

EXHIBIT A - CONTRACT FOR LANDSCAPE MAINTENANCE

LANDSCAPE MAINTENANCE SERVICES CONTRACT

This Contract is entered into between Puget Sound Regional Fire Authority, a municipal corporation, referred to as "Owner", and _____ referred to as "Contractor."

In consideration of the following terms and conditions and those contained in the documents incorporated by reference and made a part of this Contract, the parties agree as follows:

1. THE PROJECT

- 1.1. The Contractor shall perform all work and furnish all tools, materials, labor and equipment for the Owner and all work associated with the project entitled: Landscape Maintenance Services as set forth in Attached Exhibit 1.
- 1.2. The work shall be performed in accordance with this Agreement, **Exhibit 1 - Scope of Services**, Owner's Small Works Roster RFQ and associated documents and Contractor's proposal.
- 1.3. The Contractor shall provide and bear all expense of all equipment, supplies, work, and labor of any sort whatsoever that may be required for completing the work provided for in this Contract.
- 1.4. In the event of any conflict between the provisions of this Contract and incorporated Contract Documents including Exhibit 1 and other terms and conditions, the provisions of this Contract shall control. In the event of a conflict between Owner's Small works Roster RFQ and associated documents and Contractor's proposal the Owner's documents shall control. Any conflict shall be brought to the attention of the Owner.
- 1.5. The Contractor is responsible for complying with all Federal, State, and local regulations affecting the work including but not limited to Chapter 70.86 RCW, Chapter 296-305 WAC and Chapter 294-24WAC.

2. COMPENSATION

- 2.1. The Owner shall pay the Contractor for the full performance of the Contract the sum of \$ _____ in accordance with the provisions below.

- 2.2. The Contractor shall provide monthly statements which shall indicate the work performed as of the end of the period covered by the statement.
- 2.3. Statements received by the 10th day of the month and approved by the Owner will be processed for payment the same month.
- 2.4. Washington State Sales Tax shall be included on each statement submitted by the Contractor.

3. BOND

- 3.1. If this Contract is for less than \$50,000, Owner waives the Performance Bond pursuant to RCW 39.04.155(3). If this Contract is for more than \$50,000 Contractor shall provide a performance bond consistent with the requirements set forth in the bidding documents.

4. INDEMNIFICATION AND HOLD HARMLESS

- 4.1. The Contractor shall indemnify, defend and save the Owner and its commissioners, officers, employees and agents harmless from any and all claims and risks and losses, damages, demands, suits, judgments and attorney's fees or other expenses of any kind on account of or relating to injury to or death of any and all persons or on account of all property damage of any kind, or in any manner connected with the work performed under this Contract, or caused in whole or in part by the Contractor, a subcontractor or their property, employees or agents during performance of the work or at any time before final acceptance, except only for those losses resulting from the sole negligence of the Owner with regard to activities within the Contractor's scope of work
- 4.2. However, should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Owner, its members, officers, employees and agents, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

4.3. In an arbitration or lawsuit with respect to this hold harmless provision, the Contractor shall prepare and defend that lawsuit at its own cost and expense. If judgment is rendered or settlement made requiring payment of damages by the Owner, its officers, agents, employees and volunteers, the Contractor shall pay the same.

5. INSURANCE

5.1. The Contractor shall obtain the insurance described in this section from insurers approved by the State Insurance Commissioner pursuant to RCW Title 48. The insurance must be provided by an insurer with a rating of A-VII or higher in the A.M. Best's Key Rating Guide. The Owner reserves the right to approve or reject the insurance provided, based on the insurer (including financial condition), terms and coverage, the Certificate of Insurance, and/or endorsements.

5.2. The Contractor shall keep this insurance in force during the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated in Section 5.3.

5.3. If any insurance policy is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Final Completion or earlier termination of this Contract, and the Contractor shall annually provide the Owner with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Owner to assure financial responsibility for liability for services performed.

5.4. The Contractor's and all sub contractors' insurance coverage shall be primary and non-contributory insurance as respects the Owner's insurance, self-insurance, or insurance pool coverage.

