



**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: **Board of County Commissioners**
Mark McCauley, County Administrator

FROM: **Pinky Feria Mingo, Director, Environmental Health and Water Quality**
Tami Pokorny, Natural Resources Program Coordinator

DATE: *February 12, 2024*

SUBJECT: Agenda Item – Approval of Professional Services Agreement with Natural Systems Design + Coastal Geologic Services for the Brinnon Reach Assessment & Conceptual Design Project; to conduct assessments and develop an initial design for the reach; January 1, 2024 – December 31, 2025; \$139,984.25

STATEMENT OF ISSUE:

Jefferson County Public Health requests approval of a professional services agreement with Natural Systems Design + Coastal Geologic Services for the Brinnon Reach Assessment & Conceptual Design Project; to conduct assessments and develop an initial design for the reach; January 1, 2024 – December 31, 2025; \$139,984.25

ANALYSIS:

Public Health requests approval of a professional services agreement with Natural Systems Design + Coastal Geologic Services (NSD + CGS) for the Brinnon Reach Assessment & Conceptual Design Project. NSD + CGS will assess current floodplain conditions involving the community of Brinnon and the lower one mile of the Dosewallips River and estuary. Reach geomorphology, hydrology (flood modeling), the Brinnon levee, existing habitat, and other floodplain functions and features will be assessed on foot with landowner permission, or utilizing remote imagery. A conceptual design will be developed and refined through a series of meetings of the Dosewallips River Collaborative to address diverse needs and concerns related to flood risk, land use, climate change, and habitat for listed salmon species. NSD + CSG is currently engaged in planning and design efforts in two additional reaches of the Dosewallips River. JCPH requests the opportunity also work with NSD + CSG in the Brinnon Reach on a sole source basis in order to maintain consistent approaches and communications.

FISCAL IMPACT:

Costs for the project will be provided by the RCO #23-1062 with an in-kind match of at least 15% provided by the following: the value of aerial images provided by the Jamestown S'Klallam Tribe, an in-kind portion of a FEMA Cooperating Technical Partners Program grant from American Rivers, the in-kind value of related Community Health Assessment activities from JCPH, and the in-kind value of a portion of the County's Sea Level Rise Study from DCD.

RECOMMENDATION:

JCPH Management recommends approval of the professional services agreement with Natural Systems Design + Coastal Geologic Services for the Brinnon Reach Assessment & Conceptual Design Project; to conduct assessments and develop an initial design for the reach; January 1, 2024 – December 31, 2025; \$139,984.25

REVIEWED BY:



Mark McCauley, County Administrator



Date

CONTRACT REVIEW FORM

Clear Form

(INSTRUCTIONS ARE ON THE NEXT PAGE)

CONTRACT WITH: Natural Systems Design

Contract No: WQ-24-003

Contract For: Brinnon Reach Assessment

Term: 1/1/2024 - 12/31/2025

COUNTY DEPARTMENT: Environmental Health

Contact Person: Tami Pokorny

Contact Phone: #498

Contact email: tpokorny@co.jefferson.wa.us

AMOUNT: \$139,984.25

Revenue:

Expenditure: \$139,984.25

Matching Funds Required:

Sources(s) of Matching Funds

Fund # 128

Munis Org/Obj 12855310

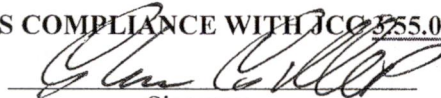
PROCESS:

- ☐ Exempt from Bid Process
- ☐ Cooperative Purchase
- ☐ Competitive Sealed Bid
- ☐ Small Works Roster
- ☐ Vendor List Bid
- ☐ RFP or RFQ
- ☒ Other: Sole Source

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 355.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☒ N/A: ☐

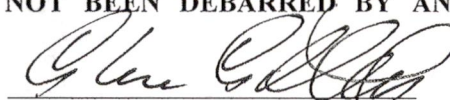

Signature

Jan. 22, 2024

Date

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☒ N/A: ☐


Signature

Jan. 22, 2024

Date

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 1/24/2024.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 1/24/2024.

Mostly standard county language. Risk Management decision to accept non-standard indemnity language. Thanks for pointing out the non-standard language in the contract review form.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL

PROFESSIONAL SERVICES AGREEMENT

Between

Natural Systems Design + Coastal Geologic Services

And

Jefferson County

Brinnon Reach Assessment & Conceptual Design

THIS PROFESSIONAL SERVICES AGREEMENT ("this Agreement") is entered into between the County of Jefferson, a municipal corporation ("the County"), and Natural Systems Design + Coastal Geologic Services ("the Contractor"), in consideration of the mutual benefits, terms, and conditions specified below.

