

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONSENT AGENDA REQUEST

TO: Board of Commissioners

FROM: Josh Peters, Community Development Director
Chelsea Pronovost, Administrative Services Manager

DATE: 8/28/2023

RE: Professional Services Agreement – Atwell, LLC

STATEMENT OF ISSUE:

The Department of Community Development (DCD) desires to engage in a services agreement with Atwell, LLC for on-call development review and long-range planning.

ANALYSIS:

DCD is currently experiencing both a significant land use permit backlog and a staff capacity challenge. Compared to this time last year, the department is down three positions. Although we expect to hire additional staff in the coming weeks, even at full capacity (i.e., equivalent to this time last year, yet still approximately six FTE fewer than before the 2008-era recession), we continue to have needs for additional development review and long-range planning capacity. Development review needs include Type I permits under Title 18 Jefferson County Code (JCC), including Site Development Review (SDR) and stormwater management permits, and the more complex permits, including Type II with notice, Type III with public hearings, and Type IV land division. We also have long-range planning needs for our annual Comprehensive Plan amendment cycles and the 2025 Periodic Review required by the Growth Management Act (GMA).

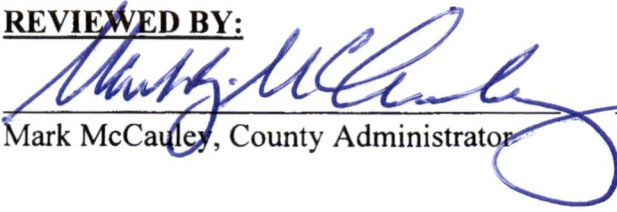
FISCAL IMPACT:

For development review, expenditures would be covered through a combination of land use permit fees and use of the department's fund balance and/or general fund, as appropriate. For long-range planning, DCD expects revenue—at least \$350,000 in the state's 2023-2025 biennium—through the State Department of Commerce for the 2025 Periodic Review.

RECOMMENDATION:

Staff recommends that the Board approve this professional services agreement.

REVIEWED BY:


Mark McCauley, County Administrator

8/25/23
Date

CONTRACT REVIEW FORM

(INSTRUCTIONS ARE ON THE NEXT PAGE)

Clear Form

CONTRACT WITH: Atwell, LLC

Contract No: 2023DCD-ATWELL

Contract For: community planning services

Term: 8/28/2023-6/30/2025

COUNTY DEPARTMENT: Community Development

Contact Person: Chelsea Pronovost

Contact Phone: 360-379-4494

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

AMOUNT: \$100,000

Revenue: \$50,000

Expenditure: \$50,000

Matching Funds Required:

Sources(s) of Matching Funds

Fund # 143

Munis Org/Obj 14355870 / 41000

PROCESS:

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

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 3.55.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☒ N/A: ☐

Signature

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

Date

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

Electronically approved by Risk Management on 8/24/2023.

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

Electronically approved as to form by PAO on 8/25/2023.
Mostly standard county PSA language, negotiated with PAO's help.

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 FOR ON-CALL PLANNING SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT FOR ON-CALL PLANNING SERVICES ("this Agreement") is entered into between the County of Jefferson, a municipal corporation ("the County"), and Atwell, LLC (UBI Number: 602-977-148, "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 On-Call Planning Services.
2. Scope of Services.
 - a. The Contractor agrees to perform the On-Call Planning Services including all labor identified on Exhibit "A."
 - b. All On-Call Planning Services shall be conducted pursuant to Exhibit "A."
 - c. The Contractor shall perform its services consistent with the professional skill and care ordinarily provided by contractors practicing in the same or similar locality under the same or similar circumstances.
3. Effective Date. The Effective Date is the date that the last party signs this Agreement.
4. Time for Performance. This Agreement shall commence on the Effective Date and continue for five years. 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 above in Section 2. The Contractor shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the project.
5. 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 the Contractor shall be made on a time and materials basis as provided on Exhibit "B."
 - b. The total amount of payment to the Contractor for development review projects shall not exceed the amount of the fee estimated staff hours in the County's current fee schedule without express written approval by the Director of Community Development ("the Director").
 - c. The total amount of payment to the Contractor for long-range planning projects shall not exceed the budget for a task order, without express written approval by the Director.
 - d. Invoices must be submitted by the 15th of the month for the previous month's expenses. Such invoices shall be checked by the County, and upon approval thereof, payment shall be made to the Contractor in the amount approved.

