

**RESOLUTION OF THE TOWN COUNCIL OF BASALT, COLORADO, APPROVING
AN AGREEMENT FOR PROFESSIONAL SERVICES WITH FOUR SEASONS
PROPERTY MAINTENANCE AND LANDSCAPING, LLC**

**Town of Basalt, Colorado
Resolution No. 4
Series of 2019**

RECITALS

- A. The Town of Basalt owns several properties in need of seasonal maintenance and mowing (the "Services").
- B. Pursuant to the Town of Basalt Procurement Policy, the Town issued a Request for Proposals (RFP) for such seasonal maintenance work and, upon review, wishes to enter an Agreement for Professional Services with Four Seasons Property Maintenance and Landscaping, LLC (the "Contractor") for the Services.
- C. Staff has identified that there are sufficient funds in 2019 Town budget for the Services.

NOW, THEREFORE, BE IT RESOLVED by the Basalt Town Council of Basalt, Colorado, as follows:

- 1. The foregoing recitals are incorporated herein as if set forth in full.
- 2. The Town Council hereby approves the **Agreement for Professional Services** with the Contractor to provide the Services, substantially in the form included in the Agenda packet and incorporated herein, and authorizes the Public Works Director to sign. The Town Council further authorizes the Town Manager and Public Works Director to direct Contractor in the performance of the Services.

READ AND ADOPTED on February 12, 2019, by a vote of 7 to 0 .

TOWN OF BASALT, COLORADO

By: 
Jacquie R. Whitsitt, Mayor

ATTEST

By: 
Pamela K. Schilling, Clerk



TOWN OF BASALT
101 MIDLAND AVENUE
BASALT, COLORADO 81621
(970) 927- 4701

AGREEMENT FOR PROFESSIONAL SERVICES

Date: 2/12/2019 Project Name: Maintenance of Town Gardens and Mowing
of Town-owned and Controlled Turf

Description: Contract with the Town of Basalt for seasonal maintenance of the Town gardens
and mowing operations in the Town-owned and controlled turf areas.

Contractor: ~~Four Seasons Property Maintenance and~~
~~Landscaping, LLC~~ FOUR SEASONS COLORADO LLC

Project Manager: Gary A.T. Williams

Phone: (970)927-3540

E-Mail: ted@fourseasonsaspen.com Gary@fourseasonsaspen.com

1. **SCOPE OF WORK:** Basalt requests and authorizes Contractor to perform the following:

Four Seasons Property Maintenance and Landscaping, LLC shall provide seasonal maintenance on Town gardens and mowing activities on Town-owned and controlled turf/garden areas pursuant to the proposals attached as Exhibit "A, B & C." The Town Public Works Director may authorize additional services in writing. Frequency of mowing maintenance shall be as set forth in Exhibit "A".

2. **LEGAL DESCRIPTION OF PROPERTY:**

Properties subject to maintenance and mowing are identified on Exhibit "A & B" attached.

3. **TIME REQUIREMENTS AND COMPENSATION:**

Garden maintenance and mowing will occur May 1, 2019 through November 1, 2019.
Contract Amount- Fixed price not to exceed \$160,083. **This agreement may be renewed for each of the next two (2) subsequent years at an increased cost of 1% annually upon the written acceptance of both parties.** Town Public Works Director may authorize additional services in writing.

Applicable N/A

4. **Authorization to Proceed.** Execution of this Agreement by Basalt will constitute authorization for Contractor to proceed with the Project, unless otherwise provided for in this Agreement.
5. **Billing Rates.** Both parties understand and agree that all work not specifically delineated within the scope of work described herein and approval in accordance with a written changes order shall be billed on a time and materials basis in accordance with the standard schedule of billing rates and expenses, and shall be in addition to any budget, bid or maximum price agreement for the above-described Scope of Work.
6. **Direct Expenses.** Contractor's direct expenses are those necessary costs and charges incurred for the Project including, but not limited to: (1) the direct costs of transportation, meals, and lodging, mail courier services, equipment materials and supplies; (2) Contractor's current standard rate charges for direct use of vehicles, computing systems, word processing, and printing, in accordance with the attached schedule of billing rates and expenses.
7. **Standard of Care.** Services performed under this Agreement are to be performed with the care and skill ordinarily exercised by members of the profession practicing under similar conditions at the same time and in the same or similar locality. No warranty, expressed or implied, is made or intended by the interpretation of consulting services or by furnishing oral or written reports of the findings made. Contractor services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project.
8. **Termination.** This Agreement may be terminated for convenience and without cause on 30 days written notice; or for cause if either party fails substantially to perform through no fault of the other and does not commence correction of such non-performance within 5 days of written notice and diligently complete the correction thereafter. On termination, Contractor will be paid for all authorized work actually performed up to the termination date. If no notice of termination is given, relationships and obligations created by this Agreement will be terminated upon completion of all applicable requirements of this Agreement.