1. Project Designation. The Contractor is retained by the County to perform the following Project: For the lower Dosewallips River, assist in the development of assessments, planning and conceptual designs for the Brinnon reach through a collaborative process and in partnership with Tribes' and agency project partners and members of the Brinnon community. The project reach is located between river mile (RM) 0.0 and 1.0 on the Dosewallips River between Hood Canal and a volcanic outcrop that naturally constricts the river downstream of the Bonneville Power Administration's transmission corridor. Goals of this multi-benefit project are to increase spawning and rearing habitat for Hood Canal Summer-run salmon while improving community resilience by developing a resiliency plan to also address flood and erosion risks and existing flood protections. Funding for this agreement is provided by a grant from the Recreation and Conservation Office for projects identified and recommended by the North Pacific Coast Lead Entity, RCO #23-1062.
2. Scope of Services. Contractor agrees to perform the services identified on Exhibit "A" attached hereto including the provision of all labor.
3. Time for Performance. This Agreement shall commence on January 1, 2024 and continue through December 31, 2025. Work performed consistent with this Agreement during its term, put prior to the adoption of this Agreement, is hereby ratified. The Contractor shall perform all services pursuant to this Agreement as outlined on Exhibit "A". Time is of the essence in the performance of this Agreement.
4. Payment. The Contractor shall be paid by the County for completed work and for services rendered under this Agreement as follows:
 - a. Payment for the work provided by Contractor shall be made as provided on Exhibit "B" attached hereto, provided that the total amount of payment to Contractor shall not exceed \$139,984.25 without express written modification of the Agreement

signed by the County. The anticipated timeline for completing the project is also detailed in Exhibit "B".

- b. Invoices must be submitted by the 10th of the month for the previous month's expenses. Such invoices will be checked by the County, and upon approval thereof, payment will be made to the Contractor in the amount approved. Failure to submit timely invoices and reports pursuant to Exhibit B of the Agreement may result in a denial of reimbursement. Invoices not submitted within 60 days may be denied.
 - c. Final payment of any balance due the Contractor of the total contract price earned will be made promptly upon its ascertainment and verification by the County after the completion of the work and submittal of reports under this Agreement and its acceptance by the County.
 - d. Consultant shall provide invoices and necessary backup documentation for all services including timesheets and statements (specifying the services provided). Any indirect charges require the submittal of an indirect cost methodology and rate using 2 C.F.R. Part 255 and 2 C.F.R. Part 230.
 - e. The Contractor's records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the County and state for a period of six (6) years after final payments. Copies shall be made available upon request.
5. Ownership and Use of Documents. All non-confidential or de-identified documents, drawings, specifications, and other materials produced by the Contractor in connection with the services rendered under this Agreement shall be the property of the County whether the project for which they are made is executed or not. The Contractor shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with Contractor's endeavors. Contractor shall not be held liable for reuse of documents or modifications thereof, including electronic data, by County or its representatives for any purpose other than the intent of this Agreement.
6. Compliance with Laws. Contractor shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services to be rendered under this Agreement.
7. Audit. An audit will be submitted to the County upon request. Upon request, Contractor will submit the most recent financial audit within 30 days.
- a. Upon request the County shall have the option of performing an onsite review of all records, statements, and documentation.

- b. If the County finds indications of potential non-compliance during the monitoring process, the County shall notify Contractor within ten (10) days. County and Contractor shall meet to discuss areas of contention in an attempt to resolve issues.
- c. Audit will provide statements consistent with the guidelines of Reporting for Other Non-Profit Organizations AICPA SOP 78-10, and is performed in accordance with generally accepted auditing standards and with Federal Standards for Audit of Governmental Organizations, Programs, Activities and Functions, and meeting all requirements of 2 C.F.R. Part 200, as applicable.

8. Indemnification.

- a. To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its officers, officials, employees, agents and volunteers (and their marital communities), harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its officers, officials, employees, agents and volunteers (and their marital communities).
- b. A party shall not be required to indemnify, defend, or hold the other party or its officers, officials, employees, agents and volunteers (and their marital communities) harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other party or its officers, officials, employees, agents and volunteers.
- c. In the event of any concurrent act or omission of the parties and their officers, officials, employees, agents and volunteers, negligent or otherwise, these indemnity provisions shall be valid and enforceable only to the extent of the comparative liability of each party and its officers, officials, employees, agents or volunteers.
- d. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