- e. Failure to submit timely invoices and reports pursuant to Exhibit "B" of this Agreement may result in a denial of reimbursement. Invoices not submitted within 90 days may be denied.
 - f. Final payment of any undisputed balance due the Contractor of the total amount earned on any task order shall 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, but no later than within 30 days of the County's receipt of any invoice.
 - g. Consultant understands and agrees that the County only can fees charged for the work covered by this Agreement that comply with RCW 82.02.020, so Consultant shall be paid for all reasonable and necessary work. Consultant shall bill time in quarter hour increments and provide a reasonable description of the work performed. Quarter hour increments shall be the minimum billing increment for invoices. Consultant shall provide invoices and necessary backup documentation for all services including timesheets and statements (specifying the services provided).
 - h. 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.
6. Ownership and Use of Documents. Upon Contractor's receipt of payment in full under this Agreement, 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, become 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 the Contractor's endeavors. The 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.
7. Compliance with laws. The 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.
8. Indemnification. The Contractor shall indemnify and hold harmless the County, its past or present employees, officers, agents, elected or appointed officials or volunteers (and their marital communities), from and against all claims, losses or liability, or any portion thereof, including reasonable attorney's fees and costs, arising from injury or death to persons, including injuries, sickness, disease or death to the Contractor's own employees, or damage to property occasioned by a negligent act, omission or failure of the Contractor. The Contractor shall be liable only to the extent of the Contractor's proportional negligence. The Contractor specifically assumes potential liability for actions brought against the County by the Contractor's employees, including all other persons engaged in the performance of any work or service required of the Contractor under this Agreement and,

solely for the purpose of this indemnification, the Contractor specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Contractor recognizes that this waiver was specifically entered into pursuant to provisions of RCW 4.24.115 and was subject of mutual negotiation.

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 this 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, (3) 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 overage; (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 Department of Community Development, 621 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. Insurance companies issuing the Contractor's insurance 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 insurance policy.
- m. 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.
- n. 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.
- o. 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.
- p. 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.
- q. 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.
- r. 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.
- s. 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.
- t. 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.
- u. 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 Risk Manager by registered mail, return receipt requested.

- v. 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.
- w. 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 Risk Manager, 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 the 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 the Contractor nor any employee of the 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 the Contractor, or any employee of the 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 the Contractor's 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 Director or their designee must approve any proposed subcontractors in writing.
- c. Any dispute arising between the Contractor and any subcontractors or between subcontractors related to performance of the subcontractor's work under this Agreement 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, shall not discriminate on the grounds of race, color, national origin, religion, creed, age, gender, sexual orientation, marital 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 and reserves the right to terminate this Agreement at any time by giving ten (10) days written notice to the Contractor, provided that the County shall pay for all reasonable and necessary work performed by the Contractor prior to termination.
- 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, Atwell, LLC hereby agrees 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 Contractor understands and agrees that County may terminate this Agreement 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:

Jefferson County Risk Manager
PO Box 1220
Port Townsend, WA 98368

Notices to the Contractor shall be sent to the following address:

Atwell, LLC
25 Central Way
Kirkland, WA 98033

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. 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. 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.
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. Notwithstanding anything in this Agreement to the contrary, Contractor shall be entitled to retain a copy of the confidential information to comply with legal, professional, or insurance requirements subject to a continuing obligation of confidentiality. Nothing in this Agreement shall require the Contractor to return, destroy, or delete copies of any computer records, data files, or electronic copies containing the confidential information that has been created pursuant to the Contractor's automated processes such as document retention/archiving or back-up policies/procedures.
34. Waiver of Consequential Damages. To the fullest extent permitted by law the County and Contractor waive against each other, and the other's officers, directors, members, partners, agents, employees, subcontractors, volunteers and insurers, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.
35. Limitation of Liability. Except as covered by the Contractor's insurance required under this Agreement, the County agrees that to the fullest extent permitted by law, Contractor's total liability to client for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to this Agreement from any causes including, but not limited to, Contractor's negligence, errors, omissions, strict liability, or

breach of contract, and whether claimed directly or by way of contribution, shall not exceed the total compensations received by Contractor under this Agreement.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

