

EXECUTIVE/COUNCIL APPROVAL FORM

MANAGEMENT ROUTING:

EXECUTIVE Dave Somers

DEPUTY EXECUTIVE Eric Parks

EXEC. DIRECTOR Lacey Harper

DEPT. DIRECTOR Tom Teigen *TT*

DEPARTMENT Parks and Recreation

DIV. MGR. Bridgid Smith *BBS*

DIVISION Park Capital and Operations

ORIGINATOR Logan Daniels *LKD*

DATE March 17, 2021 **EXT.** 6619

TO: COUNCIL CHAIRPERSON:
SNOHOMISH COUNTY COUNCIL

EXECUTIVE RECOMMENDATION:

Approve No Recommendation

Further Processing

Requested By _____

Lacey Harper Digitally signed by Lacey Harper
Date: 2021.03.19 08:27:08 -07'00' / /

Executive Office Signature _____ **MG** 3/18/2021

CEO Staff Review _____

Received at Council Office **EL 8:55 a.m.** 3 / 19 / 2021

DOCUMENT TYPE:

<input type="checkbox"/> BUDGET ACTION:	<input type="checkbox"/> GRANT APPLICATION
<input type="checkbox"/> Emergency Appropriation	<input type="checkbox"/> ORDINANCE
<input type="checkbox"/> Supplemental Appropriation	<input type="checkbox"/> Amendment to Ord. # _____
<input type="checkbox"/> Budget Transfer	<input type="checkbox"/> PLAN
<input checked="" type="checkbox"/> CONTRACT:	<input type="checkbox"/> OTHER
<input checked="" type="checkbox"/> New	
<input type="checkbox"/> Amendment	

DOCUMENT / AGENDA TITLE:

Agreement for Professional Services with Shannon & Wilson/ Meadowdale Beach Park and Estuary Restoration Project - Geotechnical Construction Management Support

APPROVAL AUTHORITY:

EXECUTIVE _____ **COUNCIL**

CITE BASIS SCC 3.04.190

HANDLING: NORMAL EXPEDITE URGENT DEADLINE DATE 04/09/21

PURPOSE:

To execute the Professional Services Agreement with Shannon & Wilson, Inc. to provide geotechnical related construction management services for the Meadowdale Beach Park and Estuary Restoration Project.

BACKGROUND:

Meadowdale Beach County Park was purchased in 1971 with acquisition partially funded by the Washington State Interagency Committee (IAC) (n.k.a. Washington State Recreation and Conservation Office) for the purpose of saltwater beach access. The Park is approximately 108-acres and includes the west half of Lund's Gulch, a 300-foot deep, steep-sided ravine as well as Lunds Gulch Creek, a year-round salmon-bearing stream supporting juvenile Chinook, Coho, Chum salmon and Cutthroat trout.

A major park development project was completed in 1988 which included development of a 1-1/4 mile earthen trail paralleling the creek, construction of a pedestrian bridge, a ranger residence, a picnic shelter, restroom enclosure and ADA-parking area accessible by a gated access drive into the park from 75th Place West along the southern boundary of the Park. The project also included securing an agreement with Burlington Northern Santa Fe Railroad (BNSF) for shared use of the 6-foot wide, 5.5-foot high, 60-foot long culvert conveying Lund's Gulch Creek beneath the BNSF tracks for the

(Continued on next page)

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purpose of providing public beach access. Over time, increased runoff and rainfall events within the gulch have resulted in sediment delivery, flooding, public safety, and fish impediment issues at the entrance to and within the culvert.

A Feasibility Study commenced in October 2014 with a Consultant selected through the County's Request for Qualifications (RFQ) process and concluded with selection of a Preferred Alternative developed through a public process to address the multiple issues at the park. The Preferred Alternative included replacing the undersized culvert and approximately 128 linear feet of hard armored BNSF railroad embankment with a multi-span railroad bridge, creation of more than one acre of tidal marsh pocket estuary, restoring nearshore and stream riparian buffers, providing a separated ADA accessible path to the beach, installing a pedestrian bridge for viewing salmon, benches, picnic tables, paved trail improvements in the lower park and interpretive signage.

Design and development of construction documents, permitting and bid assistance began in August 2016 utilizing several Consultants selected through the County RFQ process and the Public Works On-Call list. Plans were approved through Snohomish County Planning and Development Services and BNSF, as applicable, and all required permits have been issued. The portion of the project to be constructed by a County-procured contractor was advertised for public bid (Bid 002-21SB, Meadowdale Beach Park and Estuary Restoration Construction) on February 1, 2021 with bids opened on March 16, 2021. Purchasing will route the recommended award package to Council and the Executive under separate ECAF and Motion. The project also requires an Underpass Agreement to be executed between Snohomish County and BNSF for the purpose of allowing the County contractor to work within BNSF right-of-way, and also to outline BNSF's responsibilities for the project and long term ownership and maintenance of the improvements, as well as to provide a perpetual easement from BNSF to the County for public beach access and maintenance of the estuary and underpass trail as needed. BNSF is processing the final edits to incorporate grant language into the Agreement, as required by Grant Agencies. The Underpass Agreement will be routed to Council and the Executive under separate ECAF and Motion.

For the purposes of this ECAF and Motion, Shannon & Wilson, Inc. was selected through the County's RFQ process (RFQ 002-21SB) for the purpose of providing geotechnical related construction management services including:

- Construction observation of the geotechnical aspects of the railroad bridge installation activities performed by both BNSF and the County-procured construction contractor;
- Construction observation of the geotechnical aspects of the park and habitat elements constructed by the County-procured contractor, including but not limited to access road reinforcement, pedestrian bridge abutments, landslide hazard wall, boardwalk and restroom enclosure foundations, estuary excavation and debris removal;
- Monitoring haul route pavement conditions to satisfy neighborhood concerns associated with the large number of truck trips along 75th Place West;
- Coordination with the County Construction Manager (CM), BNSF as authorized by the County CM, and other specialty construction management consultants procured under separate RFQ's, including Railroad and Park/Habitat; providing environmental remediation consulting services as warranted; and
- Construction management administrative activities including review of contractor submittals, responding to Requests for Information (RFI's), and providing geotechnical engineering support as needed.

The engineer's estimate for construction by the County-procured contractor, BNSF and consultant services for this project is \$15,000,000. The fee for this scope of work is \$399,437. Capital Improvement Program (CIP) funding for Meadowdale Beach County Park has been included in the Park 6-yr CIPs since 2016. Funding for the Meadowdale Beach Park and Estuary Restoration Project includes awards from seven (7) grants totaling \$6,954,000, with the remaining \$8,046,000 from REET 2 funding and tax-exempt bond funds as approved in Motion 20-401.

The urgency for getting this contract executed is so Shannon & Wilson may attend the pre-construction conference and commence review of contractor submittals immediately upon award of Bid 002-21SB, Meadowdale Beach Park and Estuary Restoration Construction which opened on March 16, 2021. Procurement of materials by the successful awarded construction contractor is time-sensitive in order to meet conditions and of the Underpass Agreement regarding prohibiting on-track construction in the fourth quarter of any year due to increased freight operations.

