

Snohomish County Food & Farming Center Project

Progressive Design-Build Contract

This **Contract** is made and entered into as of the June 13, 2024, by and between the following parties, for services in connection with the Project identified below:

OWNER:
Snohomish County (the “County”)

DESIGN-BUILDER:
GLY Construction
14432 SE Eastgate Way Suite 300; Bellevue, WA 98007

PROJECT:
Snohomish County Food & Farming Center Project
600 128th Street SE; Everett, WA 98206

In consideration of the mutual covenants and obligations contained herein, County and Design-Builder agree as set forth herein.

Article 1

General

- 1.1 Authorization.** This Design-Build Contract (the "Contract") is authorized by and entered in accordance with the Design-Build requirements of RCW 39.10. This Contract shall be interpreted to be consistent with the requirements of those statutory provisions.
- 1.2 Duty to Cooperate.** County and Design-Builder always commit to cooperate fully with each other and proceed based on trust and good faith to permit each party to realize the benefits afforded under this Contract.
- 1.3 Definitions.** Terms, words, and phrases used in this Contract shall have the meanings given them in the *General Conditions of Progressive Design-Build Contract Between County and Design-Builder* ("General Conditions").
- 1.4 Design Services.** Design-Builder shall, consistent with applicable state licensing laws, provide design services, including architectural, engineering, and other design professional services required by this Contract. Such design services shall be provided through qualified, licensed design professionals who are either (i) employed by Design-Builder, or (ii) procured by Design-Builder from independent sources. Nothing in this Contract is intended to create any legal or contractual relationship between County and any independent design professional.

Article 2

Scope of Services

Design-Builder shall perform all design and construction services, provide all material, equipment, tools, and labor necessary to complete the Work (including both Phase 1 and Phase 2 Services) described in, and reasonably inferable, from the Contract Documents. The Design-Builder is fully responsible to design and to build the Project, as described in the County Initial Programming and Overview, as may be revised in accordance with Section 2.1.2 hereof.

2.1 General Services.

2.1.1 County has provided Design-Builder with access to the County Provided Information and it is agreed that only County Provided Information listed in **Exhibit A** may be relied upon by the Design-Builder. County provides any such documents not listed in **Exhibit A** to Design-Builder for information only, and subject to the conditions and qualifications identified in Section 3.2.1 of the General Conditions.

2.1.2 County's Initial Programming and Overview describing County's preliminary program objectives for the Project are in **Exhibit B**. If County's Initial Programming and Overview have not been developed prior to the execution of this Contract, Design-Builder will assist County in developing the final Project Program, with such service deemed to be the first task of Phase 1. The Design-Builder shall review the County's Initial Programming and Overview, including recommendations to County for innovative approaches to the design and construction of the Project. The parties shall meet to discuss Design-Builder's written evaluation of County's Initial Programming and Overview and agree upon what revisions, if any, should be made. (**Exhibit D** Phase 1 and 2 Scope of Service)

2.1.3 Design-Builder shall review and prepare a written evaluation of County's Initial Programming and Overview during Phase 1, including recommendations to County for innovative approaches to the design and construction of the Project. The parties shall meet to discuss Design-Builder's written evaluation of County's Initial Programming and Overview and agree upon what

revisions, if any, should be made to such criteria. Any modifications shall be incorporated into the Phase 2 Proposal (Section 2.3) and GMP Amendment (Section 2.3.2.2).

2.2 Phased Services.

2.2.1 Validation Services. Design-Builder shall perform the validation services as set forth in **Exhibit D, Scope of Services**.

2.2.2 Phase 1 Preconstruction and Design Services. Design-Builder shall perform the services of design, pricing, and other services for the Project as may be revised in accordance with Section 2.1 hereof, as set forth in **Exhibit D, Scope of Services**. The Phase 1 Scope of Services includes completion of Final Design Documents. However, County and Design-Builder may reach agreement on the GMP Amendment for Phase 2 at any point following Design-Builder's completion of the Basis of Design, including incorporation of any County comments. As a result, Phase 1 may overlap with Phase 2. The Contract Price and GMP for Phase 2 shall be developed during Phase 1 on an open-book basis. Design-Builder's Compensation for Phase 1 Services is set forth in Article 7 of this Contract.

2.2.3 Phase 2 Services. Design-Builder's Phase 2 services (**Exhibit D**) shall consist of, but not limited to, ensuring Continuous Operations of County or other Services at the site, the procurement of all materials and equipment for the Project, the performance of construction services for the Project, development of various documents associated with Phase 2, training of County's operations staff, and the provision of warranty services, all as may be described in the Phase 2 Proposal and GMP Amendment.

2.2.4 Early Works Packages. County and the Design Builder may agree to early work packages prior to the GMP Amendment. Scope of work, bonding (consistent with the requirements of Article 11), insurance (consistent with the requirements of Article 11), pricing, and other terms for any Early Work Packages shall be negotiated and memorialized in a written executed Amendment prior to issuance of a notice to proceed. Pricing shall be substantially similar to the pricing structure for Phase 2 set forth in Article 7 of this Contract and any General Conditions and pro-rated to the scope of General Conditions Work included in the early works package.

2.3 Phase 2 Proposal. Design-Builder may develop a Phase 2 Proposal at any point following completion of the conceptual design and any other Basis of Design Documents upon which the parties may agree. Design-Builder shall submit a proposal to County (the "Phase 2 Proposal") for the construction for the Project, and associated work, and for the Contract Price. The Contract Price in the Phase 2 Proposal shall be based on the Construction General Conditions Price (Section 7.4), the Design-Build Fee (Section 7.5), Pass-Through Costs (Section 7.6.3) plus the Cost of the Phase 2 Work (Section 7.6.1) as provided in Article 7 hereof, presented on an open-book basis, all subject to a Guaranteed Maximum Price (GMP).

2.3.1 The Phase 2 Proposal shall include the following unless the parties mutually agree otherwise:

2.3.1.1 The Contract Price, subject to a GMP, shall be the sum of:

- i. Construction General Conditions Price as defined in Section 7.4 hereof;
- ii. Design-Builder's Fee as defined in Section 7.5 hereof;
- iii. The Cost of the Phase 2 Work as defined in Section 7.6 hereof, inclusive of any Design-Builder's Contingency as defined in Section 7.7.2 hereof;
- iv. Pass Through Costs as defined in Section 7.6.3 hereof.

2.3.1.2 Basis of Design documents in a completed state as agreed by County.

2.3.1.3 A list of the assumptions and clarifications made by Design-Builder in the preparation of the Proposal, which list is intended to supplement the information contained in the drawings and specifications;

2.3.1.4 The Scheduled Substantial Completion Date upon which the Phase 2 Proposal is based, to the extent said date has not already been established under Section 6.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based and a **Master Project Schedule** for the Work;

2.3.1.5 If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

2.3.1.6 If applicable, a schedule of alternate prices;

2.3.1.7 If applicable, a schedule of unit prices;

2.3.1.8 If applicable, a statement of **Additional Services** which may be performed but which are not included in the Phase 2 Proposal, and which, if performed, shall be the basis for an increase in the GMP and/or Contract Time(s);

2.3.1.9 An expiration date for the Phase 2 Proposal provided that Design-Builder shall not make the Phase 2 Proposal subject to expiration or withdrawal for at least ninety (90) days after submission and County shall provide its initial review and comment on the Phase 2 Proposal within thirty (30) days of submission;

2.3.1.10 A Permits Plan detailing the permits and governmental approvals not otherwise addressed in the Contract Documents that County and Design-Builder will need and assigning responsibility for each;

2.3.1.11 A preliminary training plan, if requested.

2.3.1.12 A **Project Specific Safety Plan**; and

2.3.1.13 A construction quality plan.

2.3.2 Review and Adjustment to Phase 2 Proposal.

2.3.2.1 After submission of the Phase 2 Proposal, Design-Builder will discuss and review it with County. County may require modifications to the Phase 2 Proposal that Design-Builder shall in good faith attempt to accommodate. County must approve the Phase 2 Proposal, as originally submitted, or as modified, and enter into a GMP/Phase 2 Amendment incorporating the agreed Phase 2 Proposal in order for the Design-Builder to proceed to Phase 2, including any previously amended Phase 2 Work.

2.3.2.2 Acceptance of Phase 2 Proposal. If County accepts the Phase 2 Proposal, as may be modified, the Contract Price and its basis shall be set forth in an amendment to this Contract (GMP Amendment). Once the parties have agreed upon the GMP Amendment and County has issued a Notice to Proceed with Phase 2, Design-Builder shall perform the Phase 2 Services, all as described in the GMP Amendment. Design-Builder acknowledges and agrees that County's acceptance and execution of the GMP Amendment is subject to approval by the County's Council. Design-Builder further acknowledges and agrees that its execution of the GMP Amendment constitutes certification that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, material, equipment, taxes, or other items performed, furnished, or incurred

for or in connection with the Phase 1 Services through the date of the GMP Amendment that will in any way affect County's interests.

2.3.2.3 Failure to Accept Phase 2 Proposal. If County rejects the Proposal or fails to notify Design-Builder in writing on or within ninety (90) day after submission that it accepts the Phase 2 Proposal, the Phase 2 Proposal shall be deemed withdrawn and of no effect. In such event, County and Design-Builder shall meet and confer as to how the Project will proceed, with County having the following options:

- i. Terminate this Contract and pay Design-Builder for all Work performed through the date of termination;
- ii. Terminate this Contract, pay Design-Builder for all Work performed through the date of termination and contract directly with the Design Consultant and Design Sub-Consultants, if any, for completion of the Phase 1 Scope of Services for the agreed upon price for Phase 1 Services set forth at Section 7.2 minus payments for all Work performed through the date of termination;
- iii. Require Design-Builder to proceed with remaining Phase 1 Scope of Services for the agreed upon Contract Price for Phase 1 Services set forth at Section 7.2 minus payments for all Work performed through the date of termination;
- iv. Require Design-Builder to perform any specific portion of the Work under this Contract based on the Design-Build Fee (Section 7.5), the Construction General Conditions Price (Section 7.4), Pass-Through Costs (Section 7.6.3) plus the Cost of the Phase 2 Work (Section 7.6.1) as provided in Article 7 hereof without a GMP Amendment, in which case all references in this Contract to the GMP Amendment shall not be applicable; or
- v. Require Design-Builder to continue to proceed with the Work, until further notice (reserving the right to terminate this Contract pursuant to Section 2.3.2.3.i.) on the basis of the Design-Build Fee (Section 7.5), the Construction General Conditions Price (Section 7.4), Pass-Through Costs (Section 7.6.3) plus the Cost of the Phase 2 Work (Section 7.6.1) as provided in Article 7 hereof without a GMP Amendment, in which case all references in this Contract to the GMP Amendment shall not be applicable.

2.3.2.4 If County fails to exercise any of the options set forth in Section 2.3.2.3, Design-Builder shall continue the Work as if County had elected to proceed in accordance with Item 2.3.2.3.v above, and be paid by County accordingly, unless and until County notifies Design-Builder in writing to stop the Work.

Article 3

Contract Documents

The Contract Documents are comprised of the following, which are incorporated herein by this reference:

3.1 All written and fully executed modifications, **amendments**, minor changes, and **Change Orders** to this Contract issued in accordance with the General Conditions;

3.2 The **GMP Amendment** including the Basis of Design Documents;

3.3 This **Contract**, including all exhibits and attachments but excluding the County Initial Programming and Overview and County Provided Information attached to this Contract. The County Initial Programming

and Overview and County Provided Information are not Contract Documents, and are provided for information only;

3.4 The General Conditions;

3.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions;

3.6 County's Request for Qualifications, its Request for Proposals, and any issued Addenda;

3.7 Design-Builder's Statement of Qualifications, Proposal, and Attachments accepted by the County.

Article 4

Interpretation and Intent

4.1 Design-Builder and County, at the time of acceptance of the Phase 2 Proposal by County in full, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents for any conflicts or ambiguities. Design-Builder and County will discuss and resolve any identified conflicts or ambiguities prior to execution of the GMP Amendment.

4.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event of inconsistencies, conflicts, or ambiguities between or among the Contract Documents discovered after County's acceptance of the Proposal, Design-Builder and County shall attempt to resolve any ambiguity, conflict, or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Article 3 herein.

4.3 Terms, words, and phrases used in the Contract Documents, including this Contract, shall have the meanings given them in the General Conditions.

4.4 Design-Builder may propose modifications to and expansion of the County's Initial Programming and Overview. Prior to presenting its Phase 2 Proposal, the Design-Builder shall identify any items in the County's Initial Programming and Overview that conflict with or in any way impede Design-Builder's ability to meet any Performance Standards set forth in the County's Initial Programming and Overview.

4.5 The Contract Documents form the entire agreement between County and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

4.6 In the event of an ambiguity in the Contract Documents, the parties shall be deemed to have jointly authored them, and as such, nothing shall be construed against or in favor of one party based on its being deemed the sole author.

4.7 Changes in the Legal Requirements. The County and Design-Builder acknowledge that numerous aspects of the Project are governed by federal, state, and local laws, rules, and regulations and that the intent is to complete all Work in compliance with the Legal Requirements. Design-Builder is required to account for applicable changes in the Legal Requirements that occur during Phase 1 in its Phase 2 Proposal, the GMP Amendment, and the Phase 2 schedule. Changes in the Legal Requirements that become effective prior to execution of the GMP Amendment shall in no event form the basis for an adjustment of Design-Builder's compensation and/or time of performance for Phase 2 Services. Changes in the Legal Requirements that become effective after execution of the GMP Amendment may form the

basis for an adjustment to Contract Time and Contract Price and/or GMP, in accordance with the requirements and conditions of Section 8.2 of the General Conditions.

Article 5

Ownership of Work Product

5.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions, furnished by Design-Builder to County under this Contract ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights, and/or patents, subject to the provisions set forth in Sections 5.2 through 5.4 below.

5.2 County's License upon Project Completion and Payment in Full to Design-Builder. Upon County's payment in full for all Work performed under the Contract Documents, Design-Builder shall grant County a perpetual license to use the Work Product in connection with County's occupancy and maintenance of the Project. County shall hold Design-Builder and anyone working by or through Design-Builder, including Design Consultant and Design Sub-Consultants of any tier (collectively the "Indemnified Parties") harmless for any material alteration of the Work Product without the involvement of Design-Builder.

5.3 County's License upon County's Termination for Convenience or Design-Builder's Election to Terminate. If County terminates this Contract for its convenience as set forth in Article 9 hereof, or if Design-Builder elects to terminate this Contract in accordance with Section 11.4 of the General Conditions, Design-Builder shall, upon County's payment in full of the amounts due Design-Builder under the Contract Documents, grant County a perpetual license to use the Work Product to complete the Project and subsequently occupy and maintain the Project, and County shall thereafter have the same rights as set forth in Section 5.2 above. County shall hold the Indemnified Parties harmless for any material alteration of the Work Product undertaken by County after the effective date of the termination.

5.4 County's License upon Design-Builder's Default. If this Contract is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions, then Design-Builder grants County a perpetual license to use the Work Product to complete the Project and subsequently occupy and maintain the Project, and County shall thereafter have the same rights and obligations as set forth in Section 5.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, County shall be deemed to have terminated the Contract for convenience, and Design-Builder shall be entitled to the rights and remedies set forth in Section 5.3 above. County shall hold the Indemnified Parties harmless for any material alteration of the Work Product undertaken by County after the effective date of the termination.

Article 6

Contract Time

6.1 Date of Commencement. The Validation and Phase 1 Services shall commence within five (5) days of Design-Builder's receipt of County's Notice to Proceed unless the parties mutually agree otherwise in writing. The Work shall commence within five (5) days of Design-Builder's receipt of County's Notice to Proceed for Phase 2 Services ("Date of Commencement") if the Proposal is accepted and the Contract Price Amendment is amended to this Contract unless the parties mutually agree otherwise in writing.

6.2 Substantial Completion and Final Completion.

6.2.1 Substantial Completion of the entire Work shall be established in the GMP Amendment.

6.2.2 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.27 of the General Conditions.

6.2.3 All of the dates set forth in this Article 6 ("Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions.

6.3 Time is of the Essence. County and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

6.4 Liquidated Damages. Liquidated damages, if any, shall be established in the Phase 2/GMP Amendment.

Article 7

Price

7.1 Validation Price. For the completion of Validation Services (**Exhibit E**), the County shall pay the Design-Builder in accordance with Article 8 of this Contract for a sum not to exceed \$2,500,000.00 (the "Validation Price"). Validation Services shall be billed at the Fully Burdened Billing Rates, and labor categories together with any reimbursable direct costs, pass-through costs and design-build fee as agreed to in the Validation Plan (**Exhibit E**). Unless otherwise provided in the Contract Documents, the Validation Price includes applicable Washington State Sales Tax and all other taxes required by applicable law.

7.2 Phase 1 Price. For completion of the Phase 1 Scope of Services (**Exhibit D**), County shall pay Design-Builder in accordance with Article 8 of this Contract and as established in the Phase 1 Amendment. Phase 1 Services shall be billed at the Fully Burdened Billing Rates and labor categories together with reimbursable costs, pass-through costs and design-build fee agreed to in the Phase 1 Amendment. Any Fully Burdened Billing Rates established, shall not be subject to increase for any Phase 1 services. Unless otherwise provided in the Contract Documents, the Phase 1 Services price includes applicable Washington State Sales Tax and all other taxes required by applicable law.

7.3 Phase 2 Price. For Phase 2 Services, County shall pay Design-Builder in accordance with Article 8 of this Contract and Article 6 of the General Conditions a contract price ("Contract Price") set forth in the GMP Amendment which shall be equal to the Pass-Through Costs (as defined in Section 7.6.3 hereof), plus Design-Build Fee percentage (as defined in Section 7.5 hereof) applied to the Cost of the Phase 2 Work, plus the Construction General Conditions Price (as defined in Section 7.4 hereof), plus the Cost of the Phase 2 Work (as defined in Section 7.6.1 hereof), subject to the GMP established in the GMP Amendment and governed by Section 7.7 hereof, and any adjustments made in accordance with the General Conditions.

7.4 Construction General Conditions Price. County shall pay the Lump Sum Construction General Conditions Price for all construction general conditions work to be defined in the Phase 2/GMP Proposal. The Construction General Conditions Price shall be paid at the amount calculated by dividing the total Lump Sum Construction General Conditions Price by the number of months scheduled for Phase 2. The Construction General Conditions Price shall cover all construction general conditions work, regardless of whether the work is completed by the Design-Builder, a Key Firm, or Subcontractor.

7.5 Design-Build Fee.

7.5.1 Design-Build Fee shall be two point five-eight-four percent multiplier (2.584%) of the Cost of each phase of Work, as adjusted in accordance with Section 7.5.2 below.

7.5.2 The Design-Build Fee is intended to compensate Design-Builder for **all** costs and expenses **not specifically included** elsewhere. The Design-Build Fee shall compensate Design-Builder for all other costs, including but not limited to the following:

7.5.2.1 Contractor's profit on all work including self-performed work.

7.5.2.2 Profit Margins or similar mark-ups on cost for work performed by related parties or entities of the design builder.

7.5.2.3 General administration costs associated with Design-Builder's home office operations, support staff, such as executives, HR, accounting, IT, etc. unless specifically approved in advance by the County.

7.5.2.4 Cost of centralized and generally shared information technology, equipment, enterprise software and data processing.

7.5.2.5 Cost associated with bonuses or profit sharing.

7.5.2.6 Discretionary costs, such as clothing, awards or similar expenses.

7.5.2.7 Business and Occupancy (B&O) Taxes.

7.6 Cost of the Phase 2 Work.

7.6.1 Unless otherwise agreed, cost of the Phase 2 Work includes only those items expressly defined in this Section 7.6.1 that are reasonably incurred by Design-Builder in the proper performance of the Phase 2 Work. The Cost of the Phase 2 Work shall not include any Pass-Through Costs (as defined in Section 7.6.3 hereof), construction general conditions work (as defined in Section 7.4 hereof), or costs intended to be covered by the Design-Build Fee (as defined in Section 7.5 hereof). For the avoidance of doubt, any confusion about the categorization of cost items between the Cost of the Phase 2 Work and Pass-Through Costs shall be resolved in favor of Pass-Through-Costs. Further, any confusion about the categorization of cost items between the Cost of the Phase 2 Work and Construction General Conditions Fee or Design-Build Fee shall be resolved in favor of Construction General Conditions Fee and Design-Build Fee, respectively.

The Cost of the Phase 2 Work shall include only the following:

7.6.1.1 Except for those supervisory and administrative personnel who are covered by the General Conditions (**Exhibit C**) and employees billed at Fully Burdened Billing Rates, **wages or salaries of Design-Builder's personnel** performing the Work at the Site or, with County's agreement, at locations off the Site.

7.6.1.2 Except for those supervisory and administrative personnel who are covered by the General Conditions (**Exhibit C**) and employees billed at Fully Burdened Billing Rates, **wages or salaries of Design-Builder's personnel** engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

7.6.1.3 Except for those supervisory and administrative personnel who are covered by the General Conditions (**Exhibit C**) and employees billed at Fully Burdened Billing Rates, **wages or salaries of Design-Builder's personnel stationed at Design-Builder's Project Office**, but only to the extent such personnel perform tasks directly associated with the Project.

7.6.1.4 A multiplier of sixty percent (60%) shall be applied to the wages and salaries of the employees of Design-Builder covered under Sections 7.6.1.1 through 7.6.1.3 hereof (who are not billed at Fully Burdened Billing Rates or covered by the General Conditions (Exhibit

C)) to account for employee labor burden, including payroll taxes, pension costs, insurance, and other fringe benefits. This multiplier does not include Design-Builder's Fee.
7.6.1.5 Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work.

7.6.1.6 Costs, including acquisition, transportation, inspection, testing, storage, and handling of materials, furnishings, equipment, and supplies incorporated or reasonably used in completing the Work.

7.6.1.7 Costs of removal of debris and waste from the Site(s).

7.6.1.8 All fuel and utility costs incurred in the performance of the Work.

7.6.1.9 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by County, paying legal judgments against Design-Builder resulting from such suits or claims, and paying settlements made with County's consent.

7.6.1.10 Deposits which are lost, except to the extent caused by Design-Builder's negligence.

7.6.1.11 Costs incurred in preventing damage, injury, or loss in case of an emergency affecting the safety of persons and property except to the extent caused by Design-Builder's negligence.

7.6.1.12 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by County.

7.6.1.13 Site security, temporary fencing, signage and similar security and safety measures for active construction areas.

7.6.1.14 Costs for agreed-upon Allowance Items as described and defined in Section 7.8 herein.

7.6.2 Non-Reimbursable Costs. The following shall be excluded from the Cost of the Phase 2 Work:

7.6.2.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in connection with Sections 7.6.1.1, 7.6.1.2, and 7.6.1.3, costs associated with construction general conditions work, items intended to be covered by the Design-Build Fee, and Pass-Through Costs.

7.6.2.2 General expenses not specifically provided for herein.

7.6.2.3 The cost of Design-Builder's capital used in the performance of the Work.

7.6.2.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded, unless the County has approved an Adjustment or Change Order.

7.6.2.5 Any bonuses or incentive pay that is the obligation of Design-Builder to pay.

7.6.3 Pass-Through Costs. The following costs shall be "passed through" and paid without mark-up or any added Design-Build Fee:

7.6.3.1 Premiums for insurance and bonds required by this Contract or the performance of the Work.

7.6.3.2 Sales, use, or similar taxes, tariffs, or duties incurred in the performance of the Work.

7.6.3.3 Costs for permits, royalties, licenses, tests, and inspections.

7.7 The Guaranteed Maximum Price (GMP).

7.7.1 Design-Builder guarantees that it will not exceed any GMP that may be established in the GMP Amendment. Documents used as basis for the GMP shall be identified in the GMP Amendment. **Design-Builder does not guarantee any specific line item** provided as part of the GMP, provided, however, **it does guarantee** the line item(s) for its general project management and general conditions costs ("General Conditions Cap"). Design-Builder agrees that it will be responsible for paying the applicable general conditions costs more than the General Conditions Cap, as well as be responsible for all costs of completing the Work which exceed the GMP, as said general conditions line item(s) and the GMP may be adjusted in accordance with the Contract Documents.

7.7.2 The GMP shall include a Design-Builder's contingency, in an amount that is no less than two-point five percent (2.5%) and no more than five percent (5%) of the estimated Cost of the Work, which will be negotiated between the Design-Builder and the County as a part of the Phase 2 Proposal. The percentage shall depend upon the level of completion of the Design-Build Documents and certainty of subcontractor pricing at that time and depending upon any other risk factors agreed upon between the Design Builder and the County.

The final amount of the contingency shall be stated in the GMP Amendment and included in the GMP amount. **The contingency is a sum established for the Design-Builder's sole use to cover the Design-Builder's costs that are properly reimbursable as a Cost of the Work but not the basis for a Change Order**, such as, for example, design errors and omissions, buy-out or estimating error, post-GMP unanticipated market conditions, scope gaps, coordination between trades, overtime, acceleration, failure of a Subcontractor of any tier, pandemic or epidemic, or expediting costs for critical materials.

The Design-Builder shall use the contingency only with the County's prior written consent, which shall not be unreasonably withheld or delayed. Design-Builder shall provide County notice of all anticipated charges against the Contingency and shall provide County as part of the monthly status report required by Section 2.1.2 of the General Conditions an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the upcoming three (3) months.

Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

7.7.3 Savings. If the sum of the actual Design-Build Fee (as defined in 7.5 hereof), the Construction General Conditions Price (Section 7.4), Pass-Through Costs (Section 7.6.3) plus the Cost of the Phase 2 Work (Section 7.6.1) as provided in Article 7 hereof is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") may be incorporated back into the Project as agreed, or returned to the County. The Design Builder will keep the County informed of the status of all costs and opportunities to increase the outcomes of the project.

7.8 Allowance Items and Allowance Values.

7.8.1 Any and all Allowance Items, as well as their corresponding Allowance Values, shall be set forth in the GMP Amendment.

7.8.2 Design-Builder and County will work together to review the Allowance Items and Allowance Values based on design information then-available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and County will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

7.8.3 No Work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from County. County agrees that if Design-Builder is not provided written authorization to proceed by the date set forth in the Project Schedule approved with the GMP Amendment, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

7.8.4 The Allowance Value includes the direct cost of labor, materials, equipment, transportation, taxes, and insurance associated with the applicable Allowance Item.

7.8.5 Whenever the actual cost for an Allowance Item is more than or less than the stated Allowance Value, the Design-Builder shall report such difference to County so that County can maintain a running tally of Allowance Item costs against Allowance Values. Prior to final payment, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 7.8.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for all Allowance Items and the total Allowance Value.

Article 8

Procedure for Payment

8.1 Validation and Phase 1 Payments. Unless otherwise agreed, Validation Services and Phase 1 Services shall be paid by County based on a cost reimbursable, not-to-exceed **Validation Price** and **Phase 1 Price** at the Fully Burdened Billing Rates and labor categories, reimbursable and pass-through costs as set forth in the **Validation Plan** and **Phase 1 Amendment**, respectively. No markups beyond those included in the **Validation Plan** or **Phase 1 Amendment** shall be added to billings from any subconsultants or subcontractors for Validation Phase of Phase 1 services. Fully Burdened Billing Rates and labor categories shall not be subject to any overtime pay obligations incurred by Design-Builder nor any rate increases during the Validation Phase or Phase 1.

8.1.1 Validation Services and Phase 1 Services may be invoiced to the County on a monthly basis on the day agreed. Application for payment will be based on cost incurred during the previous billing cycle. Draft applications for payment will be reviewed and agreed during weekly project meetings to ensure that costs and expenses are paid as incurred and not held until a later billing period.

8.2 Phase 2 Payments.

8.2.1 Unless otherwise agreed, progress payments will be made monthly for work duly certified, approved, and performed during the calendar month preceding the Application in accordance with the following procedure:

8.2.1.1 Draft Application. Design-Builder shall submit to County an accounting of the current progress of the Work as compared to Design-Builder's Master Project

Schedule, and a draft, itemized application for payment for work performed during the current payment period on a form supplied or approved by County. This shall not constitute a payment request. Design-Builder and County shall discuss regarding the current progress of the Work and the amount of payment to which Design-Builder is entitled. County may on occasion request Design-Builder to provide data substantiating Design-Builder's right to payment, such as, but not limited to copies of invoices from Subcontractors of any tier, and reflecting retainage as provided elsewhere in the Contract Documents.

8.2.1.2 Payment Request. After Design-Builder and County have met and agreed regarding the updated draft application, and Design-Builder has furnished all progress information required and all data requested by County under 8.2.1.1 above, Design-Builder shall submit Design-Builder's Application for Payment for Work completed during the previous month in accordance with Article 6 of the General Conditions on a form supplied or approved by County. Among other things, the Application shall attest those prevailing wages have been paid in accordance with the pre-filed statements of intent to pay prevailing wages on file with County and that all payments due Subcontractors of any tier from County's payment the prior month have been made.

8.2.1.3 Disputed Amounts. If Design-Builder believes it is entitled to payment for Work performed during the prior billing cycle in addition to the agreed-upon amount, Design-Builder may, submit to County along with the approved payment request a separate written payment request specifying the exact additional amount due, the category in the Schedule of Values in which the payment is due, the specific Work for which the additional amount is due, and why the additional payment is due. Furthermore, Design-Builder and all Subcontractors shall file with County certified copies of all payroll records relating to the additional amount due. Disputed Amounts are due ten (10) working days following the prior approved Payment Application.

8.2.1.4 Validity of Payment Requests. A payment request shall not be valid unless it complies with the requirements of the Contract Documents.

8.2.2 County shall make payment within 30 days after County's receipt of each properly submitted and accurate Application for Payment, but in each case less the total of payments previously made, less retainage, and less amounts properly withheld under Section 6.3 of the General Conditions.

8.3 Retainage on Phase 2 Progress Payments.

8.3.1 Pursuant to Chapter RCW 60.28, the County will retain five percent of each approved Application for Payment to be retained as a trust fund for the protection and payment of the claims of any person arising under the contract and the state with respect to taxes imposed pursuant to Titles 50, 51, and 82 RCW which may be due from Design-Builder. The moneys reserved may, at the option of Design-Builder, be retained in accordance with the provisions of Chapter 60.28 RCW.

8.3.2 If the Design-Builder elects to submit a retainage bond on behalf of itself or one or more of its Subcontractors in accordance with Chapter 60.28 RCW, each such bond must be issued on a form acceptable to County by a surety licensed to do business in the state where the Work is located with an A.M. Best rating of A-/IX or better on behalf of Design-Builder or A-/V on behalf of a Subcontractor. Design-Builder is responsible for submitting retainage bond(s) that meet these requirements to County on behalf of itself and/or any Subcontractor. County will not accept retainage bonds submitted directly to it by a Subcontractor.

8.3.3 Sixty (60) days after Final Acceptance of the entire Work, which is an action by the Council, County shall release to Design-Builder all retained amounts in accordance with chapter RCW 39.12 and chapter RCW 60.28, provided that Design-Builder has submitted: (1) pursuant to RCW 39.12.040, an "Affidavit of Wages Paid" from Design-Builder and from each Subcontractor of any

tier certified by the Industrial Statistician of the Department of Labor and Industries, with the fees paid by Design-Builder or Subcontractor of any tier, (2) pursuant to RCW 60.28.021, certificates from the Department of Revenue, the Employment Security Department, and the Department of Labor and Industries. If there are either unpaid taxes or unsatisfied claims of lien against the retained percentage, disbursement of retainage funds will be made in accordance with state law.

8.4 Payment to Subcontractors. To the extent Design-Builder has received payment from the County, Design-Builder shall ensure payment to any Subcontractor (or Sub-Subcontractor), at any tier every thirty (30) days for any Work satisfactorily completed and not disputed. The Design-Builder and the County jointly commit to reviewing and agreeing eligible costs, back up and completed work as they become due and available for review.

8.5 Final Payment. Design-Builder shall submit its Final Application for Payment to County in accordance with Section 6.7 of the General Conditions. County shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment within 30 days after County's receipt of the Final Application for Payment, provided that (a) Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions and (b) County shall have the right to withhold all amounts to which County is entitled to withhold pursuant to Section 6.3 of the General Conditions.

8.6 Interest. Payments due and unpaid by County to Design-Builder, whether progress payments or final payments, shall bear interest as specified by RCW 39.76.

8.7 Record Keeping and Finance Controls. Design-Builder acknowledges that this Contract is to be administered on an *Open-Book* arrangement relative to the Cost of the Work. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents.

During the performance of the Work and for a period of six (6) years after Final Payment, County and County's accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to the Work, all of which Design-Builder shall preserve for a period of six (6) years after Final Payment.

Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the County and Design-Builder as part of this Contract are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Contract, but the composition of such multiplier or markup is not subject to audit.

Article 9

Termination for Convenience

9.1 In addition to County's other termination rights in the General Conditions to Contract, County may terminate the Contract for convenience. Upon ten (10) days' written notice to Design-Builder, County may, for its convenience and without cause, elect to terminate this Contract or any portion of this Contract. In such event, County shall (subject to the limitation set forth in Section 8.3 above) pay Design-Builder for that portion of the Contract Price in accordance with the Contract Documents, plus reasonable costs incurred as a result of the termination including Design-Builder fee. The Design-Builder shall not be entitled to any other damages.

9.2 The total sum to be paid to Design-Builder under this Article 9 shall not exceed the Contract Price as reduced by the amount of payments otherwise made, the price of Work not terminated, and as otherwise

permitted by this Contract. The amounts payable to Design-Builder shall exclude the fair value of property not under County's control which is destroyed, lost, stolen or damaged to become undeliverable to County.

9.3 Any claim, request for equitable adjustment or other demand for extra compensation or time extension by Design-Builder arising from or related to acts, events, occurrences, or omissions prior to the effective date of the convenience termination shall continue to be subject to and resolved in accordance with the rules (contractual or legal, express, or implied) in effect prior to the termination. The convenience termination will not convert this Contract into a cost reimbursement contract.

Article 10

Representatives of the Parties

10.1 County's Representatives.

10.1.1 County designates the individual listed below as its Project Manager ("County's Project Manager"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.7.2 of the General Conditions to the extent permitted by the Legal Requirements:

Rachel Dotson, PLA; Park Planning Supervisor (rachel.dotson@snoco.org).

10.1.2 County designates the individual listed below as its County's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions to the extent permitted by the Legal Requirements:

Rachel Dotson, PLA; Park Planning Supervisor (rachel.dotson@snoco.org).

10.2 Design-Builder's Representatives.

10.2.1 Design-Builder designates the individual listed in the table in Section 10.3 below as its Principal-In-Charge ("Design-Builder's PIC"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.7.2 of the General Conditions.

10.2.2 Design-Builder designates the individual listed in the table in Section 10.3 below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions.

10.3 Key Personnel. The Design-Builder has been selected for this Project based on not only its qualifications as a corporate entity(ies), but also upon the basis of the qualifications of the Key Team Members it intends to employ to perform the Work. Design-Builder agrees to provide all professional personnel necessary, at adequate staffing levels, to perform the required services under this Contract, including the key team members identified below:

Position Title	Name of Individual
Design-Builder Principal In Charge	Bill DeJarlais, GLY
Design-Builder Representative /Project Manager	Dana Johnson, GLY
Design-Builder, Design Partner in Charge	Sian Roberts, Miller Hull
Design-Builder Design Manager	Claire Rennhack, Miller Hull
Design-Builder Superintendent	Rob Cochrun, GLY
Design-Builder Food Processing Subject Matter Expert	Ben Gates, Urban Patterns

Design-Builder Environmental Lead, Landfill	Arnie Sugar, HWA
Design-Builder Environmental Lead, Natural Resources	Amy Summe, Shannon + Wilson

These key personnel, all of whom were named in Design-Builder's proposal submitted in response to the County's Request for Qualifications and Proposals for the Project, will be assigned to the Project. Except in the event of the death of the employee or their separation of employment with Design-Builder, these key personnel shall remain assigned for the duration of the Project unless otherwise agreed to in writing by the County, which approval shall not be unreasonably withheld.

In the event Design-Builder **proposes to substitute** any of the key personnel due to death or employment termination, the individual(s) proposed must demonstrate the qualifications indicated in the Request for Proposals for their respective role(s), and experience as required to successfully perform such duties. County shall have the sole right to determine whether key personnel proposed as substitutes are qualified to work on the Project. Design-Builder will remove from the Project any personnel assigned to the Project if, after the matter has been thoroughly considered by County and Design-Builder, County considers such removal necessary and in the best interest of the Project, and County so notifies Design-Builder in writing and allows a reasonable period for the transition to different personnel.

10.4 Key Firms. Design-Builder has been selected for this Project based on not only its qualifications as a corporate entity, but also upon the basis of the qualifications of the key firms it intends to engage to perform the Work. Design-Builder agrees to engage such firms to perform the required services under this Contract, including the key firms identified below:

Firm	Role
The Miller Hull Partnership, LLC	Design Consultant
Urban Patterns	Food Infrastructure SME
Coughlin Porter Lundeen	Structural Engineer
KPFF Consulting Engineers	Civil Engineer
HBB Landscape Architecture	Landscape Architect
HWA Geosciences Inc.	Technical Environmental Lead - Landfill
Shannon + Wilson	Technical Environmental Lead – Natural Resources and Geotechnical Engineer

These key firms, all of whom were named in Design-Builder proposal submitted in response to the County's Request for Qualifications and Proposals for the Project, will be engaged on the Project. These key firms shall be engaged for the complete scope identified in the Design-Builder's proposal. In the event Design-Builder proposes to substitute any of the key firms, Design-Builder shall demonstrate that the replacement firm possesses sufficient qualifications to perform the Work in question. County shall have the sole right to determine whether key firm proposed as substitutes is qualified to work on the Project.

Article 11

Bonds and Insurance

11.1 Design-Builder's Insurance

Unless a longer period of coverage is specified elsewhere in this Contract, prior to commencing Work, Design-Builder shall obtain at its sole expense and keep in force the following insurance coverages for a period of 365 days from Substantial Completion of all Work with insurance companies approved by the State Insurance Commissioner pursuant to Title 48 RCW.

(a) All policies will name the County, its officers, officials, employees, and agents as additional insureds, except for the Design-Builder's Professional Liability policy, employer's liability policy and workers' compensation. The insurance provided must be with an insurance company with a rating of A: VIII or higher in the A.M. Best's Key Rating Guide or, if not rated with Bests', with minimum surpluses the equivalent of Bests' surplus size VIII., which is licensed to do business in the state of Washington (or issued as a surplus line by a Washington Surplus lines broker). County reserves the right to approve the security of the insurance provided, the company, terms and coverage, the certificates of insurance, and endorsements and reserves the right to obtain complete copies of all policies from Design-Builder upon request.

11.1.1 Coverages and Limits. The insurance shall provide the minimum coverages and limits set forth below. County shall be provided 45 days written notice of cancellation, except 10 days for non-payment of premium. County does not warrant or represent that such coverages and limits are appropriate or adequate to protect Design-Builder. Neither County's specification or approval of the insurance in this Contract, nor of its amount, nor providing coverage in these stated minimum limits shall be construed to relieve Design-Builder from liability more than such limits. Coverages are the minimum to be provided and are not limitations of liability under the Contract, indemnification, or applicable law provisions. Design-Builder may, at its expense, purchase larger coverage amounts.

(b) The cost of any claim payments falling within the liability insurance deductible shall be the sole responsibility of Design-Builder. Except to the extent of the negligence or intentional misconduct of the County and/or any persons or entities for which the County is responsible, Design-Builder's insurance shall be primary and non-contributory as respects the County, and any self-insurance or any other insurance maintained by the County shall be excess and not contributing insurance with the Design-Builder's insurance. The Design-Builder's insurance coverage shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability. Design-Builder shall submit, upon execution of this Contract, Certificates of Insurance and additional insured endorsements acceptable to County as evidence of all insurance required herein:

11.1.1.1 Commercial General Liability Insurance. A policy of Commercial General Liability Insurance on an industry standard insurance occurrence form: (CG 00 01) or equivalent, with limits of at least \$1,000,000 per occurrence / \$2,000,000 aggregate, including all coverage known as:

Per Project General Aggregate endorsement (CG2503), or its equivalent

Premises/Operations Liability

Products/Completed Operations—for a period of six years following Substantial Completion

Personal/Advertising Injury

Contractual Liability

Independent Contractors Liability

Stop Gap or Employers Contingent Liability

The CGL insurance shall not exclude XCU or subsidence perils

11.1.1.2 Employers Liability:

- (1) \$1,000,000 Each Accident
- (2) \$1,000,000 Disease - Policy Limit
- (3) \$1,000,000 Disease - Each Employee

11.1.1.3 Excess or Umbrella Liability. \$10 million per occurrence and aggregate in excess of the primary CGL during construction and with Products/Completed Operations coverage for a period of six (6) years following Substantial Completion. Any combination of primary and excess/umbrella insurance is acceptable to meet the insurance limits required by this Agreement. Notwithstanding the forgoing, Excess or Umbrella Liability with a limit of not less than \$5,000,000 is acceptable for any design and engineering firms and, as pertaining to sub-tier design consultants, \$1,000,000 in Excess or Umbrella is acceptable.

11.1.1.4 Automobile. For Phase 2 (procurement and construction), Commercial Automobile Liability with a combined single limit of not less than \$5,000,000 for each accident and including coverage for transportation of pollutants. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If pollutants are to be transported, MCS 90 and CA 99 48 endorsements are required on the Automobile Liability insurance policy unless in-transit pollution risk is covered under a Pollution Liability insurance policy. Notwithstanding the forgoing, Commercial Automobile Liability with a combined single limit of not less than \$1,000,000 for each accident is acceptable for Design-Builder and any design and engineering firms.

11.1.1.5 Contractors Pollution Liability. A policy providing coverage for claims involving remediation, disposal, or other handling of pollutants arising out of Design-Builder's work or operations for others; from the transportation of hazardous materials; or involving remediation, abatement, repair, maintenance or other work with lead-based paint or materials containing asbestos. Such Pollution Liability policy shall provide at least \$2,000,000 per occurrence coverage for Bodily Injury and Property Damage. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

11.1.1.6 Design-Builder's Professional Liability.

(1) The Design-Builder's Design Consultant will maintain for at least six (6) years after Substantial Completion Professional Liability/Errors and Omissions Liability insurance in an amount of not less than \$10,000,000 per claim and annual aggregate. Design-Builder and the County will mutually agree upon appropriate levels of Professional Liability/Errors and Omissions Liability insurance for design and engineering consultants prior to execution of the agreements for those services.

(2) The Design Sub-Consultants, and any other Subcontractor (including subcontractors of any tier) performing design services will maintain for at least six (6) years after Substantial Completion Professional Liability/Errors and Omissions Liability insurance in an amount of

not less than \$1,000,000 per claim and annual aggregate.

(3) All parties required to procure and maintain insurance under this Section 11.1.1.6 (the "Insured Parties") shall promptly notify the County of any material changes to, interruption of, or termination of this insurance, and will immediately procure replacement coverage. The Insured Parties either maintain active policy coverage, or an extended reporting period, providing coverage for claims first made and reported to the insurance company within six (6) years of Substantial Completion or termination of the Work under this Contract, whichever occurs first. The County may modify these insurance requirements for certain entities, on a case-by-case basis, by providing written agreement of such modifications.

(4) If this policy is issued on a claims-made basis:

- a) The retroactive date must be shared and this date must be before the execution date of the contract or the beginning of contract work.
- b) Insurance must be maintained and evidence of insurance must be provided for at least six (6) years after completion of contract work.
- c) If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of six (6) years after completion of contract work.
- d) A copy of the claims reporting requirements must be submitted to the Entity for review.

11.1.1.7 Worker's Compensation. Worker's Compensation coverage, as required by RCW Title 51. If Design-Builder is qualified as a self-insurer in accordance with RCW 51.14, Design-Builder shall so certify by letter signed by a corporate officer indicating that it is a qualified self-insured and setting forth the limits of any policy of excess insurance covering its employees.

11.1.1.8 Builder's Risk. Prior to the start of any construction work the Design-Builder shall procure and maintain during the life of the Contract, or until acceptance of the project by the County, whichever is longer, "All Risk" Builders Risk Insurance at least as broad as ISO form number CP0020 (Builders Risk Coverage Form) with ISO form number CP0030 (Causes of Loss – Special Form) including coverage for collapse, theft, and if applicable, off-site storage and property in transit. The coverage shall insure for direct physical loss to property of the entire construction project, for 100% of the replacement value thereof and include earthquake and flood at mutually approved sub limits and including County-furnished equipment valued at an amount to be set forth in the Phase 2 Amendment. The policy shall include coverage for cost of making good for faulty workmanship and defective design (Leg 3 endorsement), and be endorsed to cover the interests, as they may appear, of Snohomish County, Design-Builder, Subcontractor, and Subcontractors of all tiers with Snohomish County and Subcontractors listed as a Named Insured. In the event of a loss to any or all the work and/or materials therein and/or to be provided at any time prior to the final close-out of the Contract and acceptance of the project by Snohomish County, the Design-Builder shall promptly reconstruct, repair, replace or restore all work and/or materials so destroyed. Nothing herein provided for shall in any way excuse the Design-Builder or its surety from the obligation of furnishing all the required materials and completing the work in full compliance with the terms of the Contract.

Builder's Risk deductibles shall be the responsibility of the County except in the event a covered loss is the result of the fault of the Design-Builder or any person or entity for

which it is responsible and, in such case, the Design-Builder shall pay \$10,000 of the Builder's Risk policy deductible.

Partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The County and the Design-Builder shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

11.1.2 Self-Insurance. At its sole option and in its sole discretion, County may accept Design-Builder's self-insurance for liability coverage in lieu of insurance from a commercial insurer. Design-Builder must provide a letter from its Corporate Risk Manager or appropriate Finance Officer representing and warranting the following minimum information: whether the self-insurance program is actuarially funded; the fund limits; any excess declaration pages to meet the contract requirements; a description of how Design-Builder would protect and defend County as an Additional Insured in their Self-Insured layer; and claims-handling directions in the event of a claim. Any amounts due to, sought by, or paid to third party claimants shall be the sole responsibility of Design-Builder, irrespective of whether such amount falls wholly within the level or amount of Design-Builder's self-insured retention.

11.1.3 Waiver of Subrogation. Design-Builder and the County waive all rights against each other any of their subcontractors, sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent of proceeds paid by the Builder's Risk insurance or other property insurance obtained pursuant to the Contract Documents. The policies shall provide such waivers by endorsement or otherwise.

11.1.4 Design-Build Exclusions. Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in this Contract. Design-Builder's liability insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build nature of the Project. Any professional liability insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build nature of the Project.

11.1.5 Insurance Review. The parties agree that if the price of the Contract, as described in Article 7, increases more than 50%, the County's Risk Manager may require, based on reasonably prudent risk management practices and insurance industry standards, alterations to the insurance requirements described in Section 11. Any increase in premium from the Risk Manager's decision under this Section 11.1.5 shall form the basis of an adjustment to the GMP. Any failure by the County to exercise its rights under Section 11.1.5 shall not constitute a waiver of any future right of review.

11.1.6 Subcontractors (at any tier). Design-Builder shall have sole responsibility for determining the limits of coverage required, if any, to be obtained by Subcontractors, which determination shall be made in accordance with reasonable and prudent business practices. Design-Builder shall also cause each Subcontractor to include the County, its officers, officials, employees, and agents as additional insureds under each Subcontractor's Commercial General Liability and Commercial Automobile Liability policies.

11.1.7 The County shall be responsible for purchasing and maintaining the County's usual liability insurance or self-insurance.

If after the Project construction period the County insures against loss of use of the County's property under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the County shall waive all rights in accordance with the terms of Section 11.1.3 for loss of use damages, however caused, covered by this

separate insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

If during the Project construction period the County insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the County shall waive all rights in accordance with the terms of Section 11.1.3 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the County and the Design Builder will evaluate options to determine what the best price and property insurance program is for the remodel or addition. Unless it is more expensive, not possible or otherwise not preferred to place it on the County's "all-risks" property policy, the County shall purchase and maintain, until the expiration of the period for correction of Work as set forth elsewhere herein, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss insured under the Builder's Risk policy required for the Project, notwithstanding the undertaking of the Work. The County shall be responsible for all co-insurance penalties, if applicable.

11.2 Performance and Payment Bond. Design-Builder shall secure from a surety company acceptable to County, admitted and licensed in the State of Washington, and shall pay for performance and payment bonds covering the faithful performance of the Contract and payment of obligations arising under the Contract Documents, each in the full amount of the GMP plus sales tax, pursuant to RCW 39.08, "Contractor's Bond." The bond shall be on a form provided by County. The bond must be executed by a duly licensed surety company that is listed in the latest Circular 570 of the United States Treasury Department as being acceptable as surety on federal bonds. No surety's liability on the bond shall exceed the underwriting limitations for the respective surety specified in Circular 570. Said bonds shall meet all requirements of RCW 39.08 and shall also be issued by a surety with an A.M. Best rating of A/IX or better. All reinsurers that may be called upon to support or share in a surety's obligations specified in connection with the performance and payment bond obligations required of the Contractor by the Contract Documents must also have an A.M. Best rating of A/VIII or better. The scope of the bond or the form thereof prescribed in these Contract Documents shall in no way affect or alter the liabilities of Design-Builder to County as set forth herein. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond. The bond shall cover all Change Orders without further consent from the surety.

Article 12

Other Provisions

12.1 Contract Exhibits.

The Exhibits to this Contract, incorporated herein by reference, are as follows:

Exhibit A County Provided Information

Exhibit B County's Initial Project Program and Overview

Exhibit C General Conditions

Exhibit D Phase 1 and 2 Scope of Services

Exhibit E Validation Approach and Price (NTE)

Exhibit F Reserved

Exhibit G Design Builder’s Initial Subcontracting Inclusion Plan

Exhibit H Federal Requirements

12.2 CPARB Reporting. Design-Builder shall provide the County and, if requested, the Capital Projects Advisory Review Board (“CPARB”) any project information required to be submitted by the Design-Builder in accordance with the provisions of Chapter 39.10 RCW and the requirements of CPARB.

12.3 Subcontractor Reporting. Design-Builder shall submit plans for subcontracting, apprentices, and inclusion of underutilized firms as subcontractors and suppliers as requested by the County. Design-Builder shall track and provide the County and the Office of Minority and Women’s Business Enterprises (“OMWBE”) any project information required to be submitted by the Design-Builder in accordance with the provisions of Chapter 39.10, 39.12, or similar RCW and as requested by OMWBE.

12.4 Notices. All notices required to be given by any party to the other party under this Contract shall be in writing and shall be delivered either in person, by United States mail, or by electronic mail (email) to the applicable Administrator or the Administrator’s designee. Notice delivered in person shall be deemed given when accepted by the recipient. Notice by United States mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their designee, at the addresses as follows. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

County:
Rachel Dotson, PLA; Park Planning Supervisor
Snohomish County Parks & Recreation
6705 Puget Park Drive; Snohomish, WA 98296

Design-Builder:
Bill DeJarlais, Principal + Executive Vice President
GLY Construction
14432 SE Eastgate Way, Suite 300; Bellevue, WA 98007

Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent. Any notice hereunder signed on behalf of the notifying party by a duly authorized attorney at law shall be valid and effective to the same extent as if signed on behalf of such party by a duly authorized officer or employee. Notices and communications given by mail hereunder shall be deemed to have been given seventy-two (72) hours after the date of dispatch: all other notices shall be deemed to have been given upon receipt.

SIGNATURES

In executing this Contract, County and Design-Builder each represents that it has the necessary financial resources to fulfill its obligations under this Contract, and each has the necessary corporate approvals to execute this Contract, and perform the services described herein.

COUNTY:

(Name of County Signatory)

Harper, Lacey Digitally signed by Harper, Lacey
Date: 2024.06.13 10:23:23 -07'00'

(Signature)

(Printed Name)

Executive Director

(Title)

Date: _____

DESIGN-BUILDER:

GLY Construction, Inc.

(Name of Design-Builder Signatory)

(Signature)

Bill DeJarlais

(Printed Name)

Executive Vice President

(Title)

May 16, 2024

Date: _____

Approved as to form only:

Lyndsey Downs 5-16-2024
Deputy Prosecuting Attorney Date

EXHIBIT A
COUNTY PROVIDED INFORMATION

EXHIBIT A
COUNTY PROVIDED INFORMATION

- 1) McCollum Park Title Report (dated January 18, 2023 and June 6, 2023)

EXHIBIT B

**COUNTY'S INITIAL PROJECT PROGRAM AND
OVERVIEW**

EXHIBIT B

FOOD AND FARMING CENTER'S INITIAL PROJECT PROGRAM AND OVERVIEW

Please note – No information contained here, or provided by the County, reflects requirements for the project approach. The County fully expects the Design-Builder to engage with the County and key stakeholders to program and design the site and improvements in accordance with the project expectations and goals. Information contained here is for illustrative purposes only and should not be relied upon.

1. INTRODUCTION

Snohomish County (“the County”) is seeking to work collaboratively with the selected Design-Builder to achieve the most cost effective, creative, operationally efficient, and programmatically balanced project possible. The County desires the Food and Farming Center (FFC) to be constructed for the best value within the County's estimated budget of \$30M. The FFC will be located at McCollum Park (600 128th Street SE; Everett, WA 98208).

The Snohomish County Food and Farming Center will be a resource for fruit and vegetable farmers in Snohomish, Whatcom, Skagit, and King counties. Farmers will have access to equipment and infrastructure for the processing, aggregation, distribution, value-added production, and direct and wholesale sales of locally produced agricultural products. The center is planned to include a commercial kitchen and an indoor farmers market along with other event space options. Snohomish County intends to separately procure use-specific operators for the FFC.

2. PROJECT GOALS

The FFC Project aims to accomplish the following:

- Provide regional smaller farmers and growers with needed processing, aggregation, and distribution infrastructure
- Create a place to purchase local, healthy, and fresh food, year-round
- Provide farmers and local entrepreneurs with a commercial kitchen they can rent to process produce and develop value-added products to sell at the farmer's market or deliver throughout the region
- Achieve a sustainable, environmentally sound project that is Salmon Safe and LEED® certified gold or higher
- Work effectively with authorities having jurisdiction, County stakeholders, and state and federal funding partners to meet requirements and maximize placement, design, and construction of the FFC within the budget
- Minimize impacts to adjacent uses and park patrons

3. FUNDING/AUTHORITY

This procurement is being conducted pursuant to RCW 39.10.330 after approval from the Capital Projects Advisory Review Board, Project Review Committee, on June 22, 2023. The Food and Farming Center has multiple federal, state, and local funding sources. If funding is not received through grant sources, the County will issue a non-voted bond to cover any remaining construction funds needed.

4. FOOD & FARMING CENTER

Snohomish County is open to options for the placement, size, and capacity of the FFC. The FFC could be either one building or multiple facilities strategically placed around useable area to maximize the core operational needs.

Operation 1: FOOD PROCESSING, AGGREGATION, DISTRIBUTION

The County anticipates approximately 20,000 square feet of food processing space, predicting 20+ varieties of “small batch” fruits and vegetables (weighing, washing, draining, selecting, kitchen production, filtering, pressing, sterilization, etc.) that is compliant, and supports users to comply, with the US Food Safety Modernization Act. This is likely to come with another 20,000 square feet of warehouse space that includes cold and dry storage.

Operation 2: COMMERCIAL KITCHEN AND EVENT SPACE

Inspired, in part, by [The Redd](#) (East and West by EcoTrust), the County envisions a commercial and demonstration

kitchen for both local farmers and other farm-to-table inspired services such as catering and chefs. Depending on the size and additional useable square footage available at the FFC, the County envisions office and meeting spaces that could accommodate various rental needs such as community classes, and other more traditional park uses. The FFC is expected to be equipped with telecommunications options and the latest internet and broadband.

Operation 3: FARMER'S MARKET SPACE

The goal of the Farmer's Market is to have year-round options for farmers, to extend more traditional seasonal selling, and to bring local vendors and other community services together in a space that offers a variety of choices for a variety of goods and services. The space should be as flexible and accommodating as possible with different selling options such as grocery facilities, point-of-sale, "booths," and similar.

5. SITE ANALYSIS AND ENVIRONMENTAL ASSESSMENT

McCollum Park has challenges. The Design-Builder will assist the County in exploring various options for development and redevelopment of target area(s) at McCollum Park. Park features like the BMX track, trails, Community Transit Facilities, Northwest Stream Center and similar are all anticipated to remain and be undisturbed. Two existing buildings directly north of the Northwest Stream Center and the pool and the pool building are expected to be demolished. However, the County expects the Design-Builder to carefully evaluate options and provide analysis as to the placement and number of facilities for the FFC that provides the most economically and operationally efficient use. During that analysis, should information become available regarding maximizing site clean-up or remediation beyond the limits of the FFC for nominal cost, the County would be interested in the Design-Builder's expert opinion, particularly should that analysis provide the County with future expansion and use ideas.

As a federally funded project, environmental assessment is anticipated. The Design-Builder is expected to assist the County in navigating the various assessment options (24 CFR 58) and provide an approach that also takes into consideration all the needs and requirements of state and local codes, particularly when it comes to efficient scheduling and costs, and avoids duplicating efforts. The FFC is expected to avoid critical and sensitive areas so as not to trigger higher level and longer permitting times.

The Design-Builder is expected to work with the authorities having jurisdiction, utilities, and adjacent users to understand all required, and the most advantageous, site improvements possible and present options for consideration. Stormwater is not adequately addressed on site and will likely need to be part of the consideration. Water, sewer, and power are on the site, but the County is anticipating needing upgrades and alternative solutions. The County is also anticipating various access needs and options not just for the various uses at the FFC, but also in ensuring adjacent use efficiency. Additionally, the County anticipates needing to accommodate electrical vehicle charging stations. The County is anticipating a need for parking options to accommodate the various operational activities anticipated at the FFC.

6. FIT FOR A PARK

McCollum Park is an active park and will remain in operation. The Design-Builder needs to keep this in mind during design and construction. The FFC will be "fit and finished" in the park and should aesthetically and functionally be part of the park. Keeping connectivity, active, and passive use and other concepts will be important for planning the FFC. It will be critical to protect pedestrian and park user access and safety, maintain parking counts, vehicular access, and operational support to the Community Transit facility and the Northwest Stream Center, with minimal disruptions and direct, unhindered access to all adjacent buildings during construction and associated work. The Design-Builder will need to work with the adjacent uses and potentially other neighboring properties to phase and manage site improvements and maintain access and smooth traffic flow.

7. SUSTAINABILITY

In addition to other expectations, the Design-Builder is anticipated to provide design and construction that minimizes adverse effects on the exterior environment, enhances the quality of the indoor environment and minimizes consumption of energy, water, construction materials, and other resources. The County's code for Green and High-Performance Building (Ch. 3.06) requires this facility to meet a minimum of **LEED® Gold** rating and attain certification through the U.S. Green Building Council. Options to exceed sustainability expectations should be considered in planning and designing the site and buildings.

Salmon Safe. The FFC will be designed and built to receive the Salmon-Safe Urban Development Certification as a testament to the County's commitment to keep urban watersheds clean enough for native salmon to spawn and thrive. The County has procured a Salmon-Safe assessment team to provide guidance to ensure Salmon-Safe design and operations requirements are met. The Design-Builder will be expected to support this certification.

The County also would like to extend this commitment to the environment and create sustainable and resilient land development projects, exploring the possibility of other achievements like The Sustainable SITES Initiative, green building through the Living Building Challenge, and/or the Environmental Protection Agency's Net Zero Initiative.

8. EXISTING INFORMATION, GEOTECHNICAL AND REPORTS

The County has recently hired firms to complete a geotechnical report and topographic survey with wetland delineation; the reports will be ready for review in October 2023. The County has recently obtained full title report documentation with several covenants, conditions, and restrictions for review. McCollum Park was built on a landfill which was capped in 1967. (See Attachment A.4).

The County expects the Design-Builder to bring in subject matter experts, and if necessary, conduct their own investigation and analysis to provide viable and compliant approaches to address any geotechnical and environmental concerns on the project site without depleting the project budget. The County desires to accomplish as much contaminated soil remediation as will be feasible and practical with the FFC project.

9. OTHER CONSIDERATIONS

A. AMERICANS WITH DISABILITIES

The County has a transition plan. The expectation for this Project is that in addition to ADA requirement for municipal buildings and uniform building code, the Design-builder provides design options with accommodations aligned with the US ADA Access Board guidance for Architectural Barriers, including but not limited to accessible routes, general site and building elements, plumbing elements, communication elements, rooms and spaces.

B. LOCAL BUSINESS

The County has a desire to find meaningful ways to engage and support local growing, farming, and agricultural businesses in this project.

C. DIVERSE BUSINESSES

As required by the *Contract Documents and the Federal Requirements*, the Design-Builder is expected to provide a plan for the utilization and inclusion of underutilized, disadvantaged, and small businesses on this project. The County is open to various definitions and strategies to accomplish inclusion of these businesses consistent with the Project Goals. The County does not expect the Design-Builder to only focus on Certified OMWBE firms but to expand participant pools and look at the community around representative of the County's diverse community. (e.g., tribal and veterans).

D. COMMUNITY

The County has a rich, diverse community and desires to serve them well. This project is expected to recognize this diversity and maximize opportunities to share in that community, create spaces that represent the various cultures, reflect their needs, and connects in ways that may not be possible in other locations or projects.

E. FEDERAL REQUIREMENTS

In Attachment A.5 to the RFQ, the County has provided a list of applicable federal requirements. The Design-Builder must attest to their understanding, ability, and intent to comply with all stated federal requirements.

10. SAFETY

The County expects that any activity associated with this Project is executed safely. Beyond what is required for municipal and commercial construction requirements (e.g. OSHA, WISHA, L&I, etc.), the Design Build team needs to fulfill the spirit of the requirements and ensure that each activity is performed with the right training, preparation, and equipment. We expect that every possible measure is taken to mitigate any incidents. (*See the Contract Documents.*)

EXHIBIT C
GENERAL CONDITIONS

Snohomish County Food & Farming Center Project

General Conditions of Progressive Design-Build Contract Between County and Design-Builder

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Article 1

General

1.1 Mutual Obligations

1.1.1 *County and Design-Builder* commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.2 Basic Definitions

1.2.1 *Additional Services* refers to those services defined or described in Section 2.3.1.8 of the Contract.

1.2.2 *Allowance Items* are specific portions of the Phase 2 Work set forth in the GMP Amendment with the cost for such Work estimated in an assigned dollar amount.

1.2.3 *Allowance Values* are the dollar amounts assigned to Allowance Items.

1.2.4 *Application for Payment* is the Design-Builder's request for payment prepared and submitted in compliance with Article 8 of the Contract and Article 6 of these General Conditions of Contract.

1.2.5 *Basis of Design Documents* are those documents specifically identified in the Phase 2 Proposal and GMP Amendment as being the "Basis of Design Documents" and shall include, but not be limited to, agreed upon modifications to the County's Initial Programming and Overview.

1.2.6 *Change Order* is defined or described in Section 9.1 of these General Conditions of Contract.

1.2.7 *Claim* is a demand or assertion by Design-Builder for itself or for the benefit of any Subcontractor or supplier of any tier seeking an adjustment of GMP or Contract Time, or both, or any other relief with respect to the terms of the Contract Documents.

1.2.8 *Construction Documents* are the documents, consisting of drawings and specifications, to be prepared and/or assembled by the Design-Builder consistent with the agreed Final Program unless an adjustment has been made and is specifically set forth in a Change Order executed by both the County and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

1.2.9 *Construction General Conditions Price* is defined or described in Section 7.4 of the Contract.

1.2.10 *Construction General Conditions Work* includes all work set forth in **Exhibit C** to the Contract.

1.2.11 *Contract* refers to the Progressive Design-Build Agreement between County and Design-Builder dated _____, (Modified DBIA 544), as negotiated.

1.2.12 *Contract Documents* are as defined in Article 3 of the Contract.

1.2.13 *Contract Price* is defined or described in Section 2.3.1.1 of the Contract.

1.2.14 *Contract Time(s)* are the dates for Substantial Completion and Final Completion set forth

in, or calculable from, Article 6 of the Contract.

1.2.15 *Cost of the Phase 2 Work* is defined or described in Section 7.6 of the Contract.

1.2.16 *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

1.2.17 *Design-Build Team* is comprised of the Design-Builder, the Design Consultant (Engineer of Record), and Key Subcontractors (Key Firms) identified by the Design-Builder in its proposal in response to the County's Request for Proposals. The Key Firms are identified in Section 10.4 of the Contract.

1.2.18 *Design-Builder* is GLY Construction, Inc.

1.2.19 *Design-Builder's Contingency* is defined or described in Section 7.7.2 of the Contract.

1.2.20 *Design-Build Fee* is defined or described in Section 7.5 of the Contract.

1.2.21 *Design-Builder's Representative* is defined or described in Section 10.2.2 of the Contract.

1.2.22 *Design-Builder's Principal-In-Charge* is defined or described in Section 10.2.1 of the Contract.

1.2.23 *Design Consultant and/or Engineer of Record* is Key Team Member procured as part of the Design Builder's Team, a licensed design professional or employed or retained to furnish design services required under this Contract. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of the Design Consultant but is retained by the Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents. The Engineer of Record shall be a professional engineer licensed in the state of Washington.

1.2.24 *Differing Site Conditions* are defined or described in Section 4.2.1 of these General Conditions of Contract.

1.2.25 *Electronic Data* is defined or described in Section 12.1.1 of these General Conditions of Contract.

1.2.26 *Final Application for Payment* is defined or described in Section 6.7 of these General Conditions of Contract and 8.4 of the Contract.

1.2.27 *Final Completion* is the date on which all Work, except for warranties, is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list and the submission of all documents set forth in Section 6.7.2 of these General Conditions of Contract.

1.2.28 *Force Majeure Events* are those unanticipated events that are beyond the control of both Design-Builder and County, including the events of war, floods, labor disputes (but not labor disputes unique to Design-Builder), earthquakes, pandemics, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God. Force Majeure Events shall not include known events or conditions (and associated Legal Requirements) to the extent in existence at the time of execution of the GMP Amendment.

1.2.29 *Fully burdened billing rate* is defined as the base hourly rate plus costs incurred by the employer for taxes, insurance, contributions, benefits and the like. Fully Burdened Billing Rates do not include Design-Builder's Fee.

1.2.30 *General Conditions of Contract* refer to this Document.

1.2.31 *GMP or Guaranteed Maximum Price* is defined or described in Section 7.7 of the Contract

1.2.32 *GMP Amendment* is an amendment to the Contract contingent upon County's approval of the Phase 2 Proposal as defined or described in Section 2.3.2.2 of the Contract.

1.2.33 *Hazardous Conditions* are any materials, wastes, substances, and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.34 *Legal Requirements* are all applicable federal, state, and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.35 *Notice to Proceed* is a formal written notice from County to Design-Builder instructing it to commence with all or some portion of the Work.

1.2.36 *Open-Book* means that all costs and expenses of any kind chargeable to the County shall be open and transparent to County. County has the right, directly or through agents or representatives of its choosing, to access and audit all information used or obtained by Design-Builder in formulating the price in Article 7 of the Contract. Any adjustment to price throughout the Project shall be made on an Open-Book basis as well. Open-Book pricing and payment procedures will not apply to a Lump Sum payment structure.

1.2.37 *Owner* is Snohomish County ("County").

1.2.38 *County's Initial Programming and Overview* are developed by or for County to describe County's program opportunities and objectives for the Project, including use, space, price, time, site, and expandability requirements, as well as other expectations or wants that may be used to evaluate the Design-Builder's performance of the Work. The County's Initial Programming and Overview are set forth in **Exhibit B** to the Contract.

1.2.39 *County's Representative* is defined or described in Section 10.1.2 of the Contract.

1.2.40 *County's Project Manager* is defined or described in Section 10.1.1 of the Contract.

1.2.41 *Inclusion Plan* is defined or described in Section 2.11.3 of these General Conditions of Contract.

1.2.42 *Owner's Representative* is defined as the professional consultant hired by the County to support the administration this Project and alternative contracting method.

1.2.43 *Owner Provided Information* will also be known as County Provided Information including those documents itemized and linked in **Exhibit A** to the Contract.

1.2.44 *Pass-Through Costs* is defined or described in Section 7.6.3 of the Contract.

1.2.45 *Phase 1 Work* is that portion of the Work defined and described in the Phase 1 Scope of Services and includes but is not limited to the development of the Phase 2 Proposal.

1.2.46 *Phase 1 Scope of Services* is the document attached to the Contract as **Exhibit D**.

1.2.47 *Phase 2 Work* is that portion of the Work defined and described in the GMP/Phase 2

Amendment.

1.2.48 *Phase 2 Proposal* is defined and described in Section 2.3 of the Contract.

1.2.49 *Project* is the Snohomish County Food & Farming Center and all Work associated herewith.

1.2.50 *Scheduled Substantial Completion Date* is the date set forth in the Contract, and the Master Project Schedule, at Section 6.2.1 and is subject to adjustment in accordance with these General Conditions of Contract.

1.2.51 *Site* is the land or premises on which the Project is located.

1.2.52 *Subcontractor* is any person or entity retained by the Project (Designer or Builder) as an independent contractor, or service provider, to perform a portion of the Work at any tier and shall include materialmen and suppliers.

1.2.53 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

1.2.54 *Substantial Completion* or *Substantially Complete* means the Work, except for agreed punch list items, is sufficiently complete in accordance with the Contract Documents such that County can occupy and use the Project or a portion thereof for its intended purposes, and Design-Builder has provided all documentation and other information as is required by Section 6.6 of these General Conditions.

1.2.55 *Work* is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring, and furnishing all materials, equipment, services, and labor reasonably inferable from the Contract Documents.

1.2.56 *Work Change Directive* is defined and described in Section 9.2 of these General Conditions of Contract.

1.2.57 *Work Product* is defined and described in Section 5.1 of the Contract.

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services.

2.1.1 Design-Builder's Representative shall be reasonably available to County and County's Project Manager and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Project Manager shall communicate regularly with County and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Project Manager, or any Key Staff, may be replaced only with the mutual agreement of County and Design-Builder. Design-Builder shall be lawfully licensed, bonded, and insured in the jurisdiction where the Project is located. The Design-Builder shall be and operate as an independent contractor in the performance of the Work and shall have complete control over and responsibility for all personnel performing the Work. The Design-Builder is not authorized to enter into any agreements or undertakings for or on behalf of the County or to act as or be an agent or employee of the County.

2.1.2 Design-Builder shall provide County's Project Manager with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; (iv) status of all costs and expenses of the Project to the extent provided for in the Contract; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work, within the GMP, for the Contract Price and within the Contract Time(s).

2.1.3 Pursuant to Section 2.3.1.4 of the Contract, Design-Builder shall prepare and submit a schedule for the execution of the Phase 2 Work for County's review and response (Project Schedule). The Project Schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when County information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The Project Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. County's review of, and response to, the Project Schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences, and techniques for executing the Work.

2.1.4 The parties will meet within seven (7) days after execution of the Contract to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.2 Design Professional Services.

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between County and any Design Consultant.

2.3 Standard of Care for Design Professional Services.

2.3.1 The standard of care for all design professional services performed to execute the Work shall be the (i) the care and skill necessary to comply with the requirements of this Contract and (ii) care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project, whichever is greater. Notwithstanding the preceding sentence, if the County's Initial Programming and Overview contains specific performance standards for any aspect of the Work, the design professional services shall be performed to achieve such standards.

2.4 Design Development Services.

2.4.1 Design-Builder and County shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that County may wish to review, which interim design submissions may include design criteria, drawings, diagrams, and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.4.1 hereof and Section 2.1.1 of the Contract. On or about the time of the scheduled submissions, Design-Builder and County shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable,

previously submitted design submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3 hereof, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, County shall review and approve the interim design submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

2.4.2 Design-Builder shall submit to County Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and County shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to County prior to commencement of construction.

2.4.3 County's review and approval of interim design submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Construction Documents compatible with the requirements of the Work. Neither County's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to County.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements.

2.5.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.6 Government Approvals and Permits.

2.6.1 Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

2.7 Design-Builder's Construction Phase Services.

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of County or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities, and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill, and competence to satisfy the requirements of the Contract Documents. Design-Builder shall always exercise complete and exclusive control over the means, methods, sequences, and techniques of construction.

2.7.3 Design-Builder shall employ only Subcontractors who are duly licensed in the state of Washington and qualified to perform the Work consistent with the Contract Documents. County

approves Subcontractors identified in Section 10.3 of the Contract as Key Firms and Key Personnel. County may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that County's decision impacts Design-Builder's cost and/or time of performance.

2.7.3.1 The Design-Builder shall include the language of this sub-paragraph in each of its first-tier subcontracts and shall require each of its Subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of County, Design-Builder shall promptly provide documentation to County demonstrating that the Subcontractor meets the subcontractor responsibility criteria below. The requirements of this subsection apply to all subcontractors regardless of tier. At the time of subcontract execution, Design-Builder shall verify that each of its first tier Subcontractors meets the following bidder responsibility criteria:

- a) If applicable, have a current certificate of registration as a contractor in compliance with Chapter 18.27 RCW, which must have been in effect at the time of subcontract award; (RCW 39.04.350(1)(a))
- b) Have a current Washington Unified Business Identifier (UBI) number (RCW 39.04.350(1)(b))
- c) If applicable, have:
 - i. Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW (RCW 39.04.350(1)(c));
 - ii. A Washington Employment Security Department number, as required in Title 50 RCW (RCW 39.04.350(1)(c));
 - iii. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW (RCW 39.04.350(1)(c));
 - iv. Not been found out of compliance by the Washington State Apprenticeship and Training Council under chapter 49.04 RCW for the one (1) year immediately prior to award (RCW 39.04.350(1)(e))
 - v. Receive training on the requirements related to public works and prevailing wages under Chapters 39.04 and 39.12 RCW (RCW 39.04.350(1)(f))
 - vi. For the 3-year period immediately preceding the date of award, it has not been determined by final and binding citation from Department of Labor and Industries to have willfully violated the provisions of RCW 49.48, 49.46, or 49.52. (RCW 39.04.350(1)(g))
- d) No Serious safety violations in the last 3 years as posted under Washington State's Labor and Industry's Workplace Safety & Health OSHA.

- e) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3) (RCW 39.04.350(1)(d).
- f) Registration in the federal System of Awards Management (SAM.gov), has a current Unique Entity ID, and are eligible for federal award with no active suspensions or debarments.
- g) If applicable hold an electrical contractor license, if required by Chapter 19.28 RCW;
- h) If applicable hold an elevator contractor license, if required by Chapter 70.87 RCW.
- i) If applicable hold a plumbing contractor license, if required by Chapter 18.106 RCW
- j) Attests that the business has not been found non-compliant with apprenticeship requirements under County Code (Chapter 3.05) for the two-year period immediately preceding the date of award.
- k) Evidence of holding the appropriate level of bonding and insurance required by the Design-Builder related to the work of the subcontract and naming the County as an additional insured with waiver of subrogation.
- l) Attestation of no conflicts of interests with the County or County staff

2.7.4 Design-Builder assumes responsibility to County for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between County and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.7.5 Design-Builder shall coordinate the activities of all Subcontractors. If County performs other work on the Project or at the Site with separate contractors under County's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.7.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery, and tools arising from the Work or applicable portions thereof to permit County to occupy the Project or a portion of the Project for its intended use.

2.7.7 Prevailing Wages: The Design-Builder must comply with the provisions of Chapter 39.12 of the Revised Code of Washington, relative to the employment of Washington residents at or above the prevailing wages for the specific type of work involved as determined by the United States Department of Labor and will be required to certify to this effect prior to each and any payments made by the County.

The prevailing rate of wages to be paid to all workers, laborers, or mechanics employed in the performance of any part of this Contract shall be in accordance with the provisions of chapter 39.12 RCW, and any amendments thereto. The rules and regulations of the Department of Labor and Industries and the Schedule of Prevailing Wage Rates for the locality or localities where this

contract will be performed as determined by the Industrial Statistician of the Department of Labor and Industries are by reference made a part of this contract as though fully set forth herein.

In case any wage dispute arises as to what are the prevailing rates of wages for work of a similar nature, and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the Department of Labor and Industries and his or her decision shall be final and conclusive and binding on all parties involved in the dispute as provided for by RCW 39.12.060, or as amended.

The Design-Builder shall acquaint itself with all conditions affecting labor rates and impending negotiations for labor agreements. The Design-Builder shall pay new schedules, when and if required, without additional cost to the County.

Forms may be obtained from the Department of Labor & Industries. The fees for each "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" shall accompany each form submitted to the Department of Labor & Industries. The Design-Builder is responsible for payment of these fees and shall make all applications directly to the Department of Labor & Industries. Such application, and any supplemental statements which may be necessary, shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

Prior to commencing work, each Design-Builder and each and every Subcontractor (subject to prevailing wage) shall file a sworn "Statement of Intent to Pay Prevailing Wages" (L&I Form #F700-029-000) with the Department of Labor and Industries certifying the rate of hourly wages to be paid each classification of laborers, workers, or mechanics employed upon the work by the Design-Builder or Subcontractor which shall be not less than the prevailing rate of wage. Fringe benefits for each job classification to be utilized shall also be included.

Prior to any payment, the Design-Builder and each Subcontractor shall submit to the County a "Statement of Intent to Pay Prevailing Wages" approved by the Washington State Department of Labor & Industries.

Each voucher claim or invoice submitted by a Design-Builder for payment on a project shall state: "Prevailing wages have been paid in accordance with the pre-filed Statement of Intent to Pay Prevailing Wages on file with the public agency in accordance with RCW 39.12.04". Each invoice shall list sales tax as a separate line item.

Retainage shall be held by the County in accordance with Chapter 60.28 RCW.

For projects over \$10,000, the Design-Builder must post an approved copy of the Statement of Intent, (listing the labor classification and wages used on the project) at the job site. In the event the Statement of Intent has not been approved by the Department of Labor & Industries before work begins, the complete listing of prevailing wage rates for that County may be posted and distributed in lieu of the approved Statement of Intent.

The Design-Builder shall, within ten days after it receives a written request, file a certified copy of the payroll records with the County.

Upon completion of work, the Design-Builder and each and every Subcontractor (subject to pay prevailing wage) shall file a sworn "AFFIDAVIT OF WAGES PAID" (L&I Form #F700-007-000) with the Department of Labor and Industries certifying the rate of hourly wages paid each classification of laborers, workers, or mechanics employed upon the work by the Design-Builder or subcontractor which shall be not less than the prevailing rate of wage. Fringe benefits for each job classification to be utilized shall also be included.

Upon completion of this contract, the County must receive from the Design-Builder and each and every Subcontractor (subject to prevailing wage) a copy of the "Affidavit of Wages Paid" approved by the State Department of Labor & Industries. Retainage, or Bond, will be released upon receipt of all necessary documentation (including but not limited to releases from the Department of Labor & Industries, Department of Employment Security and, when applicable, Department of Revenue), the settlement of any liens, and in accordance with Chapter 60.28 of the Revised Code of Washington.

The County is required by RCW 39.12.030 to include a provision stating the required prevailing rate(s) in the solicitation and contract documents. To comply with this requirement, the County is providing the following applicable prevailing wage rate information:

A. State of Washington prevailing wage rates published by the Washington State Department of Labor and Industries (L&I) are obtainable from the L&I website address:

<https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>

B. This project is located in Snohomish County; therefore, the Snohomish County wage rates must be used.

C. The effective prevailing wage date is the same date as the Execution Date of the Phase 2 Amendment.

A copy of the applicable prevailing wage rates are also available for viewing at the County's Purchasing office located in the Robert J. Drewel Building, 6th Floor, 3000 Rockefeller Avenue, Everett, WA 98201.

Upon request, the County will mail a hard copy of the applicable prevailing wage rates for this Project.

- 2.7.8** Certified payrolls are to be submitted during phase 2 through the prevailing wage affidavits system and should be verified by the County monthly prior to releasing any payments.

2.8 Design-Builder's Responsibility for Project Safety.

2.8.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors, and others as applicable.

2.8.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any County-specific safety requirements set forth in the Contract Documents, provided that such County-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to County's Representative and, to the extent

mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.8.3 Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

2.8.4 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work, including observance of drug testing and all smoking, tobacco, drug, alcohol, parking, safety, weapons, background checks, sexual harassment, and other rules governing the conduct of personnel at the County's property and at the Project Site. No change to the GMP or Contract Time, the Design-Builder shall remove from the Work and Work Site any employee or other person pursuant to this Section 2.8.4. Failure to comply with these requirements is grounds for immediate termination of the Contract for Cause.

2.8.5 The Design-Builder shall comply with the pertinent provisions of RCW 49.17, "Washington Industrial Safety and Health Act," and Ch. 296-155 WAC, "Safety Standards for Construction Work."

2.8.6 Pursuant to RCW 49.70, "Worker and Community Right to Know Act," and WAC 296-307-560 et seq., the Design-Builder shall provide the County copies of and have available at the Project Site a workplace survey and material safety data sheets for all "hazardous" chemicals under the control or use of Design-Builder or any Subcontractor of any tier at the Project Site.

2.8.7 A Site-specific Covid-19 safety plan is required. The Design-Builder shall prepare and implement a Site-specific Covid-19 safety plan, which complies with applicable construction job site requirements as established by the state of Washington's Phased Business Activity Guidelines. The Covid-19 safety plan must be available at the job site and readily available upon request for inspection by state and local authorities. The Design-Builder shall designate a supervisor in its Site-specific Covid-19 safety plan. The Design-Builder shall fully implement the safety plan and provide regular status updates relative to compliance at each progress meeting.

2.9 Warranties and Guaranty.

2.9.1 Design-Builder warrants to County that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Work, materials, or equipment not conforming to these requirements, including substitutions not properly approved and authorized, are considered defective. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides County with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide County with all manufacturers' warranties upon Substantial Completion.

2.10 Correction of Defective Work.

2.10.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents or otherwise unacceptable to the County ("Defective Work"), including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Final Completion or within such longer period to the extent required by any specific warranty included in the Contract Documents.

2.10.2 Design-Builder shall, within seven (7) days of receipt of written notice from County that the Work is Defective, submit a corrective action plan that details steps to correct Defective Work, including the correction, removal or replacement of the defective Work and any damage caused to other parts of the Work affected by the Defective Work.

The County will review and approve a corrective action plan and provide authorization to commence corrective action. If Design-Builder fails to start corrective action within seven (7) business days, or as otherwise approved by the County, the County, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder's Bonding Agent with written notice of defective work and Design-Builder corrective action plan. The conditions of the Performance Bond will be enforced.

If in the event the County must correct the Defective Work, Design-Builder shall be responsible for all costs incurred by County in performing such correction. If the Defective Work creates an emergency requiring an immediate response, emergency response costs are also the responsibility of the Design-Builder.

2.10.3 The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct Defective Work and is not intended to constitute a period of limitations for any other rights or remedies County may have regarding Design-Builder's other obligations under the Contract Documents.

2.11 Non-Discrimination.

2.11.1 Design-Builder shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. Design-Builder shall not participate either directly or indirectly in such discrimination, including discrimination in employment practices. The Design-Builder shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this contract constitutes a certification by the Design-Builder of the Design-Builder compliance with the requirements of Chapter 2.460 SCC. In the event of Design-Builder's noncompliance with the nondiscrimination provisions of the Contract Documents or Chapter 2.460 SCC, County shall impose such sanctions as it, or the County's funding agencies, may determine to be appropriate, including, but not limited to: (a) withholding of payments to Design-Builder until Design-Builder complies, and (b) termination or suspension of the Contract, in whole or in part.

2.11.2 Design-Builder shall comply with all requirements of the federal Civil Rights Act included in Attachment G to Contract.

2.11.3 Pursuant to the Design-Builder's proposed Subcontracting and Inclusion Plan, the Design-Builder shall actively and in good faith provide opportunities for underutilized, disadvantaged, and/or small businesses as subcontractors, subconsultants, and/or suppliers in the performance of the Work. As part of the Subcontracting and Inclusion Plan, the Design-Builder shall implement an outreach strategy, the Subcontracting and Inclusion Plan will be reviewed, and approved by the County prior to the execution of this Contract. The Subcontracting and Inclusion Plan will outline the proactive strategies, resource commitments, and specific steps the Design-Builder will take to effectively engage these firms for utilization and performance on this Project. The Design-Builder shall furnish evidence of its compliance with the Subcontracting and Inclusion Plan with the monthly project report.

As used in this section, these firms may include, but are not limited to, firms certified by the Office of Minority and Women Owned Enterprises (OMWBE), the US Government, registered with other relevant agencies, or those that are self-identified and accepted by the County.

2.12 Apprenticeship.

The Design-Builder shall comply with the apprenticeship requirements set forth in chapter 3.05 SCC (Snohomish County Code).

The apprenticeship utilization participation goal for the Project is fifteen percent (15%) of total project labor hours performed by registered Apprentices with the Washington State Apprenticeship and Training Council (WSATC). "Labor hours" refers to the total number of hours worked by workers receiving an hourly wage who are directly employed by the Design-Builder and all subcontractors at any tier on the Project.

Prior to execution of Phase 2/GMP amendment, Design-Builder will submit to the County an Apprentice Utilization Plan, in substantially the same form located at: <https://www.snohomishcountywa.gov/2361/Apprenticeship>. The Apprentice Utilization Plan must detail the Design-Builder's plan to utilize registered apprentices to perform at least fifteen percent (15%) of the total project labor hours. The Design-Builder shall update the Apprentice Utilization Plan throughout the project (Subcontracting and Inclusion Plan) to reflect changes to its plan to meet the labor hour goal.

From the Phase 2 Notice to Proceed until project completion, the Design-Builder shall submit monthly reports to the County on its apprenticeship utilization, including progress toward apprenticeship goals. Reports shall reflect actual progress toward the apprenticeship utilization goals in all applicable trades as identified in the apprenticeship plan. The Design-Builder shall include a revised Apprentice Utilization Plan when changed conditions or circumstances affect the method or schedule of the Design-Builder's previously submitted plan to meet the labor hour goal.

Failure by the Design-Builder to comply with the apprenticeship requirements set forth in chapter 3.05 SCC or this Contract, unless otherwise waived or reduced by the Executive or designee in writing pursuant to SCC 3.05.040, shall be deemed a breach of contract for which the County shall be entitled to all remedies allowed by law and under the contract. Failure to comply with the apprenticeship requirements may also be considered as evidence bearing on the Design-Builder's qualification for award of future contracts with the County.

2.13 Federal Requirements

The Design-Builder shall comply with all federal grant requirements set forth in **Exhibit I** hereto.

Article 3

County's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 County shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations, and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 County shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in the Project Schedule.

3.1.3 County shall give Design-Builder timely notice of any Work that County notices to be defective or not in compliance with the Contract Documents.

3.2 Furnishing of Services and Information.

3.2.1. Owner Provided Information. County has provided Design-Builder with access to the Owner Provided Information (the "Owner Provided Information") but, Design-Builder is only entitled to rely on the Owner Provided Information listed in **Exhibit A** to the Contract. The items not included in Exhibit A are not Contract Documents and County provides such Owner Provided Information to Design-Builder for information only.

3.2.2 Except as otherwise provided in the Contract Documents, County is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. County is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Reserved.

3.4 County's Representative.

3.4.1 County's Representative shall be responsible for providing County-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. County's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions, or defects in the performance of the Work. Provided, however, that the failure of County's Representative to provide such notice shall not relieve Design-Builder from the obligation to perform the Work and deliver the Project in a manner consistent with its obligations under the Contract Documents. County's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of County.

3.5 Government Approvals and Permits.

3.5.1 Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees for the Project, that are not required by law to be obtained by the County.

3.6 County's Separate Contractors.

3.6.1 County is responsible for all work performed on the Project or at the Site by separate contractors under County's control. County shall contractually require its separate contractors to cooperate with and coordinate their activities so as not to interfere with, Design-Builder to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Conditions and Differing Conditions

4.1 Hazardous Conditions.

4.1.1 Design-Builder and Owner understand and acknowledge that preliminary assessments of the Project site indicate the likely presence of Hazardous Conditions.

4.1.2 Design-Builder has been or will be retained to (a) during the Validation Phase perform assessments, reviews and investigations reasonably necessary to identify any existing Hazardous Conditions at the Project Site, (b) during Phase 1 develop an appropriate strategy and/or plan to remediate, rehabilitate and or mitigate the impact of such Hazardous Conditions at

the Project Site and upon the Project Work; and (c) conduct remediation, rehabilitation and/or mitigation work during Phase 2 of the Project, in accordance with the approved Contract Documents.

4.1.3 Design Builder shall perform all Project work associated with Hazardous Conditions in accordance with applicable Legal Requirements, including (as appropriate) obtaining all necessary approvals from all government and quasi-government entities having jurisdiction over the Project or Site.

4.1.4 If Design-Builder seeks to have the GMP or the Contract Time, or both, adjusted due to the existence of a Hazardous Condition, Design-Builder shall comply with the provisions of Article 9. Design-Builder **shall not** be entitled to any adjustment in the Contract Price or Contract Time if:

- a) Design-Builder knew of the existence and extent of the Hazardous Condition at the time Design-Builder and County negotiated this Contract; or
- b) Design-Builder failed to comply with Article 9; or
- c) Design-Builder knew, or should have known using a reasonable standard of care, of such Hazardous Conditions as a result of its agreed-upon Validation/Phase 1 Work but failed to communicate such conditions, document such conditions in the Contract Documents, or otherwise take into account the conditions when designing the Project.

4.1.5.1 To the fullest extent permitted by law, Design-Builder shall indemnify, defend, and hold harmless County and County's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, to the extent caused by the negligence, intentional misconduct of, or breach of this Contract by Design-Builder, Subcontractors or anyone for whose acts they may be liable in performing its Work at or around known Hazardous Conditions encountered at the Site (including any preexisting Hazardous Conditions about which the Design-Builder knew, or should have known using a reasonable standard of care, or Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable).

4.1.5.2 To the fullest extent permitted by law, the County shall indemnify, defend and hold harmless the Design-Builder, Subcontractors, Design Consultant, Engineer and consultant, agents and employees of any of and against claims, damages, losses, and expenses, including but not limited to attorneys' fees to the extent caused by the negligence or intentional misconduct or breach of this Contract by the County or anyone for whose acts they may be liable due to Hazardous Conditions if the material or substance presents a risk of bodily injury or death and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to (a) the fault or negligence of the party seeking indemnity or (b) a Hazardous Condition about which Design-Builder knew or should have known using a reasonable standard of care.

4.1.6 Design Builder shall not use or otherwise incorporate any asbestos-containing materials or products in the Work. At the time of final acceptance, Design-Builder shall submit a letter to the County that no asbestos-containing materials or products have been installed in the building in violation of this contractual provision and applicable laws.

4.1.7 Training and Reporting

4.1.7.1 All workers onsite who are involved in demolition, construction, installation, or

excavation activities must have current Asbestos Awareness Training, as required by WAC 296-62-07722(6).

4.1.7.2 Prior to bringing onsite any chemicals listed in 6 CFR part 27, Appendix A, the Design-Builder shall submit for itself and for all Subcontractors a completed "Contractor Declaration and Reporting Form for Department of Homeland Security – Chemicals of Interest."

4.1.8 General Requirements When Design-Builder Performs Hazardous Conditions Abatement

4.1.8.1 SUPERVISORY AUTHORITY: Design-Builder assumes all responsibilities and shall perform all required work under applicable regulations related to its supervisory authority over Subcontractors and personnel performing work related to hazardous materials.

4.1.8.2 ACCESS RESTRICTIONS: Work described in the Contract Documents includes restriction of access to work areas during hazardous materials activities. Access to various work areas by the general public, Subcontractors, and other individuals will not be possible during certain hazardous materials work sequences, as specified in the Contract Documents. Design-Builder shall coordinate the Work to facilitate access by Subcontractors while enforcing work area restrictions and shall minimize disruption to building occupants and services.

4.1.8.3 WORKING HOURS: No hazardous materials work shall occur when building users have access to work areas. Schedule all hazardous materials work to occur in accordance with schedule requirements outlined elsewhere in the Contract Documents, and when work areas have been vacated by building users.

4.1.8.4 EMERGENCY CONTACTS: Designated qualified representatives of the Design-Builder and specific hazardous materials Subcontractors are to be available on a 24-hour emergency basis for the duration of the Work. Provide contact information to the County's Representative for inclusion in the Project emergency contact list.

4.1.8.5 GENERAL HAZARDOUS MATERIALS SUBMITTALS: Design-Builder shall review the scope of work and submittal requirements outlined in the Contract Documents. Design-Builder shall submit and require all subcontractors performing the work of handling or disposing of any hazardous materials to submit, pertinent information required by the Contract Documents. Examples of work and impact may include abatement, demolition, saw cutting, roto-hammering, welding, sanding, drilling, scraping or other remodeling and metals-related impact, impact of asbestos-containing joint compound or other material with <1% asbestos, PCB ballast removal or light tube removal and disposal.

4.1.8.6 REGULATIONS, LAWS, and ORDINANCES: Design-Builder shall comply with all applicable regulations, laws and ordinances concerning the impact, removal, handling, storage, disposal, monitoring and protection against exposure or environmental pollution related to hazardous or regulated materials and conditions. Impacts to hazardous or regulated materials that may be required by the Work may include, but are not limited to: manual demolition, mechanical demolition, cutting, sawing, drilling, sanding, scraping, welding, power-washing or torch-cutting. Confirm required impacts with other applicable specification sections and drawing sheets. Design-Builder shall furnish all labor, materials, equipment, services, and insurance that is specified, shown, or reasonably implied for the removal and handling of hazardous materials as part of the Work.

4.2 Differing Site Conditions.

4.2.1 Differing Site Conditions. If Design Builder encounters conditions that were concealed physical conditions that could not have reasonably been discovered, which differ materially from those indicated in the Validation Report, Contract Documents, or unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents (collectively, a "Differing Site Condition"), then Design Builder shall give written notice to County within five business days after becoming aware of or having encountered such condition. Design-Builders shall not perform any Work in connection therewith (except for an emergency) until receipt of written order to do so. After receipt of such written notice, County will promptly review the pertinent condition.

4.2.2 Possible GMP and Contract Time Adjustments

4.2.2.1 If Design-Builders seeks to have the GMP or the Contract Time, or both, adjusted due to the existence of a Differing Site Condition, Design-Builders shall comply with the provisions of Article 9 in addition to the requirements of this Section 4.2.

4.2.2.2 Design-Builders **shall not** be entitled to any adjustment in the Contract Price or Contract Time if:

- a) Design-Builders knew of the existence and extent of such conditions at the time Design-Builders and County negotiated this Contract; or
- b) Design-Builders failed to give the written notice as required by Section 4.2 and/or comply with Article 9; or
- c) Design-Builders knew, or should have known, of such conditions during Validation/Phase 1 of the Project but failed to identify such conditions, document such conditions in the Contract Documents, or otherwise take into account the conditions when designing the Project.

4.2.2.3 If Design-Builders complies with the provisions of Article 9 and this Section 4.2 and County and Design-Builders are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the GMP or Contract Time, or both, a Claim may be made by Design-Builders as provided in Article 10.

Article 5

Insurance and Bonds

5.1 Insurance. The Design-Builders shall provide insurance consistent with and in accordance with the requirements of Article 11 of the Contract.

5.2 Bonds. The Design-Builders shall provide performance and payment bonds consistent with and in accordance with the requirements of Article 11 of the Contract.

Article 6

Payment

6.1 Schedule of Values.

6.1.1 The Design-Builder shall submit a Schedule of Values at least 15 days prior to submitting its first Application for Payment. The Schedule of Values shall reasonably allocate the Contract Sum among the various portions of the Work; be complete; be organized to include detailed breakdown of each major unit of the Work; be organized to correspond to Design-Builder's schedule; break down the Contract Sum showing the value assigned to each part of the Work; be so organized as to facilitate assessment of work and payment of Subcontractors; and be balanced. To the greatest extent possible, the breakdown shall use the same tasks or units as the Design-Builder's Master Project Schedule. Design-Builder shall provide documentation substantiating the cost allocation if asked by the County. Upon acceptance of the Schedule of Values by the County, it shall be used as a basis for all requests for payment.

6.1.2 The County will timely review and approve the Schedule of Values so as not to delay the submission of the Design-Builder's first application for payment. The County and Design-Builder shall timely resolve any differences so as not to delay the Design-Builder's submission of its first application for payment.

6.2 Payments.

County shall make payments for Validation Services, Phase 1 Services, and Phase 2 Services in accordance with Section 8 of the Contract.

6.3 Withholding of Payments.

6.3.1 On or before the date established in the Contract, County shall pay Design-Builder all amounts properly due, less statutory retainage. If County determines that Design-Builder is not entitled to all or part of an Application for Payment because of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts County intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify County's concerns. Design-Builder and County will attempt to resolve County's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, to resubmit disputed amounts.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, County shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Contract.

6.4 Reserved.

6.5 Design-Builder's Payment Obligations.

6.5.1 Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from County on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend County against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.6 Substantial Completion.

6.6.1 Design-Builder shall notify County when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of

County's receipt of Design-Builder's notice (and all required documents and information), County and Design-Builder will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, County shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing County's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion. Design-Builder's notice shall include the following documents and information:

6.6.1.1 An affidavit certifying that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work through the date of the notice which will in any way affect County's interests;

6.6.1.2 All operating manuals, warranties, record documents and other deliverables required by the Contract Documents; and

6.6.1.3 A signed and stamped set of all calculations supporting the design of the Project.

6.6.2 Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, County shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion, and subject to the Retainage requirements of RCW 60.28 and Section 8.3 of the Contract.

6.6.3 County, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and County have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) County and Design-Builder agree that County's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment.

6.7.1 After receipt of a Final Application for Payment from Design-Builder, together with all information required by Section 6.7.2 below, County shall make final payment by the time required in the Contract if Design-Builder has achieved Final Completion.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

6.7.2.1 An affidavit certifying that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect County's interests;

6.7.2.2 A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to County and remaining unsettled at the time of final payment;

6.7.2.3 Consent of Design-Builder's surety, if any, to final payment;

6.7.2.4 All reports, records, training and operating manuals, warranties and other deliverables required by the Contract Documents; and

6.7.2.5 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.3 Reserved.

6.7.4 Deficiencies in the Work discovered after Substantial Completion, whether such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein and shall not be a reason to withhold final payment from Design-Builder, provided, however, that County shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

Article 7

Indemnification

7.1 Patent and Copyright Infringement.

7.1.1 Design-Builder shall defend, with counsel reasonably acceptable to County, any action or proceeding brought against County based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. County shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information, and assistance in the defense of same. Design-Builder shall indemnify and hold harmless County from and against all damages and costs, including but not limited to attorneys' fees and expenses incurred by or awarded against County or Design-Builder in any such action or proceeding. Design-Builder agrees to keep County informed of all developments in the defense of such actions.

7.1.2 If County is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely or in part to a particular process or product of a particular manufacturer specified by County and not offered or recommended by Design-Builder to County or (ii) arising from modifications to the Work by County or its agents after Substantial Completion. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, County shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless County in Section 7.1.1 above.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement or violation of any patent or copyright.

7.2 Tax Claim Indemnification.

7.2.1 If, in accordance with County's direction, an exemption for all or part of the Work is claimed for taxes, County shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with County's directive. County shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely.

7.3 Payment Claim Indemnification.

7.3.1 Provided that County is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless County from any claims or mechanic's liens brought against County or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from County that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, County will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.4 Design-Builder's General Indemnification. In addition to any other indemnification of defense obligation that Design-Builder may have under the Contract Documents, Design-Builder shall defend, indemnify, and hold County, its officers, officials, employees, and agents (the "Indemnified Parties") harmless from and against all claims, demands, losses, damages, or costs, including but not limited to damages arising out of bodily injury or death to persons and damage to property, caused by or resulting from:

7.4.1 The sole negligence or willful misconduct of Design-Builder or any of its Design Consultants or Subcontractors or Suppliers of any tier, or the agents or employees of same (collectively, the "Design-Build Parties");

7.4.2 The concurrent negligence of the Design-Build Parties, but only to the extent of the negligence of the Design-Build Parties;

7.4.3 A breach of this Contract by the Design-Build Parties;

7.4.4 The use of any design, process, or equipment which constitutes an infringement of any United States patent presently issued, or violates any other proprietary interest, including copyright, trademark, and trade secret.

In addition to a remedy authorized by law, the County may retain so much of the money due the Design-Builder as deemed reasonably necessary by the County to ensure the defense and indemnification of uninsured or unsecured obligations of this section until disposition has been made of such suits or claims.

Pursuant to RCW 4.24.115, claims, suits, or actions result from the concurrent negligence of (a) the Indemnified Parties and (b) the Design-Build Parties the indemnity provisions provided in the preceding paragraphs of this section shall be valid and enforceable only to the extent of the Design-Build Parties' negligence.

In any action against County and any other entity indemnified in accordance with this section, by any employee of Design-Builder, its consultants of any tier, Subcontractors, Sub-subcontractors, agents, or anyone directly or indirectly employed by any of them, the indemnification obligation of this section shall not be limited by a limit on the amount or type of damages, compensation, or benefits payable by or for Design-Builder or any consultant or Subcontractor under Title 51 RCW,

the Industrial Insurance Act, or any other employee benefit acts. In addition, Design-Builder waives immunity as to County only, in accordance with Title 51 RCW. The Design-Builder intends to indemnify, defend and hold the County harmless to the fullest extent allowed by applicable law. To the extent that applicable law invalidates any portion of this Section, the remainder shall be construed to provide the broadest protection to the County allowed by applicable law. The parties acknowledge that the foregoing waiver of RCW Title 51 immunity was mutually negotiated and that the provisions of this Section shall survive expiration or termination of this Contract by either party for any reason. The Design-Builder shall similarly require that each subcontractor it retains in connection with the project comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, and assume all liability for actions brought by employees of the subcontractor.

The County shall bear sole responsibility for damage to completed portions of the project and to property located off the project caused by erosion, siltation, runoff, or other related items during the construction of the project that do not directly result from the negligence or intentional misconduct of Design-Builder or any person or entity for which Design-Builder is responsible. The Design-Builder shall bear its proportionate share of responsibility for any pollution of rivers, streams, ground water, or other waters to the extent caused by the negligence or intentional misconduct of Design-Builder or any person or entity for which Design-Builder is responsible during construction operations.

The Design-Builder shall comply with all Legal Requirements throughout the life of the Project to prevent pollution, erosion, siltation, and damage to property.

Article 8

Time

8.1 Obligation to Achieve the Contract Times.

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 6 of the Contract. By executing the Contract, the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

8.2 Delays to the Work.

8.2.1 If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. Delays attributable to and within the control of a Subcontractor or supplier shall be deemed to be delays within the control of Design-Builder. By way of example, events that may entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of County or anyone under County's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events. Design-Builder shall make all reasonable efforts to prevent and mitigate the effects of any delay, whether occasioned by an act of Force Majeure or otherwise.

8.2.2 Design-Builder is not entitled to a change in Contract Time unless the progress of the Work on the critical path is delayed and completion of the Work within Contract Time is delayed. A Request for a Change Order that includes a request for an adjustment in the Contract Time shall be delivered to County in accordance with Article 9 herein and, in addition to any requirements in Article 9, shall:

- a. Include a clear explanation of how the event or conditions specifically impacted the critical path and overall construction schedule and the amount of the adjustment in Contract Time requested.
- b. Demonstrate that the delay could not have been avoided by re-sequencing of the Work or other reasonable alternatives.
- c. Be limited to the change in the critical path of a construction schedule, and any updates, attributable to the event or conditions which caused the request for adjustment.

8.3 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder may also be entitled to an appropriate adjustment of the GMP.

Article 9

Changes to the GMP and Contract Time

9.1 Authorized Changes in the Work

9.1.1 General. After execution of the Contract, Changes in the Work are effective solely by Change Order or Work Change Directive.

9.1.2 Change Order. A Change Order is a written instrument issued after execution of the Contract signed by County and Design-Builder, stating their agreement upon all of the following:

- 9.1.2.1** The scope of the change in the Work;
- 9.1.2.2** The amount of the adjustment to the GMP, if any; and
- 9.1.2.3** The extent of the adjustment to the Contract Time(s), if any.

A Change Order shall constitute full payment and final settlement of all Claims for Contract Time adjustment and for direct, indirect, and consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity, related to any Work either recovered or affected by the Change Order, or related to the events giving rise to the request for equitable adjustment.

9.1.3 Design-Builder Request for Change Order. Change Order requests may be initiated by Design-Builder in accordance with this subsection 9.1.3.

9.1.3.1 If Design-Builder believes that it is entitled to relief for any event or condition arising out of or related to the Work or Project, Design-Builder shall provide to County a written Notice of Intent to Submit a Request for Change Order no later than fourteen (14) days after the event or condition giving rise to the claim for relief.

9.1.3.2 Unless the County's Representative issues written notice authorizing Design-Builder additional time to submit the Request for Change Order, Design-Builder shall provide a written Request for Change Order to the County's Representative no later than 21 days after delivery of the Notice of Intent to Submit a Request for Change Order. The Request for Change Order must include (a) a description of the request, rationale, and specific provisions of the Contract Documents, (b)

specific dollar amount of the requested change to GMP, covering all costs associated with the requested Change Order; (c) specific request for change in Contract Time (number of days); and (d) all documentation supporting the Request for a Change Order, including but not limited to all cost records, schedule analysis, and the documents identified in the Contract Documents, that are in any way relevant to the Design-Builder's Request for Change Order.

9.1.3.3 Pending resolution of Design-Builder's Request for a Change Order, Design-Builder shall continue to perform all Work including, at the written request of the County, the work associated with the pending Request for Change Order.

9.1.3.5 If Design-Builder disagrees with denial of a Request for Change Order, the Design-Builder's sole remedy shall be to file a fully documented Claim in accordance with Article 10 within 30 days after Design-Builder's receipt of the denial or within thirty (30) days after the denial is deemed to have occurred under Section 9.1.3.4 above.

9.1.4 Unilateral Change Order. County may unilaterally issue a Change Order at any time, without invalidating the Contract and without notice to sureties. If any such Change Order causes an increase or decrease in the cost of, or time required for, performance of any part of the Work, County may make an adjustment in the GMP, Contract Time, or both, in accordance with the Contract Documents. If Design-Builder disagrees with the adjustment to the GMP or Contract Time as indicated in a Unilateral Change Order, Design-Builder's only remedy shall be to file a fully documented Claim in accordance with Article 10. Regardless of any such disagreement, the Design-Builder is required to continue with performance of all Work, including work associated with the Unilateral Change Order.

9.1.5 County Change Order Proposal. Change requests may be initiated by County through a Change Order Proposal submitted to Design-Builder. Such a request is for information and pricing only and is not an instruction to execute changes or to stop work in progress, unless issued as a Work Change Directive. Upon receipt of the County Change Order Proposal, the Design-Builder shall promptly submit its proposed costs and pricing. If County and Design-Builder agree to the terms of the cost and pricing for the proposed change, they shall execute a mutually acceptable Change Order to authorize the change.

9.2 Work Change Directives.

9.2.1 A Work Change Directive is a written order prepared and signed by County directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 County and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 Minor Changes in the Work.

9.3.1 Minor changes in the Work do not involve an adjustment in the GMP and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance, and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided,

however, that Design-Builder shall promptly inform County, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 GMP Adjustments.

9.4.1 The increase or decrease in GMP resulting from a change in the Work shall be determined by one or more of the following methods:

9.4.1.1 Unit prices set forth in the Contract or as subsequently agreed to between the parties;

9.4.1.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by County;

9.4.1.3 Costs, fees and any other markups set forth in the Contract; or

9.4.1.4 If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and County issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Contract .

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to County or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.5 Emergencies.

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury, or loss. Any change in the GMP and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

Article 10

Claims and Disputes

10.1 Condition Precedent to Filing a Claim. The following actions are a mandatory condition precedent to filing a Claim: (a) a Request for Change Order is denied or deemed denied by the County or (b) a Unilateral Change Order is issued by the County.

10.2 Claim Deadline. Unless otherwise agreed to in writing by the County, a fully documented Claim shall be received by the County within thirty (30) days after the denial of a Request for Change Order, or, in the case of a Unilateral Change Order, Design-Builder's receipt of County's decision regarding Contract Time or GMP adjustments pursuant to the Unilateral Change Order. Failure to comply with the time requirements set for filing a Claim shall constitute acceptance by the Design-Builder, on behalf of itself and its Subcontractors and suppliers, of the Unilateral Change Order or the County's denial of a Request for Change Order. Such acceptance shall be considered complete, full, and final settlement of all costs, damages, and Claims related to or arising from the Request for Change Order or Unilateral Change Order.

- 10.3 Design-Builder's Obligation to Continue Work.** Pending final decision of a Claim hereunder, the Design-Builder shall proceed diligently with the performance of the Work, including that work associated with the Claim, and maintain its progress with the Work. Failure to proceed as required herein shall constitute grounds for termination for cause under Article 11.
- 10.4 Information Required in a Fully Documented Claim.** Every Claim must be submitted by Design-Builder, in writing and clearly designated by Design-Builder as a fully documented Claim. At a minimum, a fully documented Claim must contain the following information:
- 10.4.1** A detailed factual statement of the Claim providing all necessary details, locations, and items of Work affected;
 - 10.4.2** The date on which facts arose that gave rise to the Claim;
 - 10.4.3** The name of each person employed or associated with Design-Builder, Subcontractors, suppliers, and/or the County with knowledge about the event or condition which gave rise to the Claim;
 - 10.4.4** Copies of documents and a written description of the substance of any oral communications that concern or relate to the Claim;
 - 10.4.5** The specific provisions of the Contract Documents on which the Claim is based;
 - 10.4.6** If an adjustment in the GMP is sought, the exact amount sought, calculated in accordance with the Contract Document and accompanied by all records supporting the Claim;
 - 10.4.7** If an adjustment in the Contract Time is sought, the specific days and dates for which it is sought; the specific reason Design-Builder believes an adjustment in the Contract Time should be granted; and Design-Builder's analyses of its construction schedule, any specific schedule analysis as required by the Contract Documents, and all updates to demonstrate the reason for the adjustment in Contract Time; and,
 - 10.4.8** A statement certifying, under penalty of perjury, that after the exercise or reasonable diligence and investigation the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of the Design-Builder's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the GMP or Contract Time for which Design-Builder believes the County is liable.
- 10.5 Cooperation/Claims Audit.** Design-Builder shall cooperate with County or its designee in the evaluation of its Claim and provide all information and documentation requested by County or its designee. Claims filed against County shall be subject to audit at any time following the filing of the Claim. Failure of Design-Builder, or Subcontractors of any tier, to maintain and retain reasonably sufficient records to allow County to verify all or a portion of the Claim or to permit County access to the books and records of Design-Builder, or Subcontractors of any tier, shall constitute a waiver of that part of the Claim and shall bar any recovery on that part of the Claim.
- 10.6 County Evaluation of Claim.** After Design-Builder has submitted a fully documented Claim that complies with Article 10, County shall respond, in writing, to Design-Builder within sixty (60) days from the date the fully documented Claim is received with a decision regarding the Claim. The Claim shall be deemed denied upon the 61st day following receipt of the Claim by County. Any Claims not fully resolved must be submitted to Dispute Resolution in accordance with Section 10.7.
- 10.7 Dispute Avoidance and Resolution.**

10.7.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other through the life of the Project, to avoid or minimize disputes or disagreements.

If disputes or disagreements do arise, Design-Builder and County each commit to resolving such disputes or disagreements in an amicable, professional, and expeditious manner to avoid unnecessary losses, delays, and disruptions to the Work. If a matter cannot be resolved through the Design-Builder, County, and the County's Owner Representative, Design-Builder's Principal-In-Charge/Signatory and County's Signatory, upon the request of any party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve any issue.

10.7.2 If after meeting the Design-Builder's PIC and the County's Signatory, determine that the dispute cannot be resolved on terms satisfactory to both parties, the parties shall submit within thirty (30) days of the conclusion of the meeting a formal Claim and request facilitated, non-binding mediation.

The mediation shall be conducted by a mutually agreeable impartial mediator. If the parties have not reached an agreement on a mediator within thirty (30) days of the request, either party may submit the unresolved claims or disputes to JAMS, Seattle, Washington, or such other alternative dispute resolution service to which the parties mutually agree, for appointment of a single mediator. The parties to the mediation shall share the mediator's fee and any filing fees equally. The mediation shall be held near the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

10.8 Litigation. Any Claims, disputes or controversies between the parties arising out of or relating to the Contract, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.7 above shall be decided by litigation, unless the parties mutually agree in writing otherwise. All unresolved Claims of Design-Builder shall be waived and released unless Design-Builder has complied with the time limits of the Contract Documents, and litigation is served and filed within the earlier of (a) 120 days after the Date of Substantial Completion of all the Work designated in writing by County or (b) 60 days after Final Completion. This requirement cannot be waived except by an explicit written waiver signed by County and Design-Builder. The pendency of mediation shall toll these deadlines until the earlier of the mediator providing written notice to the parties of impasse or 30 days after the last mediation session ended with no further sessions scheduled by the mediator.

10.9 CONSEQUENTIAL DAMAGES.

10.9.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.9.2 BELOW), NEITHER DESIGN-BUILDER NOR COUNTY SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING. Costs and damages for which County shall not be liable under any circumstances include but are not limited to: (a) borrowing or interest costs, charges, or expenses of Design-Builder; (b) alleged lost profit or overhead on any other project; and (c) Design-Builder's failure or inability to obtain other work.

10.9.2 The consequential damages limitation set forth in Section 10.9.1 does not waive and does not otherwise affect (1) any payment of liquidated damages that may be established by the parties, and which would be intended, in part, to reimburse the County for some damages that might otherwise be deemed to be consequential; or (2) the County's entitlement to actual direct damages arising out of or related to breach of this Contract by the Design-Builder.

Article 11

Stop Work and Termination for Cause

11.1 County's Right to Stop Work.

11.1.1 County may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work.

11.1.2 Design-Builder is entitled to seek an adjustment of the GMP and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by County.

11.2 County's Right to Perform and Terminate for Cause.

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then County, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, County may provide written notice to Design-Builder that it intends to terminate the Contract unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then County may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then County may declare the Contract terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Contract terminated pursuant to Section 11.2.2 above, County may enter the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work. The Design-Builder agrees to properly secure and store all materials, equipment or similar and transfer, assign, or turn over same as necessary to properly use, install and warrant such materials or equipment in the completion of the Work .

In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents., if the Contract establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed under this Contract. If County's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to County. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by County in connection with the re-procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

11.2.4 If County improperly terminates the Contract for cause, the termination for cause will be considered a termination for convenience in accordance with the provisions of Article 9 of the Contract.

11.3 Reserved.

11.4 Design-Builder's Right to Terminate for Cause.

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Contract for cause for the following reasons:

11.4.1.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by County under Section 11.1.1 hereof, provided that such stoppages are not due to Force Majeure Events, the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

11.4.1.2 County's failure to provide Design-Builder with any information, permits or approvals that are County's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though County has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

11.4.1.3 County has failed to pay Design-Builder in accordance with the requirements of the Contract Documents.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to County that it intends to terminate the Contract unless the problem cited is cured, or commenced to be cured, within thirty (30) days of County's receipt of such notice. If County fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to County of its intent to terminate within an additional seven (7) day period. If County, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Contract terminated for default by providing written notice to County of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if County had terminated the Contract for its convenience under Article 9 of the Contract.

11.5 Bankruptcy of Design-Builder.

11.5.1 If Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code, such event may impair or frustrate the County's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

11.5.1.1 The Design-Builder, its trustee or other successor, shall furnish, upon request of the County, adequate assurance of the ability of the Design-Builder to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

11.5.1.2 The Design-Builder shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Contract within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Design-Builder fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Contract, declare the Contract terminated and pursue any other recourse available to the County under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the County to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code.

Article 12

Electronic Data

12.1 Electronic Data.

12.1.1 The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among County, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

12.2 Transmission of Electronic Data.

12.2.1 County and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

12.2.2 Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Contract, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated, or interpreted.

12.2.3 By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 5 of the Contract. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

12.3 Electronic Data Protocol.

12.3.1 The parties acknowledge that Electronic Data may be altered or corrupted, intentionally, or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

12.3.2 Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

12.3.3 The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

12.3.4 The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

Article 13

Miscellaneous

13.1 Confidential Information. Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies the information in writing as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project. Except for Confidential Information as defined above, all proceedings, records, contracts, and other public records relating to public works are open to the inspection of any interested person, firm, or corporation in accordance with RCW 42.56, Public Records Act of the State of Washington.

13.2 Assignment. Neither Design-Builder nor County shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

13.3 Successorship. Design-Builder and County intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors, and assigns.

13.4 Governing Law. The Contract and all Contract Documents shall be governed by the laws of the State of Washington without giving effect to its conflict of law principles. Exclusive venue for any dispute arising out of this Contract shall be in Snohomish County Superior Court. Design-Builder shall include a "Stipulation of Venue in Snohomish County" in all subcontracts hereunder. Should the Design-Builder or any member of the Design-Build Team be a non-resident of Washington State, each shall designate a Washington resident as agent upon whom process may be served before commencing work under this Contract.

13.5 Severability. If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

13.6 No Waiver. The failure of either Design-Builder or County to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

13.7 Headings. The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

13.8 Notice. Whenever the Contract Documents require that notice be provided to the other party, notice shall be provided consistent with Section 12.3 of the Contract.

13.9 Amendments. The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

13.10 Public Records. This contract and all public records associated with this contract 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 Design-Builder are needed for the County to respond to a request under the Act, as determined by the County, the Design-Builder agrees to make them promptly available to the County. If the Design-Builder 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 Design-Builder 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 Design-Builder 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 Design-Builder (a) of the request and (b) of the date that such information will be released to the requester unless the Design-Builder obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Design-Builder 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 Design-Builder to claim any exemption from disclosure under the Act. The County shall not be liable to the Design-Builder for releasing records not clearly identified by the Design-Builder as confidential or proprietary. The County shall not be liable to the Design-Builder for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

-END OF GENERAL CONDITIONS-

EXHIBIT D
PHASE 1 AND 2 SCOPE OF SERVICES

[DISCLAIMER: This document is a draft and contains the anticipated scope of services and deliverables for the County's Food and Farming Center Project to be provided during Phase 1 and 2. The Validation Phase scope has been negotiated and is attached as Exhibit E. This is provided as a draft so staffing and level of efforts may be discussed during the selection of the Design-Builder.

