



# **Whatcom County A&E Professional Services Negotiated Hourly Rate Consultant Agreement**

Firm/Organization Legal Name (do not use dba's): WSP USA, Inc.	
Address PO Box 732476 Dallas, TX 75375-2476	Project Number 19082579
UBI Number 600 275 529	Federal TIN 11-1531569
Execution Date	Completion Date December 31, 2027
Federal Participation Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Maximum Amount Payable: \$752,159.46
Project Title Everson-Nooksack Berms	
Description of Work This scope of work is for first phase of work which will include professional engineering and consulting to evaluate the feasibility of constructing flood mitigation berms around the cities of Everson and Nooksack. Work will also include perform preliminary engineering analysis to define the additional work needed to implement the project.	

## **Index of Exhibits**

- Exhibit A      Scope of Work
- Exhibit B      Preparation and Delivery of Electronic Engineering and Other Data
- Exhibit C      Prime Consultant Cost Computations
- Exhibit D      Sub-consultant Cost Computations
- Exhibit E      County Ordinance on Nondiscrimination
- Exhibit F      Certification Documents
- Exhibit G      Granting Agency Provisions
- Exhibit H      Alleged Consultant Design Error Procedures
- Exhibit I      Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the “Execution Date” box on page one (1) of this AGREEMENT, between the Whatcom County Flood Control Zone District, hereinafter called the “AGENCY,” and the “Firm / Organization Name” referenced on page one (1) of this AGREEMENT, hereinafter called the “CONSULTANT.”

WHEREAS, the AGENCY desires to accomplish the work referenced in “Description of Work” on page one (1) of this AGREEMENT and hereafter called the “SERVICES;” and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, this AGREEMENT is partially or fully funded by a U.S. Department of Housing and Urban Development Community Development Block Grant (CBDG) sub-awarded through the WA State Department of Commerce, herein after referred to as the “GRANTING AGENCY”; and

WHEREAS, if there is no outside GRANTING AGENCY involvement, then any reference to GRANTING AGENCY herein shall be interpreted to mean the AGENCY; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

## **I. General Description of Work**

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

## **II. General Scope of Work**

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit “A” attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

## **III. General Requirements**

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days’ notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit “A.”

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local

laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit “B – Preparation and Delivery of Electronic Engineering and other Data.”

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring, as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:

Name: Christina Schoenfelder  
Agency: Whatcom County  
Address: 322 N. Commercial St, 2<sup>nd</sup> Floor  
City: Bellingham State: WA Zip:98225  
Email: [cschoenf@co.whatcom.wa.us](mailto:cschoenf@co.whatcom.wa.us)  
Phone: 360.778.6274

If to CONSULTANT:

Name: James Ellis  
Agency: WSP USA, Inc  
Address: 1001 4<sup>th</sup> Avenue, Suite 3100  
City: Seattle State: WA Zip: 98104  
Email: [james.t.ellis@wsp.com](mailto:james.t.ellis@wsp.com)  
Phone: 206.254.7986

#### **IV. Time for Beginning and Completion**

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall conform to the criteria agreed upon detailed in the AGREEMENT documents. These SERVICES must be completed by the date shown in the heading of this AGREEMENT titled “Completion Date.”

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

#### **V. Payment Provisions**

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES. The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 ([www.ecfr.gov](http://www.ecfr.gov)).

A. Hourly Rates: Hourly rates are comprised of the following elements - Direct (Raw) Labor, Indirect

Cost Rate, and Fee (Profit). The CONSULTANT shall be paid by the AGENCY for work done, based upon the negotiated hourly rates shown in Exhibits “C” and “D” attached hereto and by reference made part of this AGREEMENT. These negotiated hourly rates will be accepted based on a review of the CONSULTANT’s direct labor rates and indirect cost rate computations and agreed upon fee. The accepted negotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. The initially accepted negotiated rates shall be applicable from the approval date, as memorialized in a final written acknowledgment, to 180 days following the CONSULTANT’s fiscal year end (FYE) date.

The direct (raw) labor rates and classifications, as shown on Exhibits “C” and “D” shall be subject to renegotiations for each subsequent twelve (12) month period (180 days following FYE date to 180 days following FYE date) upon written request of the CONSULTANT or the AGENCY. The written request must be made to the other party within ninety (90) days following the CONSULTANT’s FYE date. If no such written request is made, the current direct (raw) labor rates and classifications as shown on Exhibits “C” and “D” will remain in effect for the twelve (12) month period.

Conversely, if a timely request is made in the manner set forth above, the parties will commence negotiations to determine the new direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period. Any agreed to renegotiated rates shall be memorialized in a final written acknowledgment between the parties. Such final written acknowledgment shall be incorporated into, and become a part of, this AGREEMENT. If requested, the CONSULTANT shall provide current payroll register and classifications to aid in negotiations. If the parties cannot reach an agreement on the direct (raw) labor rates and classifications, the AGENCY shall perform an audit of the CONSULTANT’s books and records to determine the CONSULTANT’s actual costs. The audit findings will establish the direct (raw) labor rates and classifications that will be applicable for the twelve (12) month period.

The fee as identified in Exhibits “C” and “D” shall represent a value to be applied throughout the life of the AGREEMENT.

The CONSULTANT shall submit annually to the AGENCY an updated indirect cost rate within 180 days of the close of its fiscal year. An approved updated indirect cost rate shall be included in the current fiscal year rate under this AGREEMENT, even if/when other components of the hourly rate are not renegotiated. These rates will be applicable for the twelve (12) month period. At the AGENCY’s option, a provisional and/or conditional indirect cost rate may be negotiated. This provisional or conditional indirect rate shall remain in effect until the updated indirect cost rate is completed and approved. Indirect cost rate costs incurred during the provisional or conditional period will not be adjusted. The CONSULTANT may request an extension of the last approved indirect cost rate for the twelve (12) month period. These requests for provisional indirect cost rate and/or extension will be considered on a case-by-case basis, and if granted, will be memorialized in a final written acknowledgment.

The CONSULTANT shall maintain and have accessible support data for verification of the components of the hourly rates, i.e., direct (raw) labor, indirect cost rate, and fee (profit) percentage. The CONSULTANT shall bill each employee’s actual classification, and actual salary plus indirect cost rate plus fee.

- B. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to, the following items: travel,

printing, long distance telephone, supplies, computer charges, and fees of sub-consultants. Air or train travel will be reimbursed only to lowest price available, unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with the Washington State Department of Transportation's (WSDOT) Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and all revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-salary Costs shall include an itemized listing of the charges directly identifiable with these SERVICES. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the GRANTING AGENCY upon request. All above charges must be necessary for the SERVICES provided under this AGREEMENT.

- C. Maximum Amount Payable: The Maximum Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT on page one (1.) The Maximum Amount Payable does not include payment for extra work as stipulated in section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.
- D. Monthly Progress Payments: Progress payments may be claimed on a monthly basis for all costs authorized in A and B above. Detailed statements shall support the monthly billings for hours expended at the rates established in Exhibit "C," including names and classifications of all employees, and billings for all direct non-salary expenses. To provide a means of verifying the billed salary costs for the CONSULTANT's employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the SERVICES at the time of the interview.
- E. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the SERVICES under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, electronic data, and other related documents, which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. Per WSDOT's "Audit Guide for Consultants," Chapter 23 "Resolution Procedures," the CONSULTANT has twenty (20) working days after receipt of the final Post Audit to begin the appeal process to the AGENCY for audit findings

- F. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or

audit involving the records is completed. An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, the GRANTING AGENCY'S auditor, Comptroller General of the United States, any of their duly authorized representatives, and/or at the request of the AGENCY's Project Manager

## **VI. Sub-Contracting**

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "D" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgment between the parties

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

## **VII. Employment and Organizational Conflict of Interest**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's Compensation Act on behalf of said employees or other persons while so

engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the GRANTING AGENCY or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

## **VIII. Nondiscrimination**

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "E" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "E" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

## **IX. Termination of Agreement**

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall

immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason, that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee.

The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY.

Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

## **X. Changes of Work**

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

## **XI. Disputes**

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "H". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto 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 CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

## **XII. Legal Relations**

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY and GRANTING AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold the GRANTING AGENCY and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT to defend or indemnify the GRANTING AGENCY and the AGENCY and their officers and employees against and hold harmless the GRANTING AGENCY and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the GRANTING AGENCY and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the GRANTING AGENCY and /or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the GRANTING AGENCY and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the GRANTING AGENCY and/or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the GRANTING AGENCY and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants,

subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to GRANTING AGENCY and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from GRANTING AGENCY and/or AGENCY's, their agents', officers and employees' failure to comply with specific written instructions regarding use provided to GRANTING AGENCY and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the GRANTING AGENCY and/or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Parties have mutually negotiated this waiver.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

#### Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the State of Washington (STATE).
- B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate for each policy period.
- C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar (\$1,000,000.00) combined single limit for each occurrence.
- D. Professional Liability.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the following will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and

completed operations coverage:

- US Department of Housing and Urban Development, Whatcom County, and the Whatcom County Flood Control Zone District, and their officers, employees, and agents.

This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Christina Schoenfelder

Agency: Whatcom County

Address: 322 N. Commercial St., 2<sup>nd</sup> Floor

City: Bellingham State: WA Zip: 98225

Phone: 360.778.6274

Email: cschoenf@co.whatcom.wa.us

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT or one million dollars (\$1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third part, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

### **XIII. Extra Work**

- A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.
- B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.

- C. The CONSULTANT must submit any “request for equitable adjustment,” hereafter referred to as “CLAIM,” under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.
- D. Failure to agree to any adjustment shall be a dispute under the section XI “Disputes” clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.
- E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

#### **XIV. Endorsement of Plans**

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

#### **XV. Granting Agency Review**

The GRANTING AGENCY shall have the right to participate in the review or examination of the SERVICES in progress.

#### **XVI. Certification of the Consultant and the Agency**

Attached hereto as Exhibit “F-1” is the Certification of the CONSULTANT and the AGENCY, Exhibit “F-2” Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit “F-3” Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit “F-4” Certificate of Current Cost or Pricing Data. Exhibit “F-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00) and Exhibit “F-4” is required only in AGREEMENT’s over five hundred thousand dollars (\$500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III “General Requirements” prior to its performance of any SERVICES under this AGREEMENT.

#### **XVII. Complete Agreement**

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

#### **XVIII. Execution and Acceptance**

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT’s contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

#### **XIX. Protection of Confidential Information**

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state, or federal statutes (“State’s Confidential Information”). The “State’s Confidential Information” includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles credit card information, driver’s license numbers, medical data, law enforcement records (or any other information identifiable to an individual), GRANTING AGENCY and AGENCY source code or object code, GRANTING AGENCY and AGENCY security data, non-public Specifications, GRANTING AGENCY and AGENCY non-publicly available data, proprietary software, GRANTING AGENCY and AGENCY security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State’s Confidential Information in strictest confidence and not to make use of the State’s Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY’s express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State’s Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY’s option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State’s Confidential Information; or (ii) returned all of the State’s Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State’s Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State’s Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State’s Confidential Information was received; who received, maintained, and used the State’s Confidential Information; and the final disposition of the State’s Confidential Information. The CONSULTANT’s records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State’s Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State’s Confidential Information, monetary damages, or penalties

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information, which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as “Confidential” and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT, or

(b) as soon as such confidential or proprietary material is developed. “Proprietary and/or confidential information” is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as “Proprietary and/or confidential information” or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant’s proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY’s said disclosure of sub-consultants’ information.

## **XX. Records Maintenance**

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain, and maintain all “documents” pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all “documents” pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT’s place of business during normal working hours. If any litigation, claim, or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. “Documents” shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, “documents” means every writing or record of every type and description, including electronically stored information (“ESI”), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENTs, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribbings, recordings, visual displays, photographs, minutes of meetings, tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains

any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, “ESI” means any and all computer data or electronic recorded media of any kind, including “Native Files”, that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops, or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

“Native files” are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified

The CONSULTANT shall include this section XX “Records Maintenance” in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.



# ***Exhibit A Scope of Work***

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The AGENCY has established a Management Reserve Fund in this Scope of Work to provide for flexibility to authorize additional funds to the Agreement for allowable unforeseen costs, or reimbursing the Consultant for additional work beyond that already defined in this Agreement. Such Authorization(s) shall be in writing and shall not exceed the amount included in the Management Reserve Fund as shown in Exhibit C. This fund may not be replenished. Any changes requiring additional costs in excess of the Management Reserve Fund shall require a contract amendment.