FISCAL IMPLICATIONS:

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2 ND YR	
309-51094621326599 (currently within budget)	\$325,210		
309-51094621346599 (FRA Grant)	\$ 74,227		
TOTAL	\$399,437		

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	
TOTAL			\$

DEPARTMENT FISCAL IMPACT NOTES:

Snohomish County identified improvements to Meadowdale Beach County Park as a capital project for completion has been included within the Capital Improvement Program since 2016.

BUDGET REVIEW: Analyst BH Administrator NK Recommend Approval

CONTRACT INFORMATION:

ORIGINAL CONTRACT # _____ AMOUNT **\$ 399,437**
 AMENDMENT _____ CONTRACT # _____ AMOUNT _____

CONTRACT PERIOD:

ORIGINAL Start **NTP** End **2 yrs from Execution**
 AMENDMENT Start _____ End _____

CONTRACT / PROJECT TITLE:

Agreement for Professional Services with Shannon & Wilson, Inc./Meadowdale Beach Park and Estuary Restoration Project

CONTRACTOR NAME & ADDRESS (City/State only):

Shannon & Wilson Inc. Seattle, WA

APPROVED:

RISK MANAGEMENT Yes No _____

COMMENTS Sheila Barker 3/18/2021 _____

PROSECUTING ATTY - AS TO FORM: Yes _____ No _____

OTHER DEPARTMENTAL REVIEW / COMMENTS:

ELECTRONIC ATTACHMENTS : (List & include path & filename for each, e.g. G:\ECAF\deptname\docname_Motion)

- G:\ECAF\Council\20071243 ECAF
- G:\ECAF\Council\20071243 Motion
- G:\ECAF\Council\20071243 Agreement
- G:\ECAF\Council\20071243 copy-Motion 20-401

NON-ELECTRONIC ATTACHMENTS:

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 21-110

AUTHORIZING APPROVAL OF THE AGREEMENT FOR PROFESSIONAL SERVICES
WITH SHANNON & WILSON, INC. FOR
MEADOWDALE BEACH PARK AND ESTUARY RESTORATION PROJECT

WHEREAS, Meadowdale Beach County Park, with more than 70,000 annual visitors, was purchased in 1971 with acquisition partially funded by the Washington State Interagency Committee (IAC) (now known as Washington State Recreation and Conservation Office) (RCO) for the purpose of saltwater beach access; and

WHEREAS, a major park development project was completed in 1988 which included securing an agreement with Burlington Northern Santa Fe Railroad (BNSF) for shared use of the 6-foot wide, 5.5-foot high, 60-foot long culvert conveying Lund's Gulch Creek, a salmon-bearing stream through the BNSF embankment for the purpose of providing public beach access; and

WHEREAS, over time, increased runoff and rainfall events within the gulch have resulted in sediment delivery, flooding, public safety, and fish impediment issues at the entrance to and within the culvert; and

WHEREAS, a Feasibility Study commenced in October 2014 and concluded with selection of a Preferred Alternative developed through a public process to address the multiple issues related to the narrow culvert; and

WHEREAS, the Preferred Alternative included replacing the undersized culvert and approximately 128 linear feet of hard armored BNSF railroad embankment with a multi-span railroad bridge, creation of more than one acre of tidal marsh pocket estuary, restoring nearshore and stream riparian buffers, providing a separated ADA accessible path to the beach, installing a pedestrian bridge for viewing salmon, benches, picnic tables, paved trail improvements in the lower park and interpretive signage; and

WHEREAS, design and development of construction documents, permitting and bid assistance began in August 2016 and is now complete with approved plans and issued permits; and

WHEREAS, the project includes construction by both a contractor procured through the public bid process (002-21SB) advertised on February 1, 2021, with bids opened on March 16, 2021 as well as construction by BNSF; and

WHEREAS, the project requires an Underpass Agreement to be executed between Snohomish County and BNSF for the purpose of allowing the County-procured contractor access across BNSF right-of-way, describing construction, long-term maintenance and ownership responsibilities, as well as granting an easement to the County for public beach access and the estuary; and

WHEREAS, once the Underpass Agreement is executed by the County and BNSF and Bid 002-21SB is awarded, specialized construction management support from railroad, geotechnical and park/habitat consultants is needed to support the Department of Conservation and Natural Resources with implementing and completing construction of this project; and

WHEREAS, Shannon & Wilson, Inc. was selected through the County's Request for Qualifications (RFQ) process (RFQ 002-21SB) for the purpose of providing geotechnical related construction management services for a fee of \$399,437 (Three Hundred Ninety-Nine, Four Hundred Thirty-Seven Dollars); and

WHEREAS, Capital Improvement Program (CIP) funding for Meadowdale Beach County Park has been included in the Park 6-yr CIPs since 2016 and the engineer's estimate for construction by the County-procured contractor, BNSF and consultant services for this project is \$15,000,000 (Fifteen Million Dollars); and

WHEREAS, funding for the Meadowdale Beach Park and Estuary Restoration Project includes awards from seven (7) grants totaling \$6,954,000, (Six Million, Nine Hundred Fifty Four Thousand Dollars) with the remaining \$8,046,000 (Eight Million, Forty-Six Thousand Dollars) from REET 2 funding and tax-exempt bond funds as approved in Motion 20-401;

NOW, THEREFORE, ON MOTION, the Snohomish County Council hereby approves the contract and authorizes the County Executive to sign the Agreement for Professional Services with Shannon & Wilson, Inc.

PASSED this _____ day of _____, 2021.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Council Chair

ATTEST:

Asst. Clerk of the Council

CONSULTANT: Shannon & Wilson, Inc
CONTACT PERSON: Tyler Stephens, P.E., Associate
ADDRESS: 400 N 34th Street, Suite 100
Seattle, WA 98103
FEDERAL TAX ID NUMBER/U.B.I. NUMBER: 91-0745357/578-058-2007
TELEPHONE/FAX NUMBER: 206-632-8020/TJS@shanwil.com
COUNTY DEPT: DCNR-Parks Division
DEPT. CONTACT PERSON: Logan Daniels, P.E., Parks Engineer
TELEPHONE/FAX NUMBER: (425)388-6619/Logan.Daniels@snoco.org
PROJECT: Meadowdale Beach Park & Estuary Restoration
AMOUNT: \$399,437
FUND SOURCE: 309-51094621326599; 309-51094621346599
CONTRACT DURATION: Execution through 2 years from execution

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the “Agreement”) is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the “County”) and Shannon & Wilson, Inc., a Washington state corporation (the “Contractor”). In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Scope of Services. The purpose of this Agreement is to provide geotechnical construction management support at Meadowdale Beach Park. The scope of services is as defined in Schedule A attached hereto and by this reference made a part hereof. This Agreement is the product of RFQ No.002-21SB.