The County anticipates the following scopes and services to be performed unless modified or negotiated. Any proposed approach and/or proposal element that is accepted by the County, will be incorporated into the final Scope of Services.]

(Draft) Design Build Scope of Services

PHASE 1

PROJECT DEFINITION AND DESIGN DEVELOPMENT

Phase 1 will cover all work related to programming, planning, and designing all aspects of the Project, leading up to the County's acceptance of the Guaranteed Maximum Price (GMP) and Phase 2 Proposal. All Work and Services shall be performed in the spirit and intent for which is stated, and in accordance, with the Contract Documents.

All work product, deliverables, reports or similar shall be in a format acceptable to the County.

Scopes, Services and Work described need not be sequential or linear. The Design-Builder is free to perform scopes in any phase, at any time, should the County agree. All Work will be broken down by task and included on the Project Schedule.

A. Validation and Critical Information

Upon Notice to Proceed (NTP), unless otherwise awarded, the Design-Builder shall finalize the scope, schedule, and budget for Validation and submit to the County to review and approve. The Validation Plan proposal will include detailed tasks, a schedule, staffing and subconsultant/vendor usage with rates, and similar. As agreed, and negotiated, a Validation Plan will be Not-to-Exceed (NTE) and will include all costs and expenses necessary to define the Project and to propose a Phase 1 plan. The Validation Plan will also include the next iteration of the Subcontracting and Inclusion Plan capturing the subcontractors, vendors, service providers, and similar entities performing Validation activities.

The scope will include the Design-Builder's assessment and investigation tasks that the Design-Builder believes is critical and necessary to successfully program, design and construct the Project. Any information provided by the County is for reference only and may be deemed "not necessary" by the Design-Builder.

As part of the Validation Plan, the Design-Builder shall provide the County with a **Critical Information List (CIL)** for review and concurrence. The CIL will communicate to the County all studies, exploratory work, authorities having jurisdiction, regulatory oversight, and specific technical analysis that the Design-Builder determines to be necessary to investigate/evaluate and to provide options and recommendations for the Project.

Studies, Analysis, and Exploratory Work

As accepted by the County, the Design-Builder shall perform such assessments, reviews, and investigations as detailed in the CIL.

The Design-Builder shall conduct site investigations, environmental assessments, review of **regulatory, federal, and legal requirements with restrictions**, and evaluate other information as reasonably necessary to understand restrictions that may be placed on the Project. Design-Builder shall visit the site(s) and examine thoroughly and understand the nature and extent of the work, site, locality, and actual conditions.

Validation will, at a minimum, **verify project requirements and provide options analysis**. Design-Builder must recognize all federal, state, and local laws and regulations that may in any manner affect cost, time, progress, performance or furnishing of the work or which relate to any aspect of the design and the means, methods, techniques, sequences, or procedures of construction to be employed by Design-Builder, and safety precautions and programs.

Design Builder will study the County's Initial Programming as provided in the solicitation and prepare to help the County prioritize and accomplish as many goals as possible.

FFC Siting Analysis

During Validation, the County expects the Design-Builder, and their experts, to develop a *siting analysis for the Food and Farming Center at McCollum Park*. The Food and Farming Center (FFC) may need to be one larger facility or multiple smaller facilities based on useable space and constraints within McCollum Park. There may be options to create useable space by cleaning up the site, or special site development techniques or technology that may provide value to the FFC or McCollum Park overall. The County anticipates investigations and early meetings with the Authorities Having Jurisdiction (AHJs) will inform options and considerations so the Project Team can make informed decisions on the final site and configuration for the FFC.

Additional investigations may need to be conducted to sufficiently identify or characterize utility locations (underground and overhead), and observable or concealed conditions at the project site. The Design-Builder may be approved to conduct subsurface investigation work, including the disturbance of existing vegetation, but cannot proceed until all **environmental assessments and required permits** have been obtained. Additional investigation work may be considered under an Early Work Amendment depending on the scope and approvals needed.

Design-Builder will conduct or obtain, and understand all such examinations, investigations, explorations, tests, reports and studies, in addition to, or to supplement those referred to above, that pertain to the subsurface conditions, "as-built" conditions, underground facilities and all other physical conditions at or **contiguous to the site**; or that otherwise may affect the cost, time, progress, performance or furnishing of Work, as Design-Builder considers necessary for the performance or furnishing of Work.

All reports or analyses generated by Design-Builder's research, testing, inspections, and investigations, including but not limited to surveys, geotechnical evaluations and hazardous materials studies, archaeological site surveys, or similar shall be provided to the County within seven (7) business days, after such reports are analyzed and generated, unless mutually agreed to another date.

Design-Builder shall be responsible for ensuring that the design documents and construction work accurately conforms to, and interfaces with, the existing conditions and shall not request a change or

claim for unforeseen or concealed conditions except as provided under the provisions of the Contract Documents.

Validation Report

The County anticipates a Validation Report to be produced, the format of which will be mutually agreed, and will be the basis of discussion for the Project Definition subphase. The Validation Report, at a minimum, should include a record of all investigations, analysis, conclusions, options, a risk matrix, and similar that the Design-Builder will use to recommend to the County the Project program and scope as well evaluate and mitigate risks.

B. Subcontractors

In addition to the proposed and accepted Key Team Members, it is anticipated that the Design-Builder will recommend bringing on technical professionals and trades to inform larger, complex or specialty design and construction scopes immediately following Notice to Proceed (NTP). The County expects the Design-Builder to recommend these scopes and the anticipated timing and approach to onboard any subcontractor, including those that may be used during Validation. These early partners and subcontractors will be part of the **Subcontracting and Inclusion Plan** and will be represented, as appropriate, in the Comprehensive Project Schedule and Workplan.

The County must concur on all subconsultants, subcontractors, or similar additional team members prior to them joining the Project. The County reserves the right to request additional options or competitive selection processes for any subcontractor or additional team member.

C. Phase 1 – Design and Preconstruction

The Validation Phase will conclude with the concurrence between the Design-Builder and the County as to the viability and general scope of the Project for the estimated budget; including but not limited to, a mutual understanding as to the approximate building(s) location, use/programming, anticipated scope of site development, permitting and certification, with an initial Project Schedule.

1. Phase 1 will then be initiated by the County requesting a **Phase 1 plan and proposal**. The Design-Builder will prepare a detailed scope, schedule, and cost proposal for the work of Phase 1 which will include all necessary tasks, staff, and resources to design, permit, and propose a Guaranteed Maximum Price (GMP). The Design-Builder may also propose with the Phase 1 plan any Early Work, or early construction activities, that may be considered and awarded prior to the acceptance of the GMP. The Phase 1 schedule proposed will be high-level to determine the reasonableness of staffing time and resources, but after the Phase 1 Amendment is awarded, the schedule will be “rolled into” the Comprehensive Project Schedule.
2. Unless otherwise agreed, the Design-Builder shall submit the Phase 1 Proposal within 10 calendar days of the request.
3. Once the County has an opportunity to review the Phase 1 Proposal, the parties will meet to discuss with the intent of agreement of the scope, schedule, and budget for Phase 1.
4. Upon agreement of the Phase 1 plan, the County will issue an Amendment to authorize the Phase 1 work.

A Phase 1 Kick-Off Meeting will be scheduled. A Project Charter may be developed that includes problem and goals statements, project communication standards, milestones, roles, and responsibilities, and similar.

Anticipated deliverables for Phase 1 Kick-Off:

- Project Charter with Goals, Objectives, Roles, Responsibilities, and definitions for success
- Communication and Engagement Expectations
- Identification of *Stakeholder Group*
- Programming and Concept Design (schematic level), including Project Scope Narrative
- Project Schedule (draft)
- Initial Permitting and Certification Plan
- Initial Project Workplan (major scopes of work tied to the Project Schedule)
- Subcontracting and Inclusion Plan (revised draft)

D. Communication and Engagement

The Designer-Builder, the County, and the County's consultants (the "Project Team") will establish a **Project Communications Plan** which will include expectations for all parties regarding the cadence and frequency of meetings, how to maintain project records and decisions, how and when to engage the public, authorities having jurisdiction, and similar.

1. Meetings

Project Meetings will occur each Wednesday at 10:00AM Pacific Time for 90 minutes, unless agreed to by the Project Team to adjust. The Design-Builder will provide the agenda and will be responsible for keeping meeting minutes. The weekly project meeting may be jointly led by the County's PM, the Owner's Advisor (Consultant), or the Design-Builder PM, as mutually agreed. The agenda, at a minimum, will include an overview of the schedule, current phases, subphases, tasks and subtasks, with "look-ahead," responsible parties, and status of each. Additionally, the agenda will include key decisions from the previous meeting and decisions in-process or upcoming. All decisions or agreed resolutions will be recorded in the appropriate **decision log**.

2. Project Website and Subcontractor Communication

Unless otherwise agreed, the Design-Builder will host a project website that will be the main form of project updates for subcontractors, suppliers, and vendors for the Project. At a minimum, the Design-Builder will include current schedules, work packages, any procurement activities, and subcontracting status, apprentices, and "diverse business" inclusion tracking. Design-Builder is expected to work with the County to develop content and communications. The Design-Builder is not expected to host public events, prepare media releases or similar unless otherwise requested by the County.

3. Decision Log(s)

The Design-Builder will develop and maintain a log, or logs, that tracks project decisions in a format acceptable to the County. It is reasonable to assume that the Project Decision Log will be made up of different categories and phases with various responsible parties. The Design-Builder may integrate with the **Comprehensive Project Schedule and Workplan**.

4. Monthly Reporting

As part of the payment process and recording keeping for the Project, the Design-Builder will provide a comprehensive monthly project status update. At a minimum, or as otherwise agreed, the update will include at a Project Schedule review, current cost analysis, design progression, work breakdown, procurement, and subcontracting statuses, and permitting status. The County and Design-Builder will

mutually agree on the format and final level of detail for monthly reporting. The County anticipates this to follow the overall project **Workplan**.

5. Project Schedule

The Design-Builder shall develop, maintain, and communicate a **Comprehensive Project Schedule** ("**Project Schedule**"). The Project Schedule can be *broken into multiple, layered sub-schedules such as design, pre-construction, permitting, and construction*. The County and Design-Builder will mutually agree on the format and frequency of schedule updates that may need to occur outside of the Project Meetings. The Comprehensive Project Schedule will be "living" and be fully accessible to the entirety of the County's and the Design-Builder's Project Team.

The development of the Comprehensive Project Schedule, including but not limited to the project phasing and current project costs/values, is a vital element of the Design-Builder's ability to deliver this Project in a timely fashion. The County will rely on the Design-Builder's scheduling information to coordinate with its stakeholders, schedule activities in and around the Project, and manage its sites and facilities. A project "look ahead" will be an agenda item covered at the Project Meetings and should cover 3-5 weeks of detailed activities and 30-45 days of major tasks anticipated.

By the date mutually agreed, but no later than 30 days from Notice to Proceed, Design-Builder shall submit a **Preliminary Project Schedule with Workplan** that reflects, at a minimum, investigation, and validation, design development, preconstruction activities, procurement/subcontracting, and construction activities including the interrelationships of various packages and work breakdown that are known or anticipated.

- The Schedule shall show the activities of the *County* and *Design-Builder* necessary to meet the targeted Project completion requirements.
- The Schedule shall be updated as key information becomes available, not less frequent than monthly, with the level of detail for each schedule update reflecting the information then available.
- If an update to the Preliminary Schedule indicates that a previously approved milestone will not be met, Design-Builder shall submit recovery options and revised schedule to the County.

If the County, or any Project Team member, have comments relative to the Project Schedule, has any update, or finds any inconsistencies or inaccuracies in the information presented; the recognizing party should provide comment immediately and notify the Design-Builder, who shall make appropriate adjustments.

The Schedule, at a minimum, will contain the following:

- All tasks required to complete the scope of work for the Project
- Estimated durations for all tasks in the project schedule
 - Tasks performed by others, such as AHJs, are also to be included
- Logical ties and sequence of work for every task in the schedule
- Resources for project hours and major material quantities for site construction

Project Schedule shall be detailed and organized according to the proposed Design-Builder's **Workplan and Approach** that was accepted by the County. The project schedule will include all activities and relationships identified in the final **Programming and Project Scope Narrative**. Each major area of work within Design Builder's scope shall be represented by activities in the schedule.

The **Comprehensive Project Schedule and Workplan** shall be submitted to the County for their review. The detailed schedule shall reflect, at a minimum, design, engineering, procurement, construction, fabrication, and delivery activities for each piece of procured equipment, key drawing release dates by discipline, and logic and interrelationships between activities so that a logical progression of the work is depicted. Project milestones shall also be included in the schedule.

Once the Comprehensive Project Schedule and Workplan have been accepted by the County, Design Builder will establish a baseline schedule for phases or deliverables as determined to be most efficient and effective. As the Project progresses, the Design Builder shall advise the County of any proposed schedule or work changes and promptly provide the County with any revisions thereto and recovery plans as required to meet the established dates. All major activities will require thirty (30) calendar days' notice.

Comprehensive Project Schedule and Workplan Validity and Content

- Prepare schedules in a format acceptable to the County
- Contain Work Breakdown Structure coding matching deliverables and work packages
- Show all deliverables and tasks mention in the Project Scope Narrative, along with other tasks or deliverables decided
- Schedules shall be coded for grouping by engineering, procurement, construction, etc.
- Project schedule activities that Design Builder is responsible for performing shall be with design, engineering, and procurement activities.
- Design, engineering, procurement, and construction activities shall be included, such that staffing/labor requirements can be determined or verified with schedule. The schedule shall form basis for progress reporting, and payment.
- Critical path for Design Builder's schedule activities

E. Design Development

1. Initial Design

Upon Notice to Proceed for Phase 1, the Design-BUILDER will advance any schematics used in Validation and produce an Initial Design package. The timeframe, level of detail and scope of the Initial Design shall be per the approved Phase 1 plan (schedule and scope).

As the first phase of the architectural design process, the Design-BUILDER will apply any proposal elements that were accepted by the County and project definition requirements into civil, architectural, and tectonic elements of the design. The Design-BUILDER will produce the necessary conceptual and narrative documents to communicate the site development, facility placement and the initial agreed programming. The initial design documents will form the basis and foundation of the Target Value Design process.

2. Target Value Design

After the Project program, goals, outcomes, etc. have been represented graphically through the Initial **Design Schematics** the Design-BUILDER will prepare to engage the Project Team through a Target Value Design, consistent with any accepted proposed approach, if applicable. At a minimum, unless otherwise agreed, the Design-BUILDER will lead the Project Team in setting the target cost, forming design "subcommittees or workgroups" (aka TVD Teams) according to building systems or critical

construction scopes, and allocate a cost to each Team. Each TVD Team will evaluate design options against the target values and present to the Project Team during team meetings.

The Target Value Design process is anticipated to form the basis of the Guaranteed Maximum Price (GMP)/Phase 2 Proposal and should be set in a way that clearly translates into the cost and pricing approach necessary to form the Proposal.

3. Design Decision Log

As part of the project tracking, the Design-Builder will itemize and record all design decisions in a Design Decision Log. All design decisions should be documented with their corresponding cost. The County may wish to access clear records of how design items evolved, and cost decisions were made.

4. Design Documents

a. Preliminary Design Submissions

As Design-Builder advances the **Design Documents**, Design-Builder shall collaborate with the County to submit and review Design Submissions that will be incorporated into the Final Design Documents. The Preliminary Design Submissions will be submitted pursuant to the accepted design management approach from the Design-Builder's proposal, or as otherwise negotiated.

Design-Builder shall coordinate with the County to determine the schedule for review of preliminary design submissions packages percentage, milestone reviews with a midpoint review by certifications (e.g. Salmon Safe) and stakeholders. Design-Builder shall schedule the review of the design submissions packages such that the review of each package submitted is of reasonable scope for prompt and thorough review by the County.

The parties will work collaboratively to adjust in the design submissions and in the proposed Final Design Documents to fit within the County's Project Goals.

The County and Design-Builder shall work collaboratively to develop the Final of Design Documents provided as part of the **GMP/ Phase 2 Proposal**. The Design Documents submitted with the GMP/Phase 2 Proposal shall be the **Basis of Design** as described in Article 2 of the Contract.

Design-Builder shall highlight any material differences and developments between the Initial Design Documents, any Design Submissions, and the Final Design Documents as the Design Documents are being developed.

If the County has any comments relative to any design submission or finds any inconsistencies or discovers inaccuracies in any design submission, the County shall give prompt written notice of such comments or findings to Design-Builder, who shall make appropriate adjustments to the proposed Final Design Documents.

The parties will work collaboratively to adjust any design submission and in the proposed Final Design Documents to fit within the Project Charter as well as the GMP.

b. LEED and Salmon Safe

Unless otherwise agreed, the FFC will be LEED® gold and Salmon Safe certified. The Design-Builder will include the necessary documentation, costs, and efforts to obtain these. The County is interested in other types of sustainable development and would like to consider options in design and construction

that may also achieve Sustainable SITES Initiative, Net Zero, Living Building Challenge or other, similar initiatives.

c. Development of Final Design Documents

The Design-Builder shall manage the design process in a collaborative, efficient, and coordinated manner, use TVD, conduct design workshops, or similar as necessary to satisfy the County. As mutually agreed, *Basis of Design Documents* will establish the scope of the Work and provide the basis for the GMP/Phase 2 Proposal. The Basis of Design Documents, at a minimum, must be consistent with the Project Definition unless the County has consented to modify the Programming or outcomes in writing (decision log).

Consistent with the proposed approach, the Design-Builder must provide for an orderly and timely approval process by the County, any third parties, or authorities having jurisdiction.

The County is committed to review and comment on any design submission in a timely fashion. The Design-Builder will plan for at least five (5) business days for review of design submissions.

Design-Builder shall track, in a review log, all responses to the County's design review comments, as well as consider stakeholder input, describing the action taken for each comment. The County understands that technology and/or software may substitute, or enhance, review and comment processes. The Design-Builder should present design review efficiencies for consideration.

*Any design submission is understood to fit within then *current programming and cost assumptions*. However, should innovation or long-term efficiencies become known, creating a value proposition, the Design-Builder may submit alternatives or “design options” that may alter the current programming and cost, for consideration, in accordance with the General Conditions.

Design Quality Management Plan

Unless otherwise agreed, a Design Quality Management Plan (DQMP) will be a plan developed by the Design-Builder that provides the organization, relationship, and procedures design will take. The DQMP will include, at a minimum, clear lines of responsibility with a well-defined approach for meeting Project requirements, and innovation in design approach. The exact contents and format will be agreed to by the Project Team. The County reserves the right to periodically audit design quality.

d. “Final” Design Documents

The County expects the Design-Builder to advance the design and fully permit all site development, buildings/facilities, and necessary utilities. The County recognizes that elements of a project may require different levels of design; some scopes may be able to be permitted and/or constructed using sketches and/or general scopes of work.

Performance Specifications may be accepted by the County for some scopes of work. A performance specification must describe, or illustrate, the specific performance, outcomes, or requirements for the scope identification. Typical performance specifications may include but not be limited to the following:

- Mechanical, electrical (Power, Emergency Power, Lighting, Low Voltage, Communications, Fire Alarm, Security, etc.) and plumbing systems
- Structural capacities and requirements
- Warranty obligations
- Operations and maintenance requirements

The Design-Builder should make the County aware of any design documents or specifications that they plan to include as a *Performance Specification*. Performance Specifications cannot be used if an Authority Having Jurisdiction has not agreed.

The Design-Builder will package all designs with technical specifications in a construction document set. The final deliverables to be included in the Construction Document set may include, *but not be limited to*, the following:

- Concept, Character, and Principals
- Existing Site Photos
- Construction Progress Photos
- Site Plan and Construction Access/Circulation
- Laydown and Staging
- Massing Plan
- Exterior Elevations
- Floor Plate Stacking
- Building Sections
- Building Entries and Circulation
- Photovoltaic Equipment
- Floor Plans and Access Plans specifically addressing ADA
- Materials and Color Palette
- Parking Concept
- Landscape Plan
- Renderings (Exterior/Interior)
- Vehicular turning templates for the fire trucks/ladder to ensure that the movements work, both within the site and exiting the site
- Storage improvements

5. Construction Documents

The Design-Builder will develop a full set of construction documents as appropriate and will maintain as the record of all project improvements. All construction documents must be in accordance with all applicable codes and regulations and must be per industry standard appropriate for the scope of work.

a. Project Manual

The County anticipates the Design-Builder to create and maintain a Project Manual that includes the drawings/as-builts and specifications used for construction. The design and construction documents within the project manual are to include all improvements, building elements and components, that are necessary to fully record the Work.

Design-Builder shall schedule the review of all construction documents and the project manual and may do so in “packages,” ensuring that each submitted package is of a reasonable scope for prompt and thorough review by the County.

6. Permitting

At a time mutually agreed, but no later than with the GMP/Phase 2 Proposal, the Design-Builder shall provide a **Permitting Plan** detailing the process for obtaining the building and site development permits for various phases of the project. The Permitting Plan should include environmental or similar Permits the County will obtain.

During Phase 1, the Project Team will meet with the applicable authorities having jurisdiction (AHJ) and develop processes and timelines for reviews and approvals the Project requires. The County anticipates this Plan to be developed as early in the life of the Project as possible and impact the Project Schedule. The County sees this as an opportunity to streamline and create project delivery efficiencies.

7. Guaranteed Maximum Price (GMP)

The GMP will develop throughout Phase 1 culminating as a final price for the project and basis of the Phase 2 Proposal. The timing of the **GMP/Phase 2 Proposal** and the percentage of completeness of the designs and specifications will be mutually determined by the County and the Design Builder.

a. Preliminary Schedule of Values

As mutually agreed early in design development process, the Design-Builder shall submit a preliminary Schedule of Values (SOV) for the Project. This submission should be in a form supported by appropriate data to substantiate its accuracy in reflecting the breakdown for administrative and payment purposes, as the County may require. The SOV shall be further organized to conform to the Construction Specifications Institute (CSI) standard format for divisions and sections.

With the submission of each Design Submission Package, the Design-Builder shall provide preliminary estimates of costs associated with the Design Submissions in a format acceptable to the County. These estimates will be incorporated into a current draft of the GMP.

The preliminary estimates shall be provided on a weekly basis at a minimum and shall be updated with new information any time the Design-Builder Team incorporates decisions into the Project. The Design-Builder shall establish target values for all “major” scopes of work and assume allowances and contingencies where appropriate representing the level of cost risk that may be associated with any scope of work.

b. Schedule of Values and Cost Model

Unless otherwise agreed on the Comprehensive Project Schedule, the Design-Builder shall provide an updated SOV for the Work with actual start and/or finish dates and percentages complete.

The forecasting and development of accurate project cost estimates throughout each phase of the Project is vital to the County’s financial management strategy. The County relies on the Design-Builder to provide and validate current and detailed cost estimates and forecasts that will be incorporated into the overall cost controls for the County. Specifically, costs directly attributed to any *physical asset* will need to be clearly identified.

Updates shall compare the planned progress from the baseline schedule with actual progress from the current schedule. The SOV shall be in conformance with the requirements below and in a form and supported by data to substantiate/validate its accuracy in reflecting the breakdown for administrative and payment purposes as the County may require.

The SOV shall be further organized to conform to the CSI standard format for divisions and sections.

The sum of all values listed shall equal the GMP, reflective of all scopes, phases, direct, indirect and any expense to the Project.

Unless mutually agreed, the Design-Builder will continue to update estimates and forecasts in the format acceptable to the County and provide data to the County to reflect real-time information.

Design-Builder will provide all pricing, estimates and other data used to develop the Phase 2 Proposal on an open and transparent basis.

- i. The SOV and Cost Model must be consistent with the GMP Amendment/Phase 2 Proposal, and the format required above, unless the parties have agreed on a Change to the terms set forth in the GMP Amendment pursuant to Article 9 of the General Conditions.
- ii. The “project controls system” used by the Design-Builder shall be acceptable to the County and will be capable of being broken down and reported in several different work breakdown structures, including but not limited to organizing the financial data by cost element codes, subcontracts, vendors, Construction Document packages, etc.
- iii. The Design-Builder will coordinate the development of the GMP pricing with the development of the Final Design Documents as well as the Project Schedule so that the County may obtain an accurate understanding of the GMP. The GMP set forth in the Contract shall not be exceeded without a written Change Order

c. Development of GMP Pricing and Phase 2 Proposal

It is anticipated that nearing the conclusion of Phase 1, on a date mutually agreed, the Design-Builder shall provide a draft GMP/Phase 2 Proposal that includes the following:

- GMP Pricing and cost validation (SOV and Cost Model)
 - Allowances
 - Contingences
 - Alternate Pricing or Unit Pricing
 - Construction General Conditions
- Design Documents (inclusive of decision logs to support)
- Comprehensive Project Schedule
- A list of the assumptions and clarifications made by the Design Builder in preparation of the GMP Proposal
- Project Specific Safety Plan and Job Site Hazard Analysis
- Continuous Operations and Return to Operations Plan
- Permitting Plan (final)
- QA/QC Plans, as applicable
- Risk Management Matrix
- Updated Inclusion Plan (with Subcontracting and Apprenticeship)
- Additional Services, if applicable

d. Risk Management Matrix

Design-Builder shall provide a Risk Management Matrix, in a format acceptable to the County, as part of the Validation Report.

The Risk Management Matrix, at a minimum, shall include the following information:

1. Identify project risks both physical, environmental, conditional, or similar.
 - a. If the risk is physical or environmental in nature, the Design-Builder shall describe why they are unable to investigate fully or the way risk may be categorized as “unforeseen.”
2. A description of the risk why/how it may impact the Project;
3. A probability or likelihood of occurrence.
4. A monetary formula for calculating a possible cost and schedule recovery scenario.

With the GMP/Phase 2 Proposal, Design-Builder shall prepare and submit a GMP Pricing and validation of the GMP to the County, in a format acceptable to the County, reflecting Design-Builder’s total cost for the Project on an open book basis.

e. Setting the GMP

The GMP in the GMP Proposal shall be at or below the Original GMP (as modified pursuant to the Contract Documents) and shall include:

- Design-Builder’s Fee as defined in the Contract
- The Cost of the Work as defined in the Contract
- The Construction General Conditions Costs as defined in the Contract
- If applicable, any Allowance established by the Parties pursuant to the Contract
- Design-Builder’s Contingencies established pursuant to the Contract

Design-Builder shall meet with the County to review the proposed GMP and Phase 2. If the County has any comments relative to the proposed GMP or finds any inconsistencies or inaccuracies in the information presented, it shall give prompt written notice of such comments or findings to Design-Builder, who shall make appropriate adjustments to the proposed GMP, its basis, or both. The parties will work collaboratively to adjust the Design Documents, Project Schedule, or GMP to meet the County’s objectives.

Once there is agreement on the Phase 2 Proposal, the County will issue an Amendment and Notice to Proceed on Phase 2.

With the GMP (Phase 2) Proposal, Design-Builder shall provide a **Final Comprehensive Project Schedule** that will be accurate to complete Construction and **Transition to Operations (T2O)** Activities.

All schedules are anticipated to be in the format of a Critical Path Method (CPM), unless mutually agreed otherwise.

f. Acceptance of the GMP/Phase 2 Proposal

Should the County and Design-Builder be unable to agree on the Phase 2 Proposal the County will follow the process as outlined in the Contract.

PHASE 2

CONSTRUCTION AND TRANSITION TO OPERATIONS

A. Construction Services

The Design-Builder should anticipate providing **Construction Services** necessary to execute and complete the construction of the Project pursuant to the **Contract Documents** and shall price and plan for all necessary resources. Construction Services is anticipated to include, but not be limited to, construction administration, project controls, office engineering, scheduling, and sequencing, subcontractor, labor, materials and equipment management and oversight, construction quality, materials testing, reporting, and similar. Construction Services will also include any similar services needed on temporary sites.

1. Construction Management

As part of the **Project Schedule and Workplan**, the Design-Builder and the Owner may elect to specifically develop a **Construction Management Plan** that outlines roles and responsibilities of the Design-Builder, the County, and the County's Owner Representative.

2. Construction Quality

The County expects high levels of construction quality and will rely on the Design-Builder to ensure this outcome. The County may request a *construction quality management plan* to facilitate and solidify activities and expectations around expected quality standards. The Design-Builder should anticipate offering options for setting and realizing construction quality on the Project.

B. Subcontracting, Apprentices and Diverse Business Inclusion.

By the date mutually agreed, but no later than the GMP/Phase 2 Proposal, Design-Builder shall submit for approval the final **Subcontracting and Inclusion Plan** as required in the General Conditions. This plan will also include **Apprentice Utilization Plan**. Apprentices shall be tracked with subcontractors in accordance with the General Conditions. Registered apprentices are required to perform 15% of all labor hours for the Project.

C. Support Site Construction

Should another site be used for continuous operations or temporary storage/staging, which will be part of an enabling project, priced and overseen by the DB team, the Design-Builder will permit and construct all necessary improvements including moving and staff support to ensure temporary operations are efficient and minimally disrupted.

D. Safety

By the date mutually agreed, but no later than the GMP/Phase 2 Proposal, the Design-Builder shall submit a **Project Specific Safety Plan** and Job Site Hazard Analysis for the activities associated in both Phase 1 and Phase 2.

No field investigation or construction activities will be authorized without acceptance of safety plans as required for the Work.

E. Phased Completion

In accordance with the Contract, should the Design-Builder determine certain construction aspects of the Project may be started and completed early, the County will work collaboratively with the Design-Builder to determine a phased Acceptance approach if it proves to be mutually beneficial.

