

**CONSTRUCTION SERVICES AGREEMENT
BETWEEN
NISQUALLY ESTATES HOMEOWNER'S ASSOCIATION
AND
DOWN & DIRTY WORX AND EXCAVATING LLC**

I. The Parties. This Contract ("Agreement") is made by and between the:

NISQUALLY ESTATES HOMEOWNER'S ASSOCIATION a Nonprofit Corporation registered and operating in the State of Washington under Unified Business Identifier (UBI) Number 601 916 032 with a mailing address of PO Box 2986, Yelm WA, 98597-2986, and hereinafter referred to as ("Owner")

AND

DOWN & DIRTY WORX AND EXCAVATING LLC, a limited liability company operating and registered in the State of Washington under Unified Business Identifier (UBI) Number 604 281 339 with a mailing address of 5641 Hawks Prairie Rd NE Olympia, WA 98516, and hereinafter referred to as ("Contractor"),

AND

Hereinafter collectively referred as the ("Parties")

AND

WHEREAS the Owner intends retain and to pay the Contractor for Services provided, under the following terms and conditions:

II. The Services. The Owner desires and the Contractor agrees to perform the following:

Replace an existing dirt and pea gravel pathway, located within the NISQUALLY ESTATES HOMEOWNER'S ASSOCIATION development, and maintained by the Owner and consisting of approximately six (6) feet wide and one hundred five, (105) feet long with new concrete as further provided for herein.

A. Removal of Existing Pathway. Contractor shall remove and regrade all existing material and debris on and related to the path/walkway. Material removed from the pathway shall be removed from the any dumping fees shall be provided for and included in the with the cost of services and payment in this agreement.

B. New Concrete Pathway. Contractor shall grade the pathway, prepare, and pour approximately six (6) feet wide and one hundred five, (105) feet long with concrete to include the installation of a concrete bollard at the end of path/walkway at the intersection before the street.

Contractor has provided an estimate for the cost of the above service areas and as further described below in the III. Payment Section.

Hereinafter the above shall be known as the "Services".

III. Payment. In consideration for the Services to be performed by the Contractor, the Owner agrees to pay the following:

A. Removal of Existing Pathway. For the services related to the removal and Regrade of the existing material and debris of the path/walkway and replacement with concrete sidewalk. Material removed from the pathway shall be removed from the any dumping fees shall be provided for and included in the with the cost of services and payment in this agreement.

B. New Concrete Pathway. For the services related to the grading of the pathway, preparation and pouring of approximately six (6) feet wide and one hundred five, (105) feet long with concrete in the pathway to include the installation of a concrete bollard at the end of path/walkway at the intersection before the street access.

SUBTOTAL 7,780.00
TAX 715.76
TOTAL **\$8,495.76**

Owner and Contractor agree that Owner shall provide one half of this amount, (\$4,247.88) at the time of the signing of this contract and the signing and acceptance of the estimate from Contractor which is attached and incorporated herein by reference to this agreement.

Owner and Contractor agree that the total amount due for services may be less or more than the total estimated amount based on the amount of material needed to provide these services and upon completion of the Services being performed.

Therefore, the amount to be paid for these services may be adjusted as provided for herein, in the final amount to be paid by Owner at the completion of the Services being performed.

Contractor agrees that the total amount for these services related to a new concrete pathway shall not exceed \$9,000.00.

Completion shall be defined as the fulfillment of Services as described in Section II in accordance with industry standards and to the approval of the Owner, not to be unreasonably withheld.

IV. Due Date. The Services provided by the Contractor shall commence not later than April 30, 2022 and shall be completed not later than May 15, 2022.

V. Expenses. The Contractor shall be responsible for all expenses related to providing the Services under this Agreement. This includes, but is not limited to, supplies, equipment, operating costs, business costs, employment costs, taxes, Social Security contributions/payments, disability insurance, unemployment taxes, and any other cost that may or may not be in connection with the Services provided Contractor.

VI. Liability Insurance (Minimum (\$1,000,000.00) Amount). The Contractor agrees to bear all responsibility for the actions related to themselves and their employees or personnel under this Agreement. In addition, the Contractor agrees to obtain comprehensive liability insurance coverage in case of bodily or personal injury, property damage, contractual liability, and cross-liability ("Liability Insurance").

The minimum amount for the Liability Insurance shall be a combined single limit of no less than \$1,000,000.00.

VII. Termination. This Agreement shall terminate upon the completion of the Services and provided for herein.

In addition, the Owner or Contractor may terminate this Agreement, and any obligations stated hereunder, with reasonable cause by providing written notice of a material breach of the other party; or any act exposing the other party to liability to others for personal injury or property damage.