The services shall be performed in accordance with the requirements of this Agreement and with generally accepted practices prevailing in the western Washington region in the occupation or industry in which the Contractor practices or operates at the time the services are performed. The Contractor shall perform the work in a timely manner and in accordance with the terms of this Agreement. Any materials or equipment used by the Contractor in connection with performing the services shall be of good quality. The Contractor represents that it is fully qualified to perform the services to be performed under this Agreement in a competent and professional manner.

The Contractor will prepare and present status reports and other information regarding performance of the Agreement as the County may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective upon mutual execution by the parties (the “Effective Date”) for two (2) years with the option to renew for two (2) additional one (1) one-year terms, PROVIDED, HOWEVER, that the County’s obligations

after December 31, 2021, are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

3. Compensation.

a. Services. The County will pay the Contractor for services as and when set forth in Schedule B, which is attached hereto and by this reference made a part of this Agreement.

b. Overhead and Expenses. The Contractor's compensation for services includes overhead but does not include specific reimbursable expenses, which will be allowed only as and to the extent set forth in Schedule C attached hereto and by this reference made a part of this Agreement.

c. Invoices. The Contractor shall submit properly executed invoices to the County no more frequently than monthly. Each invoice shall include an itemization of the dates on which services were provided, including the number of hours and a brief description of the work performed on each such date. Each invoice shall also include an itemization of any reimbursable expenses incurred by the Contractor during the time period covered by the invoice, together with reasonable documentation substantiating such expenses, all in accordance with this Section 3 and Schedule C. Subject to Section 8 of this Agreement, the County will pay such invoices within thirty (30) calendar days of receipt.

d. Payment. The County's preferred method of payment under this contract is electronic using the County's "e-Payable" system with Bank of America. The Contractor is highly encouraged to take advantage of the electronic payment method.

In order to utilize the electronic payment method, the Contractor shall email SnocoEpayables@snoco.org and indicate it was awarded a contract with Snohomish County and will be receiving payment through the County's e-Payable process. The Contractor needs to provide contact information (name, phone number and email address). The Contractor will be contacted by a person in the Finance Accounts Payable group and assisted with the enrollment process. This should be done as soon as feasible after County award of a contract or purchase order, but not exceeding ten (10) business days.

Department approved invoices received in Finance will be processed for payment within seven calendar days for e-Payable contractors. Invoices are processed for payment by Finance two times a week for contractors who have selected the e-Payable payment option.

In the alternative, if the Contractor does not enroll in the electronic ("e-Payable") payment method described above, contract payments will be processed by Finance with the issuance of paper checks or, if available, an alternative electronic method. Alternative payment methods, other than e-Payables, will be processed not more than 30 days from receipt of department approved invoices to Finance.

THE COUNTY MAY MAKE PAYMENTS FOR PURCHASES UNDER THIS CONTRACT USING THE COUNTY'S VISA PURCHASING CARD (PCARD).

Upon acceptance of payment, the Contractor waives any claims for the goods or services covered by the Invoice. No advance payment shall be made for the goods or services furnished by Contractor pursuant to this Contract.

e. Payment Method. In addition to Payment section above, the County may make payments for purchases under this contract using the County's VISA purchasing card (PCARD).

Are you willing to accept PCARD payments without any fees or surcharges?

Yes No

f. Contract Maximum. Total charges under this Agreement, all fees and expenses included, shall not exceed \$399,437 for the initial term of this Agreement (excluding extensions or renewals, if any).

4. Independent Contractor. The Contractor agrees that Contractor will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. This Agreement neither constitutes nor creates an employer-employee relationship. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint venturers.

The Contractor shall furnish, employ and have exclusive control of all persons to be engaged in performing the Contractor's obligations under this Agreement (the "Contractor personnel"), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. Such Contractor personnel shall for all purposes be solely the employees or agents of the Contractor and shall not be deemed to be employees or agents of the County for any purposes whatsoever. With respect to Contractor personnel, the Contractor shall be solely responsible for compliance with all rules, laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Contractor personnel when required by law.

Because it is an independent contractor, the Contractor shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers' compensation). The Contractor agrees to indemnify, defend and hold the County harmless from any and all claims, valid or otherwise, made to the County because of these obligations.

The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises or payments required by any city, county, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work under this Agreement. The Contractor shall assume exclusive liability therefor, and shall meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Ownership. Any and all data, 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 Agreement 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 Agreement 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.

6. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

7. County Contact Person. The assigned contact person (or project manager) for the County for this Agreement shall be:

Name: Logan Daniels
Title: Parks Engineer
Department: Conservation & Natural Resources
Telephone: (425) 388-6619
Email: <Logan.Daniels@snoco.org>

8. County Review and Approval. When the Contractor has completed any discrete portion of the services, the Contractor shall verify that the work is free from errors and defects and otherwise conforms to the requirements of this Agreement. The Contractor shall then notify the County that said work is complete. The County shall promptly review and inspect the work to determine whether the work is acceptable. If the County determines the work conforms to the requirements of this Agreement, the County shall notify the Contractor that the County accepts the work. If the County determines the work contains errors, omissions, or otherwise fails to conform to the requirements of this Agreement, the County shall reject the work by providing the Contractor with written notice describing the problems with the work and describing the necessary corrections or modifications to same. In such event, the Contractor shall promptly remedy the problem or problems and re-submit the work to the County. The Contractor shall receive no additional compensation for time spent correcting errors. Payment for the work will not be made until the work is accepted by the County. The Contractor shall be responsible for the accuracy of work even after the County accepts the work.

If the Contractor fails or refuses to correct the Contractor’s work when so directed by the County, the County may withhold from any payment otherwise due to the Contractor an amount that the County in good faith believes is equal to the cost the County would incur in correcting the errors, in re-procuring the work from an alternate source, and in remedying any damage caused by the Contractor’s conduct.

9. Subcontracting and Assignment. The Contractor shall not subcontract, assign, or delegate any of the rights, duties or obligations covered by this Agreement without prior express written consent of the County. Any attempt by the Contractor to subcontract, assign, or delegate any portion of the Contractor’s obligations under this Agreement to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Agreement.

10. Records and Access; Audit; Ineligible Expenditures. The Contractor shall maintain adequate records to support billings. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the Contractor. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers and records of the Contractor which are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the County by the Contractor.

11. Indemnification.

a. Professional Liability.

The Contractor agrees to indemnify the County and, if any funds for this Agreement are provided by the State, the State and their officers, officials, agents and employees from damages and liability for damages, including reasonable attorneys' fees, court costs, expert witness fees, and other claims-related expenses, arising out of the performance of the Contractor's professional services under this Agreement, to the extent that such liability is caused by the negligent acts, errors or omissions of the Contractor, its principals, employees or subcontractors. The Contractor has no obligation to pay for any of the indemnitees' defense-related cost prior to a final determination of liability or to pay any amount that exceeds Contractor's finally determined percentage of liability based upon the comparative fault of the Contractor, its principals, employees and subcontractors. For the purpose of this section, the County and the Contractor agree that the County's and, if applicable, the State's costs of defense shall be included in the definition of damages above.

b. All Other Liabilities Except Professional Liability.

