

CITY OF SNOQUALMIE
AGREEMENT FOR CONSULTANT SERVICES
Contract Title: IVOXY Consultant Services
Contract #: 24-054

THIS AGREEMENT made and entered into by and between the CITY OF SNOQUALMIE, a Washington municipal corporation (the "City"), and IVOXY Consulting. ("Consultant") is dated this _____ day of _____ 2024.

Consultant Business: IVOXY Consulting

Consultant Address: 1455 NW Leary Way, Suite 400, Seattle, WA 98107

Consultant Phone: 360-509-8507

Contact Name: Tyler Cook

Contact e-mail: Tyler@ivoxy.com

Federal Employee ID No.: 20-5369559

Authorized City Representative for this contract: Katherine Ross, Mayor

WHEREAS, the *City desires to enter into a professional services agreement with Consultant for planning, design, and configuration services of new network switches; and*

WHEREAS, public convenience and necessity require the City to obtain the services of a consultant with expertise in the area of network infrastructure; and

WHEREAS, the City finds that Consultant is qualified to perform and is experienced in performing the required services; and

WHEREAS, the city desires to engage the Consultant to produce planning, design, and configuration services of new network switches on the terms stated herein;

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

1. Employment of Consultant.

A. The City retains the Consultant to provide the services described in "Exhibit A" (the "Scope of Work"). These services are hereinafter referred to as the "Work." Any inconsistency between this Agreement and the Scope of Work shall be resolved in favor of this Agreement. The Consultant shall perform the Work according to the terms and conditions of this Agreement.

B. The City may revise the Scope of Work and the compensation only by a written Change Order signed by both the authorized City representative and by Consultant that shall become a part of this Agreement.

C. The project manager(s) of the Work shall be Dan Stoecker. The project manager(s) shall not be replaced without the prior written consent of the City, which may not be unreasonably withheld.

D. Work shall commence when the City issues a notice to proceed and it shall be completed no later than the later of (i) December 31, 2024, or (ii) 90 days after the City issues a notice to proceed, unless the completion date is extended in writing by the City.

2. Compensation.

A. The total compensation to be paid to Consultant for services rendered shall not exceed \$106,481.60 as shown on the Cost Proposal in Exhibit A, which shall be full compensation for the Work.

B. The Consultant shall be paid in such amounts and in such manner as described in Exhibit A. In the event that the City directs the Consultant to perform supplemental services beyond the Scope of Work, any such additional activities will be compensated according to the schedule of Hourly Rates shown in Exhibit A and only after a written agreement authorizing the expanded scope of work and cost has been signed by authorized representatives of both parties.

C. Consultant shall be reimbursed for Eligible Expense actually incurred. Eligible Expenses not included in Exhibit A, such as air travel and overnight lodging, shall be approved for reimbursement by the City in writing before the expense is incurred. If travel and/or overnight lodging is authorized, Consultant shall lodge within the corporate limits of City.

3. Request for Payment.

A. Not more than once every thirty days the Consultant shall file its request for payment, 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.

B. All requests for payment should be sent to

City of Snoqualmie
Attn: Fletcher Lacroix, IT Director
38624 SE River Street
P.O. Box 987
Snoqualmie, WA 98065

4. Work Product.

A. The Consultant shall submit all reports and other documents specified in Exhibit A according to the schedule established in consultation with the City once this Agreement is signed and the process begins. If, after review by the City, the Work or any Task or subtask of the Work is found to be commercially unacceptable, Consultant, at its expense, shall expeditiously correct such unacceptable Work. If Consultant 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 such unacceptable Work.

B. All reports, drawings, plans, specifications, and intangible property created in furtherance of the Work, and any intellectual property in such documents (collectively, "Deliverables"), are property of the City and may be used by the City for any purpose, provided that re-use without Consultant's permission shall be at the City's sole risk. Consultant hereby irrevocably assigns all right, title, and interest it has or may have in any Work produced for the City under this Agreement. Notwithstanding the foregoing, Consultant and its licensors are, and shall remain, the sole and exclusive owners of all right, title, and interest in and to the Pre-Existing Materials, including all intellectual property rights therein. Consultant hereby grants City a limited, irrevocable, perpetual, fully paid-up, royalty-free, non-transferable, non-sublicenseable, worldwide license to use, execute, reproduce, distribute, transmit, and modify any Pre-Existing Materials to the extent incorporated in, combined with or otherwise necessary for

the use of the Deliverables solely to the extent reasonably required in connection with City's receipt or use of the Deliverables. All other rights in and to the Pre-Existing Materials are expressly reserved by Consultant. "Pre-Existing Materials" means the pre-existing materials all documents, data, know-how, methodologies, software, and other materials, including computer programs, reports, and specifications, provided by or used by Consultant in connection with performing the Work, in each case developed or acquired by the Consultant prior to the commencement of this Agreement.

