

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

Originating Department:	Public Works
Division/Program: (i.e. Dept. Division and Program)	Natural Resources
Contract or Grant Administrator:	Chris Elder
Contractor's / Agency Name:	ESA

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes No
 Yes No If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____

Does contract require Council Approval? Yes No If No, include WCC: _____
 Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? Yes No If yes, grantor agency contract number(s): _____ CFDA#: _____

Is this contract grant funded? Yes No If yes, Whatcom County grant contract number(s): 202203017

Is this contract the result of a RFP or Bid process? Contract _____
 Yes No If yes, RFP and Bid number(s): MRSC Consultant Roster Cost Center: 169122

Is this agreement excluded from E-Verify? No Yes If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:

- Professional services agreement for certified/licensed professional.
- Contract work is for less than \$100,000.
- Contract work is for less than 120 days.
- Interlocal Agreement (between Governments).
- Contract for Commercial off the shelf items (COTS).
- Work related subcontract less than \$25,000.
- Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments):
 \$ 100,000
 This Amendment Amount:
 \$ 0
 Total Amended Amount:
 \$ 100,000

Council approval required for; all property leases, contracts or bid awards **exceeding \$40,000**, and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, **except when:**

1. Exercising an option contained in a contract previously approved by the council.
2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
3. Bid or award is for supplies.
4. Equipment is included in Exhibit "B" of the Budget Ordinance
5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope: Grant funds received from the Department of Ecology's SMP Competitive Grant program will allow Whatcom County Public Works Department to hire ESA to work with a multi-jurisdictional team to develop a Vulnerability & Risk Assessment (VRA) for Whatcom County coastal and lower Nooksack riverine shorelines using a Compound Flood Model that utilizes the USGS Coastal Storm Model System (CoSMoS) model. These models incorporate sea level rise, tidal, wave, storm surge, and stream discharge data to assess vulnerability and risks exacerbated by climate change to public infrastructure and private development (assets), ecosystem functions/values (systems), and populations.

Term of Contract: August 10, 2022 Expiration Date: June 30, 2023

Contract Routing:	1. Prepared by: <u>CE</u>	Date: <u>7/25/2022</u>
	2. Attorney signoff: <u>Christopher Quinn</u>	Date: <u>7/26/22</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>7/27/22</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____

7. Council approved (if necessary): _____ Date: _____
8. Executive signed: _____ Date: _____
9. Original to Council: _____ Date: _____

Whatcom County
Contract No.

CONTRACT FOR SERVICES
Between Whatcom County and ESA

ESA, hereinafter called **Contractor**, and Whatcom County, hereinafter referred to as **County**, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 1 to 13,
Exhibit A (Scope of Work), pp. 14 to 19,
Exhibit B (Compensation), pp. 20 to _____,
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 10th day of August, 2022, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of June, 2023.

The general purpose or objective of this Agreement is to: implement the Whatcom Coastal and Riverine Compound Flood Model Vulnerability and Risk Assessment project 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 \$100,000. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor 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.

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.

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 20 _____.

CONTRACTOR:
ESA

Bob Battalio, Vice President

Address:
5809 Shilshole Avenue SW
Suite 200
Seattle, WA 98107

Mailing Address:
5809 Shilshole Avenue SW
Suite 200
Seattle, WA 98107

**WHATCOM COUNTY:
Recommended for Approval:**

Jon Hutchings, Public Works Director Date

Approved as to form:

Christopher Quinn, Senior Civil Deputy Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive

GENERAL CONDITIONS

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

0.1 Scope of Services:

The Contractor 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 Contractor prior to or after the term of this contract shall be performed at the expense of Contractor 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 Contractor 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 Contractor 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 Contractor'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 Contractor 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 Contractor. The Contractor 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 may 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 Contractor 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 Contractor Services:

Payment to the Contractor 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 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 Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, 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 Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor 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 Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor'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 Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor'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 Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor 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 Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. 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 Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

The Contractor 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 Contractor:

The Contractor's services shall be furnished by the Contractor as an independent contractor, 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 Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor 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 Contractor 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.

Contractor 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 Contractor. 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 Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 Ownership of Items Produced and Public Records Act:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County. If the Contractor creates any copyrightable materials or invents any patentable property, the Contractor 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. Contractor 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, public records, 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 Contractor or the Contractor's subcontractors 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 Contractor 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 Contractor and is not "work made for hire" within the terms of this Agreement.

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 Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County at no cost to the County. If the Contractor 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 Contractor 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 Contractor 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 Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor 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 Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor 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 Contractor shall be liable to the requester for any and all fees, costs, penalties or damages imposed or alleged as a result of the Contractor'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:

Contractor 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 Contractor infringes any patent or copyright. The Contractor 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 Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor 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 Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor 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. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor 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 Contractor'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 Contractor 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. Contractor 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 Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 Insurance

The Contractor 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 Contractor, its agents, representatives, subcontractors 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 Contractor 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 Contractor 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 occurrence

- 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 Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor 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 Contractor 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, per occurrence
\$2,000,000.00	Minimum, Annual Aggregate

Contractor 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 Contractor 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 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 Contractor's and Contractor's subcontractors' insurance policies by way of endorsement for the full available limits of insurance required in this contract or maintained by the Contractor and subcontractor, whichever is greater.
- c. Primary and Non-contributory Insurance. Contractor 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 Contractor'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 Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor 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 Contractor enter into such a waiver of subrogation on a pre-loss basis.
- e. Review of and Revision of Policy Provisions. Upon request, the Contractor shall provide a full and complete certified copy of all requested insurance policies to the County. The County reserves the right, but not the obligation, to revise any insurance requirement, including but not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the requirements of this Contract. 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.
- f. Verification of Coverage/Certificates and Endorsements. The Contractor 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 Contractor 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. Contractor 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 Contractor 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 Contractor under this Contract are expressly conditioned upon the Contractor's compliance with all insurance requirements. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract. Payment to the Contractor may be suspended in the event of non-compliance, upon which the County may, after giving five business days'

notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the County on demand or offset against funds due the Contractor. Upon receipt of evidence of Contractor's compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.

- j. Workers' Compensation. The Contractor shall maintain Workers' Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all Contractors' employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.
- k. Failure of the Contractor to take out and/or maintain required insurance shall not relieve the Contractor or subcontractors 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 Contractor 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 Contractor's insurance requirements under this Contract.
- l. Availability of Contractor Limits. If the Contractor 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 Contractor, irrespective of whether such limits maintained by the Contractor 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 Contractor.
- m. Insurance for Subcontractors. If the Contractor subcontracts (if permitted in the contract) any portion of this Contract, the Contractor shall include all subcontractors as insureds under its policies or shall require separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages by subcontractors must comply with the insurance requirements of the Contractor in this contract and shall be subject to all of the requirements stated herein, including naming the County as additional insured.
- n. The Contractor agrees Contractor'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 Contractor agrees to indemnify, defend and hold the County and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which: 1) are caused in whole or in part by any error, act or omission, negligent or otherwise, of the Contractor, its employees, agents or volunteers or Contractor's subcontractors and their employees, agents or volunteers; or 2) directly or indirectly arise out of or occur in connection with performance of this Contract or 3) are based upon the Contractor's or its subcontractors' use of, presence upon, or proximity to the property of the County. This indemnification obligation of the Contractor 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 Contractor, its subcontractors, employees or agents, and the County, its employees or agents, this indemnification obligation of the Contractor shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, employees, and agents. This indemnification obligation of the Contractor 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 Contractor 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 Contractor's indemnity obligations under this Agreement.

In the event the Contractor enters into subcontracts to the extent allowed under this Contract, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County. The Contractor shall pay all attorney's fees and expenses incurred by the County in establishing and enforcing the County's rights under this indemnification provision, whether or not suit was instituted.

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

By signing this contract, the Contractor acknowledges that it has freely negotiated and agreed to the indemnification requirements to defend, indemnify and hold harmless the County from all claims and suits including those brought against the County by the Contractor'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 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.

35.2 Non-Discrimination in Client Services: *(Must be included in every contract as per Ord. 2021-016)*

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.

36.1 Waiver of Noncompetition:

Contractor 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 contractor 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, Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor 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:

Chris Elder, Senior Planner, 322 N. Commercial, Suite 210, Bellingham, WA 98225

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 ESA
5809 Shilshole Avenue SW
Suite 200
Seattle, WA 98107
Attention: Lindsey Sheehan

Telephone: (925)998-8589
Email: lsheehan@esassoc.com

To Whatcom County
322 N. Commercial
Bellingham, WA 98225
Attention: Chris Elder

Telephone: (360)778-6225

Email: celder@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 Contractor's Status under State Law:

If applicable, Contractor certifies that it has fully met the responsibility criteria required of public works contractors 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 Contractor 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 Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor 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 Contractor 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. Contractor shall immediately notify Whatcom County if, during the term of this Contract, Contractor becomes debarred.

38.3 E-Verify:

The E-Verify contractor 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, Contractor 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. Contractor/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. Contractor/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. Contractor/Seller understands and agrees that any breach of these warranties may subject Contractor/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, Contractor/Seller would also be liable for any additional costs incurred by the County due to contract cancellation or loss of license or permit." Contractor 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 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, 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:

a. General:

Differences between the Contractor 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 Contractor 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 Contractor 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 Contractor 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. Contractor 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 Contractor 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 Contractor 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

Task 1. Vulnerability and Risk Assessment and Report

Task 1.1 Project Team Meetings and Project Management

CONSULTANT will work with COUNTY to design project team meetings. The meeting formats can be a mix of presentations with solicited questions and participatory activities, such as allowing the project team to annotate a shared screen to generate targeted input on maps. CONSULTANT will develop agendas and meeting summaries for up to 6 project team meetings at key moments to present findings and gather input. We assume 4 or more of these meetings will be virtual.

CONSULTANT will attend biweekly project management meetings with the COUNTY's project manager and others as needed. The primary intent of these meetings will be for staff and CONSULTANT to regularly and efficiently check in on project progress and schedule. The meetings also provide an opportunity for CONSULTANT and COUNTY staff to discuss issues that have arisen and share ideas. Biweekly meetings can be scheduled to coincide with other meetings and events to maximize efficiency or rescheduled as needed. The budget assumes up to two Consultant staff will attend half-hour biweekly meetings for a project duration of 11 months. CONSULTANT will confer with COUNTY staff on the format and desired outcomes of these meetings, as well as to identify the appropriate attendees.

This task will also include CONSULTANT's management of efforts related to the Scope of Work, schedule, budget, and invoicing, as well as general team management. CONSULTANT will assist COUNTY staff with meeting administrative grant requirements such as the regular status reporting. This task includes a total of 22 hours of project management time, which assumes an average of 2 hours per month over the 11-month life of the project.

Deliverables

- Agendas and meeting summaries for up to 6 project team meetings
- Up to 22 biweekly project management calls
- Monthly invoices and progress reports

Task 1.2. Scenario Identification

In coordination with the COUNTY and project team, CONSULTANT will define a set of sea level rise and compound flood planning scenarios that provide a scientific basis for the vulnerability and risk assessment and that can be clearly articulated to the public and stakeholders. The scenarios will be selected with input from the COUNTY and project team using the framework described in the University of Washington's document, How to Choose: A Primer for Selecting Sea Level Rise Projections for Washington State (<https://cig.uw.edu/wp-content/uploads/sites/2/2020/07/SLR-Report-FINAL-July-2020.pdf>) and any other best available riverine flooding guidance.

CONSULTANT will present recommended potential sea level rise and compound flood scenarios associated with various planning horizons, and probabilities, in order to bookend the range of possible future outcomes. Future

river flow rates (precipitation intensity) will be selected to correspond with the climate change scenarios (e.g., RCP 8.5) associated with the sea-level rise scenarios. We will work with the USGS to assess the return period statistics of different scenarios (i.e., the combination of return period frequency for riverine and coastal events). We assume 4 scenarios, such as 2 and 5 ft of sea-level rise for the king tide and 100-year events, will be sufficient for the full analysis, but that additional scenarios and maps may be considered initially before progressing into the exposure analysis (Task 1.5). CONSULTANT assumes that COUNTY will ultimately select which scenarios will be used in the project, based on the recommendations provided by CONSULTANT that consider the available hazard data from the USGS with input from the project team.

Deliverable

- A set of 4 sea level rise and compound flood planning scenarios for the full assessment (Task 1.5 on) with additional scenarios considered initially as needed.

Task 1.3. Hazard Maps

CONSULTANT will analyze the selected sea level rise and compound flood scenarios using existing hazard modeling outputs produced by the USGS from CoSMoS. CONSULTANT will review the CoSMoS hazard outputs and compare them to available water level, wave, and erosion data, as well as FEMA's Flood Insurance Rate Maps for existing conditions (since FEMA does not analyze future hazards with sea level rise). CGS will review the coastal analysis based on their experience analyzing coastal geomorphology on past projects, and NHC will compare their previous riverine flood modeling to the CoSMoS outputs to check the results.

