

Section 00 05 00
AGREEMENT
JOB ORDER CONTRACT

THIS AGREEMENT is made on this _____, 2023 between the City of Snoqualmie ("City"), a municipal corporation located in the State of Washington and Forma Construction Inc., ("Job Order Contractor" or "Contractor").

In consideration of the terms and conditions contained in this Contract and the requirements attached to it, the parties agree as follows:

1. The City retains the Contractor to provide construction work and services as described in individual Job Orders that shall be issued for each Project. Any inconsistency between this Agreement and the Job Order(s) shall be resolved in favor of this Agreement. The Consultant shall perform the Work according to the terms and conditions of this Agreement. Work shall commence when the City issues a notice to proceed.
2. The Minimum Contract Value of Job Orders that the Contractor is guaranteed the opportunity to perform during the Base Term of this Agreement is \$25,000. The City is not obligated to provide the Contractor the opportunity to perform Job Orders in excess of the Minimum Contract Value.
3. The maximum dollar amount for any Job Order is \$500,000, excluding Washington state sales and use tax. At least 90 percent of work contained in a job order contract must be subcontracted to entities other than the job order contractor.
4. Upon the issuance of a Job Order, the Contractor shall do all of the work and furnish all of the labor, materials, tools and equipment for the construction of the improvements and shall perform any changes in the work (the "Work"), all in full compliance with the Contract Documents entitled Job Order Contract, which include this Agreement (Section 00 05 00), Contractor's response to Bidder's Questionnaire (Section 00 03 05), executed Performance and Payment Bond (Section 00 04 20), executed Retainage Forms (Section 00 05 10); General Terms and Conditions (00 07 00), those portions of the Washington State Department of Transportation (WSDOT) Standard Specifications for Road, Bridge and Municipal Construction, 2021 edition specifically incorporated by reference and/or modified herein, Technical Provisions, Appendices _____, Addenda _____, any project drawings or plans, and the Construction Task Catalog.
5. The City hereby promises and agrees with the Contractor to employ, and does employ the Contractor to furnish the labor, materials, tools and equipment, and to do and cause to be done the Work as described in individual Task Orders, and to complete and finish the same in accordance with the Contract Documents and the terms and conditions herein contained, and hereby contracts to pay for the same, according to the said documents and the terms and conditions herein contained, and hereby contracts to pay for the same, according to the said documents.
6. Upon the issuance of a Job Order, the Contractor hereby promises and agrees to diligently prosecute and obtain Substantial Completion of the Work within time set forth in the Job Order (the "Contract Time"), and to obtain Physical Completion and Final Acceptance of the Work within the time and as specified in the Contract Documents. The Contractor shall complete all work called for in each individual Job Order issued pursuant to this Contract for the Unit Prices set forth in the Construction Task Catalog and the following Adjustment Factors:

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A. Normal Working Hours Adjustment Factor: 1.35

Work performed between the hours of 7:00 am and 4:00 pm, Monday through Friday, except for City Holidays.

B. Other Than Normal Working Hours Adjustment Factor: 1.35

Work performed between the hours of 4:01 pm and 6:59 am, Monday through Friday, and all-day Saturday, Sunday and City Holidays

C. Non-Prepriced Adjustment Factor: 1.15.

7. Payment. For all Job Orders that have a Job Order Completion Time of 45 days or less, or a Job Order Price of \$25,000 or less, the City shall make one payment. For all other Job Orders, the City shall make payments in accordance with the Contract Documents.
8. Liquidated Damages. The Contractor agrees that Liquidated Damages shall be assessed in the amount indicated in the table below for any failure to complete the Work within the Job Order Completion Time, for any failure to meet a Job Order Milestone, and for any failure to achieve Physical Completion and Final Acceptance within the time and as required in the Job Order.

Value of Job Order	Liquidated Damages
\$0 to \$10,000	\$100/Day
\$10,001 to \$50,000	\$250/Day
Over \$50,000	\$500/Day

