

## **AMENDMENT NO. 5 TO THE AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AMENDMENT NO. 5 TO THE AGREEMENT FOR PROFESSIONAL SERVICES (“Amendment No. 5”) is entered into as of this 29th day of Sept 2021, by and between Snohomish County, a political subdivision of the State of Washington (the “County”), and J.A. Brennan Associates, PLLC., a Washington Corporation (the “Contractor”).

### **RECITALS**

- A. Whereas, J.A. Brennan Associates, PLLC was selected through an RFQ process to provide consultant services in support of Master Plan Update and Day-Use Improvements at Kayak Point Regional Park (the “Project”) and an agreement for the Project was executed on October 19, 2016 (the “Agreement”); and
- B. Whereas, an Amendment No. 1 was executed to address options for phasing construction of the project; and
- C. Whereas, an Amendment No. 2 was executed to expedite completion of an eelgrass delineation, which needed to be completed within a certain timeframe; and
- D. Whereas, an Amendment No. 3 was executed for the next phase of design, permitting and bidding support, which was structured to complete the Project up to solicitation of bidders for construction; and
- E. Whereas, an Amendment No. 4 was executed to address additional Geotechnical needs associated with permitting requirements; and
- F. Whereas, the current Amendment is necessary to address additional reports, review, and coordination meetings associated with time extensions and permitting requirements; and
- G. Whereas, Scope of Work and budget have been negotiated for the proposed Amendment for the value of \$144,674 (One hundred forty four thousand, six hundred seventy four dollars).

### **AGREEMENT**

NOW, THEREFORE, the County and Contractor agree that the Agreement shall be amended as follows:

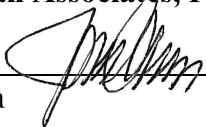
1. Section 1, entitled “Purpose of Agreement; Scope of Services” shall be amended to include tasks outlined in the attached Exhibit A, which is incorporated herein by this reference.
2. Section 3, “Compensation,” shall be amended to increase the amount of compensation paid by County to Contractor. The Project Budget shall be amended to increase the Contract

amount by \$144,674 (One hundred forty four thousand, six hundred seventy four dollars), as provided in the attached Exhibit B-2.


3. Except as expressly amended in this Amendment No. 5, the terms and conditions of the Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 5 to be duly executed as of the date set forth above.

**J.A. Brennan Associates, PLLC**

By:   
Jim Brennan  
Principal  
Date: 9/10/2021

**SNOHOMISH COUNTY**

By: Lacey Harper  Digitally signed by Lacey Harper  
Dave Somers  
Snohomish County Executive  
Date: 2021.09.29 11:50:21 -07'00'

**RECOMMENDED FOR APPROVAL**

By: \_\_\_\_\_  
Director, Department of Parks & Recreation  
Date: \_\_\_\_\_

**APPROVED AS TO FORM ONLY:**

By: \_\_\_\_\_  
Deputy Prosecuting Attorney  
Date: \_\_\_\_\_

<b>COUNCIL USE ONLY</b>	
Approved	<u>9/29/2021</u>
ECAF #	<u>2021-0719</u>
MOT/ORD	<u>Motion 21-319</u>

## Exhibit A

September 9, 2021

### **Kayak Point Day Use Area – Amendment 5 – Scope of Work for additional services related to scope additions, timeline extension and permitting requirements**

**Prepared For:**

Carol Ohlfs, Principal Parks Planner, Snohomish County Parks, Recreation & Tourism (Parks)

### **Additional Scope Items**

Through this contract amendment, Parks has asked the project team to produce additional permit documentation materials required for County, State and Corps permit submittals. As the project permitting process got underway, regulators informed us that the permit review would be substantially more complex than was expected for typical park projects. This is due to the scrutiny the regulators are receiving due to legal challenges, and construction in the marine environment. Regulatory review and delayed response has caused over a year extension in the anticipated permitting timeline. This amendment includes additional coordination necessary to keep the permit process moving.

The scope changes throughout the 60% and 90% desing process have increased the approximate construction value from \$12 million to \$18 million. The timeline changed from a construction start in 2021 for the start of Phase 1 to start in 2022, it could even extend to 2023. Phase 2 is still expected to start in 2023 and be completed in 2024.

The Covid-19 pandemic has also added to the complexity of the work, due to additional state and county regulations for professional services, as well as delayed response from agencies and staff turnover during agency review periods. State required updates to the health and safety plans for the office environment effect project work tasks between March 2020 and ongoing into the present. Most changes have been seamlessly incorporated into the work process, though additional time and coordination resources were required while working remotely.

With this amendment, J.A. Brennan Associates, PLLC (JAB) will continue to lead the consultant team with permit monitoring and responses and incorporate the additional design items into the construction documents.