C. The Consultant shall notify the City as soon as possible if hardware and software bugs are encountered during the project. The City understands that any bugs could impact the scope of work.

D. The City is responsible for, and assumes all risk associated with associated with problems resulting from the content, completeness, accuracy, and consistency of any data, materials, or information supplied by the City.

5. Termination of Contract. City may terminate this Agreement by sending a written notice of termination to Consultant ("Notice") that specifies a termination date ("Termination Date") at least fourteen (14) days after the date of the Notice¹; provided, however, that in the event of a material breach of this Agreement, termination may be effective immediately or upon such date as determined by the City in its sole discretion. Upon receipt of the Notice, the Consultant shall acknowledge receipt to the City in writing and immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Consultant's material breach, the Consultant shall be paid or reimbursed for all services performed and Eligible Expenses incurred up to the Termination Date, less all payments previously made. Consultant shall be paid for any Work satisfactorily performed after date of the Notice that is reasonably necessary to terminate the Work in an orderly manner. The Notice may be sent by any method reasonably believed to provide Consultant actual notice in a timely manner.

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

7. Indemnification.

A. To the extent permitted by law and irrespective of any insurance required of the Consultant, the Consultant shall defend and indemnify the City from any and all Claims arising out of or in any way relating to Consultant's negligence in the performance of any Work under 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.

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

C. To the extent permitted by law and irrespective of any insurance required of the City, the City shall defend and indemnify Consultant from any and all Claims arising out of or in any way relating to City's negligence in (i) bodily injury, death of any person, or damage to real or tangible, personal property resulting from the willful, fraudulent, or negligent acts or omissions of the City or City personnel, or (ii)

breach of any representation, warranty, or obligation of the City set forth in 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 Consultant compared to the total negligence of all persons, firms, or corporations that resulted in the Claim.

D. As used in this paragraph 7: (1) "City" includes the City's officers, employees, agents, and representatives; (2) "Consultant" includes employees, agents, representatives sub-consultants; and (3) "Claims" includes, but is not limited to, any and all losses, claims, causes of action, demands, liabilities, expenses, attorney's fees and litigation expenses, suits, judgments, or damages arising from injury to persons or property.

E. Consultant shall ensure any authorized sub-consultant shall agree to defend and indemnify the City to the extent and on the same terms and conditions as the Consultant pursuant to this paragraph.

8. 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.

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 Consultant shall require each sub-consultant to provide Workers' Compensation Insurance for its employees, unless the Consultant 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 used by Consultant in the course of the Work. A statement by Consultant and approved by the City Administrator, certifying that no vehicle will be used in accomplishing this Agreement, may be substituted for this insurance requirement.
4. 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 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.
5. 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 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.

C. 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.

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

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

10. Employment. The Consultant warrants that it did not employ or retain any company or person, other than a bona fide employee working solely for the Consultant, 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. During the term of this Agreement and for a period of Two (2) years thereafter, the Consultant shall make available to the City during normal business hours and as the City deems necessary for audit and copying all of the Consultant's records and documents with respect to all matters covered by this Agreement.

12. City of Snoqualmie Business License. Consultant shall obtain a City of Snoqualmie business license before performing any Work.

13. Compliance with Federal, State and Local Laws. Consultant 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. Waiver. Any waiver by the Consultant 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.

15. 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.

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

17. 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.

18. Notices.

A. Notices to the City of Snoqualmie shall be sent to the following address:

City of Snoqualmie
Attn: Fletcher Lacroix, IT Director
38624 SE River Street
P.O. Box 987
Snoqualmie, WA 98065

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

IVOXY Consulting
1455 NW Leary Way, Suite 400
Seattle, WA 98107

19. Venue. This Agreement shall be governed by the law of the State of Washington without regard to its choice-of-law principles, and venue for any lawsuit arising out of this Agreement shall be exclusively in King County.

IN WITNESS WHEREOF, the City and Consultant have executed this Agreement as of the date last signed below.

	CONSULTANT: Please fill in the spaces and sign in the box appropriate for your business entity.
CITY OF SNOQUALMIE, WASHINGTON	IVOXY CONSULTING
By: _____ Its: Mayor	By: _____ Typed/Printed Name: Its:
Date: _____	Date: _____

ATTEST:

By: _____
Deanna Dean, City Clerk

Date:

APPROVED AS TO FORM:

By: _____
David Linehan, Interim City Attorney

Date: _____

Exhibit A

Scope of Work: