

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**Elizabeth Kosa
Interim Director**



NATURAL RESOURCES

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Bellingham, WA 98225
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FAX: (360) 778-6231
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu, Whatcom County Executive, and The Honorable Members of the Whatcom County Council, collectively serving in their capacity as the Whatcom County Flood Control Zone District Board of Supervisors.

THROUGH: Elizabeth Kosa, Interim Director

FROM: Gary Stoyka, Natural Resources Manager
John N. Thompson, Senior Salmon Recovery Planner *NT*

DATE: December 16, 2022

RE: **Contract for Services with Anchor QEA**

Requested Action

Public Works respectfully requests that the County Executive and the County Council, acting as the Flood Control Zone District Board of Supervisors, enter into an agreement between the Whatcom County Flood Control Zone District and Anchor QEA to prepare a multi-purpose water storage assessment for WRIA 1 that identifies projects with the potential to improve low summer stream flows for salmon, support out-of-stream water users, and reduce flood risk.

Background and Purpose

Hydrology in WRIA 1 poses on-going challenges to the community, from low flows in the Nooksack River and its tributaries in the summer and early fall that impact salmon populations and out-of-stream water users to floods that impact peoples lives, damage property and infrastructure. Consultant services are needed to help Whatcom County Flood Control Zone District (County) identify potential multiple-purpose water storage project types and locations, evaluate projected benefits for enhancing low stream flows, creating storage for irrigation or other out-of-stream water supply needs, or reducing flood peaks, evaluate project feasibility, compare projects in the context of group goals and objectives, and estimate concept level project costs. The County will sponsor the work with the engagement of a sub-committee composed of members from the Floodplain Integrated Planning Steering Committee (FLIP SC) and the Water Resource Inventory Area 1 (WRIA 1) Watershed and Salmon Recovery Staff Teams.

Selection Process

The MRSC Roster was used to generate a list of 13 qualified firms to receive the request for proposals (RFP). Anchor QEA provided the sole proposal. The Anchor QEA proposal was determined to be responsive to the RFP and demonstrated appropriate qualifications.

Funding Amount and Source

This contract in the amount of \$150,000.00 is funded under the approved 2023 Flood District budget. It is expected that a pending Washington Department of Commerce grant administered through the Public Works will reimburse the Flood Fund.

Please contact Gary Stoyka at extension 6218, if you have any questions or concerns regarding the terms of this agreement.

Whatcom County Contract No.
202212031

CONTRACT FOR SERVICES
Between Whatcom County Flood Control Zone District and Anchor QEA

Anchor QEA, hereinafter called **Consultant** and Whatcom County Flood Control Zone District, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

- General Conditions, pp. 3 to 13,
- Exhibit A (Scope of Work), pp. 14 to 19,
- Exhibit B (Compensation), pp. 20 to 22,
- Exhibit C (Certificate of Insurance).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 11th day of January, 2023, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of September, 2023.

The general purpose or objective of this Agreement is to: *Identify and evaluate the feasibility of potential multiple-purpose water storage project types in WRIA 1 to enhance stream flows for salmon, create storage to meet irrigation, municipal, industrial or other out-of-stream water supply needs, and/or reduce flood peaks* as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

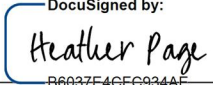
The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed \$ 150,000.00. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Consultant acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this day of 1/17/2023, 20 .

Each signatory below to this Contract warrants that he/she is the authorized agent of the respective party; and that he/she has the authority to enter into the contract and to bind the party thereto.

CONSULTANT:

Anchor QEA
 DocuSigned by:

 1/12/2023
 B6037E4CF6934AE...
 Heather Page, Principal

CONSULTANT INFORMATION:

Anchor QEA
Heather Page, Principal
 Address:
1605 Cornwall Avenue
Bellingham, WA 98225

Contact Name: Robert Montgomery
Contact Phone: 206.219.5901
Contact Email: rmontgomery@anchorqea.com

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT:

Recommended for Approval:

Elizabeth Kosa 1/12/2023
879E242DD76C408...
Elizabeth Kosa, Interim Public Works Department Director Date

Approved as to form:

Christopher Quinn 1/17/2023
EC466EF5C88B4FD...
Christopher Quinn, Senior Deputy Prosecuting Attorney – Civil Division Date

Approved:

Accepted for Whatcom County Flood Control Zone District:

Satpal Sidhu 1/17/2023
1192C7C18F664E3...
By: Satpal Singh Sidhu, Whatcom County Executive Date

GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:

The Consultant agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

Services provided by Consultant prior to or after the term of this contract shall be performed at the expense of Consultant and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:

The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year, and for a total of no longer than three years.

