

**RESOLUTION NO. 3008**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH SOMER JOHNSON FOR THERAPEUTIC COURT CASE MANAGER.**

**WHEREAS,** The Bonney Municipal Court and Sumner Municipal Court submitted an application for grant funds with the Administrative Office of the Courts to start a Therapeutic Court Program (“Community Court”); and

**WHEREAS,** The Administrative Office of the Courts awarded Bonney Lake Municipal Court and Sumner Municipal Court with grant funds to be used to identify individuals before Bonney Lake Municipal Court and Sumner Municipal Court with substance use disorders or other behavioral health needs and engage those individuals in community-based therapeutic interventions; and

**WHEREAS,** Somer Johnson – Consultant fulfills the Scope of Work for Case Manager for the Therapeutic Court (“Community Court”) Program.

**NOW THEREFORE, BE IT RESOLVED** that the City Council of the City of Bonney Lake does hereby authorize the Mayor to sign the Professional Services Agreement with Somer Johnson for Case Manager – Therapeutic Court (“Community Court”) Program.

**PASSED** by the City Council this 25<sup>th</sup> day of January, 2022.

DocuSigned by:  
*Michael McCullough*  
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Michael McCullough, Mayor

**AUTHENTICATED:**  
DocuSigned by:  
*Sadie A. Schaneman*  
3E609C45B4BC451...  
Sadie A. Schaneman, CMC, City Clerk

## CITY OF BONNEY LAKE PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this 25<sup>th</sup> day of January 2022, by and between the City of Bonney Lake (“City”) and Somer Johnson (“Consultant”) for professional services to be rendered in connection with Bonney Lake Community Court (“Project”).

The parties hereby agree as follows:

1. **Scope of Work.** Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A." The services performed by Consultant shall not exceed the Scope of Work nor shall the Consultant be entitled to a greater amount of compensation than that provided in this Agreement without the prior written authorization of the City.
  - 1.1 The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to this Agreement.
  - 1.2 This Agreement is effective upon execution by the Parties and shall remain in effect until the work described in Section 1.1 above is complete, unless terminated by written notice in accordance with Section 6, below.
  - 1.3 Consultant represents and warrants that it, its staff to be assigned to the Project, and its sub-consultants’ staff have the requisite training, skill, and experience necessary to provide the services required by this Agreement and are appropriately accredited and licensed by all relevant agencies and governmental entities. Services provided by Consultant and its sub-consultants under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.
2. **Schedule of Work.** Consultant shall perform the services described in the Scope of Work, Exhibit “A”, in a timely manner, according to the schedule provided therein. Consultant shall not begin any work under this Agreement until the City has authorized work to proceed.
  - 2.1 Consultant shall assure that it and its sub-consultants will have adequate staffing at all times in order to complete the Scope of Work in a timely manner. If factors beyond Consultant's control, which could not have been reasonably foreseen as of the date of this Agreement, should cause delay, then the parties will negotiate in good faith to determine whether an extension is appropriate. The Consultant shall provide the City with written notice of any delay or potential delay, that may trigger the need for a time extension, within 3 business days after the Consultant becomes aware of the delay or potential delay.
3. **Compensation.** Compensation for the services provided in the Scope of Work shall be a fixed sum of \$4,000 per month beginning February 1, 2022 and continue through June 30, 2023.