JEFFERSON COUNTY WASHINGTON
Board of County Commissioners
Jefferson County, Washington

ATWELL, LLC

By: _____
Greg Brotherton, Chair Date

By:  _____
Signature

Digitally signed by Brian J Darrow
DN: cn=US,
email=bdarrow@atwell-group.com,
o=Atwell, LLC, cn=Brian J Darrow
Date: 2023.08.24 14:10:18-0700

By: _____
Kate Dean, Commissioner Date

Name: _____

Title: _____

By: _____
Heidi Eisenhour, Commissioner Date

Date: _____

SEAL:

ATTEST:

Carolyn Galloway Date
Clerk of the Board

Approved as to form only:

 _____
August 25, 2023

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

EXHIBIT "A"
SCOPE OF SERVICES

1. Consultant's Commitment to Providing Efficient and Cost-Effective Services.
Consultant's goal is to fully satisfy the County's needs in the most efficient and cost-effective means possible. To achieve this goal:
 - a. Consultant shall collaborate with County staff to understand each project's needs, the expected level of effort, and desired deliverables;
 - b. Consultant shall provide high-quality service so the County develop confidence and trust in Consultant's work;
 - c. Consultant shall gain an understanding of local issues and concerns;
 - d. Consultant shall eliminate, to the extent possible, duplication of efforts on projects by utilizing experience and existing resources, as well as by implementing and exploiting computerized support that is tailored to the requirements of each individual scope of work;
 - e. Consultant shall track budgets, use best efforts to stay within budgets, and inform the County immediately when there is a possibility that any budget cannot be maintained;
 - f. Consultant shall utilize a team approach to staffing, to ensure that the persons comprising the team are the most qualified and most cost-effective personnel;
 - g. Consultant shall designate a single point of contact for each scope of work;
 - h. Consultant shall maintain an overarching understanding of all necessary services during times of multiple task order implementation—preventing over-commitment of available resources and promoting a better understanding of additional resources that may be needed;
 - i. Consultant shall maintain institutional knowledge of Jefferson County procedures and protocols for invoicing procedures, plan preparation protocols, and the County communication protocols;
 - j. Consultant shall be reliable; responsive; and available by phone, email, and virtually, as needed;
 - k. Consultant shall use clear, easy-to-understand communication with the public, developers, engineers, property owners, contractors, and other interested parties in understanding code requirements and the development process; and,
 - l. Consultant shall build trust and familiarity when interacting with the local community.

These components are not independent; rather, they are integral pieces that allow Consultant to create effective and efficient solutions in an era of regulatory and political

complexity. Consultant has invested in training to develop these competencies in Consultant's staff so that Consultant can deliver exceptional project management and delivery services to the County. Consultant's project managers have the support of a strong technical team that is committed to each project for its full duration.

2. On-Call Planning Service Consultant Shall Provide.

- a. Basis. Consultant shall provide the its services to the County on a cost-not-to-exceed basis.
- b. Limits on Consultant's Staff. Consultants shall provide a written list a core team of planners within five (5) business days of the Effective Date that will interact with Jefferson County Department of Community Development (DCD) staff on a day-to-day basis. The Director shall approve this list within five (5) business days. Adding consultant staff to this list requires written approval by the Director. Other technical experts for specific projects shall support this team, but only as approved in writing by the Director. A task order-specific list of Consultant's staff may be provided with a task order and budget for a specific long-range planning project.
- c. Projects. Consultant shall provide services on the following projects.
 - i. General Planning Assistance. Consultant shall provide planning support for Jefferson County, including code research to respond to questions, development review team meetings, and meetings with the Planning Commission or Board of County Commissioners to discuss planning-related topics.
 - ii. Development Review.
 - A. Consultant shall review development applications, including but not limited to Type I-IV land use permit applications as defined in Title 18 of the Jefferson County Code (JCC), as well as environmental review under the State Environmental Policy Act (SEPA), as assigned by the County.
 - B. Individual projects shall be assigned individual task numbers to track time relating to application review and processing.
 - C. Consultant shall work on a time and materials basis for all development review projects without a task order and budget to enable Consultant to begin work immediately when a development review project is submitted.
 - D. Consultant shall track the hours and expenditures for each project and tailor Consultant's effort to the estimated staff hours in the County's current fee schedule. Consultant shall notify the County immediately if it believes a project shall take more than the hours noted in the schedule and provide the County with Consultant's best estimate for completing the work.
 - E. Consultant shall process applications in compliance with the Planning Enabling Act and the Growth Management Act, and the Jefferson County Code,

following requirements specific to each type of application. This includes pre-application meetings; determinations of completeness; legal notices; technical review and preparation of comment letters; preparation of staff reports and administrative decisions, as necessary; and presentations to the Board of County Commissioners, the Planning Commission, or the Hearing Examiner.