- e. The indemnification obligations of the parties shall not be limited in any way by the Washington State Industrial Insurance Act, Title 51 RCW, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act. Each party hereby expressly waives any immunity afforded by such acts to the extent required by a party's obligations to indemnify, defend and hold harmless the other party, its officers, officials, employees, agents and volunteers (and their marital communities). A party's waiver of immunity does not extend to claims made by its own employees directly against that party as employer. The indemnity provisions of this section are a material inducement to enter into this Agreement and have been mutually negotiated.
 - f. The provisions of this section shall survive the expiration or termination of this Agreement.
9. Insurance. Prior to commencing work, the Contractor shall obtain at its own cost and expense the following insurance coverage specified below and shall keep such coverage in force during the terms of the Agreement.
- a. Commercial Automobile Liability Insurance providing bodily injury and property damage liability coverage for all owned and non-owned vehicles assigned to or used in the performance of the work for a combined single limit of not less than \$500,000 each occurrence with the County named as an additional insured in connection with the Contractor's performance of this Agreement. This insurance shall indicate on the certificate of insurance the following coverage: (a) Owned automobiles; (b) Hired automobiles; and, (c) Non-owned automobiles.
 - b. Commercial General Liability Insurance in an amount not less than a single limit of one million dollars (\$1,000,000) per occurrence and an aggregate of not less than two (2) times the occurrence amount (\$2,000,000.00 minimum) for bodily injury, including death and property damage, unless a greater amount is specified in the contract specifications. The insurance coverage shall contain no limitations on the scope of the protection provided and include the following minimum coverage:
 - i. Broad Form Property Damage, with no employee exclusion;
 - ii. Personal Injury Liability, including extended bodily injury;
 - iii. Broad Form Contractual/Commercial Liability – including coverage for products and completed operations;
 - iv. Premises – Operations Liability (M&C);
 - v. Independent Contractors and Subcontractors;
 - vi. Blanket Contractual Liability.

- c. Professional Liability Insurance. The Contractor shall maintain professional liability insurance against legal liability arising out of activity related to the performance of this Agreement, on a form acceptable to Jefferson County Risk Management in the amounts of not less than \$1,000,000 Each Claim and \$2,000,000 Aggregate. The professional liability insurance policy should be on an "occurrence" form. If the professional liability policy is "claims made," then an extended reporting periods coverage (tail coverage) shall be purchased for three (3) years after the end of this Agreement, at the Contractor's sole expense. The Contractor agrees the Contractor's insurance obligation to provide professional liability insurance shall survive the completion or termination of this Agreement for a minimum period of three (3) years.
- d. The County shall be named as an "additional named insured" under all insurance policies required by this Agreement, except Professional Liability Insurance when not allowed by the insurer.
- e. Such insurance coverage shall be evidenced by one of the following methods:
 - (a) Certificate of Insurance; or, (b) Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.
- f. The Contractor shall furnish the County with properly executed certificates of insurance that, at a minimum, shall include: (a) The limits of coverage; (b) The project name to which it applies; (c) The certificate holder as Jefferson County, Washington and its elected officials, officers, and employees with the address of Jefferson County Public Health 615 Sheridan Street, Port Townsend, WA 98368, and, (d) A statement that the insurance policy shall not be canceled or allowed to expire except on thirty (30) days prior written notice to the County. If the proof of insurance or certificate indicating the County is an "additional insured" to a policy obtained by the Contractor refers to an endorsement (by number or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Contractor to obtain the full text of that endorsement and forward that full text to the County. Certificates of coverage as required by this section shall be delivered to the County within fifteen (15) days of execution of this Agreement.
- g. Failure of the Contractor to take out or maintain any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification of the County.
- h. The Contractor's insurers shall have no right of recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies, with the exception of Professional Liability Insurance, so affected shall protect both parties and be primary coverage for all losses covered by the above described insurance.

- i. Insurance companies issuing the policy or policies shall have no recourse against the County (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of policy.
- j. All deductibles in the above described insurance policies shall be assumed by and be at the sole risk of the Contractor.
- k. Any deductibles or self-insured retention shall be declared to and approved by the County prior to the approval of this Agreement by the County. At the option of the County, the insurer shall reduce or eliminate deductibles or self-insured retention, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- l. Any judgments for which the County may be liable, in excess of insured amounts required by this Agreement, or any portion thereof, may be withheld from payment due, or to become due, to the Contractor until the Contractor shall furnish additional security covering such judgment as may be determined by the County.
- m. Any coverage for third party liability claims provided to the County by a "Risk Pool" created pursuant to Ch. 48.62 RCW shall be non-contributory with respect to any policy of insurance the Contractor must provide in order to comply with this Agreement.
- n. The County may, upon the Contractor's failure to comply with all provisions of this Agreement relating to insurance, withhold payment or compensation that would otherwise be due to the Contractor.
- o. The Contractor's liability insurance provisions shall be primary and noncontributory with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees, and agents.
- p. Any failure to comply with reporting provisions of the insurance policies shall not affect coverage provided to the County, its officers, officials, employees, or agents.
- q. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- r. The Contractor shall include all subcontractors as insured under its insurance policies or shall furnish separate certificates and endorsements for each subcontractor. All insurance provisions for subcontractors shall be subject to all the requirements stated herein.

- s. The insurance limits mandated for any insurance coverage required by this Agreement are not intended to be an indication of exposure nor are they limitations on indemnification.
- t. The Contractor shall maintain all required insurance policies in force from the time services commence until services are completed. Certificates, insurance policies, and endorsements expiring before completion of services shall be promptly replaced. All the insurance policies required by this Agreement shall provide that thirty (30) days prior to cancellation, suspension, reduction or material change in the policy, notice of same shall be given to the Jefferson County Public Health Contracts Manager by registered mail, return receipt requested.
- u. The Contractor shall place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.
- v. The County reserves the right to request additional insurance on an individual basis for extra hazardous contracts and specific service agreements.