F. Transition to Operations (T2O) and Completion

The County anticipates the Design-Builder be fully engaged and available through the entire Project, even as the Project is completing and finishing paperwork. The Design-Builder shall ensure all subcontractors are also contracted appropriately to provide this level of engagement.

With the GMP/Phase 2 Proposal, the Design-Builder shall provide a **Project Completion Plan** that integrates all aspects of project “closeout” proactively over the life of the project.

The **Project Completion Plan** will be a “living” document that will grow and expand as the design and construction progress. The Project Completion Plan should include, but not be limited to tasks, mechanisms, and procedures for:

- Transitioning the various uses and areas within the FFC to their respective operators
- Phased completions and early subcontract closeouts
- Final subcontracting needs
- Commissioning
- Warranties identification, management, and periods of performance
- Training or support needed for facility maintenance staff, if necessary
- Operations & Maintenance Manual (O&M Manual)
- Record document finalization, organization, and storage support
- Cost reconciliations
- Reporting

The O&M Manual must be in digital format and searchable. It should include, at a minimum, Manufacturers and/or suppliers contact information, Manufacturer’s O&M instructions, Manufacturer’s warranty certificates or information, applicable operating procedures, approved specs for each product, spare parts lists, chart of recommended maintenance tasks and a timeline for each of the tasks (including low-frequency and routine inspections as well as a replacement schedule).

Design-Builder will align the Project Closeout Plan as part of the Transition to Operations (T2O) to ensure the mutually agreed level of support and care is provided.

Design-Builder shall provide commissioning, testing, and closeout of the Project as agreed to by the County, pursuant to the Contract Documents.

-END OF SCOPE OF SERVICES-

EXHIBIT E
VALIDATION APPROACH AND PRICE (NTE)



Snohomish County

Food + Farming Center

Validation Phase - Task Narrative

Table of Contents

1. Cover Letter
2. Task Narrative
3. Validation Phase Fee Estimate
4. Draft Schedule
5. Draft Scope Delineation Matrix

Appendices

1. GLY/MH Fully Burdened Billing Rate Schedule
2. Subconsultant Proposals



May 7, 2024

ATTN: Rachel Dotson, Snohomish County
Aleanna Kondelis-Halpin, Hill Int'l

Emailed to: rachel.dotson@co.snohomish.wa.us
aleannakondelis@hillintl.com

Re: Snohomish County Food & Farming Center - Validation Phase Fee Proposal

Dear Rachel and Aleanna:

Thank you for the opportunity to submit our Validation Phase Fee Proposal, crafted in accordance with our interpretation of the Prime Contract requirements, which are in the process of being negotiated. We have aligned our proposal with the grant funding available, identifying five tasks within Validation (Meetings + Administration, Site Investigation, Agriculture and Food Industry Licensing + Best Practices, Project Programming and Project Definition). A sixth task, called Phase 1 Early Works, is included to advance preliminary design phase efforts as appropriate during this Validation Phase as agreed upon with Snohomish County and Hill International, prior to beginning these specific efforts.

Our proposal is organized with a Table of Contents to ensure clarity as to our team's preliminary assumptions on roles + responsibilities, budget, scope, and schedule. Appendices include GLY and Miller Hull's fully burdened rates and subconsultant proposals.

We suggest a meeting to review this Validation Phase Fee Proposal to ensure alignment prior to forwarding to Snohomish County Council for their written authorization, a condition precedent to formal Notice to Proceed for Validation. Additionally, we reserve the right to modify this proposal pending finalization of Prime Contract terms.

Thanks,

Dana Johnson, D-B Sr Project Manager
GLY Construction
dana.johnson@gly.com
C: 425-559-8123

Claire Rennhack, AIA/PE, Associate
Miller Hull Partnership
crennhack@millerhull.com
D: 206-254-2029 C: 919-698-3080



Snohomish County

Food + Farming Center

Validation Phase - Task Narrative

The following list defines the tasks included within the Snohomish County Food + Farming Center Validation effort. Future GMP amendments, as authorized by Snohomish County Department of Conservation & Natural Resources (DCNR) Division of Parks and Recreation (Snohomish County) and Snohomish County Council, will include:

- Phase 1: Design Development
- Phase 2: Construction and Transition to Operations.

Task 1: Meetings and Administration

The purpose of this task is to account and track time for meetings and general administration tasks that are necessary but that are broad enough, they are not specifically associated with other tasks defined below. An average of 2 meetings each week are anticipated through Validation. Meetings will be held virtually unless decided otherwise by team.

Anticipate engaging GLY, Miller Hull, Urban Patterns, Shannon&Wilson, HWA Geosciences. KPFF, and HBB.

- 1.A. Progress Meetings – Weekly
 - Pay Application Pencil Draws & Associated Reports – Monthly
 - Project Kick-Off – (1 Meeting)
 - “Rules of Engagement” – (1 Meeting)
- 1.B. Authorities Having Jurisdiction – General
- 1.C. Stakeholder Meetings (3 Meetings)
- 1.D. Administrative Tasks
 - Permitting Plan (2 Meetings)
 - Subcontracting and Procurement Plan (2 Meetings)
 - Risk Matrix (2 Meetings)
- 1.E Validation Report and Phase 1 Proposal.

Deliverables include producing agendas and meeting minutes for each meeting, Permitting Plan, Subcontracting and Procurement Plan, Risk Matrix, Decision Log, tracking and updating a Validation Phase schedule, Validation Report and Phase 1 Proposal.

Task 2: Site Investigation

The purpose of this task is to gather information and perform due diligence with the intent of understanding permittable and cost-effective building areas on the site. Also included in this task is engagement with authorities having jurisdiction (AHJs) to support the subtasks.

Anticipate engaging KPFF, CPL, Shannon & Wilson, HWA Geosciences, and Urban Patterns. Additional parties may include a Cultural Consultant and MEP Engineer.

2.A. Critical Information List

- Reviewing Critical Information List and working with Snohomish County and Hill Int'l to identify additional information needed for the project development.

2.B. Environmental Permit Supporting Activities, Testing, Inspections to be conducted including:

- Geophysical Survey – non-invasive survey to help select building locations and identify areas for further exploration
- Soils testing and boring
- Verification of existing methane system
- Vapor Intrusion (desktop review)
- Hazardous Building Material Survey prior to demolition of existing buildings.
 - (Note: Phase 1 ESA of existing buildings is not recommended as it is typically used to assess if historical or current uses of the property may have impacted the soil or groundwater and/or could pose a threat to human health or the environment in a real estate transaction.)
- Investigation of existing utilities

2.C. Environmental Assessment (NEPA/SEPA/Salmon Safe/LEED)

- Include preliminary meetings with EPA, Solid Waste, and with Snohomish County HUD Regional Environmental Officer

2.D. Regulatory Engagement including Land Use and Zoning

- Early coordination, outreach, and strategy with applicable AHJs which may include:
 - Snohomish County Planning + Development Services
 - Snohomish County – Fault line regulation coordination
 - Snohomish County Solid Waste
 - Snohomish County – Rezone from Urban Center to allow food processing activities.
 - Federal Emergency Management Agency (FEMA)
 - US Dept of Housing and Urban Development (Regional Environmental Officer)
 - Washington State Department of Fish and Wildlife (WDFW)
 - Washington State Department of Ecology (Ecology)

- US Fish and Wildlife Service (USFWS)
- National Marine and Fisheries Service (NMFS)
- And potentially Tribes
- Additional AHJs may be identified during validation phase.

Deliverable: Summary of work and reports conducted in this task including Geotechnical Site Conditions Summary, Natural Resources Site Conditions Summary and Hazardous Building Materials and Vapor Intrusion Site Conditions Summary. Permitting Implementation Plan. Optimal building site identified through qualitative analysis.

Task 3: Snohomish County Agriculture, Food Industry Licensing and Best Practices

The purpose of this task is to investigate and understand the Snohomish County Farming Community, their objectives and priorities for the project, and to establish industry practices and licensing requirements involved with each of the operational components of the project. This task will also include work to identify included agriculture and food related program requirements and prioritization.

Anticipate engaging GLY, Miller Hull, and Urban Patterns.

- 3.A. Code requirements, licensing requirements and industry review of best practices for food processing, aggregation, and distribution operations.
- 3.B. Code requirements, licensing requirements and industry review of best practices for year-round, indoor farmers markets.
- 3.C. Code requirements, licensing requirements and industry review of best practices for commercial kitchens and flexible operations.
- 3.D. High level cost numbers and prioritization for programming related agriculture and food programming
- 3.E. Realize potential and possibility through facility tours of similar projects and grant scanning.
- 3.F. Establish and understand status of Snohomish County farming (understanding regional farming community, number of farmers, crops produced, equipment required for value-add production) by working with project stakeholders and project champion.
- 3.G. Operator Engagement Support (Urban Patterns)
Assist with Operator RFQ to align with Programming and Project Definition

Deliverables: Summary of work done in Task. Summary to include understanding of how these elements complement each other – their ideal adjacencies, shared spaces, minimum equipment, areas, and spaces required to optimize utilization by farmers. Identifies a potential order of priority for mandatory vs. nice-to-have components of each of the three elements (Food Processing, Farmers Market, and Commercial Kitchen)

Task 4: Project Programming

The purpose of this task is to use the outcomes of Task 3 to establish project parameters including space needs, proforma, and Food & Farming Center (FFC) concept options.

Anticipate engaging GLY, Miller Hull, Urban Patterns, HBB, CPL, and KPFF. Additional parties may include a MEP Engineer.

- 4.A. Space Needs Program – finalizing area needs, adjacencies, establishing rentable space targets.
- 4.B. Prioritizing and rightsizing to proforma.
- 4.C. FCC Concept Options – building and site options incorporating the work of 4.A. and 4.B. Includes consideration for how to site, mass + block, access required, qualitative attributes of 2-3 options for analysis.
- 4.D. Advisory Committee Engagement – County led; design-builder supported.

Deliverables: Space Needs Program, FCC Concept Options, and Proforma.

Task 5: Project Definition

The purpose of this task is to provide a preliminary basis of design, estimate and schedule that the team can rely upon to begin Phase 1.

Anticipate engaging GLY, Miller Hull, Urban Patterns, CPL, HBB, KPFF, and Shannon & Wilson. Additional parties may include a MEP Engineer.

- 5.A. Preferred FCC Concept Basis of Design
- 5.B. Project Schedule
- 5.C. Project Cost Model

Deliverables: Proposed gross floor area (GFA), floor plan diagrams and basis-of-design (BOD) discipline narratives. Project schedule identifying design packages in alignment with permitting requirements, identifying long lead procurement and early works. Cost Model with estimate for included scope, allowances, contingencies, and betterment list.

Task 6: Phase 1 Early Works (Individual subtasks require express authorization)

These subtasks include deliverables that will inform other tasks or support the project development and are not anticipated to be delivered unless explicitly requested by the County. Allowances for these subtasks are understood to be included in the Not to Exceed amount.

- 6.A. Grant Funding Support (Urban Patterns)
 - Identification (scan) for funding and grant to increase resources for project and operators.
 - application and support of grants to increase project funding opportunities. Specific level of effort and deliverables to be determined with the County.
- 6.B. Enhanced Operator Engagement Support (Urban Patterns)
 - Assist with Operator engagement/selection process.
 - Additional effort for enhanced scope to include: Operator & Producer Scan; Draft + Publish Solicitation of Interest; Operator Capacity Building Grant Application; Facilitate Operator Selection; Operator Outreach + Engagement Management.
- 6.C. Advanced efforts for Phase 1 Geotechnical (SW)
- 6.D. Advanced efforts for Phase 1 Environmental/Permitting (SW)
- 6.E. Advanced efforts for Phase 1 Hazardous Materials (SW)

Snohomish County Food & Farming Center

Validation Phase Fee Estimate

3-May-2024

TASK 1 - MEETINGS + ADMINISTRATION	\$307,098
TASK 2 - SITE INVESTIGATION	\$573,046
TASK 3 - SNOHOMISH COUNTY AGRICULTURE + FOOD INDUSTRY LICENSING + BEST PRACTICES	\$160,022
TASK 4 - PROJECT PROGRAMMING	\$350,430
TASK 5 - PROJECT DEFINITION	\$406,144
TASK 6 - PHASE 1 EARLY WORK	\$283,961
Permit Allowances	\$50,000
Contingency	\$52,018
Fee	\$55,109
GL Insurance 1.1%	\$24,616
Tax	\$237,557
Subtotal	\$2,500,000

Validation Phase Fee Proposal Breakdown
Snohomish County Food & Farming Center
4/26/2024

TASK 1 - MEETINGS + ADMINISTRATION				
The purpose of this task is to account and track time for meetings and general administration tasks that are necessary but that are broad enough, they are not specifically associated with other tasks defined below. An average of 2 meetings each week are anticipated through Validation.				
Responsible Party	Fee	Allowances	Proposed Validation Fees	Comments
Design-Builder (GLY)	\$55,636		\$55,636	
Environmental (Shannon&Wilson)	\$29,730		\$29,730	
Geotechnical (Shannon&Wilson)	\$17,420		\$17,420	
Haz Materials (Shannon&Wilson)	\$15,490		\$15,490	
Landfill (HWA Geosciences)	\$22,330		\$22,330	
Design Consultant (Miller Hull)	\$54,105		\$54,105	
Food Infrastructure SME (Urban Patterns)	\$34,920		\$34,920	
Structural Engineer (CPL)	\$0		\$0	
Civil Engineer (KPFF)	\$61,665		\$61,665	
Landscape Architect (HBB)	\$5,585		\$5,585	
Miller Hull - 10% Markup on its Subconsultants			\$10,217	
TASK 1 SUBTOTAL			\$307,098	

TASK 2 - SITE INVESTIGATION				
The purpose of this task is to gather information and perform due diligence with the intent of understanding permissible and cost-effective building areas on the site. Also included in this task is engagement with authorities having jurisdiction (AHJs) to support the subtasks.				
Responsible Party	Fee	Allowances	Proposed Validation Fees	Comments
Design-Builder (GLY)	\$43,132		\$43,132	
Environmental (Shannon&Wilson)	\$83,940		\$83,940	
Geotechnical (Shannon&Wilson)	\$96,480		\$96,480	
Haz Materials (Shannon&Wilson)	\$23,951		\$23,951	
Landfill (HWA Geosciences)	\$26,070		\$26,070	
Cultural Consultant		\$30,000	\$30,000	Allowance is for actual subconsultant value (GLY costs to "hire" incorporated in GLY line item.) Cultural consultant is anticipated related to Land Use verification of historical use, archaeology, etc.
MEP Engineer (TBD)		\$20,000	\$20,000	Allowance is for actual subconsultant value (GLY costs to "hire" incorporated in GLY line item.) MEP Engineers are anticipated to provide review of site utility sizing, life expectancy and capacity to serve future program and assist with permitting.
Design Consultant (Miller Hull)	\$42,140		\$42,140	
Food Infrastructure SME (Urban Patterns)	\$2,160		\$2,160	
Civil Engineer (KPFF)	\$83,775		\$83,775	Includes \$1k for reimbursables per proposal, on this line item.
Structural Engineer (CPL)	\$7,500		\$7,500	
Landscape Architect (HBB)	\$4,140		\$4,140	Includes \$600 for reimbursables per proposal, on this line item.
Miller Hull - 10% Markup on its Subconsultants			\$9,758	
Site Investigation Allowance		\$100,000	\$100,000	Survey + inspect existing buildings to be demolished and inspect site MEP utility equipment and distribution; Pothole using vacuum truck to inspect landfill liner; Inspect existing gas monitoring system. Identify path to maintain operations of NW Stream Center during construction.
TASK 2 SUBTOTAL			\$573,046	

TASK 3 - SNOHOMISH COUNTY AGRICULTURE + FOOD INDUSTRY LICENSING + BEST PRACTICES				
The purpose of this task is to investigate and understand the Snohomish County Farming Community, their objectives and priorities for the project, and to establish industry practices and licensing requirements involved with each of the operational components of the project. This task will also include work to identify included agriculture and food related program requirements and prioritization.				
Responsible Party	Fee	Allowances	Proposed Validation Fees	Comments
Design-Builder (GLY)	\$31,273		\$31,273	
Design Consultant (Miller Hull)	\$68,535		\$68,535	
Food Infrastructure SME (Urban Patterns)	\$54,740		\$54,740	
Miller Hull - 10% Markup on its Subconsultants			\$5,474	
TASK 3 SUBTOTAL			\$160,022	

TASK 4 - PROJECT PROGRAMMING

The purpose of this task is to use the outcomes of Task 3 to establish project parameters including space needs, proforma, and Food & Farming Center (FFC) concept options.

Responsible Party	Fee	Allowances	Proposed Validation Fees	Comments
Design-BUILDER (GLY)	\$55,224		\$55,224	
Environmental (Shannon&Wilson)	\$0		\$0	
Geotechnical (Shannon&Wilson)	\$0		\$0	
Haz Materials (Shannon&Wilson)	\$0		\$0	
Landfill (HWA Geosciences)	\$0		\$0	
MEP Engineer (TBD)		\$20,000	\$20,000	Participate in key discussions on MEP strategies and systems to ensure cost effective solutions meeting sustainability goals.
Design Consultant (Miller Hull)	\$107,830		\$107,830	
Food Infrastructure SME (Urban Patterns)	\$70,640		\$70,640	
Structural Engineer (CPL)	\$15,000		\$15,000	
Civil Engineer (KPFF)	\$21,010		\$21,010	
Landscape Architect (HBB)	\$45,510		\$45,510	
Miller Hull - 10% Markup on its Subconsultants			\$15,216	

TASK 4 SUBTOTAL \$350,430

TASK 5 - PROJECT DEFINITION

The purpose of this task is to use the outcomes of Task 3 to establish project parameters including space needs, proforma, and Food & Farming Center (FFC) concept options.

Responsible Party	Fee	Allowances	Proposed Validation Fees	Comments
Design-BUILDER (GLY)	\$61,683		\$61,683	
Environmental (Shannon&Wilson)	\$9,680		\$9,680	
Geotechnical (Shannon&Wilson)	\$2,320		\$2,320	
Haz Materials (Shannon&Wilson)	\$1,640		\$1,640	
Landfill (HWA Geosciences)	\$0		\$0	
MEP Engineer (TBD)		\$40,000	\$40,000	Develop detailed Basis of Design for selection of MEP Subcontractors via RFP process at start of Phase 1.
Design Consultant (Miller Hull)	\$107,830		\$107,830	
Food Infrastructure SME (Urban Patterns)	\$57,140		\$57,140	
Structural Engineer (CPL)	\$7,500		\$7,500	
Civil Engineer (KPFF)	\$89,810		\$89,810	
Landscape Architect (HBB)	\$11,905		\$11,905	
Miller Hull - 10% Markup on its Subconsultants			\$16,636	

TASK 5 SUBTOTAL \$406,144

TASK 6 - PHASE 1 EARLY WORK

These subtasks include deliverables that will inform other tasks or support the project development and are not anticipated to be delivered unless explicitly requested by the County. Included as a task for purposes of describing any task within the Not to Exceed amount.

Responsible Party	Fee	Allowances	Proposed Validation Fees	Comments
GLY Support Allowance		\$10,000	\$10,000	Allowance for GLY Management and Coordination of Task 6 Subconsultants
Miller Hull Support Allowance		\$15,000	\$15,000	Allowance for Miller Hull Management and Coordination of Task 6 Subconsultants
6A - Grant Funding Support Allowance		\$25,120	\$25,120	Urban Patterns - Identification and Application for grants and funds to increase resources for project.
6B - Enhanced Operator Support Allowance		\$56,840	\$56,840	Urban Patterns - Assist with Operator Engagement/Selection.
6C - Phase 1 Geotechnical		\$90,000	\$90,000	S&W - Anticipate performing up to \$90k of Phase 1 activities (anticipated to be \$168,139 total) into Validation.
6D - Phase 1 Environmental/Permitting		\$65,000	\$65,000	S&W - Anticipate performing up to \$65k of Phase 1 activities (anticipated to be \$102,780 total) into Validation.
6E - Phase 1 Hazardous Materials		\$13,805	\$13,805	S&W - Anticipate performing up to \$13,805 of Phase 1 activities (anticipated to be \$18,781 total) into Validation.
Miller Hull - 10% Markup on its Subconsultants			\$8,196	Urban Patterns Only - 6A + 6B

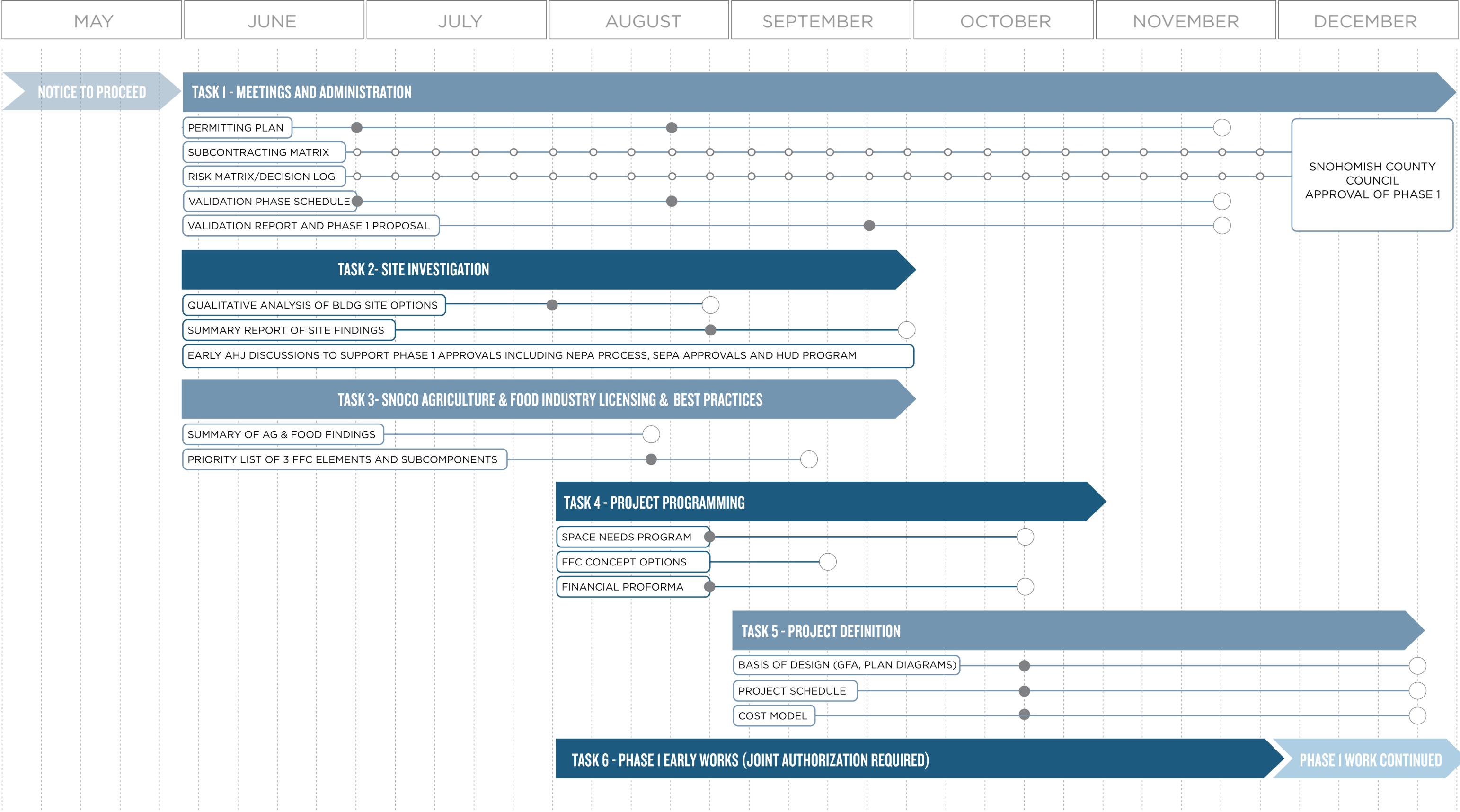
TASK 6 SUBTOTAL \$283,961

GRAND TOTAL SUBJECT TO DESIGN-BUILD FEE	\$2,080,700
2.5% CONTINGENCY	\$52,018
SUBTOTAL WITH CONTINGENCY	\$2,132,718
2.584% DESIGN BUILD FEE	\$55,109
VALIDATION PHASE - COSTS SUBJECT TO DESIGN-BUILD FEE	\$2,187,827

Pass Through Costs	Fee	Allowances	Proposed Validation Fees	Comments
GL Insurance at 1.1% on the Above Costs	\$24,066		\$24,066	Calculated on Validation Phase - Costs Subject to D-B Fee
Allowance - Permit Fees (Non-Environmental)		\$50,000	\$50,000	Anticipating Land Use Application and Engineering Permitting Review Fees
GL Insurance at 1.1% of Permit Fees	\$550		\$550	Calculated on Allowance - Permit Fees (line item above)
VALIDATION PHASE - PASS THROUGH COSTS			\$74,616	

VALIDATION PRICE excluding WSST	\$2,262,443	Sum of Validation Phase Costs subject to Design-Build Fee and Validation Phase - Pass through costs.
WSST at 10.5%	\$237,557	
VALIDATION PRICE including WSST	\$2,500,000	

SNOHOMISH COUNTY FFC DRAFT SCHEDULE



KEY: ○ ONGOING WEEKLY REVIEW ● DRAFT DELIVERABLE ○ FINAL DELIVERABLE

SnoCo Food and Farming Center

DRAFT Scope Delineation Matrix - Snohomish County + Design-Builder (GLY+MH+UP)

3-May-2024

Responsibility Key

P	Primary
S	Secondary

Validation Phase Activities			SnoCo Responsibility	Design-Builder Responsibility											Remarks
Number	Task	Design Discipline	SnoCo	GLY	MH	UP	CPL	HBB	KPFF	S&W	HWA	Mech	Elec	Fire	
1	1, 3, 6	Stakeholder Outreach / Engagement	P	S	S	S									
2	1, 3, 6	Operator Engagement	P			S									
3	2	Rezoning	P												
4	6	Traffic Study							P						Phase 1 activity, if deemed necessary during Validation.
5	2	Site Utility Feasibility							P			S	S	S	
6	2	Geotechnical Investigation + Report								P					
7	2	Ownership of Existing Conditions													Anticipating Hazardous Materials within Landfill - Scope and Extent to be Investigated during Validation.
8	2	Oversight of Landfill Disturbing Work								S	P				
9	3, 4, 5	Architectural			P										
10	3, 4, 5	Site Design			P			S	S						
11	3, 4, 5	Landscape Architectures						P							
12	3, 4, 5	Building/Site FFE													
13	3, 4, 5	Operator FFE	?		P										
14	4, 5	Civil							P						
15	2, 5, 6	Environmental						S	S	P					Includes NEPA, SEPA
16	2, 5, 6	Geotechnical Design								P					
17a	4, 5	Structural - Foundation Design					P		S						
17b	4, 5	Structural - Superstructure Design			S		P								
18a	5	Mechanical/Plumbing (Basis of Design)			S							P			
18b	5, Phase 1	Mechanical/Plumbing (Final Design)										P			Design-Build Subcontractor
19a	5	Electrical (Basis of Design)			S								P		
19b	5, Phase 1	Electrical (Final Design)											P		Design-Build Subcontractor
20a	5, Phase 1	Fire (Preliminary Design)			S									P	
20b	5, Phase 1	Fire (Final Design)												P	Design-Build Subcontractor
21a	3, 4, 5	Processing Equipment - Design Criteria				P									
21b	5, Phase 1	Process Equipment - Layout and Design of Water, Comp Air, Gas Connections				P						S	S	S	
21c	5, Phase 1	Process Equipment - Design of Power Connections to											P		
22	5, Phase 1	Low Voltage, Network											P		
23	5, Phase 1	Owner's Specifications (OFOI, OFCI)	P												
24	5, Phase 1	Consultant Specifications			P	S	S		S	S	S	S	S	S	
25	5, Phase 1	Building Permitting			P	S	S					P	P	P	DB Subcontractors leading their own permitting efforts
26	2, 6, Phase 1	Site/Environmental Permitting							P	S	S				
27	2, 6, Phase 1	Fault Zone Approval				S				P					
28	2, 6, Phase 1	Coordination with DOE - Landfill	S						P	S	S				
29	2, 5, Phase 1	LEED/Salmon Safe			P		S	S	S						

Snohomish County Food & Farming Center

Appendix A1 - GLY-MH Fully Burdened Billing Rate Table

3-May-2024

Miller Hull Partnership		
<i>Staff</i>	<i>Staff Level</i>	<i>2024 Rate</i>
Sian Roberts	Partner	\$305
Mike Jobes	Principal	\$275
TBD	Senior Associate	\$245
TBD	Architect 9	\$240
Claire Rennhack	Associate	\$235
TBD	Architect 8	\$230
Tets Takemoto	Architect 7	\$200
TBD	Architect 6	\$180
TBD	Architect 5	\$170
TBD	Architect 4	\$155
TBD	Architect 3	\$145
TBD	Architect 2	\$110
TBD	Architect 1	\$95

****Miller Hull Partnership rates adjust annually in January, but the rates will not change the Not to Exceed amount.***

GLY Construction		
<i>Staff</i>	<i>Staff Level</i>	<i>2024 Rate</i>
Bill DeJarlais	Principal	\$255
Dana Johnson	DB Project Manager	\$176
Kevin Eng	Sr Estimator	\$182
TBD	Estimator	\$163
TBD	Design Manager	\$149
Rob Cochrun	Superintendent	\$191
TBD	Sr Project Engineer	\$131
TBD	Project Engineer	\$102
Laura Soma	Sustainability	\$124
Erik Bedell	MEP Specialist	\$179
TBD	QA/QC Mgr	\$180
TBD	Safety Specialist	\$117
TBD	Accountant	\$94
TBD	Admin	\$97
TBD	IT	\$100

****GLY Construction Rates adjust at its FY start (October each year), but the rates will not change the Not to Exceed amount.***



Snohomish County Food + Farming Center

Appendix 2 – Subconsultant Proposals

1. Shannon&Wilson
2. HWA Geosciences
3. Urban Patterns
4. CPL
5. KPFF
6. HBB

May 7, 2024

Claire Rennhack, AIA, PE
The Miller Hull Partnership, LLP
71 Columbia Street, 6th Floor
Seattle, WA 98104
via e-mail at crennhack@MillerHull.com

RE: SNOHOMISH COUNTY FOOD AND FARMING CENTER, PROPOSAL FOR
GEOTECHNICAL AND ENVIRONMENTAL SERVICES

Ms. Rennhack:

This letter presents our proposal for geotechnical and environmental services for the Validation Phase of the Snohomish County Food + Farming Center Project (Project) for Snohomish County Parks and Recreation Department (PRD). Our team will provide geotechnical engineering, hazardous materials, and environmental/permitting services for the Project.