## ***I. INTRODUCTION***

The Everson-Nooksack Berms Project is commissioned by the Whatcom County Flood Control Zone District and Whatcom County herein after jointly referred to as COUNTY. This scope of work is for first phase of work which will evaluate construction of flood mitigation berms around the cities of Everson and Nooksack and perform preliminary engineering analysis to define the additional work needed to implement the project. The impetus for the project is largely in response to the November 2021 floods on the Nooksack River, which caused extensive damage and loss of life in the region. Additional flooding in 2025 has increased the urgency of this work. In the aftermath, the COUNTY, in partnership with local stakeholders, has prioritized flood risk reduction through the Floodplain Integrated Planning (FLIP) process. The FLIP Steering Committee, working with a separate consulting team, identified berms as a promising solution to protect vulnerable communities and infrastructure.

The COUNTY has selected WSP (CONSULTANT) to develop a conceptual design and preliminary engineering study for the project. The preliminary engineering study will assess technical, environmental, and regulatory factors influencing berm construction. This scope of work outlines the tasks necessary to complete the preliminary engineering study, and the next steps to implementation.

A future contract amendment may be executed to include detailed design and construction support.

The CONSULTANT team includes the following subconsultants:

- Herrera Environmental Consultants
- Northwest Hydraulic Consultants
- Drayton Archaeology
- Pacific Surveying & Engineering
- Triangle Associates
- Reichardt & Ebe (to be included in future amendment)

## ***II. DETAILED SCOPE OF SERVICES***

### **Task 1 – Project Management and Administration**

This task includes the CONSULTANT’s project management and administration of this phase. Project management activities include the following:

- Project administration and contract set up, including safety plan and risk plan, monthly project invoicing and progress reporting. This also includes developing and executing subconsultant agreements and looking forward to avoid delays and project issues.

- Miscellaneous coordination with the COUNTY including email and telephone conversations. Most coordination is assumed to be completed by bi-weekly 1-hour status calls.
- Miscellaneous coordination with subconsultants to check on project schedule and status.
- Project scheduling and staffing. CONSULTANT will prepare an initial project schedule and up to two schedule updates. The COUNTY will provide input to the project schedule in terms of reviews and key milestones.
- Quality Assurance. A senior staff member will provide quality assurance to track Quality Control is being completed as a part of the project process.
- Project file management. CONSULTANT will set up a Sharepoint site for sharing project materials between CONSULTANT and COUNTY.

### **Task 1 Assumptions**

- The Phase 1 project duration is anticipated to be from February 2026 through July 2027. If the project schedule is extended, it could result in additional project management effort.

### **Task 1 Deliverables**

- Project correspondence as needed.
- Monthly invoices and progress reports.
- Initial project schedule (in Microsoft Project) and two updates as requested by the COUNTY.
- Up to 38 1-hour bi-weekly status calls attended by up to two (2) CONSULTANT staff.
- Meeting agendas/summaries for bi-weekly status calls.

## **Task 2 - Data Gathering and Field Reconnaissance**

This task includes data gathering, review, and field reconnaissance to be conducted by CONSULTANT. CONSULTANT will review data and information provided by the COUNTY and Cities to become familiar with the project needs, issues, setting, geology, and previous analyses. COUNTY will gather background information such as existing studies, reports, models, roadway as-builts, GIS data, and other relevant information. CONSULTANT will review COUNTY provided information along with readily available online information such as topographic maps of the project area. CONSULTANT will conduct a site visit with the project team to review the site conditions and discuss goals and objectives. One additional site visit will be conducted to perform field reconnaissance and verification of site conditions.

### **Task 2 Assumptions**

- Site visits will be attended by three (3) CONSULTANT staff.
- The COUNTY will gather relevant background data and information for the project and provide to the CONSULTANT.
- Other information to be reviewed by the CONSULTANT is assumed to be readily available online.

### **Task 2 Deliverables**

- A brief summary table describing the documents and information available and relevance to the project.
- PDF catalog of utility/roadway as-built drawings and GIS data sets within the project area.

## **Task 3 – Community and Stakeholder Coordination**

This task includes coordination with key stakeholders and property owners having potential influence on the berm alignment, design requirements, and project constructability.

Key stakeholders are listed below, followed by a preliminary plan for coordination. It is anticipated that public outreach to the general public will be done during future phases of the project (under a separate contract).

- Washington Department of Fish and Wildlife (WDFW) – Prepare brief project introduction letter and conduct on-site meeting and document discussion noting any preferences by WDFW. Items to be discussed include Johnson Creek, Sumas River, and other streams/wetlands in the project vicinity. A summary of meeting notes will be prepared.
- Burlington Northern Santa Fe (BNSF) Railway – Coordination with BNSF including technical support and meetings, covered in Task 12.
- Property Owners – Assumes COUNTY will lead communication with affected property owners. CONSULTANT will provide technical support and attend up to two (2) property owner meetings.
- City of Everson and City of Nooksack – Cities will attend bi-weekly coordination calls (under Task 1) as needed. CONSULTANT will facilitate one (1) workshop with Cities and COUNTY to determine key project criteria. CONSULTANT will attend up to two (2) additional virtual meetings to provide updates and solicit input from Cities.
- WSDOT – Request input on design requirements for East Main Street (SR 544) and Nooksack Road (SR 9). Attend up to one (1) meeting with WSDOT (in which design requirements for Main Street will be discussed).
- Franchise Utilities – Coordination with franchise utilities in this phase is expected to focus on critical utility conflicts that may be difficult or costly to relocate or otherwise impact the design of the berms. Franchise utility coordination is covered in Task 11.
- Other key groups. CONSULTANT will attend up to three (3) additional meetings with other key stakeholders
- Other County Departments – It is assumed that coordination with other County departments for will be done by the COUNTY with support from CONSULTANT.
- CONSULTANT will provide up to 20 hours of coordination with property owners to answer questions and share initial information about the study as necessary.

CONSULTANT will develop a community engagement plan (CEP). The CEP will outline key audiences, tailored outreach strategies, and key messages. The CEP will serve as a reference for the entire project team to guide all communications with the community through future phases of the project.

### **Task 3 Assumptions:**

- COUNTY will lead communication/coordination with Tribes.
- COUNTY will lead coordination with BNSF.
- COUNTY will assist in identifying individual contacts if needed.
- CONSULTANT will attend up to one (1) meeting with each stakeholder identified above.
- Meeting with WDFW will be on site, up to two (2) hours in length, attended by up to three (3) CONSULTANT staff.
- Workshop with cities will be in person, up to four (4) hours in length, and attended by up to six (6) CONSULTANT staff.
- Update meetings with Cities will be virtual, one hour in length, attended by up to four (4) CONSULTANT staff.
- WSDOT meeting will be virtual, one hour in length, attended by up to three (3) CONSULTANT staff.

- CONSULTANT will attend up to four additional meetings with COUNTY departments. Meetings shall be virtual, one hour in length, and attended by up to two (2) CONSULTANT staff.
- CONSULTANT will attend up to three meetings with other key groups.

### **Task 3 Deliverables**

- Meeting notes for stakeholder meetings.
- Community Engagement Plan – draft and final.

## **Task 4 – Cultural Resources Assessment**

CONSULTANT will provide cultural resource oversight for the project. Work will include the evaluation for construction of flood protection berms around the developed and flood-prone areas of the cities of Everson and Nooksack. The expectation is the COUNTY will secure federal funding. Therefore, all work will be conducted for the compliance requirements of the National Historic Preservation Act of 1966, as amended (NHPA), Title 54 USC 300101 et seq., or more commonly known as Section 106. Consulting parties would include the Washington State Historic Preservation Office (SHPO) and all consulting parties included by the lead federal agency. The intent of the proposed review would be to locate and safeguard any potential Historic Properties (as defined in Section 106) that might be affected by the Undertaking.

The cultural resource review would consist of a desktop review, which will include relevant environmental, geological, historical, land use, precontact, and ethnographic summaries. The desktop review will assess the probability of encountering cultural resources. Below is a list of tasks recommended and necessary for completing the proposed work following regulatory mandates.

### **Proposed Tasks:**

- Conduct background research using DAHP’s WISAARD database and other relevant records, as needed, pertaining to previously conducted investigations and previously recorded sites within/near the project area.
- The background review will address ethnographic scoping and research into Tribal affiliations (for use in determining Traditional Cultural Property likelihood).
- Generate maps for the review.
- Compose narratives based on a review of previously recorded sites to inform survey methods and provide context for consultation and reporting.
- Tabulate previously conducted archaeological surveys and recorded sites within a 0.25 to one-mile radius based on background review for consultation and reporting.
- Compose a report of all desktop results.
- Provide a draft for COUNTY review.
- Upon COUNTY approval the document would be submitted to DAHP and any concerned parties for official review.
- Provide a period for comments to inform the final reporting.

### **Assumptions:**

- No fieldwork will be conducted as part of this task. If field work is required, it will be used as the basis to negotiate additional scope and fee.
- Any additional consultation or work ordered or required by the lead agency (HUD), the SHPO, Tribal Agencies, or other consulting parties, regardless of the rationale, is beyond the scope of this proposal.

- Any future design changes to the proposed development not covered within the present scope of work may require additional archaeological oversight as mandated by the regulatory authorities. Any additional consultation or work ordered or required by the lead agency (HUD), the SHPO, Tribal Agency(ies) or other consulting parties, regardless of the rationale, is beyond the scope of this proposal.
- Encountering any Human Remains, graves, or burial offerings would require consultation, recording, mitigation, and expenses that are not budgeted for here and do present a situation where there are legally mandated actions and treatments pursuant to state law. Any costs to meet legal liabilities can be mitigated but not wholly avoided. Additional costs associated with encountering human remains are the responsibility of the property owner(s) and permit holder(s).
- Assumes there are no federal regulatory requirement changes that would necessitate redoing any work within the project time frame.

**Deliverables:**

- One Draft Report (Word format) for review.
- One Final Report (PDF format).

**Task 5 – Critical Areas Delineation and Impacts Assessment**

If berm construction would result in filling of an existing wetland(s) or stream channel, adequate mitigation would be necessary per applicable code requirements to obtain project permits, and thus understanding the presence and regulatory status of wetlands and stream channels and their buffers has schedule and cost implications for eventual berm construction. CONSULTANT will lead an assessment of existing wetlands and stream channels in the proposed berm corridors, without completing precise delineations of wetland boundaries and ordinary high-water levels of stream channels. Access to privately owned land to complete precise delineations may be challenging, and for planning purposes the exact boundaries of these features are not necessary.

CONSULTANT biologists will conduct a desktop review of available mapping of wetlands and streams using GIS data furnished by the COUNTY and both cities, and other publicly available information sources. The preliminary desktop review will include data related to critical aquifer recharge areas, Oregon spotted frog habitat, wetlands and fish and wildlife habitat areas. Basemaps of the preliminary data resources review with parcel numbers and boundary lines, public access areas and city and county jurisdictions will be prepared with a list of priority properties recommended for Herrera’s ecologists to conduct reconnaissance-level field reviews of wetland, streams and habitat areas.

The project stakeholders and design team will select priority properties that the County will ask property owners for on-site access to conduct reconnaissance-level field reviews. CONSULTANT’s field work will be scheduled based on the responses by property owners and areas that are publicly available for access.

During the reconnaissance-level fieldwork, CONSULTANT will map the approximate boundaries of wetlands and stream channels and any important habitat areas with a handheld GPS unit. The resultant GPS data will be merged with previously available mapping of these features for incorporation in the project base mapping so that impact areas from berm design can be avoided or minimized.

Whatcom County and city regulated buffers to protect wetlands and streams are based on Ecology’s wetland rating system and the State’s water typing classifications (Yanke, A. and T, Hruby (2023),

WDNR, 2025). CONSULTANT will develop draft regulatory ratings for each wetland and stream mapped in this task based upon current Washington State Department of Ecology guidance. Depending on the berm impacts, these ratings will eventually need to be refined for project permitting based upon additional data collection in definitive field delineations.

CONSULTANT will evaluate impacts of the proposed berms as conceptually designed in Task 15 to conceptually quantify mitigation requirements (e.g., compensatory wetland mitigation). CONSULTANT will prepare conceptual impact assessment site plans to illustrate locations and preliminary extents of potential impacts to wetlands and streams. The estimated mitigation requirements will be used to identify potential mitigation options – both onsite and offsite – in coordination with the County and cities. CONSULTANT will prepare a technical memorandum documenting the methods and results of the wetlands and streams assessment, estimated temporary and permanent construction impacts, and options for mitigation to effectively satisfy applicable local, state, and federal regulatory requirements.