10. Worker's Compensation (Industrial Insurance).

- a. If and only if the Contractor employs any person(s) in the status of employee or employees separate from or in addition to any equity owners, sole proprietor, partners, owners or shareholders of the Contractor, the Contractor shall maintain workers' compensation insurance at its own expense, as required by Title 51 RCW, for the term of this Agreement and shall provide evidence of coverage to Jefferson County Public Health, upon request.
- b. Worker's compensation insurance covering all employees with limits meeting all applicable state and federal laws. This coverage shall include Employer's Liability with limits meeting all applicable state and federal laws.
- c. This coverage shall extend to any subcontractor that does not have their own worker's compensation and employer's liability insurance.
- d. The Contractor expressly waives by mutual negotiation all immunity and limitations on liability, with respect to the County, under any industrial insurance act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.
- e. If the County incurs any costs to enforce the provisions of this subsection, all cost and fees shall be recoverable from the Contractor.

11. Independent Contractor. The Contractor and the County agree that the Contractor is an independent Contractor with respect to the services provided pursuant to this Agreement. The Contractor specifically has the right to direct and control Contractor's own activities, and the activities of its subcontractors, employees, agents, and representatives, in providing the agreed services in accordance with the specifications set out in this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. Neither Contractor nor any employee of Contractor shall be entitled to any benefits accorded County employees by virtue of the services provided under this Agreement, including, but not limited to: retirement, vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to Jefferson County employees. The County shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Contractor, or any employee of Contractor.
12. Subcontracting Requirements.
- a. The Contractor is responsible for meeting all terms and conditions of this Agreement including standards of service, quality of materials and workmanship, costs, and schedules. Failure of a subcontractor to perform is no defense to a breach of this Agreement. The Contractor assumes responsibility for and all liability for the actions and quality of services performed by any subcontractor.
 - b. Every subcontractor must agree in writing to follow every term of this Agreement. The Contractor must provide every subcontractor's written agreement to follow every term of this Agreement before the subcontractor can perform any services under this Agreement. The Public Health Director or their designee must approve any proposed subcontractors in writing.
 - c. Any dispute arising between the Contractor and any subcontractors or between subcontractors must be resolved without involvement of any kind on the part of the County and without detrimental impact on the Contractor's performance required by this Agreement.
13. Covenant Against Contingent Fees. The Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability or, in its discretion to deduct from the contract price or

consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. Discrimination Prohibited. The Contractor, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, color, national origin, religion, creed, age, gender, sexual orientation, material status, sex, or the presence of any physical or sensory handicap in the selection and retention of employees or procurement of materials or supplies.
15. No Assignment. The Contractor shall not sublet or assign any of the services covered by this Agreement without the express written consent of the County. Assignment does not include printing or other customary reimbursable expenses that may be provided in an agreement.
16. Non-Waiver. Waiver by the County of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.
17. Termination.
 - a. The County reserves the right to terminate this Agreement at any time by giving ten (10) days written notice to the Contractor.
 - b. In the event of the death of a member, partner, or officer of the Contractor, or any of its supervisory personnel assigned to the project, the surviving members of the Contractor hereby agree to complete the work under the terms of this Agreement, if requested to do so by the County. This section shall not be a bar to renegotiations of this Agreement between surviving members of the Contractor and the County, if the County so chooses.
 - c. The County reserves the right to terminate this contract in whole or in part, with 10 days' notice, in the event that expected or actual funding from any funding source is withdrawn, reduced, or limited in any way after the effective date of this agreement. In the event of termination under this clause, the County shall be liable for only payment for services rendered prior to the effective date of termination.
18. Notices. All notices or other communications which any party desires or is required to give shall be given in writing and shall be deemed to have been given if hand-delivered, sent by facsimile, email, or mailed by depositing in the United States mail, prepaid to the party at the address listed below or such other address as a party may designate in writing from time to time. Notices to the County shall be sent to the following address:

Tami Pokorny, Natural Resources Program Coordinator
Jefferson County Public Health Department
615 Sheridan Street
Port Townsend, WA 98368
Office: 360-379-4498
Email: tpokorny@co.jefferson.wa.us

Notices to Contractor shall be sent to the following address:

Dawn Duncan, Office Manager
Natural Systems Design, Inc.
1900 Northlake Way, Suite 211
Seattle, WA 98103
Ph: 206 480-1114
Email: dawn@naturaldes.com