To the maximum extent permitted by law and except to the extent caused by the negligence of the County and, if any funds for this Agreement are provided by the State, the State, the Contractor shall indemnify and hold harmless the County and the State, their officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incidental to the services and/or deliverables provided by or on behalf of the Contractor under this Agreement, to the extent that such liability is caused by the negligent acts, errors or omissions of the Contractor, its principals, employees or subcontractors. In addition, the Contractor shall assume the defense of the County and, if applicable, the State and their officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to such services and/or deliverables and shall pay all defense expenses, including reasonable attorneys' fees, expert fees and costs incurred by the County and, if applicable, the State, on account of such litigation or claims.

With respect to the Contractor's obligations to hold harmless, indemnify and defend provided for herein, but only as such obligations relate to claims, actions or suits filed against the County, the Contractor further agrees to waive its immunity under the Industrial Insurance Act, Title 51 RCW, for any injury or death suffered by the Contractor's employees caused by or arising out of the Contractor's acts, errors or omissions in the performance of this Agreement. This waiver is mutually negotiated by the parties.

In the event that the County or, if applicable, the State incurs any judgment, award and/or cost including attorneys' fees arising from the provisions of this section, or to enforce the provisions of this section, any such judgment, award, fees, expenses and costs shall be recoverable from the Contractor.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

12. Insurance Requirements. The Contractor shall procure by the time of execution of this Agreement, and maintain for the duration of this Agreement, (i) insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable.

a. General. Each insurance policy shall be written on an "occurrence" form, except that Professional Liability, Errors and Omissions coverage, if applicable, may be written on a claims made basis. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

By requiring the minimum insurance coverage set forth in this Section 12, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

b. No Limitation on Liability. The Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or in equity.

c. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage at least as broad as, and with limits no less than:

(i) General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$2,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations;

- (ii) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1;
- (iii) Workers' Compensation: To meet applicable statutory requirements for workers' compensation coverage of the state or states of residency of the workers providing services under this Agreement;
- (iv) Employers' Liability or "Stop Gap" coverage: \$1,000,000
- (v) Professional Liability: \$2,000,000.

d. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except workers' compensation and Professional Liability, if applicable, must contain, or must be endorsed to contain, the following provisions:

- (i) The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2026 07/04" or its equivalent is required.
- (ii) The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- (iii) Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.
- (iv) Insurance coverage must be placed with insurers with a Best's Underwriting Guide rating of no less than A:VIII, or, if not rated in the Best's Underwriting Guide, with minimum surpluses the equivalent of Best's surplus size VIII. Professional Liability, Errors and Omissions insurance coverage, if applicable, may be placed with insurers with a Best's rating of B+:VII. Any exception must be approved by the County.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

e. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. **Insurance coverages provided by subcontractors instead of the Contractor as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.**

13. County Non-discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or

military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Contractor shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Contractor of the Contractor's compliance with the requirements of Chapter 2.460 SCC. If the Contractor is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Contractor's obligations under other federal, state, or local laws against discrimination.

14. Federal Non-discrimination. Snohomish County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.

A. General Civil Rights Provisions: The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor and sub-tier contractors from the bid solicitation period through the completion of the Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

B. Title VI Solicitation Notice: Snohomish County, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies Contractor all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

C. Compliance with Nondiscrimination Requirements: During the performance of this Agreement, the Contractor, for itself, its assignees, its consultants, its subcontractors and successors (hereinafter collectively referred to as "contractor") in interest agrees as follows:

1. **Compliance with Regulations.** The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement as Schedule D.

2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the

Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. If subcontracts applicable, in all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, each potential subcontractor will be notified by the Contractor of the Contractor's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. Information and Reports. The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or the federal agency to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the federal agency, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of a Contractor's noncompliance with the Nondiscrimination provisions of this contract, the County will impose such contract sanctions as it or the federal agency may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the contractor under the contract until the Contractor complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, if any. The Contractor will take action with respect to any subcontract as the County or the federal agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, the contractor may request the County to enter into any litigation to protect the interests of the County. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

15. Employment of County Employees. SCC 2.50.075, "Restrictions on future employment of County employees," imposes certain restrictions on the subsequent employment and compensation of County employees. The Contractor represents and warrants to the County that it does not at the time of execution of this Agreement, and that it shall not during the term of this Agreement, employ a former or current County employee in violation of SCC 2.50.075. For breach or violation of these representations and warranties, the County shall have the right to terminate this Agreement without liability.

16. Compliance with Other Laws. The Contractor shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

17. Compliance with Grant Terms and Conditions. The Contractor shall comply with any and all conditions, terms and requirements of any federal, state or other grant, if any, that wholly or partially funds the Contractor's work hereunder.

18. Prohibition of Contingency Fee Arrangements. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

19. Force Majeure. If either party is unable to perform any of its obligations under this Agreement as a direct result of an unforeseeable event beyond that party's reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a "force majeure event"), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

20. Suspension of Work. The County may, at any time, instruct the Contractor in writing to stop work effective immediately, or as directed, pending either further instructions from the County to resume the work or a notice from the County of breach or termination under Section 21 of this Agreement.

21. Non-Waiver of Breach; Termination.

a. The failure of the County to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.

b. If the Contractor breaches any of its obligations hereunder, and fails to cure the same within five (5) business days of written notice to do so by the County, the County may terminate this Agreement, in which case the County shall pay the Contractor only for the services and corresponding reimbursable expenses, if any, accepted by the County in accordance with Sections 3 and 8 hereof.

c. The County may terminate this Agreement upon five (5) business days' written notice to the Contractor for any reason other than stated in subparagraph b above, in which case payment shall be made in accordance with Sections 3 and 8 hereof for the services and corresponding reimbursable expenses, if any, reasonably and directly incurred by the Contractor in performing this Agreement prior to receipt of the termination notice.

d. Termination by the County hereunder shall not affect the rights of the County as against the Contractor provided under any other section or paragraph herein. The County does not, by exercising its rights under this Section 21, waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provisions of this Agreement. At its sole option, the County may deduct from the final payment due the Contractor (i) any damages, expenses or costs arising out of any such violations, breaches or non-performance and (ii) any other set-offs or credits

including, but not limited to, the costs to the County of selecting and compensating another contractor to complete the work of the Agreement.

22. Notices. All notices and other communications shall be in writing and shall be sufficient if given, and shall be deemed given, on the date on which the same has been mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the County: Snohomish County Department of Conservation and Natural Resources
6705 Puget Park Drive
Snohomish, WA 98296
Attention: Logan Daniels, P.E.
 Parks Engineer

and to: Snohomish County Purchasing Division
3000 Rockefeller Avenue, M/S 507
Everett, Washington 98201
Attention: Bramby Tollen
 Purchasing Manager

If to the Contractor: Shannon & Wilson, Inc.
400 N. 34th Street
Seattle, WA, 98103
Attention: Tyler Stephens, P.E
 Senior Associate

The County or the Contractor may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

23. Confidentiality. The Contractor shall not disclose, transfer, sell or otherwise release to any third party any confidential information gained by reason of or otherwise in connection with the Contractor's performance under this Agreement. The Contractor may use such information solely for the purposes necessary to perform its obligations under this Agreement. The Contractor shall promptly give written notice to the County of any judicial proceeding seeking disclosure of such information.

24. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County 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. 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.

25. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

26. Complete Agreement. The Contractor was selected through the County's RFP or RFQ identified in Section 1. The RFP or RFQ and the Contractor's response are incorporated herein by this reference. To the extent of any inconsistency among this Agreement, the RFP or RFQ, and the Contractor's response, this Agreement shall govern. To the extent of any inconsistency between the RFP or RFQ and the Contractor's response, the RFP or RFQ shall govern.

27. Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

28. No Third Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the County and the Contractor. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

29. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

30. Severability. Should any clause, phrase, sentence or paragraph of this agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

31. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Contractor, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Contractor, as the case may be.

32. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

Schedule A
Scope of Services

March 18, 2021

SCHEDULE A – SCOPE OF SERVICES

Ms. Logan Daniels
Snohomish County Parks & Recreation
6705 Puget Park Dr.
Snohomish, WA 98296

RE: GEOTECHNICAL CONSTRUCTION PHASE SERVICES SCOPE AND FEE,
MEADOWDALE BEACH PARK AND ESTUARY RESTORATION PROJECT,
SNOHOMISH COUNTY, WASHINGTON

Dear Ms. Daniels:

This document presents our scope and fee for geotechnical construction phase services for the Meadowdale Beach and Estuary Restoration Project in Snohomish County, Washington. We understand BNSF will construct the planned railroad bridges, and that a general contractor under contract to Snohomish County (County) will construct all other project elements. Geotechnical construction observation, documentation and quality control will be required for elements of both BNSF's bridge construction and the County contractor's construction.

Our staff will adhere to current Washington State Covid 19 protocols that are expected to undergo revision throughout the project. We can provide a copy of our policies and protocols upon request.

Our staff will be in frequent communication with the County project manager, the other construction management consultants (Hanson and Anchor QEA), and materials testing laboratory so that we understand which construction activities are scheduled for the days and weeks ahead, and to help coordinate our construction observation and other project document review activities (e.g., materials test reports). Shannon & Wilson staff will have current Erailsafe and BNSFContractor.com safety credentials and will be experienced in both railroad and general construction. We will coordinate directly with BNSF as needed to understand the railroad bridge construction schedule, attend daily BNSF safety briefings and communicate with the BNSF flagger as necessary. Our staff will provide geotechnical recommendations as necessary and appropriate to support construction activities (e.g., overexcavation and replacement for soft subgrade, and corrective actions if density testing indicates compaction is not in compliance with project specifications).

Elements included in our geotechnical construction observation scope include:

- PRECONSTRUCTION SUBMITTAL REVIEW
 - Contractor submittal review
- CONSTRUCTION OBSERVATION
 - Spiralnail and spider hub access road embankment stability improvement
 - Early bridge construction site work (temporary erosion and sedimentation control [TESC]) observation
 - Railroad bridge temporary embankment and laydown area excavation and earthwork
 - Railroad bridge pile driving
 - Railroad bridge shoring construction
 - Railroad embankment excavation
 - Sheet pile wall construction
 - Quarry spall abutment construction
 - Estuary excavation
 - Restroom enclosure foundation excavation and backfill
 - Landslide protective barrier construction
 - Pedestrian bridge pile installation
 - Pedestrian bridge liquefaction mitigation excavation and replacement
 - Pedestrian boardwalk pier foundation installation
- OTHER PROJECT SUPPORT
 - Haul route road condition observation and documentation (City of Edmonds)
 - Potential emergency embankment reinforcement design and construction support
 - Geotechnical construction observation closeout letter
 - Construction management team meetings

SCOPE OF SERVICES

Preconstruction Submittal Review

We will review the geotechnical portions of the following submittals:

- 01 57 13 TESC/SWPPP
- 02 41 00 Demolition and Disposal Plan
- 31 00 00 Earthwork Plan

- 31 32 36 Spiralnailing
- 31 36 00 Landslide Protective Barrier
- 31 62 26 Steel Piles
- 34 27 20 Railroad Bridge Abutment Slope Protection
- 34 31 00 Temporary Embankment
- 34 31 10 Handling and Disposal of Surplus Excavated Soil from BNSF ROW
- 34 34 10 Temporary Geotextile Fabric
- 34 80 20 Temporary Soil Retention System
- 34 80 40 Railroad Sheet Pile Wall

We anticipate six of these submittals will require one round of revision and resubmission for finalization, and three will require two or more rounds of revision and resubmission for finalization. These additional reviews are included in our fee estimate.

DELIVERABLES: Written submittal review comments in project-specified format (e.g., submittal review comment logs).

Contractor Requests for Information (RFI) Responses

We will provide responses to Contractor RFIs that are of geotechnical nature. We assume there will be ten RFIs and that our response efforts will be two hours for each.

DELIVERABLES: Written submittal RFI responses in project-specified format (e.g., project RFI forms).

Construction Observation

We will provide construction observation services for the project elements summarized previously and detailed below. For each day that we are on site, we will provide a daily field activity report (DFAR) detailing each day's observations, including:

- Detailed description of observed construction activities and geotechnical site conditions.
- Photographs.
- Installation records (i.e., spiralnail and spider hub installation records, pile driving records, sheet pile driving records, soldier pile records, etc.).
- Daily and cumulative progress for each project element for use in maintaining the project schedule.

- Report any observed deficiencies or corrective actions needed.

Our scope includes construction observation for the following elements:

Spiralnail and Spider Hub Access Road Embankment Stability Improvement

We will observe spiralnail and spider hub installation and spiralnail load versus displacement (pullout) testing. We will include spiralnail driving records, pullout test data and interpreted results, spider hub installation records, and photographs in each report. We will provide a record of daily and cumulative progress in each report for use in maintaining the project schedule.

If spiralnail verification test results yield pullout strengths that are lower than the values used for design, we will reevaluate our stability analyses and provide design modification recommendations (e.g., altered horizontal and/or vertical nail spacing, altered nail length, altered nail quantity).

DELIVERABLES: Daily field activity reports (DFARs), spiralnail driving records, load versus displacement test data and interpreted results.

Early Bridge Construction Site Work (Temporary Erosion and Sediment Control [TESC]) Observation

We will observe TESC installation for the early bridge construction site work. We anticipate TESC measures will be installed around the temporary embankment and laydown areas required for railroad bridge construction. We will document TESC feature construction, compare observed features to those in the approved, project-specific Stormwater Pollution Prevention Plan (SWPPP) and report our observations in our DFAR. Note that our onsite staff may not be certified erosion and sediment control lead, but will remain in close communication with other project construction management team members that are (Hanson and Anchor QEA). If other team members are present on site and capable of documenting TESC installation or function, we will omit these services for that period of time and avoid duplicating efforts.