### **Task 5 Assumptions**

- COUNTY and or the jurisdictional cities will secure private property access for CONSULTANT staff to conduct site visits.
- Properties mapped as Oregon spotted frog habitat will be considered as not feasible for berm design.
- The conceptual plans for the Everson and Nooksack berms are estimated to be approximately 2.75 and 1.7 miles in length, respectively. The reconnaissance-level field work is estimated to include two biologists for 3 days to sufficiently identify wetlands and streams that could be impacted by berm construction.
- Wetlands will be identified based on a reconnaissance-level site visit and will not be formally delineated or surveyed. Wetland identification is to be used for planning purposes, not for permitting submittals.
- No more than 4 wetland/drainage complexes will be rated for this task according to the Washington State Department of Ecology (Ecology) system for rating wetlands in Western Washington. Additional budget for formal wetland ratings will likely be needed to complete the project's impact assessment for permitting purposes.
- A draft of the technical memo will be subject to one round of review by the County and cities, and CONSULTANT will address comments to prepare a final version.
- Assumes there are no federal regulatory requirement changes that would necessitate redoing any work within the project time frame.

### **Task 5 Deliverables**

- Preliminary desktop environmental data resource basemaps and list of priority properties recommended for conducting reconnaissance-level field visits to document wetlands and streams.
- Wetlands and Streams Assessment technical memo, draft and final in Microsoft Word and Adobe PDF electronic file formats.
- Draft and final wetland stream impact assessment site plans included in the memo will be included in the project team's conceptual design work in CAD and/or GIS file formats.

## Task 6 - Survey and Base Map Development

### Field Surveying

CONSULTANT will prepare a 1-ft contour interval topographic base map of the identified survey area (Exhibit B), which includes the full width of Main Street, plus 20' north and south of the right-of-way, and include the following features, at a minimum:

- Right of Way Margins and Centerline
- Property Lines (per deed, including owner and parcel information, with any easements present)
- Existing Structures
- Pavement, Gravel Edges
- Curbs, Sidewalks, Driveway Aprons
- Fences
- Overhead Utility Poles
- Overhead and Underground Utility Conduits, Pipes, Valves, Vaults, and other structures
- Landscaping Features
- Storm/Sewer/Water pipes with sizes, materials and elevations noted (where determinable)
- Grade breaks, ditches, and other topographic features
- Roadway signs
- Guardrails
- Johnson Creek Crossing Details
- Other Surface Features

The work described above must be referenced to current FEMA mapping datum. All survey work will be tied to the Whatcom County horizontal survey control network (WA State Plane North Zone NAD 83/91) and FEMA vertical datum (NAVD 88).

### Base Mapping

A scaled AutoCAD Civil 3D base map will be produced for use in the design. A certified PDF copy of the final map will also be provided. Boundary and parcel lines will be shown per record information only and not field verified or monumented as part of this scope of work.

CONSULTANT will utilize the services of a private utility locate subcontractor to paint underground utilities for this project.

### Assumptions

- No preparation of easements or permit applications is included in this scope.
- No hydrographic/bathymetric surveying is included in this scope.
- It is anticipated that certain features installed by private property owners such as irrigation systems, mailboxes, rockeries and plantings, and private signage may not be completely surveyed within survey area under this phase of work.
- Any additional survey needs will be performed by COUNTY survey crew.

### Deliverables

- AutoCAD Civil 3D Base Map (dwg file)
- Land XML Surface Model

- Survey Points (txt)
- PLS Certified PDF copy of completed base map
- PDF copy of Survey Field Notes

## **Task 7 – Subsurface Conditions Analysis**

### **7.1 Geotechnical**

The work under this task will be performed by CONSULTANT to obtain subsurface data which will be used to provide geotechnical engineering recommendations to support the conceptual design analysis for the new berm system. The intent of this effort will be to perform necessary field borings and laboratory testing to provide geotechnical and construction considerations in the form of a Preliminary Geotechnical Report. The CONSULTANT geotechnical scope of work will include the following.

1. Collect and review nearby existing subsurface information along the project alignment provided by the COUNTY.
2. Identify up to 6 locations to drill geotechnical borings along the berm alignments. Check each location for existing utilities and call 811 prior to excavation. Additional assistance from the City of Everson, City of Nooksack and the COUNTY might be needed to identify all known underground utilities, based on available maps. CONSULTANT will also retain the services of a private utility locating company for one day to clear the proposed drilling locations of utilities not marked by the One-Call service. Prior to drilling CONSULTANT will obtain the required permits for work within the City or County jurisdictions. CONSULTANT will provide traffic control plans per COUNTY standards for all field work. Provide investigation details for outreach to nearby neighborhoods. It is assumed that the COUNTY will coordinate access to private property as needed.
3. Drill up to 6 locations to 50 feet deep. Up to three borings are proposed for the Everson Berm alignment and up to three borings for the Nooksack Berm alignment. The proposed boring locations will be finalized following review of existing boring data, to be provided by the COUNTY. Split spoon soil samples will be collected using Standard Penetration Test (SPT) or Shelby tube sampling at 2.5-foot depth intervals down to 15 feet below ground surface in each boring, and then at 5-foot intervals for the remainder of the boring.
4. Install vibrating wire piezometers (VWPs) at two boring locations. Groundwater levels will be recorded at regular intervals by the VWPs with quarterly site visits performed to download the recorded data over a 1-year period.
5. Collect soil samples for laboratory testing for classification and to determine physical properties. Laboratory testing of select soil samples collected during our field exploration will be performed on samples at select depths and boring locations to support the evaluation of berm stability, seepage potential, and potential for long-term settlement. Testing may include grain size distribution analyses, moisture content, percent fines determinations, Atterberg limit determinations, unit weight determinations; organic content determinations; shear strength of fine-grained soils; permeability; The exact number of tests will depend on the soil conditions encountered during drilling. A contingency has been included for other additional lab testing such as consolidation testing or triaxial strength testing if significant areas of soft or compressible soil are encountered.
6. Prepare a Preliminary Geotechnical Report including:
  - a. Site plan showing pertinent surface features and approximate exploration locations
  - b. Summary of existing geological and geotechnical information near the berm alignment

- c. Boring logs with soil classifications and selected lab data
- d. Generalized geologic profile along the project alignment
- e. Description of surface and subsurface conditions
- f. Summary of laboratory test results
- g. Summary of existing nearby subsurface information
- h. Discussion regarding geotechnical suitability along the project alignment
- i. Provide preliminary geotechnical recommendations including:
  - i. Berm side slopes
  - ii. Berm foundation requirements
  - iii. Evaluation of liquefaction potential
  - iv. Seepage analysis
  - v. Berm construction materials
  - vi. Structure foundations support
  - vii. Recommendations for further study, if required.

**Task 7.1 Assumptions:**

- No contaminants will be found during drilling and cuttings will be clean for disposal.
- COUNTY can arrange a location for temporary storage of cuttings until disposal.
- COUNTY will coordinate access to private property.
- COUNTY will provide existing geotechnical data along proposed berm alignment.
- Berm construction materials assessment will be based on soils encountered in geotechnical borings.
- Berm side slope stability analyses will consider up to two cross sections and will consider only the end-of-construction load case and the flood condition load case on the protected side of the berm.
- Seepage analyses will consider up to two cross sections and will consider steady state seepage conditions during the design flood.
- Settlement will be assessed qualitatively based on soils encountered in geotechnical borings. No detailed settlement analysis will be performed under this scope.
- Structure foundation support recommendations will be qualitative as foundation design of project structures is excluded from this study.
- Discussion of dewatering measures will be conceptual for this phase of the study.

**Task 7.1 Deliverables**

- Preliminary Geotechnical Report, draft and final
- Response to one round of comments on the draft Preliminary Geotechnical Report

**7.2 Hazardous Materials**

The work under this task will be performed by CONSULTANT to conduct a hazardous materials environmental assessment to support the conceptual design and preliminary engineering study for the new Everson-Nooksack berms. The intent of this effort will be to identify and evaluate the project area for the potential presence of subsurface contaminants that may be encountered during the project construction. The hazardous Materials assessment for the project corridor will include the following tasks:

1. Review Environmental Records: Upon notice to proceed, CONSULTANT will obtain and review readily accessible environmental records for the Phase III project corridor and adjacent properties.

A subcontracted database service, such as Environmental Data Resources, Inc. (EDR), will be used to obtain a listing of environmentally regulated properties for the project corridor and immediate vicinity. Available records and databases include Environmental Protection Agency (EPA) listed and Washington State Department of Ecology (Ecology) listed sites.

2. Review Historical Records: Obtain and review historical aerial photographs, topographic maps, and Sanborn Fire Insurance maps, as provided by EDR, for the project vicinity.
3. Online File Review: Review technical documents and reports available online from EPA and Ecology concerning previous environmental investigations for the project site and adjacent properties.
4. Hazardous Materials Evaluation: Evaluate the resulting data with respect to potential impacts of subsurface contaminants on development and construction of the corridor project. This might include identifying areas of potential soil contamination, management and disposal of contaminated soil, and treatment requirements for dewatering effluent.

Draft and Final Hazardous Materials Analysis: CONSULTANT will prepare a hazardous materials analysis summarizing the hazardous materials evaluation. The hazardous materials analysis will be included in the Preliminary Geotechnical Report. The hazardous materials analysis may include recommendations for any additional environmental assessment work, potential impacts on property acquisition and construction, and potential mitigation measures that could be used to minimize contaminant-related impacts.

#### **Task 7.2 Assumptions:**

- An environmental hazardous materials analysis is not considered to be a Phase I Environmental Site Assessment (ESA) that adheres to the American Society for Testing and Materials standards. If the hazardous materials analysis reveals issues that could impact the project corridor, more detailed investigations, which may include Phase I ESAs or Phase II ESAs, may be recommended. If further investigation is recommended, a scope of work and cost estimate will be provided at that time.
- No third-party reliance will be granted.

#### **Task 7.2 Deliverables:**

- Draft Hazardous Materials Analysis, to be included as a section in the Preliminary Geotechnical Report
- Response to one round of comments on the Draft Hazardous Materials Analysis
- Final Hazardous Materials Analysis

### **Task 8 – Hydraulic Modeling and Analysis**

CONSULTANT will conduct hydraulic modeling to support conceptual berm alignments and heights around the cities of Everson and Nooksack. CONSULTANT will use as the starting point for this work the existing reach wide HEC-RAS 2D hydraulic model already developed and calibrated by Northwest Hydraulic Consultants (NHC). Task work assumes up to 8 hours of labor to refine the existing model adding additional project site definition where and if needed. If any further model calibration work is needed, beyond what has already been conducted by NHC, it is assumed that calibration effort would be part of NHC task work under another, separate contract NHC has with the COUNTY.

Up to three alternative berm concept designs will be simulated. CONSULTANT will represent the proposed berms in the hydraulic model and simulate up to three events, to be determined in consultation with the project team (for example, a lower flow flood, the 100-year event, and the 100-year times 1.75 future condition scenario) for each berm alignment. NHC will discuss the simulated results with the COUNTY and provide, for each flow, if needed, a digital water surface raster of the project site for each combination of berm alignment and flood event. CONSULTANT will evaluate any downstream change in either flow and/or water level, for both the Nooksack River and the Everson Overflow/Reach 5 to the limits of the model domain (Bellingham/Lummi Bays and the US/Canada Border, respectively), compared to the existing condition as it is most recently defined in the hydraulic model.

Task budget assumes up to three remote one-hour long meetings, attended by up to two CONSULTANT staff. Hydraulic modeling approach and results from this task work will be summarized in the Preliminary Engineering Report (Task 15).

**Task 8 Assumptions:**

- Up to three (3) model iterations will be performed based on design development and alternatives.

**Task 8 Deliverables:**

- No deliverables under this task. Hydraulic modeling work will be summarized in the Preliminary Engineering Report (Task 15).

**Task 9 – FEMA Floodplain Mapping Revisions Assessment**

CONSULTANT will provide up to 8 hours of technical support for meetings and other coordination with FEMA, leveraging prior communication with FEMA and COUNTY, for this task. It is assumed these discussions may include berm alignment relative to both the FEMA effective and preliminary mapping. Task work assumes that the FEMA preliminary model (dated September 2025) will be available. CONSULTANT will model up to one alternative floodway alignment applying the FEMA preliminary model as part of this task work. Hydraulic modeling work for this alternative floodway will mimic FEMA’s approach applied for the preliminary model of modeling both existing conditions as well as the “natural valley” for non-certified levees. The resulting FEMA surcharge will be evaluated and reported on to the project team.

Alternative to a floodway boundary refinement for this task, CONSULTANT could optionally simulate a revised condition at Everson Main Street/State Route 544, building upon prior discussions and evaluations previously conducted with the COUNTY, with the FEMA preliminary floodway boundary.

