

## **AGREEMENT FOR SERVICES (PRECONSTRUCTION SERVICES)**

Contractor/Company: \_\_\_\_\_

Contract Title: \_\_\_\_\_

Contract Code: \_\_\_\_\_

This AGREEMENT is entered into the date last below written between THE PIKE PLACE MARKET PRESERVATION AND DEVELOPMENT AUTHORITY (“PDA”) and \_\_\_\_\_ (“Contractor”).

The Contractor has been selected for the work using a public request for qualifications process. The scope of work is the replacement of the PC1 Elevator and exterior stair, and associated work, per design documents prepared by Ron Wright & Associates/Architects, P.S. The intent of this AGREEMENT is to identify the cost for work to be incorporated in Construction Services Agreement which will be structured as a Cost of Work plus a Fee Agreement with a Guaranteed Maximum Price.

### **1. SERVICES BY CONTRACTOR**

The Contractor shall perform the following services:

- A. Preconstruction Services: Preconstruction services to be provided by Contractor include, but are not limited to, cost estimating, value engineering, scheduling, construction phasing, constructability review, input from key subcontractors as to building systems, and means & methods of construction. Preconstruction is expected to last three weeks. More specifically, Contractor will:
1. Provide estimating services:
    - a. Using the prepared project documents (plans, specifications, and available as-built information) the Contractor shall prepare a full price bid estimate to complete the work. The intent is for this completed price amount to be incorporated into the eventual construction agreement as the guaranteed maximum price for the work, which will be completed on a cost-plus fee basis.
    - b. Provide value engineering input by reviewing drawings, focusing on construction methods and details. Potential scope of work or cost changes are to be included as options within the completed bid estimate.
    - c. Evaluate market conditions and schedule bid calls to obtain the most competitive prices commensurate with overall project scheduling.
- B. The Contractor shall meet with the PDA to review the GMP proposal and the written statement of its basis. In the event that the PDA or Architect discovers any inconsistencies or inaccuracies in the information presented, the PDA will cause notification to be given to the Contractor, who shall make appropriate adjustments to the GMP proposal.

### **2. DISCRIMINATION AND COMPLIANCE WITH LAWS**

- A. Contractor agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state or local law or ordinance, except for a bona fide occupational qualification.
- B. Contractor shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement.

## AGREEMENT FOR SERVICES (PRECONSTRUCTION SERVICES)

Contractor/Company: \_\_\_\_\_

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Contract Code: \_\_\_\_\_

- C. Violation of this Paragraph 2 shall be a material breach of this Agreement and grounds for cancellation, termination or suspension by PDA, in whole or in part, and may result in ineligibility for further work for PDA.

### 3. TERM AND TERMINATION OF AGREEMENT

- A. This Agreement shall remain in effect until completion of the services described and final payment therefore, or, if work is to be performed pursuant to task order, for the period of time specified.
- B. This Agreement may be terminated by either party without cause upon 30 days' written notice, in which event all finished or unfinished documents, reports, or other material or work of Contractor pursuant to this Agreement shall be submitted to PDA, and Contractor shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination.

### 4. OWNERSHIP OF WORK PRODUCT

All data, materials, reports, memoranda and other documents developed under this Agreement whether finished or not shall become the property of PDA, shall be forwarded to PDA at its request and may be used by PDA as it sees fit. PDA agrees that if it uses products prepared by Contractor for purposes other than those intended in this Agreement, it does so at its sole risk and it agrees to hold Contractor harmless therefore.

### 5. GENERAL ADMINISTRATION AND MANAGEMENT

The \_\_\_\_\_ of the PDA, or designee, shall be PDA's representative, and shall oversee and approve all services to be performed, coordinate all communications, and review and approve all invoices, under this Agreement.