SCOPE OF SERVICES

In the Validation Phase, we will collect and review available background information relevant to our technical disciplines, summarize that information for the team's and County's benefit, and engage with regulatory agencies to develop a permitting strategy. Our findings, in combination with the team's Validation Phase deliverables, will assist with planning and implementing future Project phases.

Task 1: Meetings and Administration

This task includes meetings and general administration tasks as described below.

Subtask 1.A – Various Progress Meetings

- The Geotechnical Lead, Environmental Lead, and Hazardous Materials Lead will each attend up to six of the weekly project management team meetings on an invite/as-needed basis.
- The Geotechnical Lead, Environmental Lead, and Hazardous Materials Lead will each attend the monthly project update/review meetings, not to exceed eight each.
- The Geotechnical Lead, Environmental Lead, and Hazardous Materials Lead will each attend the site validation working sessions, not to exceed 16 each.

Subtask 1.B – Authorities Having Jurisdiction – General

- The Environmental Lead and additional staff (depending on the topic) will attend up to four meetings to discuss feedback received from the authorities having jurisdiction (AHJs) as needed to provide team awareness and support decision making.

Subtask 1.C – Stakeholder Meetings

- No scope.

Subtask 1.D – Administrative Tasks

- The Geotechnical Lead and Environmental Lead will each attend two meetings to discuss the Permitting Implementation Plan.
- We will review and provide comment on the Risk Matrix prepared by GLY+MH+UP as it relates to our scope elements.

Subtask 1.E – Validation Report and Phase 1 Proposal

- We would prepare our Phase 1 Proposal based on the findings of the Validation Report.
- The Validation Report would be prepared by others.

Assumptions

- Total number of meetings will not exceed 36. Six meetings would be in-person and 30 would be virtual.
- Meetings would last 1 hour each. Each meeting would require 2 hours for preparation and follow-up.
- Others will prepare meeting agendas and minutes.

Task 2: Site Investigation

This task includes information gathering and outreach to support locating buildings on the site. The task is divided into several subtasks, detailed below.

Subtask 2.A – Critical Information List

We will review the Critical Information List and support team's identification of additional information needed for the project development.

Subtask 2.B – Environmental Permit Supporting Activities, Testing, and Inspection

Geophysical Survey

We would conduct non-invasive geophysical testing to identify the thickness of landfill refuse in the Project area. The results of the survey would be used to help select building locations, and identify areas of further explorations in future Project phases.

Phase I Environmental Site Assessment

A Phase I Environmental Site Assessment (ESA) was listed as a potential deliverable for this project. A Phase I ESA is performed in accordance with ASTM E1527 and is commonly used during a real estate transaction to assess if historical or current uses of the property may have impacted the soil or groundwater and could pose a threat to human health or the environment. The presence of contamination may present a liability to the prospective purchaser. In our opinion, a Phase I ESA is not needed for this project because no real estate transaction is proposed. Furthermore, a Phase I ESA would likely not provide any new useful information because the project area is a landfill that is already known to contain waste. A Phase I ESA is not included in this scope of work for the reasons discussed previously; however, it can be added for an additional fee if requested.

Hazardous Building Materials

We will review available records provided by Snohomish County to evaluate the potential extent of hazardous building materials in existing structures that may be demolished in the project footprint. We request that the County provide any records of historical asbestos surveys or other hazardous building material surveys.

We will conduct a site visit to field-verify background information regarding hazardous building materials obtained during the records review and develop the requirements for a Hazardous Building Material Survey (HBMS), if appropriate. The available hazardous building material data and proposed requirements for an HBMS will be summarized and incorporated into the Hazardous Building Materials and Vapor Intrusion Site Conditions Summary. The information will be provided in up to 5 pages.

Vapor Intrusion Preliminary Desktop Review

We will review available records provided by Snohomish County to evaluate the potential for vapor intrusion in future structures in the project footprint. We request that the County provide any historical vapor intrusion assessments for existing structures on the landfill.

Additionally, we will rely on the County-provided landfill gas probe monitoring data for the past 10 years.

We will assess the applicability of potential vapor mitigation strategies for the site. Vapor intrusion mitigation strategies will be based on the Department of Ecology's Guidance for Evaluating Vapor Intrusion in Washington State, dated March 2022, and other applicable guidance. The available vapor intrusion data and mitigation strategies will be summarized and incorporated into the Hazardous Materials and Vapor Intrusion Site Conditions Summary. The information will be provided in up to 5 pages.

Natural Resources

We will review background information provided by Snohomish County, including critical area reports, wetland delineation reports (including data sheets and wetland rating forms), mitigation reports, and other studies relating to on-site biological or flood hazard critical areas. After our review, we will conduct a site visit to reconcile background information findings with on-the-ground conditions, verify wetland boundaries, and enhance site familiarity.

We will prepare a Natural Resources Site Conditions Summary for incorporation into the team's Validation Report that summarizes the available critical areas information for wetlands, fish and wildlife habitat conservation areas, and special flood hazard areas. A formal critical areas study including a mitigation plan and/or habitat management plan will be developed in future phases after a proposed project footprint has been finalized (this deliverable will be the starting point for that report). This critical areas summary will include an enhanced local, state, and federal regulations discussion pertinent to this project. This summary will support early AHJ outreach and development of a permitting strategy in Subtask 2.C.

Deliverables

- Geotechnical Site Conditions Summary
- Natural Resources Site Conditions Summary
- Hazardous Building Materials and Vapor Intrusion Site Conditions Summary

Assumptions

- Each deliverable would include a draft and final version.
- No permits or rights-of-entry would be required for the geophysical testing.

- The project will not require additional wetland or stream ordinary high water mark delineation.
- If the on-site wetlands within the project boundaries were delineated more than five years ago or if County Planning & Development Services (PDS) does not agree with the delineated boundary, additional wetland delineation may be required. This effort would not be conducted as part of this base scope, but could be conducted using hours allocated in Task 6 or following approval of a separate scope/budget amendment. Records of historical asbestos surveys or other hazardous building material surveys will be provided by Snohomish County. Any vapor intrusion assessments for existing structures on the landfill will be provided by Snohomish County. Landfill gas probe monitoring data for the past 10 years will be provided by Snohomish County.

Subtask 2.C – AHJ Coordination and Permit Strategy

We, along with key team members, will meet with County PRD to learn about what steps and conversations County PRD may already have undertaken related to environmental/land use permitting, particularly for National Environmental Policy Act (NEPA) compliance. We will develop a brief project narrative, including a purpose and need statement, with supporting site map that can be shared with AHJs during early outreach.

We, along with key team members and County PRD, will reach out to AHJs to engage in high level conversations (akin to a pre-pre-application) about environmental/land use permit requirements, timelines, supporting documents, potential restoration or mitigation requirements, agency concerns and recommendations, and any other elements that would support development and refinement of a streamlined environmental/land use permit strategy for this type of project. AHJs would include:

- Snohomish County PDS
- Snohomish County Solid Waste
- Federal Emergency Management Agency (FEMA)
- U.S. Department of Housing and Urban Development (Regional Environmental Officer)
- National Marine Fisheries Service
- U.S. Fish and Wildlife Service
- Washington State Department of Ecology
- Washington State Department of Fish and Wildlife

The format of these conversations is expected to vary based on the AHJ's availability and willingness to engage. Unless directed otherwise by County PRD, we expect that the format

may consist primarily of phone calls and virtual meetings, attended by our staff and the AHJ, with additional participation by key team members and key PRD staff depending on the topic, interest, and availability.

The floodplain coordination with FEMA and the County's floodplain administrator is specifically proposed to explore, with KPFF, the feasibility of obtaining a Letter of Map Amendment (LOMA) or Letter of Map Revision (LOMR) to update the 100-year floodplain boundary on the project site. A LOMA/LOMR would utilize Washington State Department of Transportation's 2021 floodplain documentation, models and reports, prepared for the State Route 96 culvert replacement project immediately upstream of the project site.

The Washington State Department of Ecology coordination would be led by HWA and is related to landfill compliance.

We will develop a permitting implementation plan. The plan will include a permit matrix that identifies the permits required by each agency, the required plans/reports or other documents to support the application, the firms/individuals responsible for developing those materials, and anticipated agency review timelines. The plan will also summarize any AHJ concerns, sideboards on design that could influence the permit pathway, and other information that was gathered during AHJ outreach. Discussions with County PRD will be necessary during plan development to clearly define roles.

Deliverables

- Project Narrative, with site map
- Permitting Implementation Plan, with permit matrix that can be kept updated and routinely shared during future phases.

Assumptions

- Additional AHJs may be identified during validation phase.
- Other team members will lead information collection/AHJ coordination around construction/building permit issues, landfill, and schedule, and share that with us to include in the Permitting Implementation Plan and matrix.
- Two meetings would be in-person, and the remaining would be virtual.
- Meetings would last 2 hours each. Each meeting would require 2 hours for preparation and follow-up.

- If County PDS or other AHJs require payment of any fees to engage in early coordination, those fees will be paid by the Design-Builder via its designated Permit Allowance.
- This phase does not include development of any permit applications, LOMA/LOMR requests or additional supporting hydraulic modeling (except as described in the Add), supporting documents other than what is described above, or formal pre-application meetings.

Subtask 2.D – Fault Line Regulation Coordination

Mapped strands of the Southern Whidbey Island Fault Zone pass through the Project site. Portions of the Snohomish County Code pertain to development near fault lines. Therefore, we anticipate we would have meetings with County officials to discuss those portions of the code and determine how they impact the proposed Project.

The results of our meetings with County officials would be included in our Geotechnical Site Conditions Summary.

Task 3: Snohomish County Agriculture, Food Industry Licensing and Best Practices

No scope for this task.

Task 4: Project Programming

No scope for this task.

Task 5: Project Definition

The purpose of this task is to provide a preliminary basis of design, estimate and schedule that the team can rely upon to begin Phase 1. We will review and provide comment on the schedule and site plan prepared by GLY+MH+UP as it relates to our scope elements.

Task 6: Phase 1 Early Work

These subtasks include the collection and analysis of information and preparation of deliverables that will inform other tasks or support the project development and are not anticipated to be delivered unless explicitly requested.

Subtask 6.A – Hydraulic Modeling

Depending on results of conversations with FEMA and the County's floodplain administrator, we can provide supportive/exploratory hydraulic modeling to define the updated 100-year floodplain boundary. This assumes that WSDOT will provide its hydrologic and hydraulic analyses and models. Depending on FEMA and County requirements, this task may require additional effort which will be defined for Phase 1.

Subtask 6.B – Begin Environmental Document Preparation

Depending on results of conversations with AHJs and the evolution of the project footprint during validation, we can begin preparation of a number of supporting studies and environmental documents/applications. This work would be conducted up to the available hours and be a bridge to Phase 1 permitting effort.

Subtask 6.C – Subsurface Explorations

We would retain a geotechnical drilling subcontractor to drill and sample up to four soil borings. The purpose of the borings would be to provide geotechnical data for Project design. Up to three of the borings would be in the footprint of the historic landfill, and would require disturbing the landfill liner. We would retain a certified liner welding subcontractor to repair damage to the liner caused by the drilling operations.

Prior to drilling, we would contact the public One-Call utility locate service. We would also coordinate with County staff to determine if subsurface infrastructure may be present in our proposed drilling locations.

During drilling, we would have field staff on-site to log the boreholes and retrieve soil samples for testing in our laboratory. If environmentally hazardous materials are detected in the soil samples, we would follow appropriate procedures to preserve the samples and submit them to an environmental lab for testing and characterization. In our laboratory, soil samples would be tested to determine their engineering properties. Testing could include grain-size analysis, consistency of fine-grained soil (Atterberg Limits), and moisture content.

Assumptions

- Site access for our field reconnaissance and drilling program would be facilitated by others.
- Any permits required to perform our drilling program (e.g., wetland buffer, landfill proximity) would be obtained by the Design-Builder or its designees.

- No exceptional health and safety measures, such as HazMat suits or ventilators, would be needed when drilling near or over the landfill.
- Site restoration following the subsurface explorations would be limited to cold-patch asphalt in paved locations.

Deliverable

- Geotechnical Data Report

Subtask 6.D – Hazardous Building Material Survey

An HBMS will be required prior to demolition of a structure in accordance with regulations administered by the Puget Sound Clean Air Agency and Washington State Department of Labor and Industries. An HBMS typically involves a visual inspection of the building materials and the collection of samples of building materials for laboratory analysis. Results of the HBMS will be used to develop contractor specifications for abatement of hazardous materials present in the buildings, if any.

At this preliminary phase of the project, it is suspected that the pool facility will be demolished prior to construction of the new Food and Farming Center. If it is confirmed that the pool facility will be demolished, we propose to perform an HBMS of the pool facility per this subtask. Of note, among other building components, the pool liner and building roof may require sampling to evaluate for the presence of hazardous materials (i.e., asbestos). The sampling procedure may affect the integrity of the pool liner; therefore, sampling of the pool liner should only be performed when the pool will no longer be used.

The HBMS proposed in this task will be performed by an AHERA certified building inspector. The scope of services will consist of:

- Collection of samples of building materials for analysis of asbestos.
- Collection of samples of predominant paint chips for analysis of lead.
- Analysis of asbestos and lead will be performed by a subcontracted laboratory.
- Identification, by visual inspection, of potentially polychlorinated biphenyl- (PCB)-containing fluorescent light ballasts (FLBs).
- Identification, by visual inspection, of potential mercury-containing light tubes or thermostats.
- A visual survey to evaluate for the presence of other potentially hazardous building materials or contaminated building materials, including:
- Smoke detectors and exit signs with radioactive material,

- Water heaters, water tanks, transformers, water fountains, and air compressors,
- Cooling equipment,
- Preparation of an HBMS report. The report will include a summary of methods, results, and locations of hazardous materials, photos of sampled locations, maps of sampled locations, and estimated locations and quantities of hazardous materials. The laboratory reports will be attached as appendices.

In developing this scope of services, we assume the following.

- Access to all areas of the structures will be provided by others during one day of sampling.
- Analysis of up to 200 samples of building materials for asbestos by polarized light microscopy.
- Analysis of up to 20 samples of building materials for asbestos by point counting.
- Analysis of up to 20 samples of paint chips for lead by Flame Atomic Adsorption.
- Only materials accessible from the ground surface or using a 6-foot ladder will be inspected or sampled.
- The sampled areas will not be repaired or patched, except for the application of drywall putty, if requested by the client. The drywall putty will not be painted to match existing colors or textures.
- The client will provide written confirmation if sampling of the pool liner is authorized. If authorized, the pool will be drained by others. The sampled area of the pool liner will not be repaired or patched; therefore, it will not be watertight.
- This scope of services does not include a cost estimate for abatement of hazardous materials, or preparation of abatement specifications.
- This scope of services does not include an investigation for mold.
- This scope of services does not include an investigation for hazardous substances that are not within building materials. Any materials that are not affixed to the building (such as furniture or items on shelves or in boxes) are assumed to be removed prior to demolition of the building and are therefore not included in this survey of building materials.

FEE ESTIMATE

Exhibits 1 through 3 summarize our Geotechnical fee estimates for the Validation Phase.

Exhibit 1 – Validation Phase Task 1 Geotechnical Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Vice President (Project Manager)	\$290	60	\$17,400
Labor Subtotal			\$17,400
Reimbursables			
Mileage			\$20
Reimbursables Subtotal			\$20
Total Fee			\$17,420

Exhibit 2 – Validation Phase Task 2 Geotechnical Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Vice President (Project Manager)	\$290	152	\$44,080
Senior Engineer	\$205	100	\$20,500
Engineering Staff	\$205	100	\$20,500
Senior Drafter	\$160	20	\$3,200
Senior Office Services	\$155	20	\$3,100
Labor Subtotal			\$91,380
Reimbursables			
Mileage			\$100
Geophysical Subcontractor			\$5,000
Reimbursables Subtotal			\$5,100
Total Fee			\$96,480

Exhibit 3 – Validation Phase Task 5 Geotechnical Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Vice President (Project Manager)	\$290	8	\$2,320
Labor Subtotal			\$2,320
Total Fee			\$2,320

Exhibits 4 through 6 summarize our Environmental/Permitting fee estimates for the Validation Phase.

Exhibit 4 – Validation Phase Task 1 Environmental/Permitting Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Consultant	\$290	4	\$1,160
Associate, Sr. Biologist	\$230	124	\$28,520
Labor Subtotal			\$29,680
Reimbursables			
Mileage			\$50
Reimbursables Subtotal			\$50
Total Fee			\$29,730

Exhibit 5 – Validation Phase Task 2 Environmental/Permitting Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Consultant	\$290	25	\$7,250
Senior Hydraulic Engineer	\$250	10	\$2,500
Associate, Sr. Biologist	\$230	194	\$44,620
Hydraulic Engineer	\$190	6	\$1,140
Wildlife Biologist	\$170	32	\$5,440
Biologist	\$125	146	\$18,250
Senior Drafter	\$160	20	\$3,200
Word Processing	\$155	8	\$1,240
Labor Subtotal			\$83,640
Reimbursables			
Mileage			\$300
Reimbursables Subtotal			\$300
Total Fee			\$83,940

Exhibit 6 – Validation Phase Task 5 Environmental/Permitting Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Consultant	\$290	8	\$2,320
Associate, Sr. Biologist	\$230	32	\$7,360
Total Fee			\$9,680

Exhibits 7 through 9 summarize our Hazardous Materials fee estimates for the Validation Phase.

Exhibit 7 – Validation Phase Task 1 Hazardous Materials Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Consultant	\$310	4	\$1,240
Senior Engineer	\$205	68	\$13,940
Word Processing	\$155	2	\$310
Labor Subtotal			\$15,490
Reimbursables			
Reimbursables Subtotal			\$0
Total Fee			\$15,490

Exhibit 8 – Validation Phase Task 2 Hazardous Materials Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Consultant	\$310	20	\$6,200
Vice President	\$290	4	\$1,160
Senior Engineer	\$205	70	\$14,350
Senior Drafter	\$160	8	\$1,280
Word Processing	\$155	6	\$930
Labor Subtotal			\$23,920
Reimbursables			
Mileage			\$31
Reimbursables Subtotal			\$31
Total Fee			\$23,951

Exhibit 9 – Validation Phase Task 5 Hazardous Materials Fee Estimate

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Engineer	\$205	8	\$1,640
Labor Subtotal			\$1,640
Reimbursables			
Reimbursables Subtotal			\$0
Total Fee			\$1,640

Exhibits 10 through 12 summarize our fee estimates for Task 6: Phase 1 Early Work.

Exhibit 10 – Phase 1 Early Work Geotechnical Fee Estimate (Subtask 6C)

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Vice President (Project Manager)	\$312	140	\$43,645
Senior Engineer	\$183	260	\$12,470
Engineering Staff	\$134	230	\$47,515
Senior Drafter	\$172	20	\$30,906.25
Senior Office Services	\$167	20	\$3,440
Labor Subtotal			\$128,838.75
Reimbursables			
Mileage			\$300
Drilling Subcontractor			\$20,000
S&W Geotechnical Laboratory Testing			\$10,000
Soil Environmental Testing			\$5,000
Utility Locates			\$2,000
Landfill Liner Welding Subcontractor			\$2,000
Reimbursables Subtotal			\$39,300
Total Fee			\$168,138.75

Exhibit 11 – Phase 1 Early Work Environmental/Permitting Fee Estimate (Subtasks 6A and 6B)

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Consultant	\$290	4	\$1,160
Senior Hydraulic Engineer	\$250	130	\$32,500
Associate, Sr. Biologist	\$230	60	\$13,800
Hydraulic Engineer	\$190	200	\$38,000
Wildlife Biologist	\$170	24	\$4,080
Biologist	\$125	100	\$12,500
Word Processing	\$155	4	\$620
Labor Subtotal			\$102,660
Reimbursables			
Mileage			\$120
Reimbursables Subtotal			\$120
Total Fee			\$102,780

Exhibit 12 – Phase 1 Early Work Hazardous Materials Fee Estimate (Subtask 6D)

Position	All-Inclusive Hourly Rate	Hours	Fee Subtotal
Senior Consultant	\$310	8	\$2,480
Senior Engineer	\$205	20	\$4,100
Enviro Specialist	\$140	40	\$5,600
Senior Drafter	\$160	12	\$1,920
Word Processing	\$155	8	\$1,240
Labor Subtotal			\$15,340
Reimbursables			
Mileage			\$31
Equipment Rental			\$100
Laboratory Testing			\$3,310
Reimbursables Subtotal			\$3,441
Total Fee			\$18,781

CLOSURE

We look forward to working with you on this project. Please include this proposal as an attachment to the project contract.

Sincerely,

SHANNON & WILSON

Jeremy Butkovich, PE
Vice President

JNB/jnb:ajs:rbp

c: Dana Johnson, GLY (via e-mail at Dana.Johnson@gly.com)



GEOSCIENCES INC.
DBE/MWBE

April 22, 2024
HWA Project No. 2023-P157

GLY
14432 SE Eastgate Way, Suite 300
Bellevue, WA 98007

Attention: Dana Johnson, Design-Build Senior Project Manager

**Subject: Scope and Budget
Snohomish County Food and Farming Center
Validation Phase
Snohomish County, Washington**

Dear Dana Johnson,

HWA GeoSciences Inc. (HWA) is pleased to present this proposal to GLY for planning, permitting and design assistance during the Validation Phase on the Snohomish County Food and Farming Center project.

Based on our understanding of the project objectives, HWA proposes the following services for each identified Validation Phase project task where our involvement is anticipated:

Task 2: Site Investigation

2.A. Critical Information List

- **Review Provided Documents:** HWA will review documents provided by the County and other materials we may need for our evaluation, including existing site plans (utilities, stormwater, landfill gas etc.), landfill closure documentation and reports, regulatory documents and correspondence, etc.
- **Site visit** – HWA staff will coordinate with you and County to visit the site and observe site conditions and existing features

2.B. Environmental Permit Supporting Activities, Testing, and Inspection

- **Testing, and Inspection review** – HWA will review and comment on testing and inspection plans and reports as needed, although HWA is not scoped to perform any testing or inspection. Relevant elements include soils testing and boring, verification of existing methane system, investigation of existing utilities, and possibly analysis of existing buildings

2.C. Environmental Assessment (NEPA/SEPA/Salmon Safe/LEED)

- **NEPA/SEPA support:** Assist with development of NEPA/SEPA documents for landfill-related hazardous materials elements.

2.D. Regulatory Engagement including Land Use and Zoning

- **Regulatory interface for landfill issues** – HWA will contact Department of Ecology to obtain a preliminary information about agency concerns and maintaining regulatory compliance throughout the project with regards to the landfill closure and post closure monitoring. If re-opening or modifying the Agreed Order is required, outside legal counsel will be required, which is not included in HWA's scope or budget.

Task 5: Project Definition

- 5.A. Preferred FCC Concept Basis of Design
- 5.B. Project Schedule
- 5.C. Project Cost Model

- **Review and comment on project deliverables** – HWA will review and provide comments on Validation Phase project deliverables, with regards to landfill impacts.

Other tasks included in HWAs proposed scope of work include:

- **Project Setup:** HWA will initiate the project and set up billing information in support of invoicing throughout the project.
- **Meetings** (monthly team & additional working calls) - HWA will attend monthly team meetings and other meetings as requested
- **Project Management**

COST ESTIMATE

We estimate that the scope of services proposed herein will require a budget of \$57,760 to accomplish, as detailed on the attached project cost estimate spreadsheet. We will not exceed the above cost estimate without your prior authorization. However, if during the evaluation of the available data unanticipated conditions are revealed which would require a level of effort beyond the scope of our study, we will contact you immediately to discuss any necessary modifications to our scope of services and/or budget estimate.

The budget presented in this proposal reflects an estimate based on our current understanding of the project requirements for a scope of work developed from information provided. HWA reserves the right to transfer hours and budget dollars between tasks to satisfy project requirements.



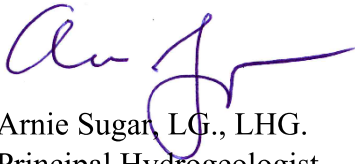
We appreciate the opportunity to provide this proposal. If you agree with the scope of services, budget, and general conditions described herein, please indicate your concurrence by returning

April 22, 2024
HWA Project No. 2023-P157

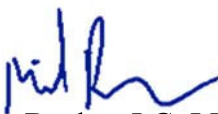
one signed copy of this letter. Should you have any questions regarding this proposal, or require additional services, please contact us at your convenience.

Sincerely,

HWA GEOSCIENCES INC.



Arnie Sugar, LG., LHG.
Principal Hydrogeologist



Mike Bagley, LG, LHG
Senior Hydrogeologist

I hereby agree to the scope of services, budget, and terms proposed herein and HWA GeoSciences Inc. is authorized to proceed.

Printed Name

Signature of Party Responsible
for Payment

Title/Organization

Date

April 22, 2024
HWA Project No. 2023-P157

Sub-consultant Terms and Conditions Not Applicable


April 22, 2024
HWA Project No. 2023-P157

Sub-consultant Terms and Conditions Not Applicable

April 22, 2024
HWA Project No. 2023-P157

Sub-consultant Terms and Conditions Not Applicable

April 22, 2024
HWA Project No. 2023-P157

Snohomish County Food & Farming Center Validation Phase Snohomish County, Washington		 HWA GEOSCIENCES INC.		HWA Ref: 2023-P157 Date: 4/22/2024 Prepared By: AS/MB					
PROPOSED SCOPE:		See proposal dated April 22, 2024 for scope of work							
ESTIMATED HWA LABOR:									
WORK TASK DESCRIPTION	PERSONNEL & 2024 HOURLY RATES						TOTAL HOURS	TOTAL AMOUNT	
	Principal \$330.00	Sr. Hydro \$190.00	Sr Geol. \$180.00	Staff Geol. \$145.00	CAD \$155.00	Admin. \$120.00			
Task 2: Site Investigation									
2.A.Critical Information List									
Data review (closure, CD, Ecology reports)		6	8					14	\$3,500
Review plans (utils, gas, stormwater, etc.)		6	8					14	\$3,500
Site visit		2	8					10	\$2,180
2.B.Environmental Permit Supporting Activities, Testing, and Inspection									
Testing, and Inspection review		8	8					16	\$4,160
2.C.Environmental Assessment (NEPA, SEPA,...)									
NEPA/SEPA support		8	8					16	\$4,160
2.D.Regulatory Engagement									
Regulatory (Ecology) interface for LF issues		12	24					36	\$8,520
Task 5: Project Definition									
Review and comment on project deliverables		18	18					36	\$9,360
Meetings (monthly team & addl working calls)		20	20					40	\$10,400
Project Management / Misc reviews/support		4	25	12	12	8	6	67	\$11,930
LABOR:		84	127	12	12	8	6	249	\$57,710
		TOTAL HWA LABOR:							\$57,710
		ESTIMATED DIRECT EXPENSES:							
		Mileage @ IRS							\$50
		TOTAL DIRECT EXPENSES:							\$50
		OUTSIDE DIRECT COSTS:							\$0
									\$0
		TOTAL OUTSIDE DIRECT COSTS:							\$0
		PROJECT TOTALS AND SUMMARY:							
		Total Labor Cost							\$57,710
		Direct Expenses							\$50
		Outside Direct Costs +10% admin fee							\$0
		TOTAL:							\$57,760

Summary Proposal

Urban Patterns: Food Infrastructure SME (Development, Design, and Asset Management)

Snohomish Food & Farming Center

Updated: April 25, 2024

Task 1	Meetings and Administration	\$34,920
Task 2	Site Investigation	\$2,160
Task 3	Snohomish County Agriculture, Food Industry Licensing and Best Practices	\$54,740
Task 4	Project Programming	\$70,640
Task 5	Project Definition	\$57,140
Total Base Services		\$219,600
Optional Additional Services		
Task 6.A	Early Work: Grant Funding Support	\$25,120
Task 6.B	Early Work: Enhanced Operator Engagement Support	\$56,840
Task 6.C	Early Work: Stakeholder Outreach & Engagement	variable
Total Optional Additional Services		\$81,960
Grand Total Services		\$301,560

April 25, 2024

Claire Rennhack
The Miller Hull Partnership
71 Columbia Street, 6th Floor
Seattle, WA 98104

RE *Snohomish County Food and Farming Center – Validation Phase
Proposal for Structural Engineering Services*

Dear Claire:

We are pleased to provide this proposal for the Validation Phase of the Snohomish County Food and Farming Center. We are excited to be a member of the Miller Hull, Urban Patterns, and GLY Construction design-build team.