F. Responsibilities of the Consultant:

- 1) Participate in general orientation provided by the County of the County's review process, development code, permit tracking system, GIS, Administrative Orders, Code Interpretations, Review Policy and Procedure, and zoning review checklist.
- 2) As needed, pick up of new application material or copies of relevant plans, studies, and submittal information, and revisions to corrections to be reviewed, and responses of applicant inquiries via the County-assigned project manager.
- 3) As part of Site Development Review (SDR), submit a draft Buildability Analysis memorandum and development envelope map within two (2) weeks of receiving a new application to the County-assigned project manager. Repeat this step until complete determination is ready for County approval.
- 4) Maintain a permit-tracking spreadsheet for use in providing County Staff with bi-weekly status updates and necessary data for entry in Enterprise Permit Tracking Software Platform (EnerGov).
- 5) Prepare or assist in preparation of Review Comment Letters and Staff Reports as warranted according to applicable JCC.

G. Responsibilities of the County:

- 1) Provide Consultant with the general orientation of the County's review process, development code, permit tracking system, GIS, Administrative Orders, Code Interpretations, Review Policy and Procedure, and zoning review checklist.
- 2) Where possible, the County will provide electronic or internet access to the Consultant for review resources and, if not available, then paper sources.
- 3) Provide Consultant with Legal Lot of Record (LLOR) Determination, or in specific instances provide consultant with necessary documentation and information to be used in assessing the LLOR status.
- 4) Final permit approvals for zoning reviews.

5) Primary contact with the permit applicant.

iii. Long-Range Planning. Consultant shall work on a time and materials basis for all long-range planning projects pursuant to the requirements in Exhibit "B." Consultant shall prepare task orders and budgets for individual long-range planning projects to agree on a scope, budget, and timeline to complete the work. All task orders and budgets must be approved in writing by the Director or their designee. Tasks could include:

- A. High-profile long-range planning projects such as comprehensive plan support, master planned resort support, and similar tasks;
- B. Development code audits and updates, such as critical areas regulations;
- C. Non-project SEPA processes, including environmental impact statements or supplements/addenda;
- D. Data compilation and analysis related to economic, social, environmental, and physical factors to support long-range planning or SEPA review; or,
- E. Community engagement efforts for any of the above.

The services provided in task order shall terminate upon completion of that work.

EXHIBIT "B"
PAYMENT

Consultant shall be paid for its reasonable and necessary fees and costs pursuant the requirement in this Exhibit "B." The County shall have the right to withhold payment to Consultant for any work not completed in a satisfactory manner until such time that Consultant modifies such work to the satisfaction of the County. Fees shall be based on the Labor Rate Schedule below:

LABOR RATE SCHEDULE

Classification	Hourly Rate
Senior Planner IV	\$184
Senior Planner III	\$168
Planner II	\$150
Permit Specialist	\$122
Associate Director – Project Manager III	\$222

The Labor Rate Schedule is effective as of the Effective Date and shall be effective for the duration of this Agreement or until amended and mutually agreed upon by Consultant and the County.

Fees Explained. Fees are based upon hourly rates and are calculated by multiplying the time spent by the hourly rates in effect at the time the work is performed.

Billing Increments. Time spent by Consultant personnel is recorded in increments of 15 minutes.

Costs Explained. Costs typically incurred on behalf of the County may include the items in the categories identified in the Disbursement Schedule below:

DISBURSEMENT SCHEDULE

Type of Costs¹	Amount of Charge
Database or other computing costs	No Charge
Photocopying	15¢ a page
Postage and Delivery Services	At Cost
Courier service or next day service such as Federal Express	At Cost
Mileage	At the prevailing IRS reimbursement rate
Pre-approved travel ²	At Cost

¹Other disbursements are generally charged at cost, depending on the nature of the item.

²Travel must be pre-approved by the Director in writing.