We will analyze coastal erosion and flooding hazards under storm conditions and chronic (non-storm) conditions for existing conditions and the selected sea level rise and compound flooding scenarios. The following sea level rise-related coastal hazards will be evaluated:

- Tidal inundation (non-storm)
 - Extent of relatively frequent high water that occurs once or more per year, such as a "king tide" event on the existing topography in the county.
- Groundwater – groundwater can be affected by sea level rise and has been modeled approximately in CoSMoS and will be considered to the extent available from the USGS.
- Storm flooding from a combined 100-year event or other identified event, including riverine flood influence
- Coastal erosion

CONSULTANT will characterize the coastal setting based on available reports. The characterization will consider drift cells, geology/geomorphology, historical erosion, and shore reaches (segments with similar characteristics) using readily available, published information. The hazard exposure analysis will be applied to each shore reach.

Using outputs from CoSMoS, we will develop a set of hazard maps with a defined spatial extent based on the most extensive flood scenario plus a 200-ft buffer. Based on the results of Task 1.5 (see below), the maps could be refined to include assets or systems that may suffer indirect flooding impacts outside of the 200-ft buffer.

Deliverables

- GIS shapefiles of project extent and clipped CoSMoS and Compound Flood output data

Task 1.4. Asset Inventory

CONSULTANT will work with COUNTY staff and the project team to identify assets within the county that are vulnerable to sea level rise and compound flood impacts and highlight critically vulnerable assets. The inventory will include tabulating the following asset classes:

- Coastal and riverine development, such as the historic waterfront in Bellingham
- Public access and recreation, such as Birch Bay and Larrabee State Parks
- Coastal and riverine habitats, such as beaches, bluffs, wetlands, and coastal lagoons
- Vulnerable populations, such as low-income communities, communities of color, linguistically-isolated communities and immigrant communities, children, and the elderly

The inventoried asset data will be organized into a geodatabase and presented on maps and engagement materials as needed. Development of an asset geodatabase is most efficient where assets are already georeferenced, and hence the completeness of the data base depends on the data availability and the available funding. CONSULTANT will work with the COUNTY and project team to assess the available information, identify data gaps, and developed an agreed-upon approach to best use study funds.

We assume that asset data will be readily available in georeferenced format. Data entry into GIS can be accomplished by CONSULTANT if there is sufficient budget or as additional services.

Deliverable

- Geodatabase of asset, system, and population data

Task 1.5. Exposure Analysis

The hazard maps (Task 1.3) will be then overlaid on available asset data to produce exposure maps. The potentially impacted assets, systems, and populations will be quantified and tabulated. The asset geodatabase from Task 1.4 will be updated to include exposure by scenario and identify the degree and timeframe of the exposure.

Deliverable

- Geodatabase of asset, system, and population data with corresponding hazard exposure

Task 1.6. Sensitivity Analysis

After the impacted assets, systems, and populations have been tabulated (Task 1.5), we will conduct a qualitative analysis of the relative sensitivity of different assets based on whether the resource would experience temporary impacts (e.g., a trail experiencing temporary flooding during a large storm event), minor structural damage (e.g., shifting of rocks in a revetment or wave impacts to a waterfront home), or a complete failure/loss (e.g., erosion into the foundation of a building or more frequent [non-storm] inundation of a structure). We will focus this analysis on two geographically defined locations selected with COUNTY and project team.

We propose to apply a systematic method of scoring the assets, systems, and populations. For each type of asset, a sensitivity rating will be assigned that characterizes the degree of impact that would result from a given amount of exposure (e.g., inundation or erosion). Higher sensitivity indicates that the asset will have high

vulnerability for a given amount of exposure, whereas a lower sensitivity indicates that the asset will incur limited damage or operational interruptions, and hence a lower vulnerability for the same amount of exposure.

Deliverable

- A report section describing the sensitivity analysis to be included in the Vulnerability and Risk Assessment (Task 1.9)

Task 1.7. Adaptive Capacity Analysis

In the same two locations identified in Task 1.6, we will conduct a qualitative analysis of the relative adaptive capacity of different assets, systems, and populations. Adaptive capacity will be used to indicate the system's ability to cope with the impacts and will take into consideration system redundancy, the ability to relocate the asset or population, adaptive learning, ability to elevate the asset, and a high-level analysis of the cost-benefit of action. Because social factors influence a community's adaptive capacity or ability to prevent or recover from a climate-exacerbated event, we will also use local demographic information and the Washington Tracking Network maps (e.g., Environmental Health Disparities, Social Vulnerability to Hazards) to identify vulnerable populations and frontline communities to provide additional context.