If a revised floodway is to be developed in the existing hydraulic model (where the COUNTY has already added more up to date bathymetry and then refined the model, based on additional flood events and calibration data, compared to the FEMA preliminary model) to aid in evaluating berm design and/or to support a change to the FEMA mapping, as discussed in prior COUNTY meetings, that task is beyond this scope of work, and CONSULTANT would accomplish this in a later design phase.

**Task 9 Assumptions**

- CONSULTANT provide up to 8 hours of technical support for meetings and other coordination with FEMA.

**Task 9 Deliverables**

- No deliverables under this task. FEMA coordination work will be summarized in the Preliminary Engineering Report (Task 15).

## **Task 10 - Roadway Modifications Analysis**

Based on modeling of the berm alignments and elevations, the CONSULTANT shall provide design options to elevate the existing E. Main Street/W. Columbia Street roadway profile to surmount the proposed berms on the west and east sides of the floodway. In addition, the CONSULTANT shall evaluate the need to elevate portions of other roads impacted by the berm alignments, such as Van Buren Road, Emerson Road, and Tom Road, to match the higher ground conditions necessitated by the western berm. The CONSULTANT shall provide conceptual design of elevated roadway sections that allow traffic to continue to flow at the affected roadways. The CONSULTANT shall incorporate connections to all existing intersecting roads and private driveways. The CONSULTANT shall include shoulder widths that match the future classification of the roadway and will consider safety improvements such as guardrails and barriers as required. Additionally, the CONSULTANT will provide a preliminary assessment of stormwater and drainage requirements for proposed roadway modifications, including preliminary sizing and conceptual design of detention and water quality facilities, if required.

The CONSULTANT shall conduct a bridge alternatives analysis and subsequent conceptual design of the preferred structure desired to be constructed between the berms on E. Main Street, which will allow water to pass under the roadway during flood events. In addition to the bridge alternatives, a “no bridge” scenario will be assessed. Specific services include the following:

- Development of design criteria to demonstrate compliance with current code provisions, including bridge seismic performance criteria.
- Coordination with the expanded team to ensure each discipline’s work is understood and integrated into the analysis. This includes coordination with environmental, drainage, roadway, traffic, geotechnical, hydraulics, etc.
- Development of a structural assumption and decision matrix to support estimating and inform the project risk registry.
- Development of conceptual structure figures to provide a graphic description of each structure alternative. Details will also illustrate potential impacts associated with construction means-and-methods to support identification of easement and/or right of way needs, impacts to environmental resources, utilities, etc.
- Development of an evaluation criteria focused on the unique benefits of structure alternatives relative to another and centered around the functional goals of the Project.
- Development of rough-order-of-magnitude conceptual cost comparisons. Estimates will be developed for the purpose of comparison between alternatives and will not show all of the structure details. The estimates will be quantity based using conceptual-level unit pricing from WSDOT and other sources as necessary. Quantities for minor bid items will be assumed or estimated based on similar type projects.
- Support development of geotechnical recommendations and hazard mitigation.
- Facilitate a meeting with the COUNTY and Cities to present the preferred alternative.
- The design of the preferred structural alternative will be advanced and include:
  - Conceptual Design Drawings (~10%) for the structural components for the Preferred Alternative.
  - Preparation of an Engineer’s Estimate of probable construction costs.

### **Task 10 Assumptions:**

- For geometric design of the roadway plan and profile, CONSULTANT will use the AASHTO Roadway Design Manual, latest edition, unless doing so conflicts with State or County roadway design standards. In those cases, the latter will take precedence. City of Nooksack or Everson details may also take precedence over State or County standards on a case-by-case basis.
- COUNTY will provide roadway cross section requirements. Alternative cross sections will not be assessed.
- Three (3) profile alternatives at E. Main Street, and two (2) profile alternatives at Van Buren (if required) will be assessed.
- One roadway cross-section, based on design standards and engineering judgement, will be selected for inclusion in each of the alternatives.
- Up to five (5) variances will be required for the preferred roadway option.
- Structural Specific:
  - Up to three (3) structural concept types will be evaluated. Structure types will be low profile options such as a channel bridge, slab structure, culvert, thru girders, etc.
  - Up to three (3) CONSULTANT structures staff will participate in up to four (4) meetings with the COUNTY and Cities. The meetings will be virtual and have a duration of one (1) hour.
  - COUNTY will be responsible for inviting the appropriate COUNTY and City and WSDOT personnel to each meeting as needed.
  - Conceptual structure alternative details will be included in the body of the Technical Memorandum.

### **Task 10 Deliverables:**

- Draft and Final Technical Memorandum summarizing the alternatives assessed in exhibit form and 10 percent design drawings and probable construction costs for the preferred alternative. The structural design criteria, and the assumptions and decision matrix will be included as an appendix to the technical memorandum.
- Comment responses to COUNTY review comments on the Draft Technical Memorandum.

## **Task 11 - Utility Modifications Analysis**

This task covers analysis of major utility modifications that are anticipated to be necessary due to berm construction, including:

- Coordinating with the City of Everson to define a preferred method of relocation of a sanitary sewer lift station, and to assess if any upgrades relative to the existing lift station are desired.
- Determining the location and approximate size of flood gates and pump systems that would be needed for locations where storm drainage would otherwise be blocked by a berm
- Determining where fire hydrants, power poles, and other above-ground utility features would need to be relocated
- Evaluating if any subsurface utility lines would need modification due to the added weight of soil or other design components in a berm, or otherwise for compatibility with a bermed flood flow corridor.

### **Sub-Task 11.1 Utility Investigations and Report**

CONSULTANT shall perform utility coordination and liaison activities with utility owners for the Project. CONSULTANT shall determine the number of utility owners or operators that are impacted by the Project.

CONSULTANT shall obtain system mapping from utility owners located within the Project limits. CONSULTANT shall use this information to confirm that it matches the information on the survey basemap and information provided by COUNTY. When invited, CONSULTANT's utility coordinator shall attend meetings with the COUNTY as applicable. CONSULTANT shall notify COUNTY if any utility owner or operator (“utility owner”) is nonresponsive or uncooperative. COUNTY will communicate with the utility owner to affect a solution if necessary.

CONSULTANT shall prepare a draft and final utility report to address utility facilities located within the Project limits. The utility report will include as many of the following items as are known, available, and applicable:

- Description of utility facilities located within the Project limits
- Utility facility’s structure dimension
- Probable buried depth of cover or aerial lowest height of wire
- Reliance upon other utility facilities in the vicinity (joint use facility)
- Description of the means used to verify facility location and limits of conflict (test hole data, a.k.a. “pothole” verification)
- Proposed Project construction requirements
- Potential utility facility conflicts
- Probable conflict resolution (relocation or adjustment concept)

For alternatives associated with the City of Everson’s sewer lift station near Main Street near the proposed western flood berm alignment, the CONSULTANT will conduct the following work:

- Obtain design, as-built, and operational information for the current lift station and the sewers upstream and downstream of the lift station.
- Obtain information from key staff responsible for the City of Everson sewer Operations & Maintenance on requirements and preferences for a relocated lift station. These include information related to:
  - (a) Lift station siting: required site size, property requirements including safety and access needs, and desired proximity to existing force mains and gravity lines.
  - (b) Replaced or relocated lift station design criteria: current design and future capacity requirements, other planned system enhancements, and flood protection
  - (c) Replaced or relocated lift station requirements: odor, noise control, equipment preferences, storage, pump, power, emergency generator, and instrumentation and controls.
- Briefly evaluate feasibility to flood proof the existing lift station in place and the minimum requirements for protection of the lift station within the proposed floodway.

CONSULTANT will evaluate feasibility of a relocated lift station west of the current lift station site.

CONSULTANT shall submit the draft utility report for COUNTY review and comment. COUNTY will consolidate all comments and submit to CONSULTANT. CONSULTANT to prepare and submit final utility report.

### **Sub-Task 11.2 Drainage Analysis and Conceptual Drainage Report**

The Consultant will evaluate the impact of proposed flood control berms to existing surface water drainage patterns including through ditches, streams, and municipal MS4 conveyances. The analysis is anticipated to require the following components:

- Mapping of all known storm drains, outfalls, and open channels crossing the proposed flood control berms including upstream and downstream of the crossing for a minimum of 100 feet or to the next drainage feature (for instance, culvert, driveway, outfall, or drainage structure). Mapping will utilize available GIS, LiDAR, as-builts, and other information.
- Delineation of existing sub-basins, revised sub-basins, and development of a hydrologic model to support preliminary engineering work as described below. This work will include review and, if needed, refinements to land cover, land slope, and near-surface soils data to support the hydrologic analyses.
- Identify locations where existing drainage is impeded and then develop potential flow modifications to eliminate significant closed depressions or undersized conveyances for design events. Flow modifications are expected to include localized grading, ditches, storm drains, and culverts to provide positive flow.
- For drainage collection areas behind flood control berms identified during development of flow modification work, provide type, approximate size, and location of necessary drainage management features to address drainage collection areas. These features may include holding basins, flow openings through berms closed via gates during river overflow events, pump stations, and/or operational BMPs. These drainage management features will function differently during different storm scenarios (for instance, typical winter storm, Nooksack River overflow event contained by proposed flood berms, and Nooksack River overflow event exceeding design of proposed flood berms) and therefore, at a minimum, a qualitative summary of expected performance at each drainage collection area will be prepared.
- Preliminary type, size, and location for runoff treatment and flow control stormwater BMPs will be developed from proposed improvements along Main Street associated with the final project configuration. Other stormwater BMPs requirements which could be triggered for other proposed improvements (for instance, flood berms and walls, utility relocations, drainage improvements) will not be evaluated as part of this scope of work.
- As needed, different hydrologic and hydraulic models are anticipated to support analysis at different locations. Analysis may use models such as FHWA-developed tools, WWHM, MGSFlood, and SWMM.

CONSULTANT shall submit the draft conceptual drainage report for COUNTY review and comment. COUNTY will consolidate all comments and submit to CONSULTANT. CONSULTANT to prepare and submit final conceptual drainage report.

#### **Task 11 Assumptions:**

- Utility facility coordination meetings will not be conducted under this phase of work
- Utility relocation plans will not be developed under this phase of work.
- Utility maps, GIS shapefiles, as-built drawings, or other documents with sufficient detail for the analysis of this task will be provided by the COUNTY, City of Everson, and City of Nooksack.
- Drainage requirements for Main Street will follow WSDOT stormwater standards.
- Drainage requirements outside of Main Street will follow Whatcom County stormwater standards. Variance needs will be documented in the Conceptual Drainage Report.

- Concept approaches for handling flow collection areas behind flood control berms will only be developed to enough assessment to confirm their feasibility. It is assumed the number of individual catchments that need to be assessed is no more than 8.

**Task 11 Deliverables:**

- Utilities communication record
- Draft Utility Report
- Response to one round of comments
- Final Utility Report
- Draft Conceptual Drainage Report
- Response to one round of comments
- Final Conceptual Drainage Report

**Task 12 – Railroad Modifications Analysis**

Where a proposed berm would need to tie into an existing railroad embankment to reach high ground, modifications to the railroad embankment may be needed. This task includes coordination with BNSF Railway to identify any concerns for berm connection to an existing railroad embankment, design requirements, and requirements for design coordination for such work. The COUNTY will lead this coordination with technical support from CONSULTANT.

CONSULTANT will provide technical support for communication with BNSF, including up to two (2) figures and attendance at two (2) virtual meetings.

**Task 12 Assumptions**

- COUNTY will facilitate communications with BNSF and schedule meetings.
- Railroad modification requirements will be documented in the Preliminary Engineering Report.

**Task 12 Deliverables**

- Up to two (2) map figures to support communications with BNSF.

**Task 13 – Funding Strategy**

CONSULTANT will support the COUNTY in identifying potential sources of design and construction funding. Potential sources include:

- State and Federal Grants
- State and Federal Low-Interest Loans
- State Budget Appropriations
- Additional special purpose financing strategies

CONSULTANT will develop a matrix of funding sources which will include their respective requirements and eligibility, approximate level of effort in application and reporting requirements, cost (if any), timeline, and other details as necessary to build a funding plan. CONSULTANT will review these options with the County and support decision-making on which sources to pursue. To evaluate eligibility and competitiveness, CONSULTANT will facilitate meetings with the following agencies, as appropriate:

- State Department of Commerce (Community and Economic Revitalization Board, Public Works Board)

- State Department of Ecology (Clean Water Program, Flood Control Assistance Account Program, Floodplains by Design Program, Stormwater Financial Assistance Program)
- State Department of Transportation
- Infrastructure Assistance Coordinating Council – Funding Support Organization for local agencies.  
Washington

### **Task 13 Assumptions**

- This task does not include the development of specific grant or loan applications or materials.
- The funding plan will be documented in the Preliminary Engineering Report

### **Task 13 Deliverables**

- Funding Matrix

## **Task 14 – Permitting Assessment**

CONSULTANT will prepare a permit matrix that illustrates the types of permits that may be required for the project based on the results of the field work and preliminary design information. The matrix will provide a broad overview of the regulations/permit, triggering actions, and estimated timeline for completing an application to permit issuance.