11.1 Termination for Default:

If the Consultant defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Consultant in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Consultant's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Consultant shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Consultant. To the extent Consultant has been found liable in accordance with dispute resolution procedures of this Agreement, the Consultant shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which have been proven to be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:

In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:

The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Consultant shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Consultant Services:

Payment to the Consultant for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by

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documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Consultant for any costs or expenses incurred by the Consultant in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Consultant, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

The Consultant understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Consultant authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Consultant will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Consultant to make the necessary estimated tax payments throughout the year, if any, and the Consultant is solely liable for any tax obligation arising from the Consultant's performance of this Agreement. The Consultant hereby agrees to indemnify the County against any demand to pay taxes arising from the Consultant's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Consultant must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Consultant's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Consultant has failed to perform any obligation under this Agreement within the times set forth in this Agreement, or as otherwise agreed to by the Parties, then the County may withhold from amounts otherwise due and payable to Consultant the amount reasonably determined by the County to be in dispute, until the Parties agree that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Consultant to termination or damages, provided that the County promptly gives notice in writing to the Consultant of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Consultant of the action required and/or the amount required to cure any failure to perform shall be deemed conclusive, except to the extent that the Consultant acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. Unless disputed by Consultant, the County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Consultant but only to the extent Consultant has been found liable for such amounts in accordance with dispute resolution procedures of this Agreement, (. In the event the Consultant obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Consultant by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Consultant agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Consultant:

The Consultant's services shall be furnished by the Consultant as an independent Consultant, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Consultant as an independent Consultant.

The Consultant acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Consultant is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Consultant represents that he/she/it maintains a separate place of

business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Consultant will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph

30.2 Assignment and Subcontracting:

The performance of all activities contemplated by this agreement shall be accomplished by the Consultant. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:

The performance of all or part of this contract by the Consultant shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Consultant or any employee of the Consultant or any subConsultant or any employee of any subConsultant by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

If the Consultant creates any copyrightable materials or invents any patentable property, the Consultant may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Consultant further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

Ownership. Any and all data, writings, programs, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Consultant or the Consultant's subConsultants or consultants for delivery to the County under this Contract shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Consultant uses to perform this Contract but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Consultant and is not "work made for hire" within the terms of this Agreement. Consultant shall not be liable for any modification or reuse of such works for hire for purposes not included under the scope of this Agreement. Consultant may retain one copy of project materials in their files.

Public Records Act. This Contract and all records associated with this Contract shall be available for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Consultant are needed for the County to respond to a request under the Act, as determined by the County, the Consultant agrees to make them promptly available to the County at no cost to the County. If the Consultant considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Consultant shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Consultant and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Consultant (a) of the request and (b) of the date that such information will be released to the requester unless the Consultant obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Consultant fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Consultant to claim any exemption from disclosure under the Act. The County shall not be liable to the Consultant for releasing records not clearly identified by the Consultant as confidential or proprietary. The County shall not be liable to the Consultant for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

The Consultant shall be liable to the requester for any and all fees, costs, penalties or damages imposed as a result of the Consultant's failure to provide adequate or timely records.

This provision and the obligations it establishes shall remain in effect after the expiration of this contract.

31.2 Patent/Copyright Infringement:

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Consultant will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Consultant infringes any patent or copyright. The Consultant will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:

- A. The Consultant shall be notified promptly in writing by the County of any notice of such claim.
- B. Consultant shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

The Consultant, its employees, subConsultants, and their employees shall maintain the confidentiality of all non-public information provided by the County or acquired by the Consultant in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Consultant shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Consultant shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Consultant's breach of this provision.

33.1 Right to Review:

This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Consultant shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Consultant also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Consultant, then the Consultant agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance

The Consultant shall, at its own expense, obtain and continuously maintain the following insurance coverage for the duration of this contract, which shall include insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, subConsultants or employees. All insurers providing such insurance shall have an A.M. Best Rating of not less than A- (or otherwise be acceptable to the County) and be licensed to do business in the State of Washington and admitted by the Washington State Insurance Commissioner. Coverage limits shall be the minimum limits identified in this Contract or the coverage limits provided or available under the policies maintained by the Consultant without regard to this Contract, whichever are greater.

1. Commercial General Liability

Property Damage	\$500,000.00, per occurrence
General Liability & bodily injury	\$1,000,000.00, per occurrence
Annual Aggregate	\$2,000,000.00

At least as broad as ISO form CG 00 01 or the equivalent, which coverage shall include personal injury, bodily injury and property damage for Premises Operations, Products and Completed Operations, Personal/Advertising Injury, Contractual Liability, Independent Consultant Liability, medical payments and Stop Gap/Employer's Liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required, unless approved in writing by the County.