Deliverable

- A report section describing the adaptive capacity analysis to be included in the Vulnerability and Risk Assessment (Task 1.9)

Task 1.8 Action Plan

Based on the results of Tasks 1.2 through 1.7, we will develop a summary of recommendations and identify next steps to reduce vulnerability to flooding with sea level rise and compound flood impacts within Whatcom County. We will also document lessons learned for future sea level rise and compound flood planning efforts.

CONSULTANT will develop a list of recommended actions that could be employed to reduce the vulnerabilities of public and private coastal and riverine resources and communities in the county. Adaptation measures will be compiled in various categories: policy measures (e.g., incorporating sea level rise and compound flooding hazards into the County's Natural Hazard Mitigation Plan, and Shoreline Master Program, establishing targeted outreach programs to vulnerable populations, development setbacks / easements), non-structural measures (e.g., beach nourishment and sediment management, realignment of built assets to allow shore migration and or space for natural shore infrastructure), structural measures (e.g., shoreline armoring, floodwalls, structure relocation, and building/road elevation), and hybrid measures (e.g., low wall, cobbles, and sand cover).

In recognition of the complexity of implementing the various adaptation measures, the Action Plan will include information on tools, programs, policies, funding sources, and financing mechanisms that can help prioritize and implement the adaptation strategies. CONSULTANT will work closely with COUNTY to identify early actions that could be taken in the next 5-10 years to address the most pressing and near-term challenges.

Deliverables

- A report section describing the Action Plan to be included in the Vulnerability and Risk Assessment (Task 1.9)

Task 1.9. Vulnerability and Risk Assessment Report and Action Plan

The results of Tasks 1.2 through 1.8 will be presented in a Draft Coastal and Riverine Compound Flood Vulnerability and Risk Assessment and Action Plan. Vulnerability tables will be developed for the assets, systems,

and populations analyzed in Tasks 1.6 and 1.7, based on the exposure mapping and each asset's sensitivity and adaptive capacity. The combination of the degree of exposure, sensitivity, adaptive capacity yields the asset's vulnerability. Wherever possible, we will identify knowledge gaps and areas for future research.

Feedback from COUNTY staff and the project team will be incorporated into the report to develop the Final Coastal and Riverine Compound Flood Vulnerability and Risk Assessment and Action Plan. We assume that COUNTY will provide one consolidated set of comments.

For all publications and education and outreach materials, ESA will follow ECOLOGY's requirements.

Deliverables

- Draft and Final Coastal and Riverine Compound Flood Vulnerability and Risk Assessment and Action Plan

Task 2. Identify and Organize Stakeholder Engagement

Task 2.1 Develop Public Participation Plan

CONSULTANT will prepare a Public Participation Plan that will provide a comprehensive road map to guide County and consultant team efforts. It will start with clear identification of the goals for public and stakeholder involvement and a statement about how input from community members and other stakeholders will be used in the planning process. The Plan will also identify a diverse and inclusive group of stakeholders with interest in the Vulnerability and Risk Assessment. Sections of the Plan will focus on the methods to be used for communicating information and involvement opportunities, to be developed in close coordination with COUNTY, and specific involvement activities for in-person and/or online engagement (including timing, focus, format, and relationship to the planning process). A process chart will show how outreach will be integrated into the steps of the planning process. This document will also account for contingency plans as needed. Should virtual meetings be required due to state or local health regulations, we can provide virtual and hybrid in-person/virtual facilitation options. In addition, this plan will act as a flexible, adaptive guide to meaningfully engage stakeholders; should particular approaches work better than others over time, our team will make adjustments to prioritize the most successful methods.

Deliverables:

- Draft and Final Public Participation and Stakeholder Engagement Plan

Task 2.2 Public Participation Materials

CONSULTANT will provide facilitation and documentation for the public meetings/workshops on the Vulnerability and Risk Assessment. We recommend conducting 3 meetings over the course of the project and at key moments to present findings and gather input.