The CONSULTANT will integrate potential grant application requirements into the permit matrix. For example, any federal grant identified in Task 13 will trigger a National Environmental Policy Act (NEPA) review by the funding agency, including Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act. NEPA review typically involves identifying agency procedures, eligibility criteria, required submittals, and review deadlines. Compliance reviews for the State Environmental Policy Act (SEPA) will also be required, whether the County or one of the cities serves as the lead agency. Other grants identified in Task 13 may have additional submittal requirements that will be researched and incorporated into the matrix.

The following project compliance reviews and permit approvals that are likely to be required by agencies for berm construction will be based on the following conditions:

- Any proposed project-associated filling or alteration to a regulated stream will require a Hydraulic Project Approval (HPA) by the Washington Department of Fish and Wildlife (WDFW)
- Any proposed wetland fill will require federal authorization by the U.S. Army Corps of Engineers according to Section 404 of the Clean Water Act
- If a Section 404 permit is required, Section 401 Water Quality Certification(s) and consistency with the Coastal Management Zone Act (CMZA) as administered by Ecology will also be required.
- Whatcom County and both cities will require permits covering grading and drainage, critical areas impacts, shoreline modifications (near the river), and floodplain impacts. Geotechnical reviews and building permits for the berms may also be required.

CONSULTANT will work with the COUNTY to refine the matrix and provide a permitting strategy for a preferred alternative. The permitting strategy will identify potential phasing considerations based on several factors, including timing of construction funding, engineering phasing recommendations, and the shelf-life of required permits.

### **Task 14 Assumptions**

- It is assumed that permit applications, drawings, and associated technical reports will not be prepared at this phase.
- Meetings or other communications with state and federal regulatory agencies will not be necessary until a later phase of project development
- There will be one round of review and comment of the draft matrix with the COUNTY.

### **Task 14 Deliverables**

- Draft and Final permit Matrix

## **Task 15 – Conceptual Design and Preliminary Engineering Report**

The results of Tasks 1-14 will be used to refine the conceptual alignments, cross-section geometries, and heights of the berms to achieve intended flood protection purposes and to evaluate berm design, implementation, and potential obstacles during construction. The conceptual design phase will evaluate the proposed berm alignments by integrating hydraulic, geotechnical, property ownership, and environmental considerations.

### **Subtask 15.1 – Initial Alignment Screening**

This effort includes first developing up to three (3) preliminary alignment alternatives. These preliminary alignment alternatives will be assessed in terms of property ownership and right-of-way limitations, high ground tie-ins, local zoning including urban growth planning considerations, and sensitive area resources. The initial screening will be based on existing, available data such as property records, LiDAR elevation data, known critical areas, and community urban growth plans. The alternatives developed in this task will inform field investigations, tribal consultation, and identification of technical analysis needs. Additionally, CONSULTANT will assess up to 3 alternatives for improving east-west roadway connectivity during flood events (described in Task 10).

### **Subtask 15.2 – Preliminary Engineering and Conceptual Design**

One alignment alternative from Subtask 15.1 will be selected to proceed to preliminary engineering and conceptual design. The results of Tasks 1-14 will be used to defined berm design requirements, infrastructure modifications, and assess constructability. This task will include defining locations where a floodwall would be needed in lieu of an earthen berm to be compatible with private property interests, and to define where storm drainage gates or pump stations would need to be integrated with a berm. This task also includes preparing concept-level cost estimates for the berms inclusive of raising roads, flood gates, pump stations, significant utility relocations, dry bridges, environmental mitigation, earthwork, and property acquisition/easements required to construct the berms and raise roadways.

The CONSULTANT will prepare conceptual design figures, as listed below, for a single berm alignment and east-west roadway configuration as selected by COUNTY.

Where space is restricted, the design will identify locations requiring flood walls and determine appropriate structural solutions based on foundation conditions and constructability. Interior drainage impacts will be analyzed to define pump station requirements, including preliminary sizing based on design storm events, contributing drainage areas, and discharge conditions. Conceptual cost estimates for levees, flood walls, and pump stations will be prepared to support preliminary engineering, along with a review of constructability, access, and schedule considerations. The preliminary engineering study will

also include a preliminary phasing plan to identify logical construction sequences, prioritize critical segments, and align with funding availability. The task will conclude with recommendations for the most viable alignment(s), supported by cost, phasing, and risk assessments.

Findings will be detailed in a draft and final Preliminary Engineering Report that documents the evaluation of berm alignments and details considerations for implementation. The report will integrate the technical analyses, regulatory considerations, stakeholder input, and cost and scheduling, and evaluate the criteria defined in Task 3 to provide a final recommendation regarding project implementation.

The conceptual design will include the following figures at the concept (10%) design level:

- Berm Plan Figures (9 at 1"=100')
- Berm Detail Figures (2)
- Roadway Modification Plan Figures (4 at 1"=40')
- Roadway Modification Detail Figures (2)
- Storm Modification Plan Figures (2)
- Storm Modification Detail Figures (2)
- Sewer Modification Plan Figure
- Sewer Modification Detail Figure
- Utilities Modification Plan Figures (2)
- Construction Sequence Plan Figures (2)
- Other Conceptual Design Figures (2)

One meeting will be held with the CONSULTANT and COUNTY to review the draft report and conceptual design. County and city comments on the conceptual plans, report and cost estimates will be addressed to produce a final version that can be used for discussions with individual landowners, to pursue funding, and other FLIP purposes.

### **Task 15 Assumptions**

- The Preliminary Engineering Report will assess (as described under this task) up to three (3) alternative berm alignments.
- The Preliminary Engineering Report will assess up to three (3) alternatives for improving east-west access during flood events.
- The Preliminary Engineering Report review meeting will be virtual, two (2) hours in length, and attended by six (6) CONSULTANT staff.
- Phasing plan is assumed to include no more than three phases.
- COUNTY will consolidate review comments into one document.
- Land acquisition cost (\$/ac) will be based upon input from the County. No detailed investigations for land cost are included.
- No structural detailing of floodwalls, flood gates, and other structural components associated with the berm will be included.

### **Task 15 Deliverables**

- Draft conceptual design drawings and cost estimate
- Response to one round of combined comments on the draft conceptual design drawings and cost estimate
- Final conceptual design drawings and cost estimate

- Draft Preliminary Engineering Report
- Response to one round of combined comments on the draft Preliminary Engineering Report
- Final Preliminary Engineering Report

## **Task 16 – Management Reserve**

This task establishes a management reserve to address unforeseen conditions, scope clarifications, or additional services that may arise during the execution of the Preliminary Engineering study. The reserve is intended to provide flexibility for the COUNTY and CONSULTANT team to respond to unexpected requirements without delaying project progress. Use of this reserve will be subject to prior written approval by the County

### **Task 16 Assumptions**

- Expenditures from the reserve require COUNTY authorization before work begins.
- Any use of the reserve will be documented with justification, scope description, and cost impact.

# ***Exhibit B Preparation and Delivery of Electronic Engineering and Other Data***

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In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

## **I. Surveying, Roadway Design & Plans Preparation Section**

### **A. Survey Data**

The AGENCY will provide a CAD title block template with associated Plot Style Table to the CONSULTANT. All CONSULTANT files generated for the work will be transferred to the AGENCY in their native digital format (AutoCAD, GIS, etc). Deliverables shall be transferred in PDF format or hard-copy as described in the scope.

### **B. Computer Aided Drafting Files**

All CONSULTANT files generated for the work will be transferred to the AGENCY in their native digital format (AutoCAD, GIS, etc). Deliverables shall be transferred in PDF format or hard-copy as described in the scope.

## **II. Methods to Electronically Exchange Data**

File transfers shall be via email, sftp site, or a secure file sharing web services as mutually agreed.

## ***Exhibit C Prime Consultant Cost Computations***

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The AGENCY has established a Management Reserve Fund for this AGREEMENT as follows:

Total Amount Authorized	\$742,159.46
Management Reserve Fund	\$10,000.00
Maximum Amount Payable	\$752,159.46



Client Name: **Whatcom County**  
 Project Name: **Everson-Nooksack Berms Feasibility Study**  
 Date: **1/30/2026**

LABOR - WSP					Labor by Task																			
Name/Role	Category	Total Hours	Rate <sup>1</sup>	Total Labor	1 - PM & Admin	2 - Data Review & Recon	3 - Commty/Stakeholder	4 - Cult Resources	5 - Critical Areas	6 - Survey & Basemap	7.1 - Geotechnical	7.2 - Hazardous Materials	8 - H&H	9 - FEMA	10 - Roadway	11.1 - Utilities	11.2 - Drainage Analysis	12 - Railroad	13 - Funding Strategy	14 - Permit Assessment	15.1 - Alignment Screening	15.2 - Eng & Concept Design	16 - Mgmt Reserve	
Ellis, James	Senior Technical Manager	553	\$ 245.46	\$145,740.18	261	20	31	8	12	8	16	4	24	18	20	18	20	8	12	4	6	63	-	
Wisniewski, Jeff	Senior Technical Director	149	\$ 385.86	\$57,493.37	34	8	12	-	-	-	-	-	-	-	20	-	-	8	-	-	6	61	-	
Roscoe, Daniel	Technical Director	38	\$ 257.91	\$9,800.44	-	-	9	-	-	-	-	2	-	-	-	-	-	-	3	20	-	4	-	
Lockard, William	Senior Technical Manager	186	\$ 213.44	\$39,718.58	-	-	-	-	-	-	186	-	-	-	-	-	-	-	-	-	-	-	-	
Wildman, John	Lead Professional	14	\$ 216.07	\$3,024.99	-	-	-	-	-	-	-	-	4	-	-	-	-	-	-	-	4	6	-	
French, Ross	Technical Director	31	\$ 333.36	\$10,334.08	-	-	4	-	-	-	-	-	-	-	18	-	-	-	-	-	-	9	-	
Inglin, Blake	Senior Professional	132	\$ 150.03	\$19,804.34	-	16	24	-	-	-	-	-	20	-	-	-	-	-	-	-	18	54	-	
Shannon, Alexander	Senior Director	13	\$ 407.34	\$5,295.46	-	-	-	-	-	-	-	-	-	-	-	-	-	-	13	-	-	-	-	
Cammermeyer, Jon	Technical Director	124	\$ 295.31	\$36,618.44	-	12	-	-	-	-	-	-	-	-	-	30	45	-	-	-	-	37	-	
Madawela, Ramila	Senior Professional	32	\$ 153.36	\$4,907.64	32	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Gillespie, Sarah	Lead Professional	136	\$ 206.58	\$28,095.23	-	8	-	-	-	-	-	-	-	-	-	-	70	-	-	-	-	58	-	
Hammond, Gage	Intermediate Professional	363	\$ 123.87	\$44,964.75	-	16	-	-	-	-	-	-	-	-	44	58	94	-	29	-	-	122	-	
Suarez Ontaneda, Marcelo	Senior Technical Manager	20	\$ 241.48	\$4,829.58	-	-	-	-	-	-	-	-	-	-	-	-	-	20	-	-	-	-	-	
Gray, Kyle	Lead Professional	43	\$ 199.73	\$8,588.26	-	-	-	-	-	-	-	2	-	-	35	-	-	-	-	-	-	6	-	
Howland, Cherie	Senior Technician	18	\$ 105.62	\$1,901.19	-	-	-	-	-	-	-	18	-	-	-	-	-	-	-	-	-	-	-	
Comeskey, Michael	Director	147	\$ 279.97	\$41,155.42	-	-	8	-	-	-	-	-	-	-	39	-	-	-	22	-	4	74	-	
Reyes, John Ernel	Lead Technician	147	\$ 184.00	\$27,047.96	-	-	-	-	-	-	-	-	-	-	63	-	-	-	-	-	-	84	-	
Korsness, Jacob	Senior Technical Manager	43	\$ 240.36	\$10,335.40	-	-	-	-	-	-	-	-	-	-	-	43	-	-	-	-	-	-	-	
Andrews, Corissa	Experienced Professional	4	\$ 158.77	\$635.08	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	
Knobbe, Blake	Experienced Professional	40	\$ 127.65	\$5,105.90	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	40	-	-	-	
Anderson, Madelaine	Experienced Professional	205	\$ 138.06	\$28,301.77	-	-	-	-	-	-	197	-	-	-	-	-	-	-	-	-	-	8	-	
Bell, Colton	Intermediate Professional	159	\$ 114.10	\$18,141.82	-	-	-	-	-	-	159	-	-	-	-	-	-	-	-	-	-	-	-	
Brownell, Michelle	Senior Professional	54	\$ 156.69	\$8,461.07	-	-	-	-	-	-	-	-	-	-	34	-	-	-	-	20	-	-	-	
Lemkau, Nicholas	Senior Professional	91	\$ 168.77	\$15,358.52	-	-	-	-	-	-	-	-	-	-	91	-	-	-	-	-	-	-	-	
<b>Total Labor Hours</b>				<b>2,742</b>	<b>327</b>	<b>80</b>	<b>88</b>	<b>8</b>	<b>12</b>	<b>8</b>	<b>558</b>	<b>26</b>	<b>48</b>	<b>18</b>	<b>364</b>	<b>149</b>	<b>229</b>	<b>36</b>	<b>79</b>	<b>84</b>	<b>38</b>	<b>590</b>	<b>-</b>	
<b>Total Labor Revenue</b>				<b>\$75,659.47</b>	<b>\$82,092.37</b>	<b>\$17,574.94</b>	<b>\$21,734.77</b>	<b>\$1,963.69</b>	<b>\$2,945.54</b>	<b>\$1,963.69</b>	<b>\$88,985.09</b>	<b>\$3,798.31</b>	<b>\$9,756.01</b>	<b>\$4,418.31</b>	<b>\$74,264.24</b>	<b>\$30,797.46</b>	<b>\$44,302.72</b>	<b>\$9,880.16</b>	<b>\$18,766.26</b>	<b>\$14,379.61</b>	<b>\$8,472.69</b>	<b>\$129,563.62</b>	<b>\$10,000.00</b>	
SUBCONSULTANT																								
Herrera				\$43,647.00	\$6,000.00				\$32,654.00													\$4,993.00		
Northwest Hydraulic Consultants				\$24,853.00									\$17,400.00	\$7,453.00										
Drayton Archaeology				\$5,864.53				\$5,864.53																
Pacific Surveying & Engineering				\$23,970.46						\$23,970.46														
Triangle Associates				\$10,960.00			\$10,960.00																	
<b>Total Subconsultant Revenue</b>				<b>\$109,294.99</b>	<b>\$6,000.00</b>	<b>\$0.00</b>	<b>\$10,960.00</b>	<b>\$5,864.53</b>	<b>\$32,654.00</b>	<b>\$23,970.46</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$17,400.00</b>	<b>\$7,453.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$4,993.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
EXPENSES - WSP ONLY <sup>2</sup>																								
Mileage				\$1,160.00		\$290.00	\$580.00		\$290.00															
Field Expenses				\$2,700.00							\$2,700.00													
Utility Locate				\$1,000.00							\$1,000.00													
Drilling: Holocene				\$47,575.00							\$47,575.00													
AAR Testing- geotech index testing				\$3,770.00							\$3,770.00													
HWA Testing - Triaxial U-U (2 tests)				\$600.00							\$600.00													
Test Pit Excavation				\$1,900.00							\$1,900.00													
Test Pit Lab Analysis				\$1,000.00							\$1,000.00													
Traffic Control 5 days				\$7,500.00							\$7,500.00													
<b>Total Expenses</b>				<b>\$67,205.00</b>	<b>\$0.00</b>	<b>\$290.00</b>	<b>\$580.00</b>	<b>\$0.00</b>	<b>\$290.00</b>	<b>\$0.00</b>	<b>\$66,045.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>TOTAL PRICE</b>				<b>\$752,159.46</b>	<b>\$88,092.37</b>	<b>\$17,864.94</b>	<b>\$33,274.77</b>	<b>\$7,828.22</b>	<b>\$35,889.54</b>	<b>\$25,934.15</b>	<b>\$155,030.09</b>	<b>\$3,798.31</b>	<b>\$27,156.01</b>	<b>\$11,871.31</b>	<b>\$74,264.24</b>	<b>\$30,797.46</b>	<b>\$44,302.72</b>	<b>\$9,880.16</b>	<b>\$18,766.26</b>	<b>\$19,372.61</b>	<b>\$8,472.69</b>	<b>\$129,563.62</b>	<b>\$10,000.00</b>	