2. Professional Liability

Professional Liability - \$1,000,000 per claim and in the aggregate

- a. Obtain professional liability insurance covering the negligent acts, errors, or omissions of the professional in connection with the performance of services to the County. If any insurance policy or the professional liability insurance is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Consultant for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Consultant shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Consultant shall purchase an extended reporting period ("tail") or execute

another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

3. Business Automobile Liability

\$1,000,000.00 - Minimum, combined single limit

Consultant shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$1,000,000 per accident. If Consultant owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

4. Additional Insurance Requirements and Provisions

- a. All insurance policies, except Professional and Pollution liability, shall provide coverage on an occurrence basis.
- b. Additional Insureds. Whatcom County, its departments, elected and appointed officials, employees, agents and volunteers shall be included as additional insureds on Consultant's and Consultant's subConsultants' Commercial General Liability and Automobile Liability insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Consultant and subConsultant, whichever is greater.
- c. Primary and Non-contributory Insurance. For Commercial General Liability and Automobile Liability, Consultant shall provide primary insurance coverage and the County's insurance shall be non-contributory. Any insurance, self-insured retention, deductible, risk retention or insurance pooling maintained or participated in by the County shall be excess and non-contributory to Consultant's insurance.
- d. Waiver of Subrogation. The insurance policy shall provide a waiver of subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit Consultant to enter into a pre-loss agreement to waive subrogation without an endorsement, then Consultant agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the Consultant enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Consultant shall provide a redacted copy of all requested insurance policies to the County. Additionally, the County reserves the right, but not the obligation, to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. Any premium bearing change to Consultant's policies required by the County shall be reimbursed to the Consultant.
- f. Verification of Coverage/Certificates and Endorsements. The Consultant shall furnish the County with a certificate of insurance and endorsements required by this contract. The certificates and endorsements for each policy shall be signed by a person authorized by the insurer to bind coverage on its behalf. The certificate and endorsements for each insurance policy are to be on forms approved by the County prior to commencement of activities associated with the contract. The certificate and endorsements, and renewals thereof, shall be attached hereto as Exhibit "C". If Exhibit C is not attached, the Consultant must submit the certificate and endorsements required in this contract to the County prior to the commencement of any work on the contracted project. A certificate alone is insufficient proof of the required insurance; endorsements must be included with the certificate. The certificate of insurance must reflect the insurance required in this contract, including appropriate limits, insurance coverage dates, per occurrence, and in the description of operations, include the County project, Whatcom County, its departments, officials, employees, agents and volunteers as additional insureds, primary, non-contributory, and waiver of subrogation.
- g. The County must be notified immediately in writing of any cancellation of the policy, exhaustion of aggregate limits, notice of intent not to renew insurance coverage, expiration of policy or change in insurer carrier. Consultant shall always provide the County with a current copy of the certificate and endorsements throughout the duration of the contract.

- h. No Limitation on Liability. The insurance maintained under this Contract shall not in any manner limit the liability or qualify the liabilities or obligations of the Consultant to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or equity.
- i. Payment Conditioned on Insurance and Failure to Maintain Insurance. Compensation and/or payments due to the Consultant under this Contract are expressly conditioned upon the Consultant's compliance with all insurance requirements. Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract. Payment to the Consultant may be suspended in the event of non-compliance, upon which the County may, after giving five business days' notice to the Consultant to correct the breach, immediately terminate the contract. Upon receipt of evidence of Consultant's compliance, payments not otherwise subject to withholding or set-off will be released to the Consultant.
- j. Workers' Compensation. The Consultant shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Consultants' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Consultant to take out and/or maintain required insurance shall not relieve the Consultant or subConsultants from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations concerning indemnification. The County does not waive any insurance requirements even in the event the certificate or endorsements provided by the Consultant were insufficient or inadequate proof of coverage but not objected to by the County. The County's failure to confirm adequate proof of insurance requirements does not constitute a waiver of the Consultant's insurance requirements under this Contract.
- l. Availability of Consultant Limits. If the Consultant maintains higher insurance limits than the minimums shown above, the County shall be insured for the full available limits, including Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this contract or whether any certificate furnished to the County evidences limits of liability lower than those maintained by the Consultant.
- m. Insurance for SubConsultants. If the Consultant subcontracts (if permitted in the contract) any portion of this Contract, the Consultant shall include all subConsultants as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subConsultant. Insurance coverages by subConsultants must comply with the insurance requirements of the Consultant in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Consultant agrees Consultant's insurance obligation shall survive the completion or termination of this Contract for a minimum period of three years.

34.3 Defense & Indemnity Agreement:

To the fullest extent permitted by law, the Consultant agrees to indemnify, and hold the County and its departments, elected and appointed officials, employees, and volunteers, harmless from and against claims, damages, losses and expenses, including but not limited to court costs, reasonable attorney's fees, and alternative dispute resolution costs, for personal injury, for bodily injury, sickness, disease, or death and for damage to or destruction of property (including the loss of use resulting therefrom) to the extent: 1) caused by any negligent error, act or omission, of the Consultant, its employees, agents or volunteers or Consultant's subConsultants and their employees, agents or volunteers; or 2) caused by the negligent performance of this Contract. This indemnification obligation of the Consultant shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County.

Should a court of competent jurisdiction determine that this contract is subject to RCW 4.24.115, then in the event of concurrent negligence of the Consultant, its subConsultants, employees or agents, and the County, its employees or agents, this indemnification obligation of the Consultant shall be valid and enforceable only to the extent of the negligence of the Consultant, its subConsultants, employees, and agents. This indemnification obligation of the Consultant shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other

employee benefit act, and the Consultant hereby expressly waives any immunity afforded by such acts.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this Contract is for the benefit of the parties only and this Contract shall create no rights in any third party. The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses, or expenses, and such participation shall not constitute a waiver of Consultant's indemnity obligations under this Agreement.