We propose using the events to gather input on key community priorities, existing vulnerabilities, and community adaptive capacity, and to provide participants information about the vulnerability and adaptation process. The events will be structured to allow for community members to learn about sea level rise projections and implications. We suggest presenting the hazard maps developed in Task 1.3 to start the discussion on community vulnerabilities and include listening sessions to better understand how community members have experienced flooding and groundtruth flooding projections with local observations. The events could include a presentation in a large-group format or an open house with stations where community members could review information and discuss with COUNTY and CONSULTANT staff. We assume COUNTY will be responsible for reserving a meeting place, audio visual equipment, and advertisement fees. We assume that two of the events

will be in person with one virtual event. COUNTY will be responsible for printing of any posters and materials that are needed.

Deliverables:

- Community engagement materials including meeting agendas and attendance logs, hazard maps, and materials for COUNTY's website.

Task 3. County Council Review and Action

CONSULTANT will prepare a draft and final PowerPoint presentation to present our analysis, findings, and recommendations. We assume up to 2 staff will attend the County Council meeting.

Deliverables:

- Draft and Final PowerPoint presentation to be presented to County Council.

EXHIBIT "B"
(COMPENSATION)

ESA Labor Detail and Expense Summary

2022 Employee Billing Rates

		Employee Names						Total Hours	Labor Price
		B.Battalio	S.O'Neil	S. Easton	R.Gregg	H.Snow	A.Juang		
Labor Category		Senior Director III	Director II	Managing Associate II	Managing Associate I	Senior Associate I	Associate III	Total Hours	Labor Price
		\$ 290	\$ 190	\$ 180	\$ 175	\$ 160	\$ 150		
Task #	Task Name/Description	\$ 290	\$ 190	\$ 180	\$ 175	\$ 160	\$ 150		
1.0	Vulnerability and Risk Assessment and Report	14	4	97	43	22	172	352	\$ 59,125
1.1	Project Team Meetings and Project Management			51	23		6	80	\$ 14,105
	PM			33	11			44	\$ 7,865
	Project Team Meetings			18	12		6	36	\$ 6,240
1.2	Scenario Identification	2		2			10	14	\$ 2,440
1.3	Hazard Maps	2		4		4	12	22	\$ 3,740
1.4	Asset Inventory			4			8	12	\$ 1,920
1.5	Exposure Analysis	2		4		6	40	52	\$ 8,260
1.6	Sensitivity Analysis			4		4	18	26	\$ 4,060
1.7	Adaptive Capacity Analysis			4		4	18	26	\$ 4,060
1.8	Action Plan	4	4	8	16		20	52	\$ 9,160
1.9	Vulnerability and Risk Assessment Report	4		16	4	4	40	68	\$ 11,380
2.0	Identify and Organize Stakeholder Engagement	1	2	14	32		80	129	\$ 20,790
2.1	Develop Public Participation Plan	1	2	2	8		20	33	\$ 5,430
2.2	Public Participation Materials			12	24		60	96	\$ 15,360
3.0	County Council Review and Action			6	6		9	21	\$ 3,480
								-	\$ -
								-	\$ -
	Total Hours	15	6	117	81	22	261	502	
	Total Labor Costs	\$ 4,350	\$ 1,140	\$ 21,060	\$ 14,175	\$ 3,520	\$ 39,150		\$ 83,395
	Percent of Effort - Labor Hours Only	3.0%	1.2%	23.3%	16.1%	4.4%	52.0%	100.0%	
	Percent of Effort - Total Project Cost	4.4%	1.1%	21.1%	14.2%	3.5%	39.2%		83.4%

ESA Labor Cost	\$	83,395
ESA Non-Labor Expenses		
Reimbursable Expenses	(see Attachment A for detail) \$	2,605
ESA Equipment Usage	(see Attachment A for detail) \$	-
Subtotal ESA Non-Labor Expenses	\$	2,605
Subconsultant Costs	(see Attachment B for detail) \$	14,000

PROJECT TOTAL	\$ 100,000
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Attachment A
Cost Proposal: ESA Non-Labor Expenses Summary

Reimbursable Expenses	
Project Supplies	\$ -
Printing/Reproduction	\$ 500
Document and Map Reproductions (CD + Digital Photo)	\$ -
Postage and Deliveries	\$ -
Mileage	\$ 2,105
Vehicle Rental	\$ -
Lodging	\$ -
Airfare	\$ -
Other Travel Related	\$ -
-	\$ -
-	\$ -
-	\$ -
Subtotal Reimbursable Expenses	\$ 2,605
0% Fee on Reimbursable Expenses	\$ -
Total Reimbursable Expenses	\$ 2,605