NOTES  
<sup>1</sup> Rates based on direct labor, plus WSDOT 2024 Audited OH rate of 138.28%, plus 30% profit on direct labor.  
<sup>2</sup> All expenses will be invoiced directly. No markup applied to direct expenses.

### Geotech Field Expenses

Per diem:	\$ 200.00	/day
Rental car:	\$ 80.00	/day
Misc field expenses:	\$ 20.00	/day
Sum daily field expenses:	\$ 300.00	/day
Total field expenses:	\$ 2,700.00	

Meals and lodging as needed

Geotech team uses rental rather than IRS mileage rate

Assumes 9 days

**WSP USA Inc.**  
**1001 Fourth Ave, Suite 3100**  
**Seattle, WA 98154**  
**0**

Alphanumeric Grade	Job Classification / Title	Direct Labor Rate	GSO Overhead NTE	Fixed Fee NTE**	All Inclusive Hourly Billing Rate
		NTE*	138.28%	30.00%	NTE
S1	Assistant, All Job Functions	\$32.79	\$45.34	\$9.84	\$87.97
S2	Coordinator, All Job Functions	\$41.01	\$56.71	\$12.30	\$110.02
S3	Senior Coordinator, All Job Functions	\$54.37	\$75.18	\$16.31	\$145.86
S4	Lead Coordinator, All Job Functions	\$79.20	\$109.52	\$23.76	\$212.48
P0	Intern, All Job Functions	\$32.79	\$45.34	\$9.84	\$87.97
P1	Early Professional, All Job Functions	\$54.37	\$75.18	\$16.31	\$145.86
P2	Intermediate Professional, All Job Functions	\$66.45	\$91.89	\$19.94	\$178.27
P3	Experienced Professional, All Job Functions	\$79.20	\$109.52	\$23.76	\$212.48
P4	Senior Professional, All Job Functions	\$88.89	\$122.92	\$26.67	\$238.47
P5	Lead Professional, All Job Functions	\$103.36	\$142.93	\$31.01	\$277.29
P6	Senior Technical Manager, All Job Functions	\$138.09	\$190.95	\$41.43	\$370.47
P7	Technical Director, All Job Functions	\$177.58	\$245.56	\$53.27	\$476.41
P8	Senior Technical Director, All Job Functions	\$216.63	\$299.56	\$64.99	\$581.17
L1	Manager, All Job Functions	\$103.36	\$142.93	\$31.01	\$277.29
L2	Senior Manager, All Job Functions	\$138.09	\$190.95	\$41.43	\$370.47
L3	Director, All Job Functions	\$177.58	\$245.56	\$53.27	\$476.41
L4	Senior Director, All Job Functions	\$216.63	\$299.56	\$64.99	\$581.17
T0	Technician in Training, All Job Functions	\$32.79	\$45.34	\$9.84	\$87.97
T1	Assistant Technician, All Job Functions	\$41.01	\$56.71	\$12.30	\$110.02
T2	Intermediate Technician, All Job Functions	\$54.37	\$75.18	\$16.31	\$145.86
T3	Experienced Technician, All Job Functions	\$66.45	\$91.89	\$19.94	\$178.27
T4	Senior Technician, All Job Functions	\$79.20	\$109.52	\$23.76	\$212.48
T5	Lead Technician, All Job Functions	\$103.36	\$142.93	\$31.01	\$277.29
E1	Senior Vice President, All Job Functions	\$275.15	\$380.48	\$82.55	\$738.17

## ***Exhibit D Sub-consultant Cost Computations***

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The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI “Sub-Contracting” of this AGREEMENT.

Labor Detail													Total Task Cost			
Task Description	Principal	Senior Engineer/Scientist 1	Senior Engineer/Scientist 2	Engineer/Scientist 1	Engineer/Scientist 2	Junior Engineer/Scientist	GIS/CAD Analyst 1	GIS/CAD Analyst 2	Senior Technical Editor	Technical Editor/Accounting	Office Admin.	Labor Total	Direct Expenses	Subs	Summed Task Total	
Hydraulic Modeling and Analysis	16	2			66			2				\$ 17,400	\$ 0	\$ 0	\$ 17,400	
FEMA Floodplain Mapping Revisions Assessment	8	1			24			1		2		\$ 7,453	\$ 0	\$ 0	\$ 7,453	
												\$ 0	\$ 0	\$ 0	\$ 0	
												\$ 0	\$ 0	\$ 0	\$ 0	
												\$ 0	\$ 0	\$ 0	\$ 0	
												\$ 0	\$ 0	\$ 0	\$ 0	
<b>Total Hours</b>	24	3	0	0	90	0	0	3	0	2	0					
2026 WSDOT Approved ANTE Rates	\$ 331.28	\$ 253.44	\$ 221.72	\$ 195.48	\$ 171.51	\$ 152.72	\$ 182.65	\$ 136.73	\$ 186.61	\$ 148.23	\$ 116.71					
<b>Total</b>												\$ 24,854	\$ 0	\$ 0.00	\$ 24,854	

Direct Expenses			
Description	Task	Units	Cost
Mileage (2026 IRS Rate)	-	0	\$ 0.725 \$ 0
	-	0	\$ 2.00 \$ 0

Cost Summary		Cost
Description		
Total Labor		\$ 24,854
Total Direct Expenses		\$ 0
Total Subconsultants		\$ 0
<b>Total Project Cost:</b>		<b>\$ 24,854</b>

Actuals Not To Exceed Table (ANTE)

Northwest Hydraulic Consultants Inc  
 12787 Gateway Dr S  
 Seattle WA 98168-3308

Job Classifications	Job Classifications	Direct Labor Hourly Billing Rate NTE	Overhead 199.70%	Fixed Fee NTE 30.00%	All Inclusive Hourly Billing Rate NTE
Office Administrator	ADMINISTRATIVE ASSISTANT 3	\$35.40	\$70.69	\$10.62	\$116.71
Technical Editor / Accounting	ADMINISTRATIVE ASSISTANT 5	\$44.96	\$89.79	\$13.49	\$148.23
Engineer / Scientist 1	CIVIL ENGINEER 4	\$59.29	\$118.40	\$17.79	\$195.48
Senior Technical Editor	COMMUNICATIONS CONSULTANT 5	\$56.60	\$113.03	\$16.98	\$186.61
Principal and Sr. Proj Eng/Sci	DEPUTY	\$100.48	\$200.66	\$30.14	\$331.28
Sr CADD / Engineer Technician	ENGINEERING TECHNICIAN SUPERVISOR	\$55.82	\$111.47	\$16.75	\$184.04
Contract Administrator	FISCAL ANALYST 5	\$62.45	\$124.71	\$18.74	\$205.90
Jr Engineer / Scientist	TRANSPORTATION ENGINEER 2	\$46.32	\$92.50	\$13.90	\$152.72
Engineer / Scientist 2	TRANSPORTATION ENGINEER 3	\$52.02	\$103.88	\$15.61	\$171.51
Sr Engineer / Scientist 2	TRANSPORTATION ENGINEER 4	\$67.25	\$134.30	\$20.18	\$221.72
Sr Engineer / Scientist 1	TRANSPORTATION ENGINEER 5	\$76.87	\$153.51	\$23.06	\$253.44
Jr Engineering Technician	TRANSPORTATION ENGINEER INTERN	\$33.91	\$67.72	\$10.17	\$111.80
GIS Analyst 2	TRANSPORTATION PLANNING SPECIALIST 3	\$41.47	\$82.82	\$12.44	\$136.73
GIS Analyst 1	TRANSPORTATION PLANNING SPECIALIST 5	\$55.40	\$110.63	\$16.62	\$182.65
Engineering Technician	TRANSPORTATION PLANNING TECHNICIAN 3	\$41.63	\$83.14	\$12.49	\$137.25
Lab Technician	TRANSPORTATION TECHNICIAN 2	\$35.69	\$71.27	\$10.71	\$117.67
Sr Lab Technician	TRANSPORTATION TECHNICIAN 3	\$46.24	\$92.34	\$13.87	\$152.45

Task 4 - Cultural Resources Assessment

<b>Cost Estimate for Cultural Resource Desktop Study for the Everson-Nooksack Berm Feasibility Study (No. 19082579) Whatcom County, Washington</b>										
<b>LABOR</b>	<b>Principal</b>	<b>Deputy PI</b>	<b>Proj Mgr</b>	<b>Field Director</b>	<b>Tech III CC</b>	<b>Tech II</b>	<b>Tech I</b>	<b>Admin</b>	<b>Hours</b>	<b>Totals</b>
Pre-Field Prep	1	1	1	2	0	0	0	1	6	\$ 668.95
Desktop Review	1	1	0	16	0	0	0	0	18	\$ 2,041.88
Consulting & PM	3	3	3	0	0	0	0	1		
Reporting & Editing	1	2	4	6	0	0	0	2	15	\$ 1,698.70
<b>Total Hours</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>39</b>	<b>\$ 4,409.53</b>
Hourly Price	\$ 101.52	\$ 145.80	\$ 119.00	\$ 112.16	\$ 97.47	\$ 77.36	\$ 71.17	\$ 78.31		
<b>Labor Price Total</b>	<b>\$ 609.12</b>	<b>\$1,020.60</b>	<b>\$ 952.00</b>	<b>\$ 2,691.84</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$313.24</b>		<b>\$ 5,586.80</b>
<b>EXPENSES</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Cost</b>	<b>Price</b>						
Mileage (Federal Rate)	322	\$ 0.750	\$ 241.50	\$ 277.73						\$ 277.73
									<b>Expense Total</b>	<b>\$ 277.73</b>
									<b>*Cost Estimate</b>	<b>\$ 5,864.53</b>
									<b>Retainer</b>	<b>\$ 879.68</b>

\*The above budget does not include costs associated with additional consultation, travel delays, reporting, or mitigation if archaeological materials are located.