**Project Contract Fee Summary:**

Original contract (Master Plan Update)	\$237,003
Original contract (Day Use Schematic)	\$317,996
Amend #1 Phasing Cost Estimate	\$16,835
Amend #2 Eel Grass Dive Study	\$24,717
Amend #3 Permitting & Construction Drawings	\$1,721,577
Amend #4 Geotech	\$43,158
No-Cost Amendment (remove Ranger House Drainage & Landslide Netting Design; add De-Centralized Septic	\$0

System Design; Remove no-rise study; Add permit support for flood hazard application)	
<b>THIS PROPOSED AMENDMENT #5</b> Additional administration, permit support, mitigation design and reporting, time period extension for project administration and tasks listed below.	\$144,674
	TOTAL FOR DAY USE AREA: \$2,268,957 (12.6% of the \$18M approx. construction cost)

**This amendment includes the following additional work items:**

**A. Administration/Coordination**

1. Additional administration and coordination, including extensive project management, due to the extension of project timeline and excessively complicated regulatory process. Weekly meetings were added into the project management process. Additional meetings with the client will be required. The issues and action log work extended through the new timeline. The project timeline will likely extend through 2024 for active construction. Additional work associated with the Covid-19 pandemic. Remote work required by the state and County resulted in additional processing time for reviewing drawings, team collaboration, and quality control reviews. Project contract extension added additional months for invoicing and project reporting.

**B. Design Changes**

1. Revisions to Architectural design approach related to value engineering efforts and a desire to meet changing maintenance requirements. Some revisions are typically anticipated between 60% and 90% design. However, the desired changes were above and beyond the hours scoped in the Amendment 3 contract.
2. Changes to the Electrical design approach were initiated when the design of sewer went from a central pump station to pumps in each septic tank design.
3. Site plan and coordination of additional picnic shelters by play area. Design details by others (Timber Framers Guild) in coordination with the client.
4. Managing and coordinating geotechnical services changes to reduce scope and costs related to liquefaction analysis, landslide hazard, and boat launch piling, required 4 team meetings with the client and coordination with the subconsultants to clarify the project needs.
5. Analysis of moving septic to phase 1 required meetings and calculations from the design team.
6. Additional site and utility design required due to County removal of the central well house. The sump pump area will require additional design or be eliminated, along with the stairs and retaining wall.
7. Design of on-site forage fish mitigation. The north seawall removal will require mitigation design for the HPA, water quality Ecology permit and Corps permits. Modify drawings and complete technical specifications to include wall removal and cost estimating.

**Additional Reports and Analysis Required for Permitting**

**C. Dept of Ecology (Water Quality)**

1. Additional work associated with barging of fill and associated mitigation or protection of road and eel grass beds / permit documentation and reporting. Barging Report required to meet WDFW and Ecology requirements.

2. Design consultant team meeting to analyze entry road impacts anticipated by contractor and provide recommendations for restoration options, including unit prices and force account options.
3. Coordination and documentation related to the Coastal Zone Management exceeding previously scoped level of effort. Permit requirements include a water quality monitoring plan and lengthy coordination resulting in additional reports and meeting services. The team will prepare the Department of Ecology (DOE) required Water Quality Management Plan and continue ongoing coordination with the Client and DOE.

**D. Corps Permit**

1. Revisions to JARPA Graphics to show newly required High Tide Line mapping and analysis.
2. Additional team and client meetings required to address Corps permit comments
3. Assistance with nearshore habitat calculator for NOAA Fisheries Services review of Corps permit, CAD drawing support and strategy work-session meetings.
4. The Corps permit required formal consultation with the services, the original scope for the Biological Evaluation assumed an informal consultation. This is due to the previous permit recommendation that we assume a likely to adversely affect stance for the ESA consultation.

**E. Shoreline Permit**

1. Additional work related to Shoreline permit narrative for variances and conditional use permit. Only shoreline substantial development was included in the original scope. Additional narratives were required for 8 variances and 2 conditional-use permits. PDS said this project is the most complicated process they have ever encountered; they did not indicate the complications during the many pre-application meetings and coordination calls we held with them in the early phases of the project.
2. The County required a complex graphic and detailed calculations showing areas of impact and mitigation, well beyond the typical level of detail provided for this scale of park project. The permit reviewers required area take-offs for each zone of different types of vegetation, as well as different habitat areas to calculate impacts.
3. Additional team and client meetings were required to coordinate the shoreline permit narrative responses above and beyond the typical comment response coordination anticipated.

