its right to deduct these additional costs incurred to complete this Agreement from any and all amounts due or to become due the Vendor.
4. **CHANGES.** The City reserves the right to direct Vendor to change the frequency of services, add services or deduct services, as described in the General Provisions. In the event of any such changes, the City will adjust the monthly fee paid to Vendor to reflect

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the changes. All change directives will be issued in writing, and all services changes shall be itemized separately in the Vendor's monthly invoice.

5. **INVOICING AND PAYMENT.** The Vendor shall submit a monthly invoice on the last day of the month to the Parks and Public Works Department. Each invoice must contain an invoice number, site name, billing period, amount due for each site, and Washington Sales Tax if applicable. Each invoice must itemize any changes due to addition or deduction of services, or to changes in service frequency. Each invoice must also be accompanied by properly filled-out Supervisor's Inspection Reports. Any submitted invoice that is not accompanied by the Supervisor's Inspection Reports will not be processed.
6. **PREVAILING WAGES.** Vendor shall file a Statement of Intent to Pay Prevailing Wages with the State of Washington Department of Labor & Industries prior to commencing the Contract work. Vendor shall pay prevailing wages in effect on the date the bid is accepted or executed by Vendor, and comply with Chapter 39.12 of the Revised Code of Washington, as well as any other applicable prevailing wage rate provisions. At the completion of the Work, Vendor and its subcontractors shall submit Affidavits of Wages Paid to the Department of Labor and Industries for certification. Final payment on the Contract shall be withheld until the City receives certification from the Department of Labor and Industries that prevailing wage requirements have been satisfied.
7. **TERM AND TERMINATION.**
 - A. **Term.** This Agreement shall remain in effect until December 31, 2024 ("Initial Term"). At the City's option, this Agreement may be extended for up to two (2) one-year terms. Compensation for the renewal terms shall be the amount paid per month for the last twelve (12) months of the Initial Term plus an increase equal to the annual increase in the Consumer Price Index for Seattle-Bremerton for each year of the renewal term(s).
 - B. **Termination.** Either party may terminate this Agreement, with or without cause, upon providing the other party thirty (30) days written notice at its address set forth on the signature block of this Agreement. In addition, the City has a right to immediately terminate this Contract upon written notice to the Vendor if: (1) the Vendor fails to comply with any provisions of this Contract and fails to timely cure the deficiency, as described in the General Provisions; or (2) the Vendor becomes insolvent or is adjudged bankrupt.
8. **WARRANTY.** Vendor warrants that it will faithfully and satisfactorily perform all work provided under this Agreement in accordance with the provisions of this Agreement and further warrants that the Work shall be free from defects in workmanship and material. The Vendor shall promptly correct all defects in workmanship and materials: (1) when Vendor knows or should have known of the defect, or (2) upon Vendor's receipt of notification from the City of the existence or discovery of the defect.