\*\*Note: A fee of 10% may be applied to the Total Due amount of the invoice if not paid after 30 days.

Acceptance of Terms (Printed Name): \_\_\_\_\_

Signature in Acceptance: \_\_\_\_\_ (date) \_\_\_\_\_



# DRAYTON ARCHAEOLOGY

## Drayton Archaeology Actuals Not to Exceed Table (ANTE)

Revised January 2026 - using current 2024 ICR OH rate of 179.42%

Job Classification	Maximum Direct Labor Rate	Overhead 179.42%	Fixed Fee 30.00%	Fully Burdened Hourly Rate
Principal	\$ 32.81	\$ 58.87	\$ 9.84	\$ 101.52
Deputy Principal	\$ 47.12	\$ 84.54	\$ 14.14	\$ 145.80
Senior Scientist	\$ 38.46	\$ 69.00	\$ 11.54	\$ 119.00
Field Director	\$ 36.25	\$ 65.04	\$ 10.88	\$ 112.16
Crew Chief (Arch Tech III)	\$ 31.50	\$ 56.52	\$ 9.45	\$ 97.47
Arch Tech II	\$ 25.00	\$ 44.86	\$ 7.50	\$ 77.36
Arch Tech I	\$ 23.00	\$ 41.27	\$ 6.90	\$ 71.17
Administration	\$ 25.31	\$ 45.41	\$ 7.59	\$ 78.31



Cost Estimate for **Whatcom County Everson and Nooksack Berms Feasibility Study**  
 Herrera Project No. **25-08777-000**  
 1/29/2026

Task 5 - Critical Areas  
 Delineation and Impacts  
 Assessment

Task 14 - Permitting  
 Assessment

Herrera Labor based on: Direct Labor Rates

			Task No.	1	3	10	Total
				Project Management	Base Mapping and Impacts Assessment	Permitting assessment	
Schedule	Task Start Date			2/1/2026	2/1/2026	10/1/2026	
	Task End Date			6/1/2027	1/1/2027	4/1/2027	
Ewbank, Mark	Engineer VII	\$93.48		15	3	2	20
Rudnick, Tracy	Project Accountant IV	\$55.11		8	0	0	8
Mirabile, Tina	Scientist V	\$70.11		0	34	8	42
Rapoza, Danielle	Scientist III	\$48.18		0	88	16	104
Bagniewski, Ben	GIS Analyst II	\$35.02		0	19	0	19
Zhang, Xiaoyu	Scientist II	\$38.55		0	40	0	40
Marshall, Eric	CAD Technician V	\$58.00		0	11	0	11
Zanker, Cory	Administrative Coordinator III	\$44.77		0	6	0	6
<b>Total Hours per Task</b>				23	201	26	250
<b>Subtotal Labor</b>				\$1,843	\$10,018	\$1,519	\$13,380
<b>192.32% Overhead</b>				\$3,545	\$19,267	\$2,921	\$25,732
<b>30.00% Profit on Direct Labor Only</b>				\$553	\$3,005	\$456	\$4,014
<b>Subtotal Herrera Labor</b>				\$5,941	\$32,290	\$4,895	\$43,126
4%	<b>Escalation on Herrera Labor in 2027</b>			\$59	\$0	\$98	\$157
<b>Escalated Subtotal Herrera Labor</b>				\$6,000	\$32,290	\$4,993	\$43,283

Travel and Per Diem (PD)

Item	Unit	Unit Cost				
Auto Use	Mile	\$0.725	0	150	0	150
<b>Subtotal Per Diem</b>			\$0	\$109	\$0	\$109

Other Direct Costs (ODCs)

Item	Unit	Unit Cost				
GPS unit (Arrow 100 w/ iPad)	Day	\$85.00	0	3	0	3
<b>Subtotal ODCs</b>			\$0	\$255	\$0	\$255

**Subtotal Per Diem, Lab Costs, and ODCs**

\$0	\$364	\$0	\$364
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<b>Grand Subtotal</b>	<b>\$6,000</b>	<b>\$32,654</b>	<b>\$4,993</b>	<b>\$43,647</b>
<b>Grand Total</b>				<b>\$43,647</b>

Note: Herrera adjusts labor rates annually in January unless contract specifies otherwise.

Actuals Not To Exceed Table (ANTE)

Whatcom County Everson and Nooksack Flood Protection Berms Feasibility Study Herrera Environmental Consultants, Inc. 2200 Sixth Avenue, Suite 1100 Seattle, WA 98121 2026 Rates				
Job Classifications	Direct Labor Rate	Overhead NTE	Fixed Fee NTE	All Inclusive Hourly Billing Rate NTE
	NTE	192.32%	30.00%	
Engineer VIII / Scientist VIII / Planner VIII	\$120.00	\$230.78	\$36.00	\$386.78
Engineer VII / Scientist VII / Planner VII / GIS Analyst VII	\$109.00	\$209.63	\$32.70	\$351.33
Engineer VI / Scientist VI / Planner VI / Landscape Architect VI / GIS Analyst VI	\$103.00	\$198.09	\$30.90	\$331.99
Engineer V / Scientist V / Planner V / Landscape Architect V / GIS Analyst V / CAD Designer V	\$96.00	\$184.63	\$28.80	\$309.43
Engineer IV / Scientist IV / Planner IV / Landscape Architect IV / GIS Analyst IV / CAD Designer IV	\$75.00	\$144.24	\$22.50	\$241.74
Engineer III / Scientist III / Planner III / Landscape Architect III / GIS Analyst III / CAD Designer III	\$60.00	\$115.39	\$18.00	\$193.39
Engineer II / Scientist II / Planner II / Landscape Designer II / GIS Analyst II / CAD Technician II	\$54.00	\$103.85	\$16.20	\$174.05
Engineer I / Scientist I / Planner I / Landscape Designer I / GIS Analyst I / CAD Technician I	\$44.00	\$84.62	\$13.20	\$141.82
Environmental Technician / Engineering Intern / Environmental Intern	\$39.00	\$75.00	\$11.70	\$125.70
Accounting Administrator I, II, III, IV, V, VI, VII	\$102.00	\$196.17	\$30.60	\$328.77
Project Accountant I, II, III, IV, V	\$61.00	\$117.32	\$18.30	\$196.62
Administrative Coordinator II, III, IV, V	\$51.00	\$98.08	\$15.30	\$164.38

**PSE SCOPE Task 6 - Survey and Base Map Development**

WORK ELEMENT	Princ. Land. Surv.	Project Manager	Senior CAD/GIS Tech.	CAD/GIS Tech.	Senior Surv. Tech.	Survey Tech.	Survey Crew Lead	UAV (Drone) Lic. Pilot	Office / Clerical	Hours	Direct
											Cost
	\$221.42	\$221.42	\$107.81	\$94.98	\$107.81	\$102.68	\$107.81	\$221.42	\$102.68		Cost
<b>1 Project Management</b>											
Invoicing (All)	4	0	0	0	0	0	0	0	2	6	\$1,091.04
General Correspondence	4	0	0	0	0	0	0	0	0	4	\$885.68
Team Meetings	4	0	0	0	0	0	0	0	0	4	\$885.68
<b>Subtotal:</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>14</b>	<b>\$2,862.40</b>
<b>2.1 Survey- Main Street Everson</b>											
Boundary, Control & Easement Research and Coordination	4	0	0	0	4	0	0	0	0	8	\$1,316.92
Utility Locate Coordination & Scheduling, Survey Layout	4	0	0	0	2	0	0	0	0	6	\$1,101.30
Field Survey Main Street Everson Survey Control	0	0	0	0	10	10	10	0	0	30	\$3,183.00
Field Survey - Main Street Everson Topographic Mapping	0	0	0	0	0	20	20	0	0	40	\$4,209.80
CAD Base Mapping- Main Street Everson	16	0	48	0	0	0	2	0	0	66	\$8,933.22
PLS Review, Certification, Submittals- Main Street Everson	2	0	2	0	0	0	0	0	2	6	\$863.82
<b>Subtotal:</b>	<b>26</b>	<b>0</b>	<b>50</b>	<b>0</b>	<b>16</b>	<b>30</b>	<b>32</b>	<b>0</b>	<b>2</b>	<b>156</b>	<b>\$19,608.06</b>
<b>3 Direct Reimbursables</b>											
Utility Locates- Main Street Everson	0	0	0	0	0	0	0	0	0	0	\$1,500.00
<b>Subtotal:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$1,500.00</b>
<b>TOTAL</b>	<b>38</b>	<b>0</b>	<b>50</b>	<b>0</b>	<b>16</b>	<b>30</b>	<b>32</b>	<b>0</b>	<b>4</b>	<b>170</b>	<b>\$23,970.46</b>

**Exhibit \_\_\_\_**  
 Pacific Surveying and Engineering Services, Inc.  
 "ANTE TABLE"

**Surveying & Engineering Consulting Services**

From: January 1, 2026 to December 31, 2026

<b>Position Classification</b>	<b>Direct Salary Rate</b>	<b>ICR 126.69%</b>	<b>Profit 30.00%</b>	<b>Max Rate Per Hour</b>
Principal Land Surveyor	\$86.26	\$109.28	\$25.88	\$221.42
Senior Land Surveyor	\$86.26	\$109.28	\$25.88	\$221.42
Project Land Surveyor	\$86.26	\$109.28	\$25.88	\$221.42
Project Manager	\$86.26	\$109.28	\$25.88	\$221.42
Senior CAD / GIS Technician	\$42.00	\$53.21	\$12.60	\$107.81
CAD Technician / GIS Technician	\$37.00	\$46.88	\$11.10	\$94.98
Senior Survey Technician	\$42.00	\$53.21	\$12.60	\$107.81
Survey Technician	\$40.00	\$50.68	\$12.00	\$102.68
Survey Crew Lead	\$42.00	\$53.21	\$12.60	\$107.81
UAV (Drone) Licensed Pilot	\$86.26	\$109.28	\$25.88	\$221.42
Office / Clerical	\$40.00	\$50.68	\$12.00	\$102.68
<b>Whatcom County Prevailing Wage Rates:</b>	L&I Rate			
Construction Site Surveyor	\$91.73	\$116.21	\$27.52	\$235.46
Assistant Construction Site Surveyor	\$90.55	\$114.72	\$27.17	\$232.43
Drone Operator	\$86.60	\$109.71	\$25.98	\$222.29

## Proposed Budget by Staff for Phase 1 Outreach Activities

### Task 3 – Community and Stakeholder Coordination

	Project Manager \$180	Engagement Lead \$160	Hours by Task	Cost by Task
1. Develop Community Engagement Plan	3	10	13	\$2,140
2. Three We-Go-to-You Meetings	2	25	27	\$4,360
3. One-on-one Coordination w/ property owners	5	15	20	\$3,300
4. Coordination with Project Team	2	5	7	1,160
<b>Total</b>	12	55	67	<b>\$10,960</b>



# **Exhibit E County Ordinance on Nondiscrimination**

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During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agrees as follows:

## WHATCOM COUNTY ORDINANCE 2021-016

### 1. Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

### 2. Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status; or deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

## ***Exhibit F Certification Documents***

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- Exhibit F-1 Certification of Consultant
- Exhibit F-2 Certification Regarding Debarment, Suspension and other Responsibility Matters – Primary Covered Transactions
- Exhibit F-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
- Exhibit F-4 Certificate of Current Cost or Pricing Data

## Exhibit F-1 Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of

---

whose address is

---

and that neither the above firm nor I have

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to Whatcom County, the Whatcom County Flood Control Zone District and the US Department of Housing and Urban Development in connection with this AGREEMENT involving participation of federal or state funds, and is subject to applicable State and Federal laws, both criminal and civil.