In the event the Consultant enters into subcontracts to the extent allowed under this Contract, the Consultant's subConsultants shall indemnify the County on a basis equal to or exceeding Consultant's indemnity obligations to the County.

The Consultant agrees all Consultant's indemnity obligations shall survive the completion, expiration or termination of this Agreement. The foregoing indemnification obligations of the Consultant are a material inducement to County to enter into this Agreement and are reflected in the Consultant's compensation.

By signing this contract, the Consultant acknowledges that it has freely negotiated and agreed to the indemnification requirements to indemnify and hold harmless the County from claims and suits including those brought against the County as indicated above and by the Consultant's own employees, arising from this contract.

35.1 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 Consultant 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 Consultant is governed by such laws, the Consultant 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 Consultant 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 subConsultant, provided that the foregoing provision shall not apply to contracts or subConsultants for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Consultant 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.

36.1 Waiver of Noncompetition:

Consultant irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and Consultant further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 Conflict of Interest:

If at any time prior to commencement of, or during the term of this Agreement, Consultant or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Consultant shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised

in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Consultant to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Consultant also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Consultant hereby accepts, the Whatcom County Executive, and his or her designee, as the County's representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County's right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

John N. Thompson
Senior Salmon Recovery Planner
Whatcom County Public Works
322 N. Commercial St., Suite 200
Bellingham, WA 98225-4042

37.2 Notice:

Any notices or communications required or permitted to be given by this Contract must be (i) given in writing and (ii) personally delivered or mailed, by prepaid, certified mail or overnight courier, or transmitted by electronic mail transmission (including PDF), to the party to whom such notice or communication is directed, to the mailing address or regularly-monitored electronic mail address of such party as follows:

To: Robert Montgomery
Anchor QEA, LLC
1201 3rd Ave. Ste 2500, Seattle, WA 98101

Telephone: (206) 219-5901
Email: rmontgomery@anchorqea.com

To: Whatcom County Flood Control Zone District
c/o Whatcom County Public Works
322 N. Commercial St., Suite 200
Bellingham, WA 98225-4042

Attention: John N. Thompson, Senior Salmon Recovery Planner
Telephone: (360) 778-6295
Email: jnthomps@co.whatcom.wa.us

Any such notice or communication shall be deemed to have been given on (i) the day such notice or communication is personally delivered, (ii) three (3) days after such notice or communication is mailed by prepaid certified or registered mail, (iii) one (1) working day after such notice or communication is sent by overnight courier, or (iv) the day such notice or communication is sent electronically, provided that the sender has received a confirmation of such electronic transmission. A party may, for purposes of this Agreement, change his, her or its address, email address or the person to whom a notice or other communication is marked to the attention of, by giving notice of such change to the other party pursuant to this Section.

37.3 If agreed by the parties, this Contract may be executed by Email transmission and PDF signature and Email transmission and PDF signature shall constitute an original for all purposes.

38.1 Certification of Public Works Consultant's Status under State Law:

If applicable, Consultant certifies that it has fully met the responsibility criteria required of public works Consultants under RCW 39.04.350 (1), which include: (a) having a certificate of registration in compliance with RCW 18.27; (b) having a current state unified business identifier number; (c) if applicable, having industrial insurance coverage for its employees working in Washington as required in Title 51 RCW, an employment security department number as required in Title 50 RCW, and a state excise tax registration number as required in Title 82 RCW; and (d) not being disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

- 38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:
If applicable, the Consultant further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.

The Consultant also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Consultant and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Consultant agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "Excluded Parties List System in the System for Award Management (SAM) website is available to research this information at WWW.SAM.GOV. Consultant shall immediately notify Whatcom County if, during the term of this Contract, Consultant becomes debarred.

- 38.3 E-Verify:
The E-Verify Consultant program for Whatcom County applies to contracts of \$100,000 or more and sub contracts for \$25,000 or more if the primary contract is for \$100,000 or more. If applicable, Consultant represents and warrants that it will, for at least the duration of this contract, register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work for Whatcom County. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Consultant/Seller agrees to maintain records of such compliance and, upon request of the County, to provide a copy of each such verification to the County. Consultant/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Washington. Consultant/Seller understands and agrees that any breach of these warranties may subject Consultant/Seller to the following: (a) termination of this Agreement and ineligibility for any Whatcom County contract for up to three (3) years, with notice of such cancellation/termination being made public. In the event of such termination/cancellation, Consultant/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Consultant will review and enroll in the E-Verify program through this website: www.uscis.gov

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

- 40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.
- 40.2 Consultant Commitments, and Representations:
Any written commitment received from the Consultant concerning this Agreement shall be binding upon the Consultant, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Consultant to fulfill such a commitment shall render the Consultant liable for damages to the County in accordance with the terms of this Agreement. A commitment includes, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.
- 41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.
- 41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