9. Term. The Base Term of this Agreement is 2 years. Upon agreement of the City and the Contractor, the Agreement may be extended for an additional year ("Option Term").
10. The Contractor for himself, and for his agents, successors, assigns, subcontractors and/or employees, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.
11. The City hereby appoints and the Contractor hereby accepts the Parks & Public Works Director, as the City's representative for the purpose of administering the provisions of this Contract, including the City's right to receive and act on all reports and documents related to this Contract, to request and receive additional information from the Contractor.
12. This Contract contains terms and conditions agreed upon by the parties. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Contract.
13. The Contractor agrees to comply with all applicable Federal, State, City or municipal standards for the licensing, certification, operation of facilities and programs, and accreditation and licensing of individuals.
14. The Contractor shall not assign or subcontract any portion of the work provided for under the terms of this Contract without obtaining prior written approval of the City. All terms and conditions of this Contract shall apply to any approved subcontract or assignment related to this Contract.
15. The parties intend that an independent Contractor-City relationship will be created by this Contract. The City is interested only in the results to be achieved, and the implementation of

the work will lie solely with the Contractor. No agent, employee, servant, or representative of the Contractor shall be deemed to be an employee, agent, servant, or representative of the City for any purpose. Employees of the Contractor are not entitled to any of the benefits the City provides for City employees. The Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors, or otherwise during the performance of this Contract. In the performance of the work herein contemplated, the Contractor is an independent Contractor with regard to the performance of the details of the work; however, the components of and the results of the work contemplated herein must meet the approval of the City and shall be subject to the general rights of inspection and review to secure the satisfactory completion thereof.

16. The Contractor agrees and covenants to indemnify, defend, and save harmless, the City and those persons who were, now are, or shall be duly elected or appointed officials or employees thereof, hereinafter referred to as the "City" against and from any loss, damage, costs, charge, expense, liability, claims, demands or judgments, of whatsoever kind or nature, whether to persons or to property, arising wholly or partially out of any act, action, neglect, omission, or default on the part of the Contractor, his agents, successors, assignees, subcontractors and/or employees, except only such injury or damage as shall have been caused by or resulted from the sole negligence of the City. In case any suit or cause of action shall be brought against the City on account of any act, action, neglect, omission, or default on the part of the Contractor, his agents, successors, assignees, subcontractors and/or employees the Contractor hereby agrees and covenants to assume the defense thereof and to pay any and all costs, charges, attorney's fees and other expenses and any and all judgments that may be incurred or obtained against the City. In the event the City is required to institute legal action and/or participate in the legal action to enforce this Indemnification and Hold Harmless Clause, the Contractor agrees to pay the City's legal fees, costs and disbursements incurred in establishing the right to indemnification. If the claim, suit, or action for injuries, death, or damages as provided for in the preceding paragraphs of this specification is caused by or results from the concurrent negligence of (a) the indemnitee or the indemnitee's agents or employees and (b) the indemnitor or the indemnitor's agents for employees the indemnity provisions provided for in the preceding paragraphs of this specification shall be valid and enforceable only to the extent of the indemnitor's negligence. The Contractor expressly waives, as respects the City only, all immunity and limitation on liability under any Industrial Insurance Act, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim. BY INITIALING BELOW THE OWNER AND CONTRACTOR CERTIFY THE WAIVER OF IMMUNITY SPECIFIED BY THIS PROVISION WAS MUTUALLY NEGOTIATED.
17. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is mutually understood and agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action in law, suit and equity or judicial proceedings for the enforcement of this contract or any provisions thereof, shall be instituted and maintained in the courts of competent jurisdiction located in King County, Washington.
18. The failure of the City to insist upon strict performance of any of the covenants and agreements of this Contract or to exercise any option herein conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such obligation, or any other covenants or agreements, but the same shall be and remain in full force and effect.
19. It is understood and agreed by the parties hereto that if any part of this agreement is determined to be illegal, the validity of the remaining portions shall be construed as if the agreement did not contain the particular illegal part.

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20. No change or addition to this Contract shall be valid or binding upon either party unless such change or addition shall be in writing, executed by both parties.
21. The Contractor shall fully comply with all applicable state and federal employment and discrimination laws and regulations. IN WITNESS WHEREOF, the Contractor has executed this instrument, on the day and year first below written and the Mayor has caused this instrument to be executed by and in the name of the said City, the day and year first above written.
22. Pursuant to RCW 39.10.450, the City may not issue a Job Order to a contractor until the City has approved a plan prepared by the contractor that equitably spreads certified women and minority business enterprise subcontracting opportunities among the various subcontract disciplines to the extent permitted by RCW 49.60.400.

IN WITNESS WHEREOF, the Contractor has executed this instrument, on the day and year first below written and the Mayor has caused this instrument to be executed by and in the name of the said City, the day and year first above written.

CITY OF SNOQUALMIE ("CITY")

By _____

Typed Name: Katherine Ross _____

Its: Mayor _____

Phone: _____

Fax: _____

Date: _____

FORMA CONSTRUCTION INC.

[CONTRACTOR]

By _____

Typed Name _____

Its _____

Phone: _____

Fax: _____

Date: _____

WA Contractor's License No. _____