This proposal is based on following documents and meetings:

- Snohomish County FFC application for project approval dated May 26, 2022
- RFP from October 24, 2023 including attachment A.3 – Phase 1 and Phase 2 Scope of Services
- GLY + Miller Hull + Urban Patterns Proposal dated December 5, 2023
- Design-build team meeting on March 6, 2024
- Validation Phase by task document dated April 16, 2024

Project Description

The Snohomish County Food and Farming Center project will consist of approximately 50,000 to 70,000 square feet of space, likely in multiple buildings, as a resource for local fruit and vegetable farmers. The programming will include three main uses. Operation 1 is food processing, aggregation, and distribution space to be used to process local produce. This space will also include cold and dry storage. Operation 2 is a commercial kitchen and event space. Operation 3 is a farmer's market space that is to provide year round sales opportunity for local vendors.

Validation Phase Scope of Services

The scope of structural services during the Validation Phase is as follows.

Task 1: Meetings and Administration (~0% of Validation Phase Effort)

- We anticipate limited structural scope for this task. We will support the design-build team as required.

Task 2: Site Investigation (25% of Validation Phase Effort)

- Attend team meetings as requested.
- Coordinate additional soil testing locations with the geotechnical engineer.
- Work with the geotechnical engineer and environmental consultant to evaluate foundation options through the existing landfill cap.
- Work with the team to identify foundation impacts from various building site locations.
- Engage AHJ on structural specific permitting challenges such as building proximity to existing faults.

Task 3: Snohomish County Agriculture, Food Industry Licensing and Best Practices (~0% of Validation Phase Effort)

- We anticipate limited structural scope for this task. We will support the design-build team as required.

Task 4: Project Programming (50% of Validation Phase Effort)

- Attend team meetings as requested.

- Provide structural system options for all different operations and assist the design-build team in structural system selection.

Task 5: Project Definition (25% of Validation Phase Effort)

- Attend team meetings as requested.
- Develop structural allowances as required for GLY to develop the Project Cost Model.

Task 6: Phase 1 Early Work (If specifically authorized)

- If desired, we can perform a Tier 1 seismic evaluation of the existing buildings in accordance with *ASCE 41-17: Seismic Evaluation and Retrofit of Existing Buildings*. This evaluation would identify seismic deficiencies in any existing buildings that are being considered to be retrofitted for the Snohomish County Food and Farming Center project..

Schedule

A project schedule is currently being developed. We understand that the Validation Phase will start soon and last approximately (40) weeks. This phase will likely overlap with the Design Phase of the project.

Validation Phase Fee Proposal

We will bill for our services at hourly rates per Exhibit F All-Inclusive billing rates not to exceed a maximum amount of \$30,000. Below is our estimated fee broken out by Validation Phase task.

TASK	PERCENT OF TOTAL	AMOUNT
Task 1	0%	\$0
Task 2	25%	\$7,500
Task 3	0%	\$0
Task 4	50%	\$15,000
Task 5	25%	\$7,500
TOTAL	100%	\$30,000

OPTIONAL TASK	AMOUNT
Task 6	\$6,000 per building allowance

We will provide a proposal for the remainder of design and construction administration once the project scope is identified through the Validation Phase process.

Closing

The fee is based upon the schedule and other assumptions noted in this proposal. We will bill as progress is achieved. The scope of services is limited to the Validation Phase of the project. We anticipate entering into a contract with Miller Hull based upon standard AIA document C401-2017 during the Design Phase of the project. We have enclosed a partial Schedule of Conditions intended to serve as an addendum to the anticipated AIA contract.

We appreciate the opportunity to work with you. Please call if we can be of further assistance.

Sincerely,

COUGHLIN PORTER LUNDEEN, INC.



Eric Dixon, PE, SE
Associate Principal

Schedule of Conditions

The services and compensation of Coughlin Porter Lundeen, Inc. are based on the following conditions unless otherwise noted in the accompanying proposal. Services that are not expressly included in the proposal letter or otherwise included herein, are expressly excluded. Authorization for Coughlin Porter Lundeen to proceed constitutes agreement to these terms and conditions.

1. Hourly Charges for Personnel

Personnel will be charged at the following rates when hourly billing is applicable:

\$235	Principal	110	Engineer III
225	Associate Principal	160	Project Administrator
220	Associate	160	BIM Coordinator
215	Senior Project Manager	150	BIM Designer
200	Project Manager	135	BIM Technician I
190	BIM Manager	115	BIM Technician II
175	Project Engineer I	95	BIM Technician III
160	Project Engineer II	85	Administration
145	Engineer I	85	Intern
135	Engineer II		

These rates are in effect for a 12-month period, subject to annual increases, which typically take place in January of each year. Excluded from these rates is work involving expert witness testimony, litigation, or negotiating claims settlements.

Sub-consultant Terms and Conditions Not Applicable

Sub-consultant Terms and Conditions Not Applicable

Sub-consultant Terms and Conditions Not Applicable

Snohomish County Food + Farming Center

Phase 1: Project Definition and Validation - Civil Scope/Fee

23-Apr-2024

FIRM NAME: KPFF Consulting Engineers, Inc
COMPLETED BY: Jenifer Clapham
PHONE: 206-926-0549

Validation Services**A What You Need from Others/Preceding Activities to Carry Out Your Work**

1	Survey CAD Files
2	Geotech Report (is RFP version final?), including BMP infiltration rates
3	CAO Setback requirements and agreement on flexibility prior to jurisdictional input/review
4	Agreed limits of the site work and building plan
5	

B Scope of Services / Deliverables

Task 1	Meetings and Administration
	1.A Progress Meetings - Attend weekly meetings (virtual, 35 total, 1 hour, 1 person)
	1.A.1 Project Kick-Off - Attend one (1) kick-off meeting (virtual, 2 hours, 2 people) to review and kick-off the project
	1.A.2 "Rules of Engagement" (Project Goals/Values) - Attend one (1) working session (virtual, 1 hour, 2 people) to support development of project goals and values
	1.A.3 Monthly Team Update/Review Meeting - Attend monthly full team meetings (virtual, 8 total, 1 hour, 3 people)
	1.B AHJ Meetings - Effort associated with this task is included within Site Investigation Task 2.E AHJ and Stakeholder Coordination.
	1.C Stakeholder Meetings (1 meeting) - Effort associated with this task is included within Site Investigation Task 2.E AHJ and Stakeholder Coordination.
	1.D Administrative Tasks
	1.D.1 Permitting Plan (2 meetings) - Effort associated with this task is included within Site Investigation Task 5.A
	1.D.2 Subcontracting and Procurement Plan (2 meetings) - No KPFF involvement anticipated for Subcontracting and Procurement Plan Meetings
	1.D.3 Risk Matrix (2 meetings) - Attend two (2) working sessions to identify potential project risks (2 hours, 2 people). Review and provide comment on any associated risk analysis summary.
	1.D.4 Decision Log - Provide input on the decision log, managed by others
	1.D.5 Monthly Reporting and Invoices - Prepare monthly reporting and invoices
	1.E Validation Report and Phase 1 Proposal - Effort for this included within Task 5 Project Definition
Task 2	Site Investigation
	2.A Critical Information List - Coordinating with project team to identify critical information items (additional involvement associated with the Critical Information List (CIL) is included within Task 5).
	2.B Environmental Permit Supporting Activities, Testing and Inspection
	2.C Environmental Assessment (NEPA/SEPA/Salmon Safe/LEED) - Prepare for and attend up to six meetings with key team members and County PRD and other AHJ to understand environmental requirements and regulatory engagements (virtual, 6 total, 2 hours, 2 people)
	2.D Regulatory Engagement including Land Use and Zoning - Effort associated with this task is included under 2.C Environmental Assessment
	2.E AHJ and Stakeholder Engagement and Coordination
	2.E.1 AHJ Coordination - Engagement with AHJs to gather information to vet and understand site and civil code and permitting requirements. Assumes preparation and attendance at three (3) sessions/meetings with AHJs (virtual, 1 hour, 2 people).
	2.E.2 Stakeholder Coordination - Prepare for and attend one (1) stakeholder engagement session, and review and comment on meeting notes (2 hours, 3 people).

	2.F Site Investigation and Site Conditions Report - Site visit to evaluate existing conditions once site limits are determined. Prepare site conditions report based on site visit and site exploration studies. Review site conditions reports prepared by other subconsultants, and coordinate with subconsultants to compile comprehensive site conditions report.
Task 3	Snohomish County Agriculture, Food Industry Licensing and Best Practices
	No KPFF involvement for anticipated for Task 3 Snohomish County Agriculture, Food Industry Licensing and Best Practices.
Task 4	Project Programming
	4.A Space Needs Program - Attend up to three (3) building program/validation meetings (virtual, 1 hour, 3 people) with project team to discuss site constraints with the building design team.
	4.B Prioritizing and Rightsizing to Proforma
	4.C FCC Concept Options - Attend up to sixteen (16) site validation meetings (virtual, 1 hour, 2 people) with project team to coordinate FCC concept options and set limits of site work and building location for up to three concept options.
	4.D Advisory Committee Engagement - Provide support and documentation for engagement with advisory committee
Task 5	Project Definition
	5.A Preferred FCC Concept Basis of Design
	5.A.1 Betterment Matrix - Attend four (4) working sessions to identify project betterments (2 hours, 2 people). Review and provide comment on any associated cost and schedule associated with identified project betterments.
	5.A.2 Building Information Model (BIM) Execution Plan - Coordination related to site survey and aligning it for the BIM.
	5.A.3 Target Site Plan Basis of Design - Prepare the following:
	Review and identify stormwater requirements
	Attend up to twelve (12) program validation meetings (virtual, 1 hour, 2 people) with project team to coordinate preferred FCC concept option
	Site Plan Basis of Design, and Civil Exhibit showing the architectural and landscape concepts with civil related marks-ups overlaid and notes regarding possible constraints, considerations, and opportunities
	5.A.4 Permitting Plan - Review and comment on draft and final permitting plan/matrix, including attendance at up to two (2) review/coordination meetings.
	5.B Project Schedule - Provide input on the project schedule, managed by others
	5.C Project Cost Model
	5.C.1 Preliminary Target Budget - Review and comment on draft target budget, with quantity take-offs and unit pricing by others. Attend one (1) review/coordination meeting (virtual, 2 hours, 1 person).
	5.C.2 Target Construction Costs - Review and comment on revised construction costs, with costs prepared by others. Attend one (1) review/coordination meeting (virtual, 2 hours, 1 person).
	5.D Project Definition Validation Report and Phase 1 Proposal
Task 6	Phase 1 Early Work
	No KPFF involvement for anticipated for Task 6 Phase 1 Early Work.
-	Reimbursables not anticipated, if incurred, will be invoiced at cost and suggest a \$1,000 budget

C Staffing:

Name/Role (if TBD)	Position	Description	All-Inclusive Rate	Hours Anticipated	Fee Subtotal
Jenifer Clapham	Principal	Principal in charge	\$ 235	250	\$ 58,750
Chris Park	Associate, Project Manager	Point lead for civil design and documentation	\$ 205	320	\$ 65,600
TBD	Project Engineer	Professional Engineer	\$ 155	320	\$ 49,600

TBD	Design Engineer	Design Engineers, no PE	\$ 135	380	\$ 51,300
TBD	CADD Technician	CAD drafters and modelers	\$ 145	160	\$ 23,200
TBD	Administration	Word Processing Support	\$ 100	80	\$ 8,000
Reimbursables	-				\$ 1,000
Validation Fee Total					\$ 257,450.00

Validation Services - Potential Additional Services

A What You Need from Others/Preceding Activities to Carry Out Your Work

1	Survey will be provided to us with C3D surface
2	Surveyor will prepare the Metes and Bounds definition for the LOMA application
3	Owner will help complete the LOMA form
4	Owner will compile and submit the LOMA application

B Scope of Services / Deliverables

1	LOMA Documentation
	Review survey for areas above flood elevation surface, and prepare exhibit for surveyor's Metes and Bounds exhibit
	Complete LOMA application form to the extent that we can, and provide to the Owner for compiling and submitting

C Staffing:

Name/Role (if TBD)	Position	Description	All-Inclusive Rate **	Hours Anticipated	Fee Subtotal
Jenifer Clapham	Principal	Principal in charge	\$ 235	4	\$ 940
Chris Park	Associate, Project Manager	Point lead for civil design and documentation	\$ 205	16	\$ 3,280
TBD	Project Engineer	Professional Engineer	\$ 155	4	\$ 620
TBD	Design Engineer	Design Engineers, no PE	\$ 135	4	\$ 540
TBD	CADD Technician	CAD drafters and modelers	\$ 145	16	\$ 2,320
TBD	Administration	Word Processing Support	\$ 100	2	\$ 200
Phase 1 Fee Total					\$ 7,900.00

Project: SnoCo Food + Farming
Client: Miller Hull / GLY
Firm: HBB Landscape Architecture
Date: 4/23/2024

Scope of Work	Principal/QC	PM / LA	Design	Comp./ Tech	Contracts Mgmt	Clerical / Admin.	
	\$235.00	\$ 210.00	\$ 175.00	\$ 150.00	\$ 165.00	\$ 110.00	TASK SUBTOTAL

VALIDATION PHASE

TASK 1.	Meetings and Administration	11	8	0	0	8	0	\$5,585.00
1.A.	Progress Meetings - Weekly							
	Weekly Meetings (2)	2						
	Pay Application Meetings (0)							
	Project Kick-Off (1)	1						
	"Rules of Engagement" Meetings (0)							
	Project Invoicing		8			8		
1.B.	Authorities Having Jurisdiction Meetings (2)	2						
1.C.	Stakeholder Meetings (0)							
1.D.	Administrative Tasks							
	Permitting Plan Meetings (0)							
	Subcontracting and Procurement Meetings (0)							
	Risk Matrix Meetings (0)							
1.E.	Validation Report and Phase 1	6						
TASK 2.	SITE INVESTIGATION	2	6	8	2	0	1	\$3,540.00
2.A.	Critical Information List							
2.B.	Environmental Permit Supporting Activities							
2.C.	Environmental Assessment							
2.D.	Regulatory Engagement							
	Early AHJ Coordination	1	4	8	2		1	
	Rezoning Process							
	Variance Documentation	1	2					
TASK 3.	AGRICULTURAL INDUSTRY BEST PRACTICES							\$0.00
TASK 4.	PROJECT PROGRAMMING	26	66	58	96	0	9	\$45,510.00
4.A.	Space Needs Program		4					
4.B.	Prioritizing and Rightsizing to Proforma		4					
4.C.	FCC Concept Options							
	Weekly Design Team Meetings		12	6				
	Site Visit (1)		6	6				
	Concept Options (3)	8	12	24	48		4	
	Preferred Concept (1)	4	8	12	24		2	
	Site Sections (3)		4	6	12		1	
	Photo Examples (2)		2	4	8			
	Conceptual Rough Grading (1)	2	8		2		1	
4.D.	Advisory Committee Engagement (2)	12	6		2		1	

Scope of Work		Principal/QC	PM / LA	Design	Comp./ Tech	Contracts Mgmt	Clerical / Admin.	TASK SUBTOTAL
		\$235.00	\$ 210.00	\$ 175.00	\$ 150.00	\$ 165.00	\$ 110.00	
TASK 5.	PROJECT DEFINITION	9	22	12	19	0	2	\$11,905.00
5.A.	Preferred FCC Concept Basis of Design							
	Weekly Design Team Meetings		4	2				
	Final Concept (1)	6	2	10	16		1	
	Basis of Design Narrative	1	4		2		1	
5.B.	Project Schedule		4					
5.C.	Project Model Cost	2	8		1			
TASK 6.	PHASE 1 EARLY WORK							\$0.00
Total Hours		48	102	78	117	8	12	
Total Cost		\$11,280.00	\$21,420.00	\$13,650.00	\$17,550.00	\$1,320.00	\$1,320.00	\$66,540.00

Reimbursable Expenses	\$600.00
TOTAL COST OF SERVICES	\$67,140.00

EXHIBIT G

**DESIGN BUILDER'S INITIAL SUBCONTRACTING
INCLUSION PLAN**

Exhibit G – Design-Builder’s Initial Subcontracting Inclusion Plan

Overall Project Goal:

The design-build team has identified an aspirational goal of 20-25% diverse business utilization for the Snohomish County Food and Farming Center project. We will update the plan as needed to ensure incorporation of diverse business requirements meeting applicable authority/agency definitions, including those identified in specific grants.

Validation Phase:

We have selected a team of consultants that includes WBE, DBE and anticipated-to-be-renewed SBE business inclusion with the goal of achieving at least 20% OMWBE business inclusion. During Validation, we anticipate augmenting the below proposal team with cultural, mechanical and electrical consultants, which may include OMWBE utilization.

Scope	Firm	MWBE Status / Number	Anticipated \$ OMWBE	Anticipated \$ Non-OMBWE	Remarks
Design-Builder	GLY Construction	N/A		\$256,948	
Architect	Miller Hull Partnership	N/A		\$461,207	
Food Systems SME	Urban Patterns	In-process of renewing Small Business status	\$301,560		SBE recertification in process.
Structural Engineer	CPL	N/A		\$30,000	
Civil Engineer	KPFF	N/A		\$256,260	
Landscape Architect	HBB	DBE #: D2F0008876; WBE #: W3F0008876	\$67,140		
Environmental, Haz Matl + Geotech	Shannon & Wilson	N/A		\$449,456	
Landfill	HWA Geosciences	DBE #: D5F0024692 WBE #: 02462	\$48,400		
Mechanical/Plumbing	TBD	TBD		Approximately \$40,000	Allowance, unlikely diverse spend.
Electrical	TBD	TBD	Approximately \$40,000		Allowance, likely diverse spend.
Cultural Consultant	TBD	TBD	Approximately \$30,000		Allowance, likely diverse spend.

Subsequent Phases:

The Phase 1 and 2 proposals will outline our plan for Phase 1 and 2 DBE utilization efforts respectively.

EXHIBIT H
FEDERAL REQUIREMENTS

Exhibit H
Federal Contracting Requirements

Note: By submitting a Response and Proposal, the Design Builder, and any subcontractor, agrees that it has reviewed these requirements, understands such requirements, and shall fully comply with such requirements.

These requirements are in addition other requirements and conditions of the Project. Design-Builder should notify the County if any of these requirements conflict with requirements included elsewhere.

PART 1: HUD – Community Planning Funds (CPF)

The US Housing and Urban Development, Community Planning Fund is one of the primary contributors to the Project. In accordance with the HUD – CPF Grant Guide Version 2 issued February 2023, the following federal provisions apply and are incorporated by reference.

REGISTRATION IN THE SYSTEM OF AWARDS MANAGEMENT (2 CFR 25)

The Design Builder and any subcontractor at any tier must be requested in SAM.gov (<https://sam.gov/content/home>), including establishing a Unique Entity ID, before submitting a response to any procurement request subject to federal funds.

If awarded, the Design Builder and any subcontractor at any tier must maintain an active SAM.gov registration with current information, including information on a highest-level of owner and subsidiaries, as well as on all predecessors that have been awarded a federal contract or grant within the last three-years. All information must stay current throughout the any contract award.

SUSPENSION AND/OR DEBARMENT STATUS (2 CFR 180 and 2424)

This contract is covered by 2 CFR Part 180 and supplemented by HUD's implementing regulations of 2 CFR Part 2424. As such, the Design Builder is required to verify, through attestation, that none of the Design Builder's principals (defined at 2 CFR § 180.995) or its affiliates or subsidiaries (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940), disqualified (defined at 2 CFR § 180.935), or otherwise ineligible for participation on projects with federal assistance. The Design Builder and any subcontractor at any tier must comply with 2 CFR Part 180, subpart C as amended by 2 CFR Part 2424, and must include a requirement to comply with these regulations in any lower tier sub awards it enters.

This certification is a material representation of fact relied upon by the County. If it is later determined that the contractor did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 2424, in addition to remedies available to the County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The Design Builder agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 2424, while their offer is valid and throughout the period of any contract that may be awarded. The Design Builder further agrees to include a provision requiring such on-going compliance in any lower tier sub awards it enters.

CONFLICTS OF INTEREST (24 CFR 85.36 and 570.611)

The Design Builder shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by federal funds.

No employee, officer or agent of the grantee shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

Persons covered under this section include any person who is: (a) An employee, agent, consultant, officer, or elected or appointed official of the grantee, any designated public agency or any subrecipient agency that is receiving HUD funds under CPF GRANT; (b) Any member of his/her immediate family; (c) His or her partner; or (d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

Exhibit H
Federal Contracting Requirements

The contractor's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements funded with HUD funds.

To the extent permitted by state or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents or by contractors or their agents.

No persons described above who exercise or have exercised any functions or responsibilities with respect to CPF-assisted activities, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CPF-assisted activity, or with respect to the proceeds from the CPF-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

BYRD ANTI-LOBBYING (24 CFR 87, 2 CFR 200)

Design Builder who receives an award with federal money shall file the required certification (SF-LLL) with the County. Each subcontractor of each tier must also certify to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.

NON-DISCRIMINATION (CIVIL RIGHTS ACT)

The Design Builder, any subcontractor, successor, transferee, and assignee must comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of any agreement.

Section 109 Housing and Urban Development Act of 1974 (as applicable):

The Design Builder shall comply with Section 109 Housing and Urban Development Act of 1974, provides that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

Fair Housing Amendments Act of 1988 (as applicable):

The Design Builder shall comply with the Fair Housing Amendments Act of 1988, which amends Title VIII of the Civil Rights Act of 1968 that prohibits discrimination on the basis of race, color, religion, sex or national origin in the sale, rental and financing of dwellings. The 1988 Amendments Act extends coverage of the 1968 Act to persons with disabilities and families with children. In addition, the 1988 Amendments establish certain design and construction requirements for new multi-family housing built for first occupancy on or after March 13, 1991.

EQUAL EMPLOYMENT OPPORTUNITY

Under US Executive Order 11246, the Design Builder and any subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex,

Exhibit H
Federal Contracting Requirements

sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

CONTRACTING WITH SMALL, DISADVANTAGED and OTHER DIVERSE FIRMS (2 CFR 200.321)

The Design-Builder agrees to take affirmative steps, as included in their Subcontracting and Inclusion Plan, to include minority, small and women-owned businesses in the Project. Examples of affirmative steps include, but are not limited to:

- a. Placing qualified small, minority and women-owned business enterprises on solicitation lists
- b. Confirming small, minority, and women-owned business enterprises are on the solicitation lists when they are a potential source
- c. Dividing work, when economically feasible, into smaller tasks, quantities, or packages to allow for maximum participation by small, minority, and women-owned business enterprises
- d. Establish bidding and performance schedules, when feasible, that encourage participation by small, minority, and women-owned business enterprises
- e. Using service centers such as the Small Business Administration to support communication, identification, and bidding assistance to small, minority, and women-owned business enterprises
- f. Require affirmative steps be used in all subcontracts at any tier

CONTRACT WORK HOURS AND SAFETY

Under 40 U.S.C. § 3702, each contractor must base wages for every mechanic and laborer on a standard 40-hour work week. Work over 40 hours is allowed, so long as the worker is paid at least one and a half times the base pay rate for all hours worked over 40 hours in the work week. Additionally, for construction work, under 40 U.S.C. § 3704, work surroundings and conditions for laborers and mechanics must not be unsanitary or unsafe. Relevant definitions are at 40 U.S.C. § 3701 and 29 CFR § 5.2.

DRUG-FREE WORKPLACE (2 CFR 182 and 2 CFR 2429)

In carrying out this agreement, the Design Builder agrees to comply with the requirements of the Drug-Free Workplace Act of 1988 (42 U.S.C. 701) and to certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD rules found at 24 CFR part 24, subpart F.

SECTION 3

The Work performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701u) ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance, to the greatest extent feasible, be directed to low and very low-income persons, including persons who are recipients of HUD assistance for housing, with a preference for both targeted workers living in the service area or neighborhood of the Project, as defined by 24 CFR Part 74 ("Section 3 Regulations").

Section 3 will be a Diverse Business Category tracked as part of the Design Builder's Subcontracting and Inclusion Plan. The Design Builder will apply Affirmative Efforts (refer to "CONTRACTING WITH SMALL, DISADVANTAGED and OTHER DIVERSE FIRMS" section above). The Design Builder agrees to notify and actively recruit [registered](#) Section 3 firms, workers, and their respective labor organizations, if applicable, notice when planning subcontractor opportunities on the Project. The subcontractor recruitment and notification process shall include listing of jobs titles needed, availability of apprenticeship and training opportunity, minimum requirements for each job, how to apply and the anticipated start date and duration of the positions.

The Design Builder agrees to include Section 3 clauses in every subcontract and require compliance with Section 3 requirements. Should any subcontractor be found out of compliance the Design Builder further

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agrees to terminate any negotiations or agreement with the Subcontractor and notify the County and HUB of the violation.

TRAFFICKING IN PERSONS

The Design Builder, your employees, or subcontractors at any tier may not:

- Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- Procure a commercial sex act during the period of time that the award is in effect; or
- Use forced labor in the performance of the award or subawards under the award.

The County as the awarding agency may unilaterally terminate a contract, without penalty, if Design Builder or a subcontractor:

- Is determined to have violated a prohibition under this clause; or
- Has an employee who is determined by the County to have violated a prohibition under this clause through conduct that is either:
 - A. Associated with performance under this award; or
 - B. Imputed to Design Builder or the subcontractor using the standards and due process for imputing the conduct of an individual to an organization that are provided in [2 CFR part 180](#), “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)”

The Design Builder must provide Notice immediately, of any information you receive from any source alleging a violation of this requirements.

Rights to terminate unilaterally described in this section are section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and is in addition to all other remedies for noncompliance that are available to the County or any federal funding agency.

The Design Builder must include the requirements of this section as an award term in any subcontract award.

Definitions.

For purposes of this Requirement:

1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by Design Builder including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. “Private entity”:
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in [2 CFR 175.25](#).
 - ii. Includes:

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A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended ([22 U.S.C. 7102](#)).

DOMESTIC PREFERENCE FOR PROCUREMENTS

As appropriate, and to the extent consistent with law, the Design Builder should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

PROHIBITION OF CERTAIN TELECOMMUNICATION EQUIPMENT

Definitions.

As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in [FAR 52.204-25](#).

Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from HUD to:

- (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

Exceptions.

(1) This clause does not prohibit contractors from providing—

- (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

(i) Covered telecommunications equipment or services that:

- i. Are not used as a substantial or essential component of any system; and
- ii. Are not used as critical technology of any system.

(ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

Reporting requirements.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information to the County, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information:

(i) Within one business day from the date of such identification or notification:

The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services. (e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

PROCUREMENT OF RECOVERED MATERIALS

The Design Builder, and any subcontractor at any tier, must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and procure only items designated in the guidelines of the Environmental Protection Agency (40 CFR 247). Items are identified by the EPA to contain the highest percentage of recovered materials practicable; consistent with maintaining satisfactory level of competition; procuring solid waste management services in a manner that maximizes energy and resource recovers; and establishes an affirmative procurement program of recovered materials.

RIGHTS TO INVENTIONS MADE (37 CFR 401)

Under the Bayh-Dole Act, nonprofit and small business contractors have the option to retain rights, in addition to any applicable patent rights, to their inventions produced under federally assisted projects to facilitate the commercialization of the invention. Should any work of this contract fall under the requirements of [37 CFR 401](#), the Design Builder agrees to notify the County who will notify HUD for further consideration.

The term invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act ([7 U.S.C. 2321](#) et seq.).

CLEAN AIR

The awarded Design Builder must agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The contractor agrees to

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report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to HUD and the appropriate Environmental Protection Agency Regional Office.

The Design Builder must agree to include these requirements in each subcontract exceeding \$150,000.

POLLUTION CONTROL

The Design Builder must agree to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq. The Design Builder agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the County, HUD, and the appropriate Environmental Protection Agency Regional Office.

The Design Builder must agree to include these requirements in each subcontract exceeding \$150,000.

REMEDIES FOR NON-COMPLIANCE

If HUD determines that non-compliance by the Design Builder cannot be remedied through Contract provisions (see General Conditions), HUD may take one or more of the following actions against the County and/or the Design Builder, as appropriate for the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180.
- (e) Withhold further federal awards for the project or program.
- (f) Initiate other remedies that may be legally available.

LEAD-BASED PAINT REQUIREMENTS

If grant funds are used for purchase, lease, support services, operation, or work that may disturb painted surfaces, of pre-1978 housing, project must comply with the lead-based paint evaluation and hazard reduction requirements of HUD's lead-based paint rules (Lead Disclosure; and Lead Safe Housing (24 CFR part 35)), and EPA's lead-based paint rules (e.g., Repair, Renovation and Painting; Pre-Renovation Education; and Lead Training and Certification (40 CFR part 745)).

TERMINATION

HUD may terminate any award in whole or in part as follows:

1. If the County, or the Design Builder, fails to comply with the terms and conditions of award.
2. If the award no longer effectuates the program goals or HUD priorities.
3. If HUD and the County agree for any reason it is necessary to terminate and agree on the termination conditions, such as the effective date, or a partial termination as agreed.
4. If the County seeks termination, or partial termination, and provides written notification and the reasons for such termination, and the effective dates.
5. If any of the termination provisions are met in accordance with the terms of the federal award.

If a federal award is terminated, in whole or in part, all parties remain responsible for compliance with the requirements of 2 CFR 200.344 and 345.

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PART 2: GENERAL FEDERAL CONTRACTING PROVISIONS

Because this project has multiple funding sources and continues to fund raise across multiple types of federal and local grants the following provisions are also included by reference. These provisions do not currently apply to the project and are included because future funding may require these provisions.

COPELAND ANTI-KICKBACK

Contractor.

The Design Builder and any subcontractor at any tier shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR pt. 3 as follows:

Whoever, by force, intimidation, or threat of dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both.

Subcontracts.

The Design Builder and any subcontractor at any tier shall insert in any subcontracts the clause above and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all contract clauses.

DAVIS BACON

All transactions regarding this Contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 CFR pt. 5 as may be applicable. The Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 CFR pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, Contractors are required to pay wages not less than once a week. **See General Conditions.**