- 42.1 Disputes:
Contract for Services
Anchor QEA WRIA 1 Multi-purpose Water Storage Assessment
Page 11

a. General:

Differences between the Consultant and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:

The Consultant shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Consultant has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Consultant believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Consultant shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:

The Consultant shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Consultant has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:

Other than claims for injunctive relief, temporary restraining order, or other provisional remedy to preserve the status quo or prevent irreparable harm, brought by a party hereto (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Contract or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Contract shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge but shall not have the power to award punitive damages. Each Party shall pay all their own costs, attorney fees and expenses of arbitration and the parties shall share equally in the Arbitrator's fees and costs. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Any arbitration proceeding commenced to enforce or interpret this Contract shall be brought within six years after the initial occurrence giving rise to the claim, dispute, or issue for which arbitration is commenced, regardless of the date of discovery or whether the claim, dispute, or issue was continuing in nature. Claims, disputes, or issues arising more than six years prior to a written request or demand for arbitration issued under this Contract are not subject to arbitration.

- e. The parties may agree in writing signed by both parties that a claim or dispute may be brought in Whatcom County Superior Court rather than mediation or arbitration.

Unless otherwise specified herein, this Contract shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:

In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:

The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:

This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT A

Scope of Work

WRIA 1 Multi-Purpose Water Storage Assessment

Whatcom County Public Works—Natural Resources

Project Understanding

Anchor QEA, LLC, understands the unique challenges to water resource management in the Nooksack Basin—a large and ecologically diverse watershed. These include maintaining water supply for growing cities, rural communities, industrial users and a major area of agricultural productivity in the state of Washington; sustaining and improving summer low flows and water quality in the Nooksack River and tributaries to meet the needs of its salmon, steelhead, and trout populations; and managing flood damage risk in its large floodplain areas. Recent flood damage and ongoing recovery has been a major focus for the basin following record floods spanning the United States-Canada border in February 2020 and November 2021.

Meeting the multiple objectives of the WRIA 1 Watershed Management Plan (2005), Salmonid Recovery Plan (2005 and 2022), Lower Nooksack River Comprehensive Flood Hazard Management Plan (CFHMP, 1999) and associated technical findings from on-going CFHMP update work, and the Whatcom County Climate Action Plan (2021) has required consideration of a broad range of solutions, including both natural process restoration and engineered structures. In 2022, water storage was identified by the Drainage Based Management Work Group as a strategy that is a high priority for further investigation to meet the needs of water users and salmon. Storage for reducing flood risk was also identified during a Floodplain Integrated Planning-led design process that occurred separately but in parallel with Drainage Based Management discussions in early 2022. Many types of storage solutions have been considered at a conceptual level in the past, and now there is a pressing need to objectively evaluate the expected benefits, impacts, and costs of these and other concepts to understand their feasibility and ability to meet the needs of the basin. A wide-reaching but objective analysis is necessary because ultimately the path forward may involve multiple project types dispersed across the basin to meet single or multiple needs.

Anchor QEA understands the specific goals of the project to evaluate options for developing or enhancing water storage and infiltration capacity throughout WRIA 1 that would improve low flows during the dry season, maintain the existing water supply for out-of-stream uses, and reduce flood damage to homes, public infrastructure, and salmon habitat. Anchor QEA also understands the strong foundation provided by past work of the Watershed Management Board (WMB), Watershed Management Team (WMT), Watershed Staff Team (WST), Salmon Recovery Staff Team (SRST), and Floodplain Integrated Planning Steering Committee (FLIP SC) and how to prepare select members of those groups to participate in the sub-committee that will focus on this specific evaluation of multi-

purpose water storage options. Anchor QEA proposes the following approach to completing those tasks.

Scope of Services and Deliverables

Anchor QEA proposes to perform and track work and deliverables on a task basis with the following seven tasks.

Task 1: Review of Existing Information and Technical Studies

There are a number of technical studies and data that are relevant to this project. Anchor QEA will review existing studies and available literature related to restoring or enhancing natural storage and implementing natural or engineered solutions. Anchor QEA will compile a bibliography of relevant studies and data using existing WRIA 1 studies, information provided by Whatcom County Public Works (County) or sub-committee members, and relevant reports completed by Anchor QEA related to water storage strategies in other watersheds.

Task 2: Kick-off Meeting

This task includes a meeting with the County and members of the sub-committee. The meeting is proposed to be held in mid-January 2023. This will allow time for advanced coordination with the County and sub-committee members, review of existing information, and preparation of a study framework for discussion during the meeting.

In preparation for the meeting, Anchor QEA will provide a range of draft project types and preliminary screening criteria to the County and sub-committee members that could be used to evaluate storage projects. Examples of criteria include cost and engineering feasibility, instream flow, water supply or flood damage reduction benefits, environmental impacts and benefits, resiliency to projected climate impacts and extreme weather events, and socioeconomic, cultural, and implementation issues. Within those categories there may be multiple criteria that can be evaluated. The goals and objectives of the project will be refined during the kick-off meeting and will be reflected in the selected criteria.