5.5. The Contractor and the Owner waive all rights against each other, any of their Subcontractors, Sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to the Insurance Requirements Section of this Contract or other property insurance

applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

- 5.6. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Owner may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Owner on demand, or at the sole discretion of the Owner, offset against funds due the Contractor from the Owner.
- 5.7. The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Owner's recourse to any remedy available at law or in equity. All deductibles and self-insured retentions must be disclosed and are subject to approval by the Owner. The cost of any claim payments falling within the deductible shall be the responsibility of the Contractor.
- 5.8. The Contractor shall provide the Owner and all Additional Insureds with written notice of any policy cancellation, within two business days of their receipt of such notice.
- 5.9. The Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by the Owner.
- 5.10. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the contract and no additional payment will be made.
- 5.11. All insurance policies, with the exception of Workers Compensation, shall name the following listed entities as additional insured(s):
 - 5.11.1. The Owner and its officers, elected officials, employees, agents, and volunteers;
 - 5.11.2. The above-listed entities shall be additional insured(s) for the full available limits of liability maintained by the Contractor, whether primary, excess, contingent or otherwise, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract, and irrespective of whether the Certificate of Insurance

provided by the Contractor describes limits lower than those maintained by the Contractor.

5.12. The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the Owner is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

5.13. The Contractor shall deliver to the Owner a Certificate(s) of Insurance and endorsements for each policy of insurance meeting the requirements set forth herein before commencement of the work.

6. TYPES OF INSURANCE REQUIREMENTS

6.1. The Contractor's required insurance shall be of the types and coverage as stated below:

6.1.1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

6.1.2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an endorsement providing at least as broad coverage. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The Owner shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the Owner using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.

6.1.3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

7. MINIMUM AMOUNTS OF INSURANCE

7.1. The Contractor shall maintain the following insurance limits:

7.1.1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

7.1.2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.

7.1.3. If the Contractor maintains higher insurance limits than the minimums shown above, the Owner shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract or whether any certificate of insurance furnished to the Owner evidences limits of liability lower than those maintained by the Contractor.

8. CHANGE ORDERS

8.1. The Owner reserves the right to make, at any time during the Project, such changes in quantities and such alterations in the Project as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered. The Contractor shall proceed with the work upon receiving a written change order approved by the Owner. In spite of any protest or claim, the Contractor shall proceed promptly with the work as the Owner orders.

9. CLAIMS

9.1. The Contractor shall give written notice to the Owner of all claims other than change orders within five (5) calendar days of the occurrence of events giving rise to the claim. Any claim for damages, additional payment for any reason, or extension of time, shall be conclusively deemed to have been waived by the Contractor unless a timely written claim is made in strict accordance with the applicable provisions of this Agreement. FAILURE TO PROVIDE A COMPLETE, WRITTEN NOTIFICATION OF CLAIM WITHIN THE TIME ALLOWED

SHALL BE AN ABSOLUTE WAIVER OF ANY CLAIMS ARISING IN ANY WAY FROM THE FACTS OR EVENTS SURROUNDING THAT CLAIM. THE CONTRACTOR'S ACCEPTANCE OF FINAL PAYMENT (EXCLUDING WITHHELD RETAINAGE) SHALL CONSTITUTE A WAIVER OF CLAIMS, EXCEPT THOSE PREVIOUSLY AND PROPERLY MADE AND IDENTIFIED BY THE CONTRACTOR AS UNSETTLED AT THE TIME REQUEST FOR FINAL PAYMENT IS MADE.

10. TERM, TERMINATION AND RENEWAL:

10.1. This Contract shall be effective June 1, 2021 and shall remain in effect until May 31, 2024 unless terminated earlier in accordance with the early termination provisions herein.

10.2. If Contractor breaches any of its obligations under this Contract, and fails to cure the same within five (5) days of written notice to do so, the Owner may terminate this Contract, in which case the Owner shall pay the Contractor cost incurred to date of written notice.

10.3. The Owner may terminate this Contract upon ten (10) days written notice to the Contractor for any reason and without cause in which case the Owner shall pay the Contractor for costs incurred to the date of written notice.

10.4. The Owner may, in Owner's sole discretion, grant a renewal of this Contract for up to an additional 3 years subject to mutual agreement on the adjustment of any Compensation under Section 2.

10.5. In the event the Owner substantially changes the scope of the Work identified in Section 1, Contractor shall have the right to terminate this Contract upon sixty (60) days written notice to the Owner.

11. CONTRACTOR RECORDS

11.1. Contractor agrees to make all project related books and records available to the Owner for inspection, review, photocopying and audit in the event of a Contract related dispute, claim, modification or other Contract related action at reasonable times and at places designated by the Owner.