4. **Payment.** Consultant shall provide monthly invoices in a format acceptable to the City, for work performed to the date of the invoice.
  - 4.1 All invoices shall be paid by City within sixty (60) days of actual receipt of said invoice conforming in all respects to the terms of this Agreement.
  - 4.2 Consultant shall maintain cost records and accounts pertaining to this Agreement and make them available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Consultant shall make copies available to the City upon request.
  - 4.3 If the services rendered do not meet the requirements of the Agreement, Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.
5. **Discrimination and Compliance with Laws.** Consultant 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, local law, or ordinance, except for a bona fide occupational qualification.
  - 5.1 Consultant and its sub-consultants shall comply with all federal, state, and local laws and ordinances applicable to the work to be performed under this Agreement.
  - 5.2 Any violation of Section 5 shall constitute a material breach of this Agreement and shall be grounds for immediate cancellation, termination, or suspension of the Agreement by the City, in whole or in part and may result in Consultant's ineligibility to conduct further work for the City.
6. **Suspension and Termination of Agreement.** The City may terminate this Agreement for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Section 1. Termination shall be effective immediately upon posting or transmission of written notice by the City or on such date as stated in the City's notice, whichever is later.
  - 6.1 The City reserves the right to terminate or suspend this Agreement at any time, without cause, by giving Consultant written notice ten (10) days prior to the termination or suspension date. In the event of termination, all finished or unfinished reports or other material prepared by Consultant pursuant to this Agreement, shall be submitted to the City. In the event the City terminates this Agreement prior to completion without cause, Consultant may complete such analyses and records as may be necessary to place its files in order. Consultant shall be entitled to compensation for any satisfactory work completed prior to the date of suspension or termination.
  - 6.2 Any notice from the City to Consultant regarding the suspension of this Agreement

shall specify the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Consultant's reasonable expenses and shall be subject to verification. Consultant shall resume performance of services under this Agreement without delay when the suspension period ends.

7. **Standard of Care.** Consultant represents and warrants that it has the requisite training, skill, and experience necessary to provide the services under this Agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services Consultant provides pursuant to this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession, currently practicing in similar circumstances. Consultant understands and agrees that the services rendered pursuant to this Agreement are for the sole, exclusive benefit of the City and that no third party shall have authority to authorize, approve, direct or control any of the services rendered to the City pursuant to this Agreement.

8. **Ownership of Work Product.** Ownership of the originals of any reports, data, studies, surveys, charts, maps, drawings, specifications, figures, photographs, memoranda, and any other documents which are developed, compiled, or produced as a result of this Agreement, whether or not completed, shall be vested in the City and shall be submitted to the City upon completion or termination of this Agreement. Any reuse of these materials by the City for projects or purposes other than those that fall within the scope of this Agreement, without written concurrence by Consultant, will be at the sole risk of the City.

8.1 The documents prepared under this Agreement shall become the property of the City upon completion of the work. The City agrees to hold harmless and indemnify Consultant against all claims made against Consultant for damage or injury, including defense costs, arising out of the City's reuse of such documents beyond the use for which they were originally intended without the written authorization of Consultant.

9. **Indemnification/Hold Harmless.** Consultant shall indemnify and hold the City, its officers, employees, agents, and volunteers harmless from all claims, injuries, damages, losses, or suits (including all legal costs and attorney fees) arising out of or in connection with the acts, errors or omissions of Consultant or its sub-consultants in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. If a court of competent jurisdiction determines that this Agreement 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 Consultant and the City (including its officers, officials, employees, agents, and volunteers), the Consultant's liability hereunder shall be only to the extent of the Consultant's own negligence.

9.1 The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

9.2 IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL

INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE OR EXTEND TO ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

- 9.3 The provisions of this Section 9 shall survive the expiration or termination of this Agreement.
10. **Insurance.** Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.
- 10.1 Consultant shall procure and maintain insurance of the types described below:
- a. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
  - b. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named by endorsement as an insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
- 10.2 **Minimum Amounts of Insurance.** Consultant shall maintain the following insurance limits:
- a. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
  - b. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
- 10.3 **Other Insurance Provisions.** The insurance policies are to contain or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:
- a. The Consultant's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
  - b. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, without first giving thirty (30) days written notice to the City, said notice being sent by certified mail with a return receipt requested.

- c. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive its right to subrogation. The Consultant's insurance shall be endorsed to waive the right of subrogation against the City or any self-insurance or insurance pool coverage maintained by the City.
    - d. If any coverage is written on a "claims made" basis, a minimum of three (3) years extended reporting period shall be included with the claims made policy and proof of this extended reporting period shall be provided to the City.
- 10.5. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
- 10.6. Verification of Coverage. Consultant shall furnish the City with original certificates and copy of all amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant have been met before commencement of the work.
- 11. **Assigning or Subcontracting.** Consultant shall not assign, transfer, subcontract or encumber any rights, duties or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld at the sole discretion of the City.
- 12. **Independent Contractor.** Consultant and its sub-consultants are and shall be at all times during the term of this Agreement, independent contractors. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service(s) provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be nor deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance and unemployment insurance shall be available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives, and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.
  - 12.1 The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at Consultant's own risk and Consultant shall be responsible for any loss of or damage to materials, tools or other articles used or held by Consultant for use in connection with the work.
- 13. **Notice.** All notices required by this Agreement shall be considered properly delivered when personally delivered, when received by facsimile or on the third day following mailing,

postage prepaid, certified mail, return receipt requested to:

City:                   ATTN: Mayor McCullough  
City of Bonney Lake  
9002 Main Street E  
Bonney Lake, WA 98391

With a copy to: City Clerk and Community Court Administrator

Consultant:          Somer Johnson  
14515 Prairie Ridge Dr E  
Bonney Lake, WA 98391

14. **Disputes.** Any suit or action for claims arising out of or relating to this Agreement shall be governed by the laws of the State of Washington, without reference to its choice-of-law rules. Exclusive venue shall be in Pierce County Superior Court, Tacoma, Washington.
15. **Attorney Fees.** In any suit or action instituted to interpret or enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party.
16. **Extent of Agreement/Modification.** This Agreement, together with any attachments or addenda, represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may only be amended, modified, or added to by written instrument properly signed by both parties. The parties acknowledge the general contract rule that a clause in a contract, such as this one, prohibiting oral modifications is itself generally subject to oral modification. However, to ensure certainty as to the terms and conditions of this Agreement, the parties waive this general contract rule.
17. **Conflict of Interest; Non-Collusion.** No officer, employee, or agent of the City, nor any member of the immediate family of any such officer, employee, or agent, shall have any personal financial interest, direct or indirect, in this Contract, either in fact or in appearance. The Consultant shall comply with all Federal, State and City conflict of interest laws, statutes, and regulations. The Consultant represents that the Consultant presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Contract pertains which would conflict in any manner or degree with the performance of the Consultant's services and obligations hereunder. The Consultant further covenants that, in performance of this Contract, no person having any such interest shall be employed by the Consultant. The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from the project applicant or any affiliate or agent of the project applicant.
  - 17.1 The Contractor warrants and represents that the Contractor has not, nor has any other member, employee, representative, agent, or officer of the Contractor, entered into or offered to enter into any combination, collusion or agreement with any person or entity to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of this Contract other than the consideration offered pursuant to the terms and conditions hereof.

18. **Contact.** The contact information for this agreement is as follows:

CITY OF BONNEY LAKE, WASHINGTON (“City”)  
Physical Address: 9002 Main Street E  
Mailing Address: PO Box 7380  
Bonney Lake, WA 98391  
Contact: Michael McCullough Phone: 253-862-8602 Fax: 253-862-8358  
Email: mcculloughm@cobl.us

and

Somer Johnson (“Consultant”)  
14515 Prairie Ridge Drive E  
Bonney Lake, WA 98391  
Phone: 253 590 3068 Email: allthingsmindful@yahoo.com

Tax Id No.: \_\_\_\_\_

ACKNOWLEDGED AND AGREED TO BY:

<p>CITY OF BONNEY LAKE <small>DocuSigned by:</small> By: <u>Michael McCullough</u> <small>B2943E7C04048A...</small> Michael McCullough</p> <p>Its: Mayor</p> <p>Date: <u>1/26/2022   10:04 AM PST</u></p> <p>Attest:</p> <p>By: <small>DocuSigned by:</small> <u>Sadie A. Schaneman</u> <small>3E60DC45B4BC451...</small> Sadie Schaneman City Clerk</p>	<p>CONSULTANT <small>DocuSigned by:</small> By: <u>Somer Johnson</u> <small>CDB188D263C2473...</small> Somer Johnson</p> <p>Its: <u>Somer Johnson</u></p> <p>Date: <u>2/24/2022   10:15 AM PST</u></p> <p>Approved as to form:</p> <p>By: <small>DocuSigned by:</small> <u>Kathleen Haggard</u> <small>80F7D25886FB4A3...</small> City Attorney</p>
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