A draft memorandum summarizing outcomes of the meeting will be prepared and circulated for review and comment. The memorandum will describe project goals and objectives, the types of water storage projects to review, and the methodology that can be used to screen and rank projects. After review of this memorandum, additional discussions may be needed with the County and sub-committee members to select or refine the criteria to be used in the screening analysis task. Calls with individual sub-committee members may be made to help refine and select criteria. Refined criteria will be presented to the sub-committee via email for consensus agreement to finalize the criteria for use.

Task 3: Preliminary Identification and Assessment of Potential Storage Sites

The objective of this task is to identify and assess potential storage sites for the range of storage opportunities identified in Tasks 1 and 2. Anchor QEA will also evaluate and propose any additional types and locations of storage to ensure a broad range of sites are evaluated that can address the project goals and objectives. A GIS-based screening analysis of potential sites will be performed to help identify potentially feasible locations for additional types of storage.

A description, site map, and conceptual design of each of the potential sites will be prepared using existing data and GIS coverages, such as topography, hydrology, soils, geology, land use, parcel boundaries, critical areas, fish distribution, cultural resources, and existing infrastructure.

A screening analysis of the potential storage sites will be performed using the criteria developed in Task 2. During the screening analysis, it may become apparent that a project has a configuration or impact that would cause it to have a “fatal flaw.” Potential fatal flaws will be identified during the analysis and vetted with the County and sub-committee.

A matrix of projects with the results of the screening analysis will be prepared. The matrix will be circulated to the County and sub-committee for review and comment. Comments will be compiled, and the screening analysis revised as needed. The deliverable for this task will include a list of projects recommended to move forward to Task 4, along with a brief narrative describing each site and its anticipated benefits. A site map, conceptual design and “order of magnitude” project cost estimate of the recommended projects will also be prepared.

Task 4: Select and Conduct Detailed Evaluation and Project Report

To prepare a short list of projects on which to perform more detailed evaluations, we propose a facilitated discussion of the sites with the County and sub-committee to obtain agreement on selection of priority projects. If desired, Anchor QEA can prepare a numerical rating and ranking system that compares and rates projects and also assigns weighting to criteria based upon their importance. For that methodology, sub-committee members would independently rate projects. The numerical ratings would be compiled, compared, and discussed at a meeting to reach agreement on a short list of projects. We have used both methodologies in screening analyses of water storage projects. The short list will include up to 10 projects.

A more detailed engineering and environmental review of the selected sites will then be prepared. The analyses will include the following:

- Refined hydrologic and hydraulic analyses for both natural or engineered solutions to estimate water storage capacity, contributing watershed area, hydrologic inputs, outflows, infrastructure required to fill and release water, and refill probability

- Description of potential operations, including timing and magnitude of releases and change in instream flow in downstream reaches
- Estimate of potential flood risk reduction benefit from storage
- Qualitative discussion of how the project may improve resiliency under climate change
- Further review and documentation of site constraints, including steep slopes, landslide hazards, critical areas, property ownership, tax designation, and accessibility
- Identification of potential impacts of water quality on receiving waters and likely benefits or challenges that would need to be addressed during future design
- Review of potential effect on salmonids and native fish, as well as other species and habitats
- Review of known cultural resource issues through discussion with tribes
- Preliminary evaluation of permitting and regulatory requirements
- Identification of constructability concerns
- Preparation of an opinion of the probable implementation and long-term operating costs associated with each project
- Identification of potential funding sources for project development, implementation, and long-term maintenance.
- Site maps and conceptual drawings
- Conceptual engineer's cost estimate

A summary of the analyses will be prepared in a draft technical report along with a refined matrix that can be used to further rate and rank the shortlisted storage projects. A meeting will be held to present the analyses with the intent to prioritize sites that will be advanced to grant funding applications and further design and permitting work. A final report will be prepared based on feedback obtained and decisions made during the in-person presentation. The budget for the meetings described in this task is included in Task 5.

Task 5: Communications

This task includes communications and meetings with the County and sub-committee during the project. The anticipated in-person meetings include the following:

- Project kick-off meeting with the sub-committee (Task 2, budget is included in Task 2)
- Screening and ranking meeting with the sub-committee (for Task 4)
- Shortlisted project rating and ranking meeting with the sub-committee (for Task 4)
- Final presentation to County, sub-committee, and other interested parties (for Task 5)

Additional informal video and conference call meetings will be held with the County and sub-committee members as needed to discuss projects, criteria, screening, and other elements of the project. Anchor QEA will lead meetings, take notes, and circulate to the County and sub-committee members, as needed.

Task 6: Project Management

For this task the Anchor QEA project manager (Bob Montgomery) will have regular communication with the County's project manager to discuss progress of the work described in the preceding tasks, coordinate with sub-committee members, schedule meetings as needed, prepare invoices, and maintain the project schedule. Larissa Rohrbach will assist in communications with sub-committee members.