DELIVERABLES: Daily field activity reports (DFARs).

Railroad Bridge Temporary Embankment and Laydown Area Excavation and Earthwork

We will observe excavation and earthwork for the railroad bridge temporary embankment and laydown area. We anticipate part-time or intermittent observation during this project element.

DELIVERABLES: Daily field activity reports (DFARs).

Environmental Analytical Testing Support – BNSF Right-of-Way (ROW)

The Contractor will be submitting soil analytical test results for soil disposal characterization for excess soil generated from within BNSF ROW and we have included effort to review their submittals for the County. We anticipate this effort will support both temporary embankment construction and embankment excavation after the bridges have been constructed. We have also included effort to observe and document excavations within BNSF ROW from an environmental perspective. If we observe indications of contamination, we will notify the County and assist in sampling, testing, characterizing, and identifying appropriate disposal requirements. We have included environmental analytical testing costs for up to ten samples.

DELIVERABLES: Written comments regarding Contractor analytical test results review, written reporting from excavation environmental observations, chain-of-custody forms, written analytical test results characterization and disposal recommendations.

Railroad Bridge Pile Driving

We will observe railroad bridge pile driving and provide driven pile records for each pile and describe each day's observed pile driving activities in our DFARs.

DELIVERABLES: Daily field activity reports (DFARs), driven pile records.

Railroad Bridge Shoring Construction

We will observe the Contractor-designed railroad bridge shoring construction and removal (as part of railroad embankment excavation). We anticipate the shoring may include driven or drilled steel soldier piles (H-pile) with timber or steel lagging, steel sheet piling, or possibly secant or tangent pile elements. Details will be provided in the Contractor's submittal. We will include a description of observed shoring construction activities and ground conditions in our DFARs.

DELIVERABLES: Daily field activity reports (DFARs).

Railroad Embankment Excavation

We will observe railroad embankment excavation and describe each day's observed excavation activities, ground conditions and temporary shoring conditions in our DFARs.

DELIVERABLES: Daily field activity reports (DFARs).

Sheet Pile Wall Construction

We will observe railroad bridge sheet pile driving and provide driven pile records for each pile, and describe each day's observed pile driving activities in our DFARs.

DELIVERABLES: Daily field activity reports (DFARs).

Quarry Spall Abutment Construction

We will observe railroad abutment quarry spall slope protection construction and describe each day's observed activities and ground conditions in our DFARs.

DELIVERABLES: Daily field activity reports (DFARs).

Estuary Excavation

We will observe excavation and earthwork for the estuary construction. We anticipate part-time or intermittent observation during this project element, focused primarily on instances when high groundwater or known buried debris are encountered. We will maintain close coordination with the estuary designer and their field personnel during construction, and provide geotechnical recommendations, if necessary, during excavation (e.g., occurrences of high groundwater, unanticipated excavation conditions). We will include a description of observed earthwork operations and ground conditions in our DFARs.

DELIVERABLES: Daily field activity reports (DFARs).

Environmental Analytical Testing Support – Estuary Excavation

The Contractor will be submitting soil analytical test results for soil and debris disposal characterization and we have included effort to review their submittals for the County. We have also included effort to observe and document estuary excavations from an

environmental perspective. If we observe indications of contamination, we will notify the County and assist in sampling, testing, characterizing, and identifying appropriate disposal requirements. We have included environmental analytical testing costs for up to ten samples.

DELIVERABLES: Written comments regarding Contractor analytical test results review, written reporting from excavation environmental observations, chain-of-custody forms, written analytical test results characterization and disposal recommendations.

Restroom Enclosure Foundation Excavation and Backfill

We will observe excavation, subgrade preparation and backfill for the restroom enclosure foundations and describe observed activities in our DFARs. We anticipate our site visits for this task will be intermittent.

DELIVERABLES: Daily field activity reports (DFARs).

Landslide Protective Barrier Construction

We will observe excavation, subgrade preparation and construction for the Contractor-designed landslide protective barrier.

DELIVERABLES: Daily field activity reports (DFARs).

Pedestrian Bridge Pile Installation

We will observe pedestrian bridge pile driving and provide driven pile records for each pile and describe each day's observed pile driving activities in our DFARs. We will observe pile load testing and provide data records and interpreted results.

DELIVERABLES: Daily field activity reports (DFARs), pile installation records, load testing data records and interpreted results.

Pedestrian Bridge Liquefaction Mitigation Excavation and Replacement

We will observe excavation, subgrade preparation and backfill for the pedestrian bridge liquefaction mitigation and describe observed activities in our DFARs. We anticipate our site visits for this task will be intermittent.

DELIVERABLES: Daily field activity reports (DFARs).

Pedestrian Boardwalk Pier Foundation Installation

We will observe pedestrian boardwalk pier foundation installation and provide construction observation records for each pier and describe each day's observed pier construction activities in our DFARs. We anticipate our site visits for this task will be intermittent.

DELIVERABLES: Daily field activity reports (DFARs).

OTHER PROJECT SUPPORT

We will provide geotechnical design and construction support for several other project elements that will or may arise during construction:

Haul Route Road Condition Observation and Documentation (City of Edmonds)

We will provide periodic observation of the haul route pavement and embankment conditions along 75th Place West where it crosses the City of Edmonds Earth Subsidence and Landslide Hazard Area, which measures about 2,900 feet along the road alignment. We will collect photographs and field measurements to document any observed indications of distress and will report any areas where conditions were observed to have deteriorated since a previous visit. These observations will be primarily qualitative in nature. If warranted, survey elevation monitoring may be implemented to quantify pavement settlement. We have included survey cost for:

- Establishing survey control points.
- Establishing hubs/monitoring points (PK nails in pavement or hubs along shoulder) about every 100 feet with up to five additional locations added as needed to monitor shoulder displacement.
- Collect initial baseline survey.
- Monitor monthly for 12 months.
- Provide monitoring point elevations to 0.01 foot accuracy within about one day of monitoring.
- We will prepare data comparison plots for use in evaluating pavement and/or shoulder settlement.

The surveys will be scheduled during periods of heavy truck traffic and we will coordinate directly with the survey contractor to schedule their work.

DELIVERABLES: Daily field activity reports (DFARs), survey data records, plots and written interpretation of results.

Emergency Embankment Reinforcement Design and Construction Support

If embankment instability (i.e., road pavement surface and/or shoulder settlement and displacement) is observed, and if an emergency repair is warranted, we will provide emergency reinforcement design recommendations and construction support. This effort assumes a localized area of instability and does not include subsurface exploration, characterization, stability analyses or construction drawings. This effort would be based on engineering judgment and is intended for emergency repairs only. If the repair area is of sufficient size and scale, a more detailed study would be required and could be provided under separate scope and fee.