19. Integrated Agreement. This Agreement together with attachments or addenda represents the entire and integrated Agreement between the County and the Contractor and supersedes all prior negotiations, representations, or agreements written or oral. No representation or promise not expressly contained in this Agreement has been made. This Agreement supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral, by the County within the scope of this Agreement. The Contractor ratifies and adopts all statements, representations, warranties, covenants, and agreements contained in its proposal, and the supporting material submitted by the Contractor, accepts this Agreement and agrees to all of the terms and conditions of this Agreement.
20. Modification of this Agreement. This Agreement may be amended only by written instrument signed by both County and Contractor.
21. Disputes. The parties agree to use their best efforts to prevent and resolve disputes before they escalate into claims or legal actions. Any disputed issue not resolved pursuant to the terms of this Agreement shall be submitted in writing within 10 days to the County Risk Manager, whose decision in the matter shall be final, but shall be subject to judicial review. If either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this Agreement, each party in such action shall bear the cost of its own attorney's fees and court costs. Any legal action shall be initiated in the Superior Court of the State of Washington for Jefferson County. The parties agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The Contractor hereby consents to the personal jurisdiction of the Superior Court of the State of Washington for Jefferson County.

22. Section Headings. The headings of the sections of this Agreement are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of the sections or this Agreement.
23. Limits of Any Waiver of Default. No consent by either party to, or waiver of, a breach by either party, whether express or implied, shall constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.
24. No Oral Waiver. No term or provision of this Agreement will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. Failure of a party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default.
25. Severability. Provided it does not result in a material change in the terms of this Agreement, if any provision of this Agreement or the application of this Agreement to any person or circumstance shall be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement and the application this Agreement shall not be affected and shall be enforceable to the fullest extent permitted by law.
26. Binding on Successors, Heirs and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties' successors in interest, heirs, and assigns.
27. No Assignment. The Contractor shall not sell, assign, or transfer any of rights obtained by this Agreement without the express written consent of the County.
28. No Third-party Beneficiaries. The parties do not intend, and nothing in this Agreement shall be construed to mean, that any provision in this Agreement is for the benefit of any person or entity who is not a party.
29. Signature in Counterparts. The parties agree that separate copies of this Agreement may be signed by each of the parties and this Agreement shall have the same force and effect as if all the parties had signed the original.
30. Facsimile and Electronic Signatures. The parties agree that facsimile and electronic signatures shall have the same force and effect as original signatures.
31. Arms-Length Negotiations. The parties agree that this Agreement has been negotiated at arms-length, with the assistance and advice of competent, independent legal counsel.
32. Public Records Act. Notwithstanding the provisions of this Agreement to the contrary, to the extent any record, including any electronic, audio, paper or other media, is required to be kept or indexed as a public record in accordance with the Washington Public Records Act, Chapter 42.56 RCW, as may hereafter be amended, the Contractor agrees to maintain all records constituting public records and to produce or assist the

County in producing such records, within the time frames and parameters set forth in state law. The Contractor further agrees that upon receipt of any written public record request, Contractor shall, within two business days, notify the County by providing a copy of the request per the notice provisions of this Agreement.

33. Confidentiality. With respect to all information relating to County that is confidential and clearly so designated, as required by the Health Insurance Portability and Accountability Act (HIPAA) and any other applicable privacy laws, the Contractor agrees to keep such information confidential. The Contractor shall not disclose, transfer, or sell any such information to any party, except as provided by law or, in the case of personal information, with the prior written consent of the person to whom the personal information pertains. The Contractor shall maintain the confidentiality of all personal information and other information gained by reason of this Agreement, and shall return or certify the destruction of such information if requested in writing by Jefferson County. This Agreement, once executed, will be a "public record" subject to production to a third party if same is requested pursuant to the Washington Public Records Act, Chapter 42.56 RCW, as may hereafter be amended.

DATED this _____ day of _____, 20_____.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

SIGNATURE PAGE

JEFFERSON COUNTY WASHINGTON

Board of County Commissioners
Jefferson County, Washington

By: _____
Kate Dean, Chair Date

By: _____
Greg Brotherton, Commissioner Date

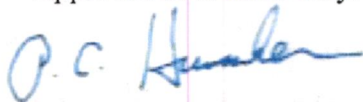
By: _____
Heidi Eisenhour, Commissioner Date

SEAL:

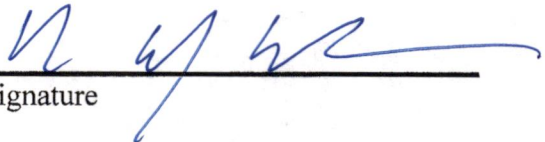
ATTEST:

Carolyn Gallaway CMC, Date
Clerk of the Board

Approved as to form only:

 _____
Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

**NATURAL SYSTEMS DESIGN +
COASTAL GEOLOGIC SERVICES**

By:  _____
Signature

Name: Leif Embertson

Title: President

Date: 02/02/24

EXHIBIT A

SCOPE OF WORK

Contractor will characterize the geomorphic, habitat, and hydraulic conditions of the reach, assess the flood risk to the local community, and develop a conceptual design to restore habitat for Hood Canal summer chum and Chinook salmon and engage with the County, Tribes, land and business owners and additional stakeholders. To accomplish this overarching project goal, the scope of work is broken down into the following tasks:

Task 1: Existing Conditions Assessment

Task 2: Conceptual Design

Task 3: Stakeholder Outreach

Task 4: Project Management

Task 1: Existing Conditions Assessment

The existing conditions assessment will focus on gaining an understanding of the current geomorphic, habitat, and hydraulic conditions of the reach and nearshore habitats to understand how the site setting and land use history inform current site conditions, habitat limiting factors for Hood Canal Summer Chum and Mid Hood Canal Chinook, and influence flooding and erosion risk for the surrounding community.