Task 7: Technical Assistance

An allowance of \$6,282 will be retained to handle additional tasks that may arise during the course of the project that may not have been anticipated within the original project scope but are important to meeting the project goals. The use of the allowance will be directed by the County and approval of work can be provided to Anchor QEA from the County via email.

Project Timeline

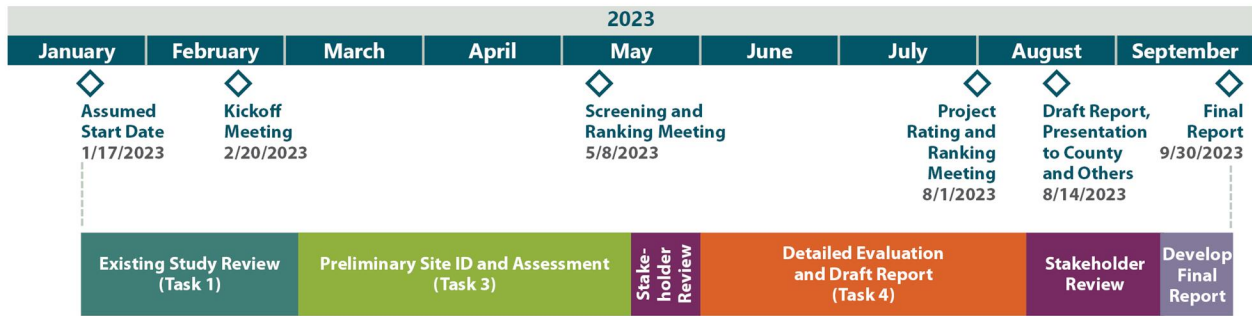
The proposed schedule is presented in the graphic shown in the "Schedule" section of this scope of work. The project kick-off meeting with the County and sub-committee (Task 2) will be scheduled for late February, allowing one month for review of existing studies following notice to proceed. It is assumed that there would be an equal duration of Tasks 3 and 4, with time between the two tasks for the screening and ranking meeting and for sub-committee members to review the preliminary results of the screening analysis in Task 3. A draft report will be delivered in early August 2023. A 4-week review period is provided for the County and sub-committee, leaving Anchor QEA 3 weeks to prepare a final report by the end date of September 30, 2023. Meetings described in Task 5 are shown in the schedule, but the dates may change as the project proceeds.

Assumptions

- The County will provide digital copies or links to relevant studies within 2 weeks of the contract date.
- The County will provide existing GIS layers they possess relevant to Tasks 3 and 4 within 4 weeks of the contract date.
- Storage analyses will be performed on a qualitative level where existing quantitative data are not available. Numerical modeling of hydrologic, hydraulic, and water quality will not be performed unless an existing model is available, is relevant to the project, and does not require more than a simple modification.
- Anchor QEA will develop conceptual designs of up to 10 water storage projects for Task 5. Conceptual designs are defined as 10% designs. Analyses and information developed for Task 5 will be based upon the conceptual designs.

- The County will assist Anchor QEA in the coordination with sub-committee members and will provide meeting venues for Task 5 meetings.
- The County and sub-committee reviewers will provide compiled comments within 3 weeks of receipt of draft materials to meet the project schedule unless otherwise agreed to by Anchor QEA. Should conflicting comments be provided by sub-committee members, the County will work with those providing the comments to resolve any conflicts. Anchor QEA will prepare final drafts of deliverables within 2 weeks or less of receipt of reviewer comments.
-

Schedule



Note: Meeting dates may change depending on participants' schedules

EXHIBIT "B"
(COMPENSATION)

As consideration for the services provided pursuant to Exhibit A, Scope of Work, the County agrees to compensate the Consultant according to the positions and hourly rates provided in the Table – Cost Estimate below. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed. Subcontractor costs will be reimbursed at actual cost. Travel time will be paid at 50% the full hourly rate and is included in the cost estimate below. Mileage is to be reimbursed at the 2022 or 2023 IRS rate, whichever is applicable at the time the mileage is accrued; lodging and per diem will be reimbursed at a rate not to exceed the GSA rate for the location at which services are provided. Other expenditures such as supplies for field work, printing, postage, and telephone charges shall be reimbursed at actual cost. The budget below includes the expected effort according to staffing level, and totals by task or sub-task. Some tasks may require more or less than the estimated. Contractor will consult with and get written approval from the Administrative Officer if it is later determined that the level of effort for any given task will be significantly greater than that which was estimated when Exhibit "A" - Scope of Work was prepared.

The Consultant will invoice monthly. Invoices will include hours worked by employee/position for the invoice period listed together with tasks accomplished. Requests for reimbursement of expenses must be accompanied by copies of paid invoices itemizing costs incurred. Costs of alcoholic beverages are not eligible for reimbursement. Total compensation shall not exceed **\$150,000.00**. Any work performed prior to the effective date of this contract or continuing after the completion date of the same unless otherwise agreed upon in writing, will be at the contractor's expense.