VIII. Option to Terminate. The Owner and Contractor shall not have the option to terminate this Agreement unless there is reasonable cause, as defined in Section VII.

IX. Independent Contractor Status. The Contractor, under the code of the Internal Revenue Service (IRS), is an independent contractor, and neither the Contractor's employees or contract personnel are, or shall be deemed, the Owner's employees.

In its capacity as an independent contractor, Contractor agrees and represents: Contractor has the right to perform services for others during the term of this Agreement; Contractor has the sole right to control and direct the means, manner, and method by which the Services required by this Agreement will be performed. Contractor shall select the routes taken, starting, and ending times, days of work, and order the work is performed. The Services required by this Agreement shall be performed by the

Contractor, Contractor's employees or personnel, and the Owner will not hire, supervise, or pay assistants to help the Contractor; Neither Contractor nor Contractor's employees or personnel shall receive any training from the Owner in the professional skills necessary to perform the Services required by this Agreement.

X. Business Licenses, Permits, and Certificates. The Contractor represents and warrants that all employees and personnel associated shall comply with federal, state, and local laws requiring any required licenses, permits, and certificates necessary to perform the Services under this Agreement.

XI. Federal and State Taxes. Under this Agreement, the Owner shall not be responsible for withholding FICA, Medicare, Social Security, or any other federal or state withholding taxes from the Contractor's payments to employees or personnel or make payments on behalf of the Contractor; Make federal or state unemployment compensation contributions on the Contractor's behalf; and the payment of all taxes incurred related to or while performing the Services under this Agreement, including all applicable income taxes and, if the Contractor is not a corporation, all applicable self-employment taxes. Upon demand, the Contractor shall provide the Owner with proof that such payments have been made.

XII. Benefits of Contractor's Employees. The Contractor understands and agrees that they are solely responsible for shall be liable to all benefits that are provided to their employees, including but not limited to, retirement plans, health insurance, vacation time-off, sick pay, personal leave, or any other benefit provided.

XIII. Unemployment Compensation. The Contractor shall be solely responsible for the unemployment compensation payments on behalf of their employees and personnel. The Contractor shall not be entitled to unemployment compensation in connection with the Services performed under this Agreement.

XIV. Workers' Compensation. The Contractor shall be responsible for providing all workers' compensation insurance on behalf of their employees. If the Contractor hires employees to perform any work under this Agreement, the Contractor agrees to grant workers' compensation coverage to the extent required by law. Upon request by the Owner, the Contractor must provide certificates proving workers' compensation insurance at any time during the performance of the Service.

XV. Indemnification. The Contractor shall indemnify and hold the Owner harmless from any loss or liability from performing the Services under this Agreement.

XVIII. No Partnership. This Agreement does not create a partnership relationship between the Owner and the Contractor. Unless otherwise directed, the Contractor shall have no authority to enter into contracts on the Owner's behalf or represent the Owner in any manner.

XIX. Assignment and Delegation. The Contractor may not assign rights or delegate duties under this Agreement to other individuals or entities acting as a subcontractor (“Subcontractor”) without prior written permission of the Owner. Should written permission be requested and granted by the Owner, the Contractor recognizes that they shall be liable for all work performed by the Subcontractor and shall hold the Owner harmless of any liability in connection with their performed work.

XX. Governing Law and Venue The performance and interpretation of this Contract shall be governed in accordance with the laws of the State of Washington. Any litigation arising out of or in connection with this Contract shall be conducted in Thurston County where work is performed.

XXI. Severability. This Agreement shall remain in effect in the event a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

XXII. Breach Waiver. Any waiver by the Owner of a breach of any section of this Agreement by the Contractor shall not operate or be construed as a waiver of any subsequent breach by the Contractor.

XXIII. Additional Terms and Conditions.

Contractor shall retain and keep in place during the term of this Agreement, the General Contractor’s Bond on file with the State of Washington in the amount of \$12,000.00.

XXIV. Entire Agreement. This Agreement, along with any attachments or addendums, represents the entire agreement between the parties. Therefore, this Agreement supersedes any prior agreements, promises, conditions, or understandings between the Owner and Contractor.

NISQUALLY ESTATES HOMEOWNER’S ASSOCIATION:

Owner’s Signature _____ **Date:** _____

Melissa Worthington
Its: Vice President

DOWN & DIRTY WORX AND EXCAVATING LLC:

Contractor’s Signature _____ **Date:** _____

Jason McBride
Its: President