### 6. HOLD HARMLESS

- A. Contractor shall protect, defend, indemnify and save harmless PDA, its officers, employees and agents from any and all costs, claims, judgment or awards of damages arising out of or in any way resulting from the negligent acts or omissions of Contractor, its officers, employees and agents in performing this Agreement.
- B. PDA shall protect, defend, indemnify and save harmless Contractor, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of PDA, its officers, employees or agents in performing this Agreement.
- C. Limitation on Indemnity. In compliance with RCW 4.24.115 as in effect on the date of this Agreement, all provisions of this Agreement pursuant to which the PDA or Contractor (the "Indemnitor") agrees to indemnify the other (the "Indemnatee") against liability for damages arising out of bodily injury to Persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, including the Work, (i) shall not apply to damages caused by or resulting from the sole negligence of the Indemnatee, its agents or employees, and (ii) to the extent caused by or resulting from the concurrent negligence of (a) the Indemnatee or the Indemnatee's agents or employees, and (b) the Indemnitor or the Indemnitor's agents or employees, shall apply only to the extent of the Indemnitor's negligence; PROVIDED, HOWEVER, the limitations on indemnity set forth in this Section shall automatically and without further act by either the PDA or Contractor be deemed amended so as to remove any of the restrictions contained in this Section no longer required by then applicable law.

## **AGREEMENT FOR SERVICES (PRECONSTRUCTION SERVICES)**

Contractor/Company: \_\_\_\_\_

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Contract Code: \_\_\_\_\_

### **7. INSURANCE**

Contractor shall maintain insurance as follows: (check one)

- Automobile Liability, Commercial General Liability and Professional Liability as described in Attachment B.
- Automobile Liability as described in Attachment C.
- None.

### **8. SUBLETTING OR ASSIGNING CONTRACT**

Neither PDA nor Contractor shall assign, transfer, or encumber any rights, duties or interest accruing from this Agreement without the express prior written consent of the other.

### **9. FUTURE SUPPORT**

PDA makes no other commitment and assumes no obligations for the support of Contractor's activities except as specifically set forth in this Agreement. PDA shall have the absolute right to terminate this Agreement in accordance with Section 3 herein. Nothing in this Agreement shall be construed or interpreted as obligating PDA to accept Contractor's GMP proposal or to otherwise enter into a subsequent agreement for construction services for the Project.

### **10. INDEPENDENT CONTRACTOR**

Contractor is and shall be at all times during the term of this Agreement an independent contractor.

### **11. EXTENT OF AGREEMENT/MODIFICATION**

This Agreement, together with attachments, exhibits, or addenda, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified or added to only by written instrument properly signed by both parties.

### **12. IMMUNITY OF MUNICIPALITY**

The Pike Place Market PDA is organized pursuant to Ordinance 103387 of the City of Seattle and Chapter 37, Laws of 1974, First Extraordinary Session (43rd Leg. 3rd Extra. Sess.). Chapter 37, Laws of 1974, First Extraordinary Session (43rd Leg. 3rd Extra. Sess.) provides as follows: All liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and credit of such public corporation, commission or authority and no creditor or other person shall have any right of action against the city, town or county creating such corporation, commission or authority on account of any debts, obligations or liabilities of such public corporation, commission or authority.

### **13. WOMEN AND MINORITY BUSINESS ENTERPRISE UTILIZATION.**

Provisions of the Women and Minority Business Enterprise Utilization are hereby incorporated by reference and made a part of this contract as if fully set forth herein.

During the term of this contract the Contractor shall:

- A. Make every effort to utilize MBEs and WBEs, if any work under this contract is subcontracted; and,
- B. Require every subcontractor utilized by the Contractor for work under this contract to make every effort to utilize WBEs and MBEs; and,

**AGREEMENT FOR SERVICES (PRECONSTRUCTION SERVICES)**

Contractor/Company: \_\_\_\_\_

Contract Title: \_\_\_\_\_

Contract Code: \_\_\_\_\_

- C. Maintain records reasonably necessary for monitoring compliance with the provisions of this contract.

**14. COMPLIANCE WITH LAWS.**

The Contractor is solely responsible for complying with all relevant federal, state, and city laws, including laws related to business tax and license responsibilities.

Pursuant to Seattle Municipal Code Section 5.44.030, Tax and fees on business with the City – Payment of City Contracts, and Ordinance 118314, amending Chapter 5.44, which states: “There is a levied upon and shall be collected from every person, a tax or fee upon the act or privilege of engaging in the business activity of accepting or executing a contract with the City [and organizations chartered by the City], involving the sale to the City of materials, supplies, equipment, improvements, and contractual services...” each organization doing business with the Pike Place market PDA must hold a current business license with the City of Seattle.