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Table - Cost Estimate

Labor Categories	Billing Rate	Task 1: Review of Existing Information and Technical Studies	Task 2: Kick-off Meeting	Task 3: Preliminary Identification and Assessment of Potential Storage Sites	Task 4: Select and Conduct Detailed Evaluation and Project Report	Task 5: Communications	Task 6: Project Management	Task 7: Technical Assistance	Hours	Cost
Principal	\$ 302	24.0	14.0	48.0	40.0	34.0	24.0	6.0	190.0	\$ 57,380
Principal Travel (50% of full rate)	\$ 151	0.0	4.0	0.0	0.0	12.0	0.0	0.0	16.0	\$ 2,416
Senior Staff	\$ 223	32.0	16.0	56.0	40.0	34.0	24.0	20.0	222.0	\$ 49,506
Senior Staff Travel (50% of full rate)	\$ 112	0.0	0.0	0.0	0.0	12.0	0.0	0.0	12.0	\$ 1,338
Staff 3	\$ 196	0.0	0.0	40.0	40.0	0.0	0.0	0.0	80.0	\$ 15,680
Staff 2	\$ 176	0.0	0.0	0.0	40.0	0.0	0.0	0.0	40.0	\$ 7,040
Senior CAD Designer	\$ 155	6.0	0.0	24.0	40.0	0.0	0.0	0.0	70.0	\$ 10,850
Senior Technical Editor	\$ 157	0.0	2.0	0.0	16.0	0.0	0.0	0.0	18.0	\$ 2,826
Technical Editor	\$ 130	0.0	0.0	0.0	0.0	8.0	0.0	0.0	8.0	\$ 1,040
Project Coordinator	\$ 124	0.0	0.0	0.0	0.0	0.0	4.0	0.0	4.0	\$ 496
Total Hours	--	62	36	168	216	100	52	26	660	--
Total Labor	--	\$ 15,314	\$ 8,714	\$ 38,544	\$ 44,592	\$ 22,040	\$ 13,096	\$ 6,272	--	\$ 148,572
Internal Reimbursables	--	\$ 50	\$ 112	\$ 408	\$ 512	\$ 336	\$ -	\$ 10	--	\$ 1,428
TOTAL COSTS	--	\$ 15,364	\$ 8,826	\$ 38,952	\$ 45,104	\$ 22,376	\$ 13,096	\$ 6,282	--	\$ 150,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| <ul style="list-style-type: none"> A. BLANKET ADDITIONAL INSURED B. EMPLOYEE HIRED AUTO C. EMPLOYEES AS INSURED D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS E. TRAILERS – INCREASED LOAD CAPACITY F. HIRED AUTO PHYSICAL DAMAGE G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT | <ul style="list-style-type: none"> H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT I. WAIVER OF DEDUCTIBLE – GLASS J. PERSONAL PROPERTY K. AIRBAGS L. AUTO LOAN LEASE GAP M. BLANKET WAIVER OF SUBROGATION |
|---|---|

A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

B. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while

performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1)** Any covered "auto" you lease, hire, rent or borrow; and
- (2)** Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

COMMERCIAL AUTO

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph **C.1.** of **SECTION I – COVERED AUTOS**:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:

(a) \$50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a.**, **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph **C.1.b.** of **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted.

I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D.**, **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL PROPERTY

The following is added to Paragraph **A.4.**, **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph **B.3., Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5., Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to SECTION II - WHO IS AN INSURED:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury": and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization: or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III - Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs: and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed:

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 8., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the DEFINITIONS Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

Endorsement #47

Effective date of this Endorsement: 01-Jun-2020

**This Endorsement is attached to and forms a part of Policy Number: W11053221301
Syndicate 2623/623 at Lloyd's referred to in this endorsement as either the "Insurer" or the
"Underwriters"**

WAIVER OF SUBROGATION

This endorsement modifies insurance provided under the following:

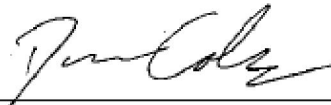
Beazley ENVIRO Insurance

In consideration of the premium charged for the Policy, it is hereby understood and agreed that Clause **XIX. SUBROGATION** is deleted in its entirety and replaced with the following:

XIX. SUBROGATION

In the event of any payment under this Insurance, the Underwriters shall be subrogated to all the **Insureds'** rights of recovery therefore against any person or organization, and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights. The Underwriters agree to waive its rights of recovery against any person or entity for a **Claim** which is covered pursuant to this Policy, but only where indemnity or contractual obligation has been provided by the **Named Insured** pursuant to a written contract. Any recoveries shall be applied first to subrogation expenses, second to the **Named Insured** to the extent of any payments in excess of the Limit of Liability, third to **Damages, Cleanup Costs and Claims Expenses** paid by the Underwriters, and fourth to the Deductible. Any additional amounts recovered shall be paid to the **Named Insured**.

All other terms and conditions of this Policy remain unchanged.



Authorized Representative

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**WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY**

ENDORSEMENT WC 00 03 13 (00) - 01

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED
IN A WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO PROVIDE THIS
WAVIER.