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WSP USA, Inc.

Consultant (Firm Name)

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Signature (Authorized Official of Consultant)

Date

## Exhibit F-2 Certification Regarding Debarment Suspension and Other Responsibility Matters - Primary Covered Transactions

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

- I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.
- II. Where the prospective primary participant is unable to certify to any of the statements in this certification such prospective participant shall attach an explanation to this proposal.

WSP USA, Inc.

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Consultant (Firm Name)

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Signature (Authorized Official of Consultant)

Date

## Exhibit F-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

Exhibit “F-3” is required only in AGREEMENT’s over one hundred thousand dollars (\$100,000.00)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the require certification shall be subject to a civil penalty of not less than \$10,000.00, and not more than \$100,000.00 for each such failure.

The Contractor, WSP USA, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

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Signature (Authorized Official of Contractor)

Date

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Name and Title of Contractor’s Authorized Official (printed)

## Exhibit F-4 Certification of Current Cost or Pricing Data

Exhibit "F-4" is required only in AGREEMENT's over five hundred thousand dollars (\$500,000.00.)

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section of the Federal Acquisition Regulation (FAR) and required under FAR subsection 15.403-4) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of Everson-Nooksack Berms Project \* are accurate, complete, and current as of 01-23-2026\*\*.

This certification includes the cost or pricing data supporting any advance AGREEMENT's and forward pricing rate AGREEMENT's between the offer or and the Government that are part of the proposal.

Firm: WSP USA, Inc.

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Signature

Title

Date of Execution \_\_\_\_\_ \*\*\*:

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\*Identify the proposal, quotation, request for pricing adjustment, or other submission involved, giving the appropriate identifying number (e.g. project title.)

\*\*Insert the day, month, and year, when price negotiations were concluded and price AGREEMENT was reached.

\*\*\*Insert the day, month, and year, of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

# **Exhibit G Granting Agency Provisions**

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The AGENCY is a subrecipient of the Washington State Department of Commerce for a U.S. Housing and Urban Development Community Development Block Grant (CDBG). During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, and successors in interest agree to comply with all applicable conditions that are imposed on the AGENCY, named as the GRANTEE, as listed in the provisions below. Should a direct conflict exist between a provision listed below and another CONTRACT provision, the CONSULTANT shall follow the more restrictive requirement.

## **1. GENERAL COMPLIANCE**

The GRANTEE shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notice(s) that govern the use of CDBG-DR funds available under this Agreement. Notwithstanding the foregoing:

- (1) the GRANTEE does not assume any of COMMERCE's responsibilities for environmental review, decision-making, and action, as described in 24 CFR part 58, and
- (2) the GRANTEE does not assume any of COMMERCE's responsibilities for initiating the review process under the provisions of 24 CFR Part 52.

The GRANTEE shall also comply with all other applicable federal, state and local laws, regulations, and policies that govern the use of the CDBG-DR funds in complying with its obligations under this agreement, regardless of whether CDBG-DR funds are made available to the GRANTEE on an advance or reimbursement basis.

## **2. 2 CFR 200**

The Grantee must comply with the applicable requirements at [2 CFR Part 200 -- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#), as may be amended from time to time, to the extent that part 200 is incorporated into and made applicable by 24 CFR part 570, subpart I, or applicable Federal Register notices that govern this grant.

## **3. DUPLICATION OF BENEFITS**

The GRANTEE shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5155) and described in Appropriations Act. The GRANTEE must comply with HUD's requirements for duplication of benefits, imposed by Federal Register notice(s) that govern the use of CDBG-DR funds available under this agreement.

## **4. DRUG-FREE WORKPLACE**

GRANTEE must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

5. **PROHIBITED ACTIVITIES**

The GRANTEE may only carry out the activities described in this Agreement. The GRANTEE is prohibited from charging to the subaward the costs of CDBG-ineligible activities, including those described at 24 CFR 570.207, and from using funds provided herein or personnel employed in the administration of activities under this Agreement for political activities, inherently religious activities, or lobbying.

6. **NATIONAL OBJECTIVES**

The GRANTEE must ensure that all activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives, as defined in 24 CFR 570.208. The GRANTEE will use demographic and income-driven information to document the National Objective, including the

collection and submission to COMMERCE of income verification information from all individuals benefitting from this grant, if applicable. This documentation will include the applicant's most recent IRS Form 1040 (long form), W2 Form, pay stubs for the last 3 months, signed statement from the employer stating wage and frequency of payment, or unemployment income documented by a current letter of benefits.

7. **GRANTEE PERFORMANCE**

The GRANTEE shall conduct, in a satisfactory manner as determined by COMMERCE, CDBG-DR programs for emergency relief in the most impacted and distressed area of Whatcom County. The GRANTEE shall perform all activities in accordance with the terms of this Agreement and all exhibits incorporated herein. The GRANTEE must ensure that the persons to benefit from the activities described in Attachment A (Scope of Work and Budget) of this Agreement are receiving the service or a benefit from the expenditure of funds under this Agreement. If the persons to benefit from the activities described in Attachment A are not receiving the service or benefit, the GRANTEE is liable to repay to COMMERCE any associated disallowed costs.

8. **PROPERTY STANDARDS**

The GRANTEE shall also comply with the Property Standards in 2 CFR 200.310 through 2 CFR 200.316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case GRANTEE shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), and except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

9. **FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)**

The GRANTEE shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The GRANTEE must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and must have a Unique Entity Identifier (UEI). The GRANTEE must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

## **10. RELOCATION, REAL PROPERTY ACQUISITION, AND ONE-FOR-ONE HOUSING REPLACEMENT**

The GRANTEE shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606; in addition to waivers and alternate requirements of all applicable Federal Register Notices for this award.

In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "[n]otwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [URA] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act".

## **11. NONDISCRIMINATION**

The GRANTEE will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with federal financial assistance.

The GRANTEE will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, the GRANTEE shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

### **10.1 Architectural Barriers Act and the Americans with Disabilities Act**

The GRANTEE shall ensure that its activities are consistent with the requirements of the Architectural Barriers Act and the Americans with Disabilities Act.

The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain federal and federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and used by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

## **10.2 Title VI of the Civil Rights Act of 1964 (24 CFR part 1)**

### **10.2.1 General Compliance**

The GRANTEE shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended and 24 CFR 570.601 and 570.602. No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. The GRANTEE shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 CFR part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

### **10.2.2 Assurances and Real Property Covenants**

As a condition to the approval of this Agreement and the extension of any federal financial assistance, the GRANTEE assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to 2 CFR part 1.

If the federal financial assistance under this agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the GRANTEE's assurance herein shall obligate the GRANTEE or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the GRANTEE retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the GRANTEE for the period during which federal financial assistance is extended pursuant to the contract or application.

This assurance gives COMMERCE and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to the GRANTEE under this Agreement, the instrument effecting any disposition by the GRANTEE of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

If the GRANTEE receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part shall extend to any facility located wholly or in part in such space.

## **12. LABOR STANDARDS AND EMPLOYMENT**

The GRANTEE shall comply with the labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended, and ensure that all laborers and mechanics employed by contractors or subgrantees/subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act, as amended (40 U.S.C. 3141, et seq.), and 29 CFR part 1, 3, 5, 6, and 7, provided that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

The GRANTEE agrees to comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The GRANTEE shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to COMMERCE for review upon request.

## **13. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**

The GRANTEE shall comply with the provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, and implement its implementing regulations at 24 CFR part 75.

All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

- a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- b. The parties to this Agreement agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- c. The GRANTEE agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- d. The GRANTEE agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subgrantee/subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subgrantee/subcontractor where the contractor has notice or knowledge that the subgrantee/subcontractor has been found in violation of the regulations in 24 CFR part 75.
- e. The GRANTEE will certify that any vacant employment positions, including training positions, that are filled (1) after the GRANTEE is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the GRANTEE's obligations under 24 CFR part 75.
- f. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- g. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

## 14. **CONDUCT**

### 14.1 Hatch Act

The GRANTEE shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

### 14.2 Conflict of Interest

In the procurement of supplies, equipment, construction, and services pursuant to this Agreement, the GRANTEE shall comply with the conflict-of-interest provisions in COMMERCE's procurement policies and procedures. In all cases not governed by the conflict-of-interest provisions in the COMMERCE's procurement policies and procedures, the GRANTEE shall comply with the conflict-of-interest provisions in 24 CFR 570.489(h).

### 14.3 Lobbying Certification

The GRANTEE hereby certifies that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;

- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- c. It shall require that the language of paragraphs (a) and (b) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose; accordingly, and
- d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**15. RELIGIOUS ACTIVITY**

The GRANTEE agrees that funds provided under this agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

**16. ENVIRONMENTAL CONDITIONS**

**16.1 Prohibition on Choice Limiting Activities Prior to Environmental Review**

The GRANTEE must comply with the limitations in 24 CFR 58.22 even though the GRANTEE is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision making, and action (see 24 CFR part 58) and is not delegated COMMERCE's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 24 CFR 58.22 imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of federal funds for the activity.

**16.2 Air and Water**

The GRANTEE shall comply with the following requirements insofar as they apply to the performance of this agreement:

Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93).

Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

### 16.3 Flood Disaster Protection

The GRANTEE shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, the GRANTEE shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notice(s) governing the CDBG-DR award.

### 16.4 Lead-Based Paint

The GRANTEE shall follow the GRANTEE's procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.

### 16.5 Historic Preservation

The GRANTEE shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a federal, state, or local historic property list.

## 17. **SUBCONTRACTS**

The following provisions shall apply to the GRANTEE and any lower-tier recipient performing under this award:

- a. If the GRANTEE contracts any of the work required under this Agreement, a copy of the proposed contract, and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to COMMERCE for prior written approval. The GRANTEE shall comply with COMMERCE's procurement policy. The GRANTEE must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.489(l), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, and performance bonds, if applicable, and liquidated damages.
- b. In accordance with federal, state, and local laws, regulations, HUD Notices, program guidelines, and the policies and procedures to be issued by COMMERCE, the GRANTEE will monitor any and all sub-Subrecipient efforts on a regular basis to assure compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to address areas of noncompliance. Information detailing credible evidence of fraud, waste, or abuse shall be immediately reported to COMMERCE, followed by a written report within 10 calendar days.
- c. The GRANTEE shall include language in any subcontract that provides COMMERCE the ability to directly review, monitor, or audit the operational and financial performance or records of work performed under this contract.
- d. The GRANTEE shall comply with State of Washington's Action Plan for CDBG Disaster Recovery, this contract, and all applicable federal, state and local laws, regulations, and ordinances for making procurements under this contract.

- e. The GRANTEE shall include in any subcontracts that failure to adequately perform under this contract may result in penalties up to and including debarment from performing additional work for COMMERCE.
- f. The GRANTEE shall incorporate all required CDBG-DR and cross cutting requirements into subcontracts and all other lower-tier contracts executed in connection with this award.

# **Exhibit H Alleged Consultant Design Error Procedures**

The purpose of this exhibit is to establish a procedure to determine if a consultant has alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

## **Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager**

At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For grant funded projects, the granting agency's representative should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

## **Step 2 Project Manager Documents the Alleged Consultant Design Error(s)**

After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include all decisions and descriptions of work, photographs, records of labor, materials, and equipment.

## **Step 3 Contact the Consultant Regarding the Alleged Design Error(s)**

If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

## **Step 4 Attempt to Resolve Alleged Design Error with Consultant**

After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide the granting agency a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

## **Step 5 Forward Documents to Granting Agency**

As required by GRANTING AGENCY, all available information, including costs, may be required to be forwarded the GRANTING AGENCY for their review and consultation

# ***Exhibit I Consultant Claim Procedures***

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The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than \$1,000. If the consultant's claim(s) total a \$1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total \$1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

## **Step 1 Consultant Files a Claim with the Agency Project Manager**

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

## **Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation**

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will meet with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If a Granting Agency is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for grant participation in the claim to the Granting Agency's representative. If the claim is not eligible for grant participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, Granting Agency representative (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action is needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

### **Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)**

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associate with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

### **Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation**

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves grant participation, obtain concurrence from the Granting Agency's representative regarding final settlement of the claim. If the claim is not eligible for grant participation, payment will need to be from agency funds.

### **Step 5 Informing Consultant of Decision Regarding the Claim**

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

### **Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)**

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.