**15. MISCELLANEOUS**

- A. Prior to the PDA’s acceptance of the Contractor’s GMP proposal and issuance of a Notice to Proceed, the Contractor shall not incur any cost to be reimbursed as part of the Cost of the Work, except as the PDA may specifically authorize in writing or except as authorized by this Agreement.
- B. Upon acceptance by the PDA of the GMP proposal, the GMP and its basis shall be set forth in a separate construction services contract based on AIA Standard Form of Agreement A102.

IN WITNESS WHEREOF, the parties have executed this Agreement as of \_\_\_\_\_, 2022.

The individuals signing this Contract warrant and represent for themselves and for their respective organizations that they are duly authorized to sign this Contract and that upon such signing their respective organizations are bound thereby.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

Owner

Contractor

\_\_\_\_\_

\_\_\_\_\_

EXECUTIVE DIRECTOR,  
PIKE PLACE MARKET

(Title)  
(Company)

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### ***TO PRECONSTRUCTION SERVICES CONTRACT***

Date: \_\_\_\_\_ Product or Service Provided: *Preconstruction Bidding Services*

Contractor or Contractor's Agent: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

### **I. SCOPE OF WORK**

Preconstruction Services: Preconstruction services to be provided by Contractor include, but are not limited to, cost estimating, value engineering, scheduling, construction phasing, constructability review, input from key subcontractors as to building systems, and means & methods of construction. Preconstruction is expected to last three weeks. More specifically, Contractor will provide estimating services:

- a. Using the prepared project documents (plans, specifications, and available as-built information) the Contractor shall prepare a full price bid estimate to complete the work. The intent is for this completed price amount to be incorporated into the eventual construction agreement as the guaranteed maximum price for the work, which will be completed on a cost-plus fee basis.
- b. Provide value engineering input by reviewing drawings, focusing on construction methods and details. Potential scope of work or cost changes are to be included as options within the completed bid estimate.
- c. Evaluate market conditions and schedule bid calls to obtain the most competitive prices commensurate with overall project scheduling.

Deliverables at the conclusion of this work are:

- Elevator and Stairs project cost of work bid proposal;
- Proposed contractor fixed fee;
- Proposed Guaranteed Maximum Price
- Proposed project construction schedule

The deliverables developed from this scope of work will be used in the final construction contract for the project. Contractor will commence a meeting with the Pike Place Market project team to review the GMP proposal and written materials in support.

### **II. TIME OF PERFORMANCE**

*Contractor shall fulfill its obligations ("The Work") hereunder in a timely manner, and deliver the Work as set forth below ("Specific Scheduling Requirements"). Contractor shall complete performance not later than three calendar weeks from the written notice to proceed by the Owner.*

### **III. PAYMENT**

A. PDA shall pay Contractor for such services: (check one)

[ ] Hourly at the rate of \_\_\_\_/hr., plus actual expenses, in accordance with Fee Schedule attached hereto as Attachment B, but not more than a total of \$\_\_\_\_\_.

**AGREEMENT FOR SERVICES (PRECONSTRUCTION SERVICES)**

Contractor/Company: \_\_\_\_\_

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Contract Code: \_\_\_\_\_

*Fix Sum: a total amount of \$ 8,500, ( eight thousand five hundred dollars ) including WSST at 9.5%.*

*Other:  
for all services performed and expenses incurred under this Agreement*

- B. Contractor shall be solely responsible for obtaining all permits and licenses necessary to carry out the work provided for in this Contract. The costs of all such permits and licenses is included in the base bid under this Contract.*
- C. Contractor shall submit monthly invoices for services performed in a previous calendar month in a format acceptable to the PDA. Each project shall be the subject of a separate invoice, and expense reimbursement will require submitting expense receipts. Contractor shall maintain time and expense records and provide them to PDA upon request.*
- D. All invoices shall be paid by mailing a PDA check within 30 days of receipt of a proper invoice.*
- E. Contractor shall keep cost records and accounts pertaining to this Agreement available for inspection by PDA representatives for three years after final payment. Copies shall be made available on request.*
- F. If the services rendered do not meet the requirements of this Agreement, Contractor will correct or modify the work to comply with this Agreement. PDA may withhold payment for such work until it meets the requirements of this Agreement.*

*IN WITNESS WHEREOF, the parties have executed this Agreement as of \_\_\_\_\_, 2022*