Applicable N/A

9. **Payment to Contractor.** All fees, commissions, product charges and expenses billed shall be due within thirty (30) days of the date of billing. Interest on unpaid or late bills shall accrue at 1 1/2 percent per month (18% A.P.R.). In the event any sum is not timely paid, Contractor shall be entitled to recovery of all costs of collection, including reasonable attorneys' fees and expenses. Invoices must be approved by the Town Manager. Invoices shall be provided by the Contractor no less frequent than quarterly. Client agrees that all statements not objected to in writing within thirty (30) days of receipt are assumed to be final and binding upon the parties as to the amount due, the adequacy of Contractor's performance and the value of the services provided to Basalt.

10. **Applicable Law, Jurisdiction and Venue.** This Agreement is subject to the laws of the State of Colorado, jurisdiction shall be in the District Court of Colorado, and venue in the County of Pitkin, in the event of any legal proceedings arising from the transaction described herein.

11. **Insurance.** Contractor shall secure and maintain throughout the full period of this Agreement sufficient insurance to protect itself adequately from claims made by its employees under applicable Workers' Compensation Act and from claims of bodily injury, death or property damage as may arise from the performance of services under the Agreement. Contractor shall secure and maintain errors and omissions (professional and general liability) insurance providing minimum coverage of \$1,000,000 per occurrence and shall list the Town as additionally insured. Contractor is not authorized to begin work until he files certification of such insurance coverage with Basalt.

12. **Independent Contractor.** The parties agree that the relationship between Basalt and Contractor is that of an independent contractor. There are no third party beneficiaries to the Agreement.

13. **Indemnity.** Contractor agrees to indemnify and hold harmless Basalt, including its officers, employees, agents, and representatives, from and against liability for all claims, losses, damages, and expenses including reasonable attorneys' fees, claimed by third parties to the extent such claims, losses, damages, and expenses are caused by Contractor's breach of contract or negligent acts, errors, or omissions.

Applicable N/A

14. **Opinions of Cost.** When included in Contractor's scope of services, opinions or estimates of probable construction costs are prepared on the basis of Contractor's experience and qualifications and represent Contractor's judgment as a professional generally familiar with the industry. However, since Contractor has no control over the cost of labor, materials, equipment, or services furnished by others, over contractor's methods of determining prices, or competitive bidding or market conditions, Contractor cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions or estimates of probable construction cost.
15. **Attorneys' Fees.** In the event of litigation arising from this Agreement the prevailing party shall be awarded its reasonable attorneys' fees and costs.
16. **Severability.** Should any provision of this Agreement be deemed contrary to law or unenforceable, the balance of the Agreement shall remain in full force and effect.
17. **Amendment.** This Agreement may be amended only in writing and signed by the parties.
18. **Copyright.** The Town retains the right to use materials produced. Materials produced are not subject to copyright by contractor.
19. **Miscellaneous.** Boyd Bierbaum is the Project Manager for the project.
20. **Agreement Subject to Appropriation.** To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of the Town, it shall be subject to annual appropriation pursuant to the Town of Basalt Municipal Code and Article X, Section 20 of the Colorado Constitution. The Town and BPD shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.
21. **Governmental Immunity Act.** No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq.
22. **Work By Illegal Aliens Prohibited.** This paragraph shall apply to all Contractors whose performance of work under this Agreement does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work, or information technology services or information technology products and services. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Contractor warrants, represents, acknowledges, and agrees that:

g. If Contractor violates this Paragraph, the Town may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the Town arising out of said violation.

Town of Basalt

By Boyd Bierbaum
Boyd Bierbaum, Public Works Director
Title Public Works Director
Date 2-13-19

Contractor

By GARY A WILLIAMS
Title GARY A WILLIAMS CEO
Date 2/7/19