12. PREVAILING WAGES

12.1. The Contractor represents under penalty of perjury of the laws of the state of Washington, that the only individuals providing services under this contract are exempt from prevailing wages pursuant to WAC 296-127-026 as either the sole owner or spouse of the owner of Contractor's company, a partner owning

at least thirty percent of Contractor's Company or the president, vice president or treasurer of the Contractor's corporation if such officer owns at least thirty percent of the corporation.

Signature of Contractor

If not signed by Contractor, the following sections shall control.

12.2. The Contractor shall pay prevailing wages and shall comply with chapter RCW 39.12 and chapter 49.28 RCW. A Notice of Intent to Pay Prevailing Wages and prevailing wage rates for the Project must be posted on the Project site. At the end of December each year this contract is in force, the Contractor and its subcontractors shall submit Affidavits of Wages Paid to the Department of Labor and Industries for certification by the director. Final payment on the Contract shall be withheld until certification by the director has been received by the Owner that the prevailing wage requirements of the statute have been satisfied. The Contractor certifies that it has not been cited for two violations within the last five (5) years, and is not prohibited from bidding on public works contract. The Contractor further certifies that it will use no subcontractor who is prohibited.

12.3. Prevailing Wages for the county in which the Project is located can be found at:
<https://secure.lni.wa.gov/wagelookup/>

13. RETAINAGE

13.1. The contract sum is less than \$350,000 and Contractor has posted a Performance Bond. Accordingly, Owner hereby waives the retained percentage and Contractor expressly agrees that Contractor shall be strictly liable for any and all failures to pay the State with respect to taxes imposed pursuant to Title 82 RCW, and (2) the claims of any person arising under the Contract, including attorney fees incurred by Owner, to enforce this obligation.

13.2. If The contract sum is less than \$50,000, the performance bond is waived and Owner hereby waives the retained percentage. Contractor expressly agrees that Contractor shall be strictly liable for any and all failures to pay the State with respect to taxes imposed pursuant to Title 82 RCW, and (2) the claims of any person arising under the Contract, including attorney fees incurred by Owner, to enforce this obligation.

14. PROJECT SAFETY.

- 14.1. The Contractor shall be solely and completely responsible for safety conditions on the job site, including the safety of all persons and property during performance of the work to complete the Project. The services of Owner's employees or the Owner's agents or Consultant's personnel in conducting construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's work methods, equipment, bracing, scaffolding or trenching, or safety measures in, on or near the construction site. The Contractor shall provide safe access for the Owner and its inspectors to adequately inspect the quality of work and the conformance with project specifications.
- 14.2. Contractor is responsible for locating any underground utilities affected by the Project and is deemed to be an excavator for purposes of chapter 19.122 RCW. Contractor shall be responsible for compliance with chapter 19.122 RCW, including utilization of the "one call" locator system before commencing any excavation activities. Contractor is also responsible for ensuring adequate trench safety and compliance as required by the Washington State Industrial and Health Act. The Contractor shall be responsible to notify, pay for and coordinate Contractor's work with One Call service at 456-8000.

15. DISPUTE RESOLUTION

- 15.1. If the parties are unable to resolve a dispute regarding this Agreement through negotiation, any party may request mediation through a process to be mutually agreed to in good faith between the parties within 30 days of a party notifying the other parties in writing that a dispute exists "Dispute Notice." The participating parties shall share equally the costs of mediation and each participating party shall be responsible for its own costs in preparation and participation in the mediation, including expert witness fees and reasonable attorney's fees.
- 15.2. If a mediation process cannot be agreed upon or if the mediation fails to resolve the dispute then, within 45 calendar days of the Dispute Notice or within 30 days of end of the mediation, either party may submit the dispute to binding arbitration according to the procedures of the Superior Court Rules for Mandatory Arbitration, including the Local Mandatory Arbitration Rules of the Superior Court as amended, located in the county in which the Project is located, unless the parties agree in writing to an alternative dispute resolution process. The arbitration shall be before a disinterested arbitrator selected pursuant to the Mandatory Arbitration Rules with all participating parties sharing equally in the cost of the arbitrator. The location of the arbitration shall be mutually agreed or established by the assigned Arbitrator, and the laws of Washington will govern its proceedings. The prevailing party, in addition to costs, shall be entitled to reasonable attorney's fees as determined by the arbitrator.