**Contractor:**

\_\_\_\_\_  
Company: \_\_\_\_\_

Title: \_\_\_\_\_

**Owner:**

\_\_\_\_\_  
Company: \_\_\_\_\_

Title: \_\_\_\_\_

# AGREEMENT FOR SERVICES (PRECONSTRUCTION SERVICES)

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## **ATTACHMENT B** **TO PRECONSTRUCTION SERVICES CONTRACT**

### **Required Automobile Liability, Commercial General Liability and Professional Liability** **MINIMUM INSURANCE REQUIREMENTS**

The Contractor shall carry and maintain in force the following insurance:

**1. WORKER'S COMPENSATION INSURANCE**

All employees of the Contractor shall be insured under Washington State Industrial Insurance Compensation, or, if qualified, under an approved self-insurance plan.

**2. GENERAL LIABILITY AND AUTO LIABILITY INSURANCE**

The Contractor shall effect and maintain during the life of this Agreement, and as otherwise provided, Bodily Injury, Property Damage and Personal Injury Liability Insurance on an occurrence form of coverage with an insurance company having an A. M. Best's rating of A- , V or better.

(a) For policies written under a Comprehensive General Liability form not containing a general policy aggregate (Old Occurrence) the Limits of Liability shall not be less than:

1. \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage (other than Automobile Liability) and Personal Injury Liability, each Occurrence and in the Aggregate annually where applicable (no General or Policy Aggregate).

\$1,000,000 Combined Single Limit for Automobile Bodily Injury and Property Damage, each Accident or Loss.

(b) For policies written under a Commercial General Liability Coverage Form containing a general policy aggregate (New Occurrence), Limits of Liability shall not be less than:

1. \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage (other than Automobile Liability) each occurrence; \$1,000,000 Personal Injury and Advertising Liability each occurrence.

\$2,000,000 Combined Single Limit Annual General Aggregate; \$2,000,000 Aggregate for Products and Completed Operations Liability.

\$1,000,000 Combined Single Limit for Automobile Bodily Injury and Property Damage Liability, each Accident or Loss including coverage for owned, non-owned, leased and hired vehicles.

The General Liability Insurance required shall include coverage such as is usual to the practice of the insurance industry, including but not limited to, coverage's referred to as:

- a. Premises and Operation Liability;
- b. Owners' and Contractors' Protective Liability;
- c. Products & Completed Operations Liability;
- d. Contractual Liability;
- e. Broad Form Property Damage Liability, including Completed Operations;
- f. Personal Injury Liability.

## **AGREEMENT FOR SERVICES (PRECONSTRUCTION SERVICES)**

*Contractor/Company:* \_\_\_\_\_

*Contract Title:* \_\_\_\_\_

*Contract Code:* \_\_\_\_\_

- g. Employers' ("Stop Gap") Liability ;
- h. Explosion, Collapse and Underground Hazards.

### **3. ADDITIONAL INSURED STATUS; WAIVER OF SUBROGATION**

The Owner and any affiliate designated by Owner shall be added to the required policy(ies) as an additional insured. The policy shall stipulate that the insurance afforded the additional insureds shall apply as primary insurance and that any other insurance carried by Owner, its officers, directors and employees shall be excess, only, and will not contribute with the insurance. The policy shall further waive any rights of subrogation against Owner, its officers, agents and employees, and Contractor hereby independently releases Owner, its officers, agents and employees from any claims, liabilities or damages covered by insurance carried by Contractor or required under this Agreement to be carried by Contractor. Prior to commencement of the Work, Contractor shall provide to Owner Certificates of Insurance evidencing the insurance required by this Agreement, including specifically the insurer's acceptance of the requirements of this Section 3. The Certificates of Insurance shall provide that there will be no cancellation of coverage without thirty (30) days prior written notice to Owner.

- 4. The Contractor shall maintain Products and Completed Operations Liability Insurance for not less than two (2) years after final acceptance of the work,
- 5. The Contractor shall not commence work under this contract until it has obtained all the insurance required herein, nor shall the Contractor allow any sub-Contractor to commence work on its subcontract until all insurance required has been so obtained.
- 6. No modification of the requirements of this Attachment B shall be effective unless in writing, labeled "Amendment to Attachment B" and signed by both parties. Specifically but without limitation, the mere failure by Owner to object to the contents of Contractor's certificate of insurance shall not be deemed a waiver of the requirements of this Attachment B.