Background Data Collection and Field Reconnaissance

1.1 Background Data Collection and Field Reconnaissance Plan

Contractor will review the available background data including:

- Recent and past topography of the site (e.g., 2005, 2019, and 2023 LiDAR Digital Elevation Models)
- Recent and past aerial imagery of the site (e.g., USGS Earth Explorer, NAIP, Google Earth)
- FEMA flood maps
- Geologic maps of the project area (e.g., Washington Department of Natural Resources; Jefferson County Landslide Risk maps)
- Existing publicly available infrastructure and land-use information (e.g., Property ownership, roads, utilities)
- Existing recreational river usage within the reach based upon available information from fishing and boating websites or other previous studies.
- Results for past habitat assessments and limiting factors analyses (e.g., Labbe, 2005; WDFW fish distributions; Hood Canal Summer Chum and Chinook recovery plans; Correa, 2003)
- Final Jefferson County Sea-Level Rise Study (ESA 2023).

1.2 Field Reconnaissance

- Contractor will schedule one (1) field day to perform a data-collection reconnaissance of the project area. A raft or on-foot methods will be used to collect geomorphic, substrate, coarse-scale aquatic

habitat data, riparian vegetation, wetland and floodplain habitats, and characterize existing conditions.

- Contractor will not access properties where access permission is not granted or contact with landowners is not able to be made. In the circumstance that portions of the reach are unable to be accessed in the field, Contractor will utilize the understanding gained during the desktop assessment, combined with field observations, to inform understanding of the entire project reach.
- The Contractor's field team will include a lead engineer, geomorphologist, biologist, and project manager.

Data Analysis, Habitat Assessment and Hydraulic Model

Following background and field data collection, Contractor will compile the data to complete the following analyses:

1.3 Topographic Surface Development

- Compile LiDAR, in particular the 2023 LiDAR collected for the project area, into an updated composite topographic surface and generate a Relative Elevation Model (REM) of the project reach.

1.4 2D Hydraulic Modeling

- Contractor will complete an assessment of basin hydrology within the project area to assess both peak flows and smaller, more frequent flows that influence salmonid habitat conditions in the reach. An assessment of anticipated mid-century (2050) flows under current climate change predictions will also be included.
- A 2-dimensional hydraulic model will be developed to represent existing conditions using the channel and floodplain topography to evaluate channel-floodplain connectivity, inundation extents, instream velocities and shear stresses, and to inform the local risk of flooding.
- Contractor will model selected flows under both the current and mid-century (2050) flow regimes. Four (4) flow events will be selected with two flows focusing on more frequent discharges that are tied to key salmonid life history states, and two flows focusing on larger flood event to inform geomorphic trends and flooding risks in the project reach. These flood events will include the existing 100-year flood, and the adjusted 100-year flood based on a 2050 flow regime.

1.5 Levee and Flood Assessment

- Contractor will use the hydraulic model to evaluate the level of protection provided by the existing levee system to the town of Brinnon.
 - This will include modeling the existing 100-year flood event, and one additional scenario that incorporates sea-level rise data and the mid-century flow regime.
- Contractor will prepare two (2) maps showing the modeled extent of flood conditions within the study area under the existing (100-year) and climate change scenarios.
- Contractor will identify any flood protection deficiencies in the current levee system near Brinnon located on river left upstream of the Highway 101 Bridge via annotated mapping.
 - This includes examination of the existing conditions modeling results for areas of inadequate flood protection, and field examination of existing levee erosion.
- Contractor will incorporate the findings into the Conceptual Restoration Design (Task 2).

1.6 Aquatic Habitat Assessment

An assessment of Chinook and Summer Chum salmon habitat will be completed based on the field reconnaissance and available data. The coarse-scale assessment will focus on:

- Mapping and quantification of channel types (i.e. mainstem, braid, or side channel), and coarse scale aquatic habitat units (i.e. pools, riffles, or glides; width and depth of each unit where feasible with single day field effort).
- Streambank condition, locations of riprap, levees, and road banks (i.e. hydro-modified), stable large wood jam identification, and dominant substrate class.

These elements will be geo-referenced, measured if/as applicable and feasible, and roughly quantified if possible.