15.3. Following the arbitrator's issuance of a ruling/award, either party shall have 30 calendar days from the date of the ruling/award to file and serve a demand for a bench trial de novo in the Superior Court of the County in which the Project is located. The court shall determine all questions of law and fact without empanelling a jury for any purpose.

15.4. Unless otherwise agreed in writing, this dispute resolution process shall be the sole, exclusive and final remedy to or for either party for any dispute regarding this Agreement, and its interpretation, application or breach, regardless of whether the dispute is based in contract, tort, any violation of federal law, state statute or local ordinance or for any breach of administrative rule or regulation and regardless of the amount or type of relief demanded.

15.5. The prevailing party in any action to enforce the terms of this contract, in addition to costs, shall be entitled to reasonable attorney's fees and expenses of arbitration including expert witness fees, paralegal costs and copying costs as determined by the arbitrator or court including costs and fees incurred on appeal.

16. LIMITATION OF ACTIONS

16.1. CONTRACTOR MUST, IN ANY EVENT, FILE ANY LAWSUIT ARISING FROM OR CONNECTED WITH THIS AGREEMENT WITHIN 120 CALENDAR DAYS FROM THE DATE THE CONTRACT WORK IS COMPLETE OR CONTRACTOR'S ABILITY TO FILE THAT CLAIM OR SUIT SHALL BE FOREVER BARRED. THIS SECTION FURTHER LIMITS ANY APPLICABLE STATUTORY LIMITATIONS PERIOD.

17. MISCELLANEOUS PROVISIONS

17.1. Independent Contractor. The parties intend that the Contract Document will create an independent contractor relationship.

17.2. Nondiscrimination. In the hiring of employees for the performance of work under the Contract Documents the Contractor, its subcontractors, or any person acting on behalf of 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.

17.3. Compliance with Laws. Contractor shall comply with all federal, state and local laws, rules and regulations that are now effective or in the future become applicable to Contractor's business, equipment, and personnel engaged in operations covered by the Contract Documents or accruing out of the performance of those operations.

17.4. Work Performed at Contractor's Risk. Contractor shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and subcontractors in the performance of the contract work. All work shall be done at Contractor's own risk, and Contractor 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.

17.5. Nonwaiver of Breach. The failure of the Owner to insist upon strict performance of any of the terms and rights contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of those terms and rights and they shall remain in full force and effect.

17.6. Governing Law. The Contract Documents shall be governed and construed in accordance with the laws of the State of Washington. If any dispute arises between the Owner and Contractor under any of the provisions of the Contract Documents, resolution of that dispute shall be available only through the jurisdiction, venue, and rules of the Superior Court of the County in which the Project is located.

17.7. Written Notice. All communications regarding the contract shall be sent to the parties at the addresses listed on the signature page of the contract, unless otherwise notified. Any written notice shall become effective upon delivery, but in any event three (3) calendar days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in the contract.

17.8. Assignment. Any assignment of this contract by the Contractor without the written consent of the Owner shall be void.

17.9. Subcontracting. Contractor may not subcontract any portion of the services required by this Contract without the specific written consent of the Contract Administrator, which shall not be unreasonable withheld. Such consent shall not relieve contractor from its responsibilities under this Contract for the services performed by a subcontractor.

17.10. Modification. No waiver, alteration, or modification of any of the provisions of the Contract Documents shall be binding unless in writing and signed by a duly authorized representative of the Owner and Contractor.

17.11. Severability. If any one or more sections, sub-sections, or sentences of the contract are held to be unconstitutional or invalid, that decision shall not

affect the validity of the remaining portion of the contract and the remainder shall remain in full force and effect.

17.12. Entire Agreement. The written provisions and terms of the Contract Documents, which include these General Conditions as well as the mechanical, electrical, and structural consultants' specifications, provisions, and plans, together with any attached exhibits, supersede all prior verbal statements by any representative of the Owner, and those statements shall not be construed as forming a part of or altering in any manner the Contract Documents. The Contract Documents and any attached Exhibits contain the entire agreement between the parties. Should any language in any Exhibit to the Contract Documents conflict with any language contained in the Contract Documents, the terms of the Contract Documents shall prevail.

Owner

Contractor

By: _____

By: _____

Contractor Reg. No. _____

UBI Number: _____

Dated: _____

Dated: _____

EXHIBIT 1 – SCOPE OF WORK