**F. Flood Hazard Permit**

1. FHP Applications online.  
CGS will submit 4 or 5 separate FHP Applications and update the memo as required. We previously combined the Phase 1 & 2 fill volume in the floodplain. We will need to recalculate Phase 1 and Phase 2 upland fill volumes and include picnic shelters in the memo (if this is required, see below).
  - Phase 1. Pier repair/upgrade, new boat ramp, upland fill. (3 applications)
  - Phase 2. Upland fill (1 application)
  - Phase 2. The proposed new picnic shelters are mostly in the flood zone, but these are concrete slabs on grade (without super-structures). It was previously treated as upland fill. Looks the county has considered these as upland structures that requiring an independent building permit. If so, an additional FHP application would be required.

**G. LDA Permit**

1. Critical area site plans, not included in previous scope of work. Will be completed per coordination in March 2020 with the Client and PDS.

**We are available to provide additional services in the future for tasks not included or unable to quantify at this time, such as:**

- A. Bid Support Phase 1 (year 2022)
- B. Construction Support Phase 1 (year 2022 or 2023)



landscape architects & planners  
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- C. Bid Support Phase 2 (year 2023)
- D. Construction Support Phase 2 (year 2023 through 2024)
- E. Design revisions between phases due to changing priorities and site conditions as a result to construction of phase 1. Additional survey will also be required and could be bid or completed by our team.
- F. Delay of construction schedule may trigger additional work.

**Scope Assumptions:**

1. No significant design changes are anticipated.
2. Project phasing will not change.
3. The Corps permit will be finalized by June 2022.
4. Raedeke will not modify BA to meet habitat analysis report code requirements.



September 9, 2021  
 J.A. Brennan Associates, PLLC  
 Kayak Point - Day Use Area - Amendment 5  
 Exhibit B (2)