1.7 Floodplain and Riparian Assessment

- Contractor will map and characterize the riparian habitats that are located within the riverine/floodplain environment. This will include mapping by dominant vegetation strata using notes from the field reconnaissance and extrapolated through aerial photo interpretation.
- Contractor will map and characterize wetland and tributary habitats within the active floodplain. These habitats will be evaluated to determine if they currently provide aquatic habitats for salmonids. Contractor will rely on existing wetland mapping (i.e. NWI Mapping), notes from the field reconnaissance, the relative elevation mapping based on 2023 LiDAR, and existing stream mapping. Data will be synthesized in GIS.

1.8 Climate Change Analysis

- Historic flow records clearly show a trend of increasing peak flows in the Olympic Peninsula region. The warming climate has resulted in glacial recession and hydrologic changes that include a trend of increasing peak flows and diminishing low flows coupled with increased sediment supply. In addition, the predictions for sea-level rise in low-lying marine shoreline indicate the potential for increased flood risk within the Brinnon project area.
- Contractor will determine how river migration and morphology is likely to respond to greater peak flows, and how recently mapped sea-level rise (ESA 2023) will have consequences to habitat, infrastructure and property. Cumulative climate change effects will be described. Contractor will then evaluate potential restoration actions and their ability mitigate the impacts of climate change related to changes in river hydrology and sea-level rise related to infrastructure.

1.9 Existing Conditions Summary

- Contractor will summarize the analysis completed in Task 1 related to reach geology, channel and floodplain morphology, hydrology and hydraulics, sediment, channel migration history, large wood, riparian and wetland communities, aquatic habitat conditions and salmonid use, and primary impairments to fluvial processes. Documentation of nearshore and estuarine environments will be provided in a singular report provided by Jefferson County. Contractor will summarize the findings of that study within existing conditions report. This will not include new analysis or graphic preparation.

- Contractor will prepare a brief technical memorandum to compile the analysis completed as part of Task 1. This memorandum will be presented to Jefferson County and will provide the foundation for the development of the Conceptual Plan in Task 2.

The results of data collection and analysis Tasks 1.3 through 1.9 will form the framework for the development of the Conceptual Design (Task 2). Draft results existing conditions assessment and the 2D hydraulic analysis and will be presented to the Dosewallips River Collaborative (Task 3) where the main trends and conclusions of the work will be discussed.

Task 1 Assumptions

- Analysis and results will be summarized and presented to the Dosewallips River Collaborative in Task 4.
- Jefferson County will arrange for access to private property as needed. Contractor will not access properties where permission has not been obtained from landowners.
- Field conditions are such that field work can be accomplished within one 10-hr field days and stream flow is such that stream is navigable by inflatable raft.
- Field data may be supplemented with geospatial data if access to private property is not granted for the field reconnaissance effort. If geospatial data is not sufficient to evaluate a particular data type (i.e. substrate) it will be noted as a data gap for future collection.
- Jefferson County will reach out to the Dosewallips River Collaborative group and other local stakeholders who may have habitat data and local community knowledge and points of concern information and will provide that information to Contractor to supplement Contractor's field data collection plan (Task 1.1).
- Hydraulic modeling will consist of a maximum of eight (8) discrete flow events to characterize the current and anticipated mid-century (2050) hydraulic conditions.

Task 1 Deliverables:

- Field reconnaissance plan identifying parcels in which access is secured and parcels in which access is prohibited.
- Updated LiDAR topographic surface.
- 2D hydraulic model output and flood risk maps.
- Coarse-scale aquatic, floodplain, and riparian habitat map of the project reach.
- Draft Existing Conditions Memorandum.

Task 2: Conceptual Design

Conceptual design will be developed for a single restoration approach, to include multiple actions and elements, in collaboration with Jefferson County. Proposed actions will focus on addressing the causal mechanisms of increased channel migration rates, loss of floodplain forest, loss of key aquatic habitats, and the sustainability of existing levee system adjacent to Brinnon. The concept will include a description of project constraints (e.g., construction, geomorphic, social), implementation feasibility, and the pros/and cons related to community risk. Conceptual actions will be classified by their potential to be implemented in the short-term (2-3-year process), or long-term (4-20-year process). Examples of project elements that can be implemented in the short-term include the construction of in channel engineered log jams, side channel

connection, and riparian planting. Examples of projects that can be implemented in the longer term include floodplain restoration and changes in land use practices or primary infrastructure elements.

2.1 Project Goals and Objectives

Contractor will work with the County and the Dosewallips River Collaborative to establish goals for the restoration plan. This scope assumes that the primary goals are to establish a better understanding of the historic changes, the geomorphic and ecological processes that form and sustain salmon habitat, and the extents of flood inundation and erosion associated with the existing levee system.

2.2 Conceptual Design

Contractor will prepare a single conceptual design and present it to Jefferson County, the Dosewallips River Collaborative Group and other project stakeholders as part of Task 4. Based upon feedback on the conceptual design, a revised final conceptual design will be prepared such that it may be advanced toward preliminary design in a future phase of work. Contractor will document the conceptual plan based on the RCO Manual 18 guidance. The concept will consist of single plan-view graphics with a brief written description and are assumed to include instream and floodplain restoration elements and recommendations for levee repair or setback as feasible.