DELIVERABLES: Written opinion regarding the nature, causes and feasible mitigation measures for observed embankment instability, mitigation measures recommendations, design documents (analyses, sketches, drawings, construction notes) suitable for emergency repair construction.

Geotechnical Construction Observation Closeout Letter

We will provide a geotechnical construction observation closeout letter for use in closing out permits. The letter will summarize geotechnical construction activities observations and provide our opinion as to whether construction was completed in general accordance with the project plans, specifications and directives issued during construction.

DELIVERABLES: Geotechnical construction observation closeout letter.

Construction Management and Team Meetings

Our scope includes the following construction management tasks and team meetings:

- Project test results review (materials testing)
- Assistance with work change directives and/or change orders
- BNSF and County Contractor pay application review
- Construction management team kick off meeting
- Railroad bridge preconstruction meeting
- Park and estuary preconstruction meeting

- Weekly construction management internal team meetings (½ hour each for the first eight weeks)
- Weekly Project meetings (Railroad Bridge elements) including geotechnical construction schedule updates.
- Weekly Project meetings (Estuary and Park elements)

DELIVERABLES: Written communications, railroad bridge geotechnical construction schedule updates.

PROJECT SCHEDULE AND CONSTRUCTION ELEMENT DURATIONS

At the time this document was prepared, the project construction start date was approximately April 15, 2021. We understand the active construction duration is assumed to be about 12 months and may include a work stoppage during the winter of 2021-2022 such that the total construction duration may be longer. Our fee estimate is based on the construction element durations provided in conceptual project schedules developed by the design team that you provided to us on March 2, 2021. We have applied some judgment about the amount of time we will be required on site for several of the long duration construction elements. For example, the *railroad bridge temporary embankment and laydown area excavation and earthwork* schedule item has a duration of 125 days, of which we assume we would need to be on site for about six.

ASSUMPTIONS

This scope of services and enclosed fee estimate assume the following:

- The active project construction duration will be about 12 months and may include a work stoppage during the winter of 2021-2022 such that the total construction duration may be longer.
- Several project elements may be under concurrent construction and it will be acceptable for our field staff to intermittently observe or split their onsite time between concurrent construction activities.
- If warranted, we may need to have two or more staff on site to observe all construction activities.
- Shannon & Wilson staff will not have assigned office trailer space at the project site and will operate primarily from the field or their vehicle, attending meetings and conversations at the office trailer as needed.

- Shannon & Wilson staff will not require on site internet connection.

SCHEDULE AND FEE ESTIMATE

We are prepared to begin this scope of services upon receipt of written authorization to proceed. Our fee and the terms under which our services are offered will be in accordance with the Snohomish County Contract that will be provided upon approval of this scope and fee. We have enclosed Schedule B – Labor Estimate and Schedule C – Expenses. We will not exceed this authorized amount without obtaining your written authorization for the additional scope and fee.

Invoices for payment will be submitted to you as our client. Shannon & Wilson has prepared the enclosed "Important Information About Your Geotechnical Proposal" to assist you and others in understanding the use and limitations of our proposal. We appreciate the opportunity to be of service to you.

Sincerely,

SHANNON & WILSON

Tyler J. Stephens, PE
Senior Associate

TJS:NDM/tjs

Enc. Schedule B: Labor Estimate
Schedule C: Expenses
Important Information About Your Geotechnical Proposal

Important Information About Your Geotechnical/Environmental Proposal

More construction problems are caused by site subsurface conditions than any other factor. The following suggestions and observations are offered to help you manage your risks.

HAVE REALISTIC EXPECTATIONS.

If you have never before dealt with geotechnical or environmental issues, you should recognize that site exploration identifies actual subsurface conditions at those points where samples are taken, at the time they are taken. The data derived are extrapolated by the consultant, who then applies judgment to render an opinion about overall subsurface conditions; their reaction to construction activity; appropriate design of foundations, slopes, impoundments, and recovery wells; and other construction and/or remediation elements. Even under optimal circumstances, actual conditions may differ from those inferred to exist, because no consultant, no matter how qualified, and no subsurface program, no matter how comprehensive, can reveal what is hidden by earth, rock, and time.

DEVELOP THE SUBSURFACE EXPLORATION PLAN WITH CARE.

The nature of subsurface explorations—the types, quantities, and locations of procedures used—in large measure determines the effectiveness of the geotechnical/environmental report and the design based upon it. The more comprehensive a subsurface exploration and testing program, the more information it provides to the consultant, helping to reduce the risk of unanticipated conditions and the attendant risk of costly delays and disputes. Even the cost of subsurface construction may be lowered.

Developing a proper subsurface exploration plan is a basic element of geotechnical/environmental design that should be accomplished jointly by the consultant and the client (or designated professional representatives). This helps the parties involved recognize mutual concerns and makes the client aware of the technical options available. Clients who develop a subsurface exploration plan without the involvement and concurrence of a consultant may be required to assume responsibility and liability for the plan's adequacy.

READ GENERAL CONDITIONS CAREFULLY.

Most consultants include standard general contract conditions in their proposals. One of the general conditions most commonly employed is to limit the consulting firm's liability. Known as a "risk allocation" or "limitation of liability," this approach helps prevent problems at the beginning and establishes a fair and reasonable framework for handling them should they arise.

Various other elements of general conditions delineate your consultant's responsibilities. These are used to help eliminate confusion and misunderstandings, thereby helping all parties recognize who is responsible for different tasks. In all cases, read your consultant's general conditions carefully and ask any questions you may have.

HAVE YOUR CONSULTANT WORK WITH OTHER DESIGN PROFESSIONALS.

Costly problems can occur when other design professionals develop their plans based on misinterpretations of a consultant's report. To help avoid misinterpretations, retain your consultant to work with other project design professionals who are affected by the geotechnical/environmental report. This allows a consultant to explain report implications to design professionals affected by them, and to review their plans and specifications so that issues can be dealt with adequately. Although some other design professionals may be familiar with geotechnical/environmental concerns, none knows as much about them as a competent consultant.

OBTAIN CONSTRUCTION MONITORING SERVICES.

Most experienced clients also retain their consultant to serve during the construction phase of their projects. Involvement during the construction phase is particularly important because this permits the consultant to be on hand quickly to evaluate unanticipated conditions, conduct additional tests if required, and when necessary, recommend alternative solutions to problems. The consultant can also monitor the geotechnical/environmental work performed by contractors. It is essential to recognize that the construction recommendations included in a report are preliminary, because they must be based on the assumption that conditions revealed through selective exploratory sampling are indicative of actual conditions throughout a site.

Because actual subsurface conditions can be discerned only during earthwork and/or drilling, design consultants need to observe those conditions in order to provide their recommendations. Only the consultant who prepares the report is fully familiar with the background information needed to determine whether or not the report's recommendations are valid. The consultant submitting the report cannot assume responsibility or liability for the adequacy of preliminary recommendations if another party is retained to observe construction.

REALIZE THAT ENVIRONMENTAL ISSUES MAY NOT HAVE BEEN ADDRESSED.