Snohomish County

**Additional services related to scope additions, timeline extension and permitting requirements**

WORK ITEM Rate	DESCRIPTION	JB PM \$195.00	TW PLA II \$160.00	YD Designer II \$98.00	CW/SS Designer I \$98.00	SV/VS Admin \$110.00	Total JAB Labor	Total JAB Expenses	Total J.A. Brennan Labor/Exp	Total J.A. Brennan w/ Markup	Total RMA Engineering	Total Rolluda Architecture	Total Stantec Electrical	Total CGS Beach Design	Total Raedeke Env. Planning	Total Sub consultants	Markup (10%)	Grand Total
<b>A</b>	<b>Administration / Coordination</b>																	
1	Additional admin and coordination due to project timeline extension	24	30	40	38	14	\$18,664	\$100	\$18,764	\$19,423		\$5,192		\$1,400		\$6,592	\$659	\$26,015
	<b>Total Task A</b>	<b>24</b>	<b>30</b>	<b>40</b>	<b>38</b>	<b>14</b>	<b>\$18,664</b>	<b>\$100</b>	<b>\$18,764</b>	<b>\$19,423</b>	<b>\$0</b>	<b>\$5,192</b>	<b>\$0</b>	<b>\$1,400</b>	<b>\$0</b>	<b>\$6,592</b>	<b>\$659</b>	<b>\$26,015</b>
<b>B</b>	<b>Design changes</b>																	
1	Revisions to Architectural design approach due to value engineering	12	10	4	2	28	\$4,528		\$4,528	\$5,407		\$8,792				\$8,792	\$879	\$14,199
2	Changes to the Electrical design approach due to septic system	4	3	2	2	9	\$1,456		\$1,456	\$1,856		\$4,000				\$4,000	\$400	\$5,856
3	Site plan and coordination of additional picnic shelters by play area	4	6	5	8	23	\$3,014		\$3,014	\$3,014						\$0	\$0	\$3,014
4	Managing and coordinating geotechnical services changes	14	5	3	3	23	\$3,934		\$3,934	\$3,934						\$0	\$0	\$3,934
5	Analysis of moving septic to phase 1	2	1	1	4	4	\$648		\$648	\$678						\$300	\$30	\$978
6	Additional site and utility design required after central well house updates	4	4	5	8	21	\$2,694		\$2,694	\$2,814						\$1,200	\$120	\$4,014
7	Design of on-site forage fish mitigation (Plans, Spec, Cost)	10	12	8	8	38	\$5,438		\$5,438	\$5,938				\$1,800		\$5,000	\$500	\$10,938
	<b>Total Task B</b>	<b>50</b>	<b>41</b>	<b>22</b>	<b>32</b>	<b>146</b>	<b>\$21,712</b>	<b>\$0</b>	<b>\$21,712</b>	<b>\$23,641</b>	<b>\$4,700</b>	<b>\$8,792</b>	<b>\$4,000</b>	<b>\$1,800</b>	<b>\$0</b>	<b>\$19,292</b>	<b>\$1,929</b>	<b>\$42,933</b>
<b>C</b>	<b>Permit Support - Dept of Ecology (Water Quality)</b>																	
1	Additional work associated with bargaining of fill, associated mitigation	6	8		12	26	\$3,626		\$3,626	\$4,086				\$3,400		\$4,600	\$460	\$8,686
2	Analysis of entry road impacts by contractor and restoration options	2	6	6	6	14	\$1,938		\$1,938	\$2,158						\$2,200	\$220	\$4,358
3	Coastal Zone Management permit questions, client and team meetings	10	14		16	40	\$5,758		\$5,758	\$6,038				\$2,800		\$2,800	\$280	\$8,838
	<b>Total Task C</b>	<b>18</b>	<b>28</b>	<b>0</b>	<b>34</b>	<b>80</b>	<b>\$11,322</b>	<b>\$0</b>	<b>\$11,322</b>	<b>\$12,282</b>	<b>\$3,400</b>	<b>\$0</b>	<b>\$0</b>	<b>\$6,200</b>	<b>\$0</b>	<b>\$9,600</b>	<b>\$960</b>	<b>\$21,882</b>
<b>D</b>	<b>Permit Support - Corps Permit</b>																	
1	IARPA graphics High Tide Line mapping and analysis	4	1	12	6	17	\$2,116		\$2,116	\$2,196				\$800		\$800	\$80	\$2,996
2	Team and client meetings to address Corps permit comments	12	16	2	6	36	\$5,684		\$5,684	\$6,044				\$2,400		\$3,600	\$360	\$9,644
3	Nearshore habitat calculator for NOAA Fisheries Services	2			2	2	\$390		\$390	\$390						\$0	\$0	\$390
4	Required formal consultation with the services	1	1		2	2	\$355		\$355	\$1,208				\$800		\$8,526	\$853	\$9,734
	<b>Total Task D</b>	<b>19</b>	<b>18</b>	<b>14</b>	<b>6</b>	<b>57</b>	<b>\$8,545</b>	<b>\$0</b>	<b>\$8,545</b>	<b>\$9,838</b>	<b>\$1,200</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,000</b>	<b>\$7,726</b>	<b>\$12,926</b>	<b>\$1,293</b>	<b>\$22,764</b>
<b>E</b>	<b>Permit Support - Shoreline Permit</b>																	
1	Shoreline permit narrative for variances and conditional use permit	18	24	6	20	68	\$9,898		\$9,898	\$10,138					\$1,596	\$2,396	\$240	\$12,534
2	Impact area graphic analysis and detailed calculations	6	1	3	8	18	\$2,408		\$2,408	\$2,408						\$0	\$0	\$2,408
3	Team and client meetings on shoreline permit narrative responses	8	8	4	4	20	\$3,232		\$3,232	\$3,492				\$2,000		\$2,600	\$260	\$6,092
	<b>Total Task E</b>	<b>32</b>	<b>33</b>	<b>13</b>	<b>28</b>	<b>106</b>	<b>\$15,538</b>	<b>\$0</b>	<b>\$15,538</b>	<b>\$16,038</b>	<b>\$1,400</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,000</b>	<b>\$1,596</b>	<b>\$4,996</b>	<b>\$500</b>	<b>\$21,034</b>
<b>F</b>	<b>Permit Support - Flood Hazard Permit</b>																	
1	FHP Applications resubmission online	1	2	2	0	5	\$711		\$711	\$1,111				\$4,000		\$4,000	\$400	\$5,111
	<b>Total Task F</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>5</b>	<b>\$711</b>	<b>\$0</b>	<b>\$711</b>	<b>\$1,111</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,000</b>	<b>\$0</b>	<b>\$4,000</b>	<b>\$400</b>	<b>\$5,111</b>
<b>G</b>	<b>Technical Responses to Land Use &amp; Environmental Permit Comments</b>																	
1	Critical area site plans for LDA permit	8	6	18	0	32	\$4,284		\$4,284	\$4,343					\$592	\$592	\$59	\$4,935
	<b>Total Task G</b>	<b>8</b>	<b>6</b>	<b>18</b>	<b>0</b>	<b>32</b>	<b>\$4,284</b>	<b>\$0</b>	<b>\$4,284</b>	<b>\$4,343</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$592</b>	<b>\$592</b>	<b>\$59</b>	<b>\$4,935</b>
	<b>Grand Total</b>	<b>152</b>	<b>158</b>	<b>109</b>	<b>138</b>	<b>572</b>	<b>#####</b>	<b>\$100</b>	<b>\$80,876</b>	<b>\$86,676</b>	<b>\$10,700</b>	<b>\$13,984</b>	<b>\$4,000</b>	<b>\$19,400</b>	<b>\$9,914</b>	<b>\$57,998</b>	<b>\$5,800</b>	<b>\$144,674</b>

By:   
 Jim Brennan  
 Principal  
 Date: 9/10/2021