2.2 Proposed Conditions Hydraulic Modeling

The 2D hydraulic model developed during Task 1 will be updated to represent the proposed conditions of a single design concept to aid in characterizing the hydraulic, geomorphic and habitat response of the proposed plan. Proposed restoration elements will be represented in the hydraulic model as changes in the model terrain and/or changes in hydraulic roughness. Hydraulic output from the proposed conditions model (depths, velocity, water surface elevation) will be compared to the existing conditions to assess changes in hydraulic conditions as a result of the proposed restoration action and inform the anticipated geomorphic and habitat response of the conceptual plan.

2.3 Basis of Design

Contractor will develop the conceptual basis of design per RCO Manual 18 guidelines including the goals and objectives of the restoration approach, the development of the conceptual design, the evaluation and selection of the final conceptual design. Consultation with project stakeholders, and discussion of the conceptual design will be incorporated into a final basis of design report.

2.4 Construction Cost Estimate

A conceptual level cost estimate will also be developed for the final conceptual plan and incorporated into the Basis of Design report.

Task 2 Assumptions

- One round of consolidated review and comment in track changes on conceptual design plan from the Jefferson County
- No additional field work or substantive redesign is required to finalize Conceptual Plan

Task 2 Deliverables:

- One Conceptual Design plan in PDF format will provide plan-view representation of proposed actions.
- Final Conceptual Design figure in PDF format based on input from Jefferson County and Collaborative group, and other project stakeholders as determined by the County.
- Conceptual basis of design report per RCO Manual 18 guidelines.

- Conceptual construction cost estimate.

Task 3: Stakeholder Outreach

The Dosewallips River Collaborative (DRC) meetings will be the primary method for Contractor to organize outreach events, deliver draft analysis results, and obtain critical review of technical work. Contractor will attend and present at two (2), in-person DRC meetings, and three (3) online meetings over the course of the development of the Conceptual Design to share findings, discuss restoration goals and conceptual designs, and select a preferred restoration concept. Contractor will prepare brief PowerPoint presentations if/as appropriate for each meeting.

Each of the meetings would be held at critical milestones in the project, with topic and timing negotiated with the County in advance, for example:

1. Kickoff meeting to discuss project goals, available data, and key concerns – Spring 2024
2. Present findings from existing conditions assessment including the LiDAR and hydraulic modeling – Fall/Winter 2024
3. Present the draft conceptual design plan – Winter/Spring 2025
4. Select a preferred design alternative – Summer/Fall 2025

Task 3 Assumptions:

- ▶ Three (3) DRC meetings will be held on an online platform and will be attended by one Contractor staff member as appropriate to the main content of the meeting and will be 2 hours in length. This task also includes up to 8 hours of preparation time for each meeting.
- ▶ Two in-person DRC meetings will be held in Brinnon, WA and facilitated by the County. These meetings will be attended by one Contractor staff member as appropriate to the main content of the meeting and will be 4 hours in length. An additional 4 hours of travel time will also be required for Contractor staff.
 - This task also includes up to 8 hours for preparation of materials to be presented at each meeting.

Task 3 Deliverables:

- Attendance and presentation at five (5) Dosewallips River Collaborative meetings; 3 remote and 2 in-person.

Task 4: Project Management

Contractor will lead project scheduling, maintain adherence to the scope of work, timelines, and due dates; lead Contractor team interaction with the existing watershed projects; and ensure adherence to data quality assurance and controls. Contractor will provide updates to Jefferson County to facilitate the tracking of progress and to communicate major findings as information becomes available. Contractor will produce monthly summary reports to accompany our invoicing for services completed.

Task 4 Assumptions:

- Contractor's tasks will include project scheduling, maintaining adherence to the scope of work, timelines, and due dates; coordination of landowner permissions to access property; leading the team

interaction with the Dosewallips River Collaborative; and ensuring adherence to data quality assurance and controls.

- Contractor will meet with County staff on a bi-weekly basis for one hour to discuss key tasks for the months, provide updates on completed work, and landowner outreach progress. Contractor will produce summaries of work completed to accompany our monthly invoices for services completed.

Task 4 Deliverables:

- Monthly status reports, updates, and invoices – January 2024 through December 2025
- Attendance at bi-monthly project coordination meetings

EXHIBIT B
Estimated Budget and Schedule

DESCRIPTION	BEGINNING DATE	ENDING DATE	SUB TOTAL
Task 1. Existing Conditions Assessment	February 2024	December 2025	\$69,257.75
Task 2. Conceptual Design	January 2025	December 2025	\$38,029.00
Task 3. Stakeholder Outreach	May 2024	December 2025	\$16,497.50
Task 4. Project Management	February 2024	December 2025	\$16,200.00
PROJECT TOTAL	\$139,984.25		