If you have requested only a geotechnical engineering proposal, it will not include services needed to evaluate the likelihood of contamination by hazardous materials or other pollutants. Given the liabilities involved, it is prudent practice to always have a site reviewed from an environmental viewpoint. A consultant cannot be responsible for failing to detect contaminants when the services needed to perform that function are not being provided.

ONE OF THE OBLIGATIONS OF YOUR CONSULTANT IS TO PROTECT THE SAFETY, PROPERTY, AND WELFARE OF THE PUBLIC.

A geotechnical/environmental investigation will sometimes disclose the existence of conditions that may endanger the safety, health, property, or welfare of the public. Your consultant may be obligated under rules of professional conduct, or statutory or common law, to notify you and others of these conditions.

RELY ON YOUR CONSULTANT FOR ADDITIONAL ASSISTANCE.

Your consulting firm is familiar with several techniques and approaches that can be used to help reduce risk exposure for all parties to a construction project, from design through construction. Ask your consultant, not only about geotechnical and environmental issues, but others as well, to learn about approaches that may be of genuine benefit.

The preceding paragraphs are based on information provided by the ASFE/Association of Engineering Firms Practicing in the Geosciences, Silver Spring, Maryland

Schedule B
Compensation

SCHEDULE B - LABOR ESTIMATE
GEOTECHNICAL CONSTRUCTION PHASE SERVICES
MEADOWDALE BEACH PARK AND ESTUARY RESTORATION PROJECT

TASKS/SUBTASKS	STAFF GRADE/FUNCTION										DOLLARS					LABOR TOTAL			
	VP		Sr. Associate		Sr. Prof. 2		Sr. Prof. 3		Sr. Tech. Svcs		Sr. Off. Svcs		PIC	PM	Sr. ENG		ENG	CAD	CLR
	1	2	1	2	1	2	1	2	1	2	\$2,600.00	\$2,150.00							
PROJECT ACCOUNTING AND ADMINISTRATION																			
Project Setup, Invoicing, Monthly Progress Reports			24												\$5,160				\$2,760
Project Management			24												\$5,160				\$5,160
Coordination with Snohomish County PM			24												\$5,160				\$5,160
PRECONSTRUCTION SUBMITTAL REVIEW																			
TESC/SWPPP																			
Demolition and Disposal Plan																			
Earthwork Plan																			
Spiraldrilling																			
Landslide Protective Barrier																			
Steel Piles																			
Railroad Bridge Abutment Slope Protection																			
Temporary Embankment																			
Handling and Disposal of Surplus Excavated Soil from BNSF ROW																			
Temporary Geotextile Fabric																			
Temporary Soil Retention System																			
Railroad Sheet Pile Wall																			
Contractor Requests for Information (RFI) Responses																			
CONSTRUCTION OBSERVATION																			
Spiraldrill and Spider Hub Access Road Embankment Stability Improvement																			
Early Bridge Construction Site Work (TESC) Observation																			
Railroad Bridge Temporary Embankment and Laydown Area Excavation and Earthwork																			
Environmental Analytical Testing Support - BNSF ROW																			
Railroad Bridge Pile Driving																			
Railroad Bridge Shoring Construction																			
Railroad Embankment Excavation																			
Sheet Pile Wall Construction																			
Quarry Spall Abutment Construction																			
Estuary Excavation																			
Environmental Analytical Testing Support - Park and Estuary																			
Restroom Enclosure Foundation Excavation and Backfill																			
Landslide Protective Barrier Construction																			
Pedestrian Bridge Pile Installation																			
Pedestrian Bridge Liquefaction Mitigation Excavation and Replacement																			
Pedestrian Boardwalk Pier Foundation Installation																			
OTHER PROJECT SUPPORT																			
Haul Route Road Condition Observation and Documentation (City of Edmonds)																			
Emergency Embankment Reinforcement Design and Construction Support																			
Geotechnical Construction Observation Closeout Letter																			
Construction Management Tasks and Team Meetings																			
Review Project Test Results (materials testing)																			
Assist with Work Change Directives and/or Change Orders																			
Review Pay Applications																			
Construction Management Team Kickoff Meeting																			
Railroad Bridge Preconstruction Meeting																			
Park/Estuary Preconstruction Meeting																			
Weekly Construction Management Internal Team Meetings (8 @ 0.5 hr. each)																			
Weekly Project Meetings (RR Bridge)																			
Weekly Project Meetings (Park and Estuary)																			
TOTAL	12	578	96	1568	40	24	53,120	\$174,270	\$15,360	\$100,263	\$5,200	\$2,760	\$3,900,973						

Notes:
 CAD = Computer-aided Drafting
 CLR = Clerical
 GEOL = Geologist
 ENG = Engineer
 LS = lump sum
 OCCC = opinion of probable construction cost
 PIC = Principal-in-Charge
 PM = Project Manager
 TECH = Technical

Schedule C
Expenses

SCHEDULE C - EXPENSES
GEOTECHNICAL CONSTRUCTION PHASE SERVICES
MEADOWDALE BEACH PARK AND ESTUARY RESTORATION PROJECT

SHANNON & WILSON, INC.

EXPENSES				
Mileage (240 round trips at 45 miles each)	10,800	EA	\$0.58	\$ 6,264
Survey Subcontractor (Haul route condition monitoring)	1	EA	\$36,200	\$ 36,200
Environmental Analytical Testing (up to 20 samples)	20	EA	\$1,250	\$ 25,000
Copies, Reprographics	1	LS	\$1,000	\$ 1,000
<i>SUBTOTAL</i>			\$	<i>68,464</i>

SCHEDULE D

TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); REQUIRED CERTIFICATIONS 56 of 70
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 20-401

DECLARING THE COUNTY'S OFFICIAL INTENT TO REIMBURSE
EXPENDITURES FOR THE COUNTY MEADOWDALE BEACH PARK
AND ESTUARY RESTORATION CAPITAL PROJECT WITH THE
PROCEEDS OF TAX-EXEMPT BONDS

WHEREAS, Snohomish County (the "County") intends to make capital expenditures for the Meadowdale Beach Park and Estuary Restoration Capital Improvement Project ("the project"); and

WHEREAS, the County may finance all or a portion of the project through the issuance of one or more series of federally tax-exempt bonds in the maximum aggregate principal amount of \$10,000,000 (the "Bonds"); and

WHEREAS, prior to the issuance of the Bonds, the County intends to make capital expenditures in connection with the project from available funds of the County, and to reimburse those capital expenditures with proceeds of the Bonds, when and if issued; and

WHEREAS, Treasury Regulations Section 1.150-2 requires that the County declare it to be the official intent of the County to reimburse all or a portion of any such capital expenditures from the proceeds of the Bonds, when and if issued;

NOW, THEREFORE, ON MOTION, the Snohomish County Council declares its intent to reimburse itself for capital expenditures in connection with the project from the proceeds of the Bonds, when and if issued.

DATED this 14th day of December, 2020.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Acting Council Chair

ATTEST:



Asst. Clerk of the Council