9. **INDEMNIFICATION.** Vendor shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorney fees, arising out of or in connection with the Vendor's performance of this Agreement, except for that portion of the injuries and damages caused by the City's negligence. The City's inspection or acceptance of any of Vendor's work when completed shall not be grounds to avoid any of these covenants of indemnification. It is further specifically and expressly understood that the indemnification provided herein constitutes the vendor's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purposes of this indemnification. The parties further acknowledge that they have mutually negotiated this waiver. In the event Vendor refuses tender of defense in any suit or any claim, if that tender was made pursuant to this indemnification clause, and if that refusal is subsequently determined by a court having jurisdiction (or other agreed tribunal) to have been a wrongful refusal on the Vendor's part, then Vendor shall pay all the City's costs for defense, including all reasonable expert witness fees and reasonable attorneys' fees, plus the City's legal costs and fees incurred because there was a wrongful refusal on the Vendor's part. The provisions of this section shall survive the expiration or termination of this Agreement.
10. **INDEPENDENT CONTRACTOR.** The parties intend that an Independent Contractor-Employer Relationship will be created by this Agreement. By their execution of this Agreement, and in accordance with Ch. 51.08 RCW, the parties make the following representations:
- A. The Vendor has the ability to control and direct the performance and details of its work, the City being interested primarily in the results obtained under this Agreement.
 - B. The Vendor maintains and pays for its own place of business from which Vendor's services under this Agreement will be performed.
 - C. The Vendor has an established and independent business that is eligible for a business deduction for federal income tax purposes that existed before the City retained Vendor's services, or the Vendor is engaged in an independently established trade, occupation, profession, or business of the same nature as that involved under this Agreement.
 - D. The Vendor is responsible for filing as they become due all necessary tax documents with appropriate federal, state and local agencies, including the Internal Revenue Service, the state Department of Revenue and the City of Snoqualmie.
 - E. The Vendor has registered and/or licensed its business and established an account with the state Department of Revenue, the City of Snoqualmie and other state and/or local agencies as may be required by Vendor's business, and has obtained a Unified Business Identifier (UBI) number from the State of Washington and a business license from the City of Snoqualmie.
 - F. The Vendor maintains a set of books dedicated to the expenses and earnings of its business.

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11. **BOND.** Contractor shall provide a performance and payment bond for the faithful performance and payment of all its obligations under this Contract and in accordance with RCW 39.08.010. The performance bond shall remain in effect to guarantee the repair and replacement of defective equipment, materials, and workmanship and payment of damages sustained by the City on account of such defects, discovered within one (1) year after final acceptance by the City.
12. **RETAINAGE.** The City shall retain monies as required by RCW 60.28 and pay the retainage as provided therein.
13. **DISCRIMINATION.** In the hiring of employees for the performance of work under this Agreement or any sub-contract, the Vendor, its sub-contractors, or any person acting on behalf of the Vendor or sub-contractor shall not, by reason of race, religion, color, sex, age, sexual orientation, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.
14. **LIMITATION OF ACTIONS.** Vendor must file any lawsuit arising from or connected with this Agreement within 120 days from the date the contract work is complete or vendor's ability to file that suit shall be forever barred. This section further limits any applicable statutory limitations period.
15. **INSURANCE.** A. Consultant shall comply with the following conditions and procure and keep in force at all times during the term of this Agreement, at Consultant's expense, the following policies of insurance with companies authorized to do business in the State of Washington. The Consultant'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.
 - A. 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 Consultant shall require each sub-consultant to provide Workers' Compensation Insurance for its employees, unless the Consultant covers such employees.
 - B. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$2,000,000 per occurrence and at least \$5,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.
 - C. 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.
 - D. Professional Errors and Omissions Insurance in an amount not less than \$1,000,000 per occurrence and \$1,000,000 in the annual aggregate. Coverage may be written on a claims made basis; provided that the retroactive date on the policy or any renewal policy

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shall be the effective date of this Agreement or prior, and that the extended reporting or discovery period shall not be less than 36 months following expiration of the policy. The City may waive the requirement for Professional Errors and Omissions Insurance whenever the Work does not warrant such coverage or the coverage is not available.

- E. Pollution Liability insurance in the amount of \$1,000,000 per occurrence and in the aggregate to cover sudden and non-sudden bodily injury and/or property damage to include the destruction of tangible property, loss of use, clean-up costs and the loss of use of tangible property that has not been physically injured or destroyed.
 - F. 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.
 - G. Before the Consultant performs any Work, Consultant shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the above-required insurance and naming the City of Snoqualmie, 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 Consultant's obligations to fulfill the requirements.
 - H. Consultant shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Consultant shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.
16. **JOB SAFETY.** All work done shall be done in a manner that minimizes interruptions or inconvenience to the public and/or City staff. All work shall be carried on with due regard for the safety of the public, and Contractor shall maintain strict compliance with the appropriate provisions relating to control of traffic and pedestrians through work areas as set forth in the Manual on Uniform Traffic and Control Devices (current edition) as adopted by the Washington State Department of Highways. Property and streets adjacent to the Project site shall be kept free and clear at all times from accumulations of mud, dirt, gravel, rock, and other matter. Contractor will be responsible for daily and final clean up and disposal of refuse, waste and debris produced by its operation. Should the City determine Contractor is not fulfilling its obligation in this regard, the City reserves the right to take such action as may be necessary, and to charge Contractor with any costs that may be incurred in such remedial action.
- A. **Work performed at Vendor's risk.** Vendor shall take all necessary precautions and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work and shall utilize all protection necessary for that purpose. All work shall be done at Vendor's own risk, and Vendor shall be

responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

17. MISCELLANEOUS PROVISIONS.

- A. Non-Waiver of Breach.** The failure of the City to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.
- B. Resolution of Disputes and Governing Law.** If any dispute, controversy, or claim arises out of this Contract, the parties agree to first try to settle the dispute, controversy, or claim in non-binding mediation with the assistance of a recognized professional mediation service. The parties shall each designate a representative with full settlement authority who will participate in the mediation. The parties shall bear all expenses charged by the mediation service equally; the parties shall be responsible for their own attorneys' fees incurred as a result of mediation.
- C. Written Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary.
- D. Assignment.** Any assignment of this Agreement by either party without the written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.
- E. Modification.** No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and Vendor.
- F. Entire Agreement.** The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the above documents are hereby made a part of this Agreement. However, should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, the terms of this Agreement shall prevail.
- G. Compliance with Laws.** The Vendor agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Vendor's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

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- H. Public Records Act.** The Vendor acknowledges that the City is a public agency subject to the Public Records Act codified in Chapter 42.56 of the Revised Code of Washington and documents, notes, emails, and other records prepared or gathered by the Vendor in its performance of this Agreement may be subject to public review and disclosure, even if those records are not produced to or possessed by the City of Snoqualmie. As such, the Vendor agrees to cooperate fully with the City in satisfying the City's duties and obligations under the Public Records Act.
- I. City Business License Required.** Prior to commencing the Work, and every January thereafter for the Term of this Agreement, Contractor agrees to provide proof of a current city of Snoqualmie business license and payment of all applicable business and occupation taxes pursuant to Chapters 5.04 and 5.08 of the Snoqualmie Municipal Code.
- J. Counterparts and Signatures by Fax or Email.** This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Agreement. Further, upon executing this Agreement, either party may deliver the signature page to the other by fax or email and that signature shall have the same force and effect as if the Agreement bearing the original signature was received in person.
- K. Jurisdiction/Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Washington. Any suit to enforce or relating to this Contract shall be brought in King County Superior Court, King County, Washington.
- L. Attorneys' Fees.** In the event that any party commences litigation against the other party relating to the performance, enforcement or breach of this Contract, the prevailing party in such action shall be entitled to all costs, including attorneys' fees and costs and any such fees or costs incurred on appeal.
- M. Exclusivity.** Vendor acknowledges and understands that it is not the City's exclusive provider of these goods, materials, or services and that the City maintains its unqualified right to obtain these goods, materials, and services through other sources.

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IN WITNESS, the parties below execute this Agreement, which shall become effective on the last date entered below. All acts consistent with the authority of this Agreement and prior to its effective date are ratified and affirmed, and the terms of the Agreement shall be deemed to have applied.

Contractor

By: Robert Thang

Print Name: Robert Thang

Its CEO

Date: 1/19/2022

Notices to be sent to:

City of Snoqualmie

By: Mayor Katherine Ross

Print Name: Katherine Ross

Its Mayor

Date: 2/3/2022

Notices to be sent to:

Attest:

Deborah A. Estrada 2/3/2022
Deborah A. Estrada, City Clerk

Approved as to form by:

Bob Sterbank 2/3/2022
Bob Sterbank, City Attorney