ESA Equipment Usage	
General Equipment:	
Company Vehicle Usage	\$ -
HP Plotter	\$ -
Computer Time (GIS)	\$ -
Trimble GPS	\$ -
Tablet GPS	\$ -
Laser level	\$ -
Garmin GPS or equivalent	\$ -
Laptop Computers	\$ -
LCD Projector	\$ -
Noise Meter	\$ -
Electrofisher	\$ -
Sample Pump	\$ -
Surveying Kit	\$ -
Total Station Set	\$ -
Field Traps	\$ -
Digital Planimeter	\$ -
Cameras/Video/Cell Phone	\$ -
Miscellaneous Small Equipment	\$ -
Stilling Well/Coring Pipe (3 Inch aluminum)	\$ -
Hydrologic Data Collection, Water Current, Level and Wave Measurement Equipment:	
Culvert Flow Meter	\$ -
Logging Rain Gage	\$ -
Marsh-McBirney Hand-Held Current Meter	\$ -
Logging Water Level-Logging-Stainless Steel Pressure Transducer	\$ -
Logging Water Level-Titanium Pressure Transducer	\$ -
Logging Barometric Pressure Logger	\$ -
Well Probe	\$ -
Bottom-Mounted Tripod / Mooring	\$ -
Water Quality Equipment:	
Logging Turbidity/Water Level Recorder	\$ -
Logging Temperature Probe	\$ -
Hach Hand-Held Turbidity/Recording Conductivity Meter w/Datalogger	\$ -
Refractometer	\$ -
YSI Hand-Held Salinity Meter	\$ -
Hand-Held Conductivity/Dissolved Oxygen Probe	\$ -
Sedimentation / Geotechnical Equipment:	
Peat Corer	\$ -
60lb Helly-Smith Bedload Sampler with Bridge Crane	\$ -
Suspended Sediment Sampler with Bridge Crane	\$ -
Vibra-core	\$ -
Shear Strength Vane	\$ -
Auger (brass core @ \$ 5/each	\$ -
Boats:	
14 foot Aluminum Boas with 15 HP Outboard Motor	\$ -
Single or Double Person Canoe	\$ -
17' Boston Whaler w/ 90 HP Outboard	\$ -
Total Equipment Usage Costs	\$ -

Attachment B
Cost Proposal: Subconsultant Detail

Task Number / Description		Subconsultant Costs				
		Subconsultant 1 NHC	Subconsultant 2 CGS	Subtotal Subconsultant Cost	Fee @	Total Subconsultant Project Cost
					0%	
Insert Budget By Task						
1.3	Hazard Maps	\$4,000	\$10,000	\$ 14,000	\$ -	\$ 14,000.00
				\$ -	\$ -	\$ -
2				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
3				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
4				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
5				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
6				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
7				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
8				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
9				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
10				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
				\$ -	\$ -	\$ -
Subconsultant Total		\$ 4,000	\$ 10,000	\$ 14,000	\$ -	\$ 14,000

Coastal Geologic Services (CGS) provides coastal geomorphology analysis and model review.
Northwest Hydraulic Consultants (NHC) provides fluvial hydrodynamic analysis and model review.

SCHEDULE OF STANDARD CHARGES
(Effective January 2022)

Labor Category	Fee Rate (\$US/hour)
Principal	275
Principal T3 / Sr. Project Engineer 1	255
Sr. Project Engineer/Scientist 2	225
Sr. Engineer/Scientist 1	195
Sr. Engineer/Scientist 2	185
Engineer/Scientist 1	160
Engineer/Scientist 2	140
Jr. Engineer/Scientist	130
GIS Analyst 1	145
GIS Analyst 2	115
Sr. CAD Designer	155
CAD Designer	125
Sr. Engineering Technician	155
Engineering Technician 1	125
Engineering Technician 2	105
Jr. Engineering Technician	95
Sr. Engineering Lab Technician	145
Engineering Lab Technician	125
Sr. Contract Administrator	180
Sr. Technical Editor	150
Technical Editor	120
Office Administrator	95

Labor costs subject to annual escalation adjustment in October to reflect cost of living and merit salary increases. Refer to separate schedules for field and laboratory equipment charges.

Handling Charges / Fees

Markup on Subconsultants	10%
Markup on Reimbursables	10%
Markup on Travel/Subsistence	10%

Plotting \$/sheet

Plots, bond, 11 x 17	\$2.00
Plots, bond, D size	\$4.00
Plots, oversize (running foot)	\$2.00

Photocopies \$/sheet

B&W 8½ x 11	\$0.10
B&W 11 x 17	\$0.15
Color 8½ x 11	\$1.00
Color 11 x 17	\$2.00

Coastal Geologic Services Inc. 2022 Fee Schedule

Principal Engineering Geologist (Standard Rate-Field/Office)	\$185/hr
Principal Engineering Geologist (Legal Consultation)	\$225/hr
Principal Engineering Geologist (Expert Witness)	\$270/hr
Senior Coastal Engineer	\$183/hr
Coastal Engineer	\$143/hr
Geotechnical Engineer	\$132/hr
CAD Manager & Permit Specialist	\$110/hr
GIS Analyst	\$109/hr
Coastal Geologist	\$116/hr
Operations Manager & Associate Geologist	\$110/hr
Program Design & Assessment Specialist	\$94/hr
Engineering Assistant & Drone Mapping Specialist	\$62/hr
Office Support Staff	\$62/hr

CGS 2022 Cost Schedule

Advanced Total Station (survey) Package	\$225/day
Drone and Camera Package	\$175/day
Differential Trimble GPS	\$120/day
RTK GPS System	\$90/day
Vibracore Drill System	\$100/day
Dynamic Cone Penetrometer (up to 4 tests/tips)	\$80/day
-Per additional test (beyond 4)	\$25 each
Sediment Grain Size Analysis	\$110/sample
Forage Fish Egg Density Sampling Package	\$60/day
Solonist Water Level Recorder	\$60/day; \$140/week; \$275/month
TruPulse Laser Range Finder	\$45/day
Boat Use (36 ft)	\$300/day
Small Outboard Motorboat	\$275/day
Inshore Boat	\$100/day
Mileage	2022 Federal Rate
Other Direct Expenses (sub-consultants, other)	Cost + 10%

All Invoices are payable upon receipt. An interest charge of 1% per month will be applied to all invoices not paid within 30 days, unless arrangements are made in advance. Any attorney's fees or other costs incurred in collecting any delinquent amount shall be paid by the client.

EXHIBIT "C"
(CERTIFICATE OF INSURANCE)



ENVISCI-05

MCCOWANA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/22/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E67768 IOA Insurance Services 4370 La Jolla Village Drive Suite 600 San Diego, CA 92122	CONTACT Ali Smith NAME: PHONE (A/C, No, Ext): (619) 788-5795 50206 FAX (A/C, No): (619) 574-6288 E-MAIL ADDRESS: Ali.Smith@ioausa.com	
	INSURER(S) AFFORDING COVERAGE INSURER A: RLI Insurance Company NAIC # 13056 INSURER B: Crum & Forster Specialty Insurance Company 44520 INSURER C: INSURER D: INSURER E: INSURER F:	
INSURED Environmental Science Associates 550 Kearny St., Suite 800 San Francisco, CA 94108		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Cont Liab/Sev of Int <input checked="" type="checkbox"/> EXU/BFPD GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> SUBJECT <input type="checkbox"/> LOC OTHER:	X	X	PSB0007416	12/1/2021	12/1/2022	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COM/OP AGG \$ 4,000,000 Ded \$ 0
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY Comp Ded \$1,000 <input checked="" type="checkbox"/> Col Ded \$1,000	X	X	PSA0002468	12/1/2021	12/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PSE0003196	12/1/2021	12/1/2022	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS BELOW	Y/N	N/A	PSW0004135	12/1/2021	12/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER EL, EACH ACCIDENT \$ 1,000,000 EL, DISEASE - EA EMPLOYEE \$ 1,000,000 EL, DISEASE - POLICY LIMIT \$ 1,000,000
B	Prof Liab/Ded. \$25K			PKC112401	12/1/2021	12/1/2022	Per Claim \$ 5,000,000
B	Poll Liab/Ded. \$25K			PKC112401	12/1/2021	12/1/2022	Aggregate \$ 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: All Operations

 Whatcom County Washington is Additional Insured with respect to General and Auto Liability per the attached endorsements as required by written contract. Insurance is Primary and Non-Contributory. Waiver of Subrogation applies to General Liability and Workers' Compensation. Umbrella follows form.

 30 Days Notice of Cancellation with 10 Days Notice for Non-Payment of Premium in accordance with the policy provisions.

CERTIFICATE HOLDER Whatcom County Washington Public Works Department 322 N. Commercial St., Suite 110 Bellingham, WA 98225	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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