

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2015-313

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator: K. Christensen	KWC	10/13/15	<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: auto;"> <p>RECEIVED</p> <p>OCT 20 2015</p> <p>WHATCOM COUNTY COUNCIL</p> </div>	10/27/15	Finance
Division Head: G. Stoyka	MS	10/17/15		10/27/15	Council
Dept. Head: J. Hutchings	JH	10/13/15			
Prosecutor: D. Gibson	DL	10/15/15			
Purchasing/Budget: B. Bennett	bb	10/13/15			
Executive: J. Louws	JL	10/19/15			

TITLE OF DOCUMENT:

ASSISTANCE WITH LAKE WHATCOM STORMWATER CAPITAL PROGRAM UPDATES

- ATTACHMENTS**
1. Memorandum
 2. Contract information sheet
 3. Contract and related exhibits

SEPA review required? (<input checked="" type="checkbox"/>) Yes () NO SEPA review completed? (<input checked="" type="checkbox"/>) Yes () NO	Should Clerk schedule a hearing? () Yes (<input checked="" type="checkbox"/>) NO Requested Date:
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SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Herrera Environmental Consultants, Inc., will assist with updating the capital projects section of the Lake Whatcom Comprehensive Stormwater Plan. The Whatcom County Council adopted this plan in 2008 to help identify and prioritize capital improvement projects to reduce pollutant loading into Lake Whatcom.

COMMITTEE ACTION:	COUNCIL ACTION:
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Related County Contract #:	Related File Numbers:	Ordinance or Resolution Number:
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Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT

JON HUTCHINGS
DIRECTOR



STORMWATER
322 N. Commercial Street, Suite 301
Bellingham, WA 98225
Phone # (360) 778-6210
Fax # (360) 778-6211
www.co.whatcom.wa.us

RECEIVED

MEMORANDUM

OCT 16 2015

JACK LOUWS
COUNTY EXECUTIVE

TO: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

FROM: Jon Hutchings, Public Works Director *JH*

THROUGH: Gary Stoyka, LHG, Natural Resources Program Manager *ASD*
Kirk Christensen, PE, Stormwater Manager *KNC*

DATE: October 7, 2015

RE: Contract with Herrera Environmental Consultants to Assist with Updating Capital Projects-related Sections of the Lake Whatcom Stormwater Comprehensive Stormwater Plan

Please find attached for your review and approval two (2) originals of a contract for services between Herrera Environmental Consultants, Inc. (Herrera), and Whatcom County to assist with updating the capital projects-related sections of the Lake Whatcom Comprehensive Stormwater Plan.

▪ **Background and Purpose**

In 2008, the Whatcom County Council adopted the Lake Whatcom Comprehensive Stormwater Plan (LWCSP) which helped identify programmatic solutions and capital improvement projects with the goal of reducing pollutants entering Lake Whatcom. The capital improvement projects from the LWCSP are constructed or on the current Six-Year Water Resources Improvement Program.

Herrera will assist with updating the LWCSP to determine the most effective future capital projects to reduce phosphorus and bacteria loading to Lake Whatcom. The scope will include identification of capital projects for construction, developing a sub-watershed master plan for the Sudden Valley focus area, preparing project summary sheets, prioritizing and ranking identified improvement projects, and public meetings.

Herrera Environmental was chosen through a competitive selection process (RFP 15-20).

▪ **Funding Amount and Source**

This contract in the amount of \$137,157.00 will be funded by the 2015 Public Works-Stormwater base budget (cost center 123201).

Please call Kirk at extension 6297 if you have any questions regarding this agreement.

Attachments

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.

201510014

Originating Department:	Public Works
Program/Project: <i>(i.e. Dept. Division and Project)</i>	Stormwater
Contract or Grant Administrator:	Kirk Christensen, Stormwater Manager
Contractor's / Agency Name:	Herrera Environmental Consultants, Inc.
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: _____ (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract _____ Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, RFP and Bid number(s): <u>RFP 15-20</u> Cost Center: <u>123201</u>	
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input type="checkbox"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input checked="" type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>*137,157.00***</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Contracts that require Council Approval (incl. agenda bill & memo) <ul style="list-style-type: none"> • Professional Services Agreement above \$20,000. • Bid is more than \$50,000. • Professional Service Contract Amendments that have an increase greater than \$20,000 and other contracts with a cumulative increase greater than \$50,000. RENEWALS: Council approval is not required when exercising an option to renew that is provided in the original contract.
Summary of Scope: Herrera Environmental Consultants will assist the County with updating the capital projects section of the Lake Whatcom Comprehensive Stormwater Plan which the Whatcom County Council adopted in 2008 to help identify and prioritize capital improvement projects to reduce pollutant loading into Lake Whatcom.	
Term of Contract:	Expiration Date: June 30, 2017

Contract Routing:	1. Prepared by: <u>R. McConnell</u>	Date: <u>9/29/15</u>
	2. Attorney signoff: <u>Daniel L. Gibson</u> <u>DG 10/15/15</u>	Date: <u>10/07/15</u>
	3. AS Finance reviewed: <u>bbennett</u>	Date: <u>10/13/15</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____ ✓	Date: <u>10/12/15</u>
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____

WHATCOM COUNTY:

Recommended for Approval:

Jon Hutchings 10/13/15
Jon Hutchings Date
Public Works Director

Approved as to form:

Daniel L. Gibson 10/15/15
Daniel L. Gibson Date
Chief Civil Deputy Prosecutor

Approved:

Accepted for Whatcom County:

By: _____
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 __, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

CONTRACTOR INFORMATION:

Herrera Environmental Consultants
John Lenth, Water Practice Director

Address:
2200 Sixth Avenue, Suite 1100
Seattle, WA 98121

Direct Phone: (206) 787-8265
Cell: (206) 245-7539
Email: jlenth@herrerainc.com

GENERAL CONDITIONS

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

0.1 Scope of Services:

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

Series 10-19: Provisions Related to Term and Termination

10.1 Term:

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

10.2 Extension: Not Applicable

11.1 Termination for Default:

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

11.2 Termination for Reduction in Funding:

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

11.3 Termination for Public Convenience:

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

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses

incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:

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

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

22.1 Withholding Payment:

In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:

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

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:

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

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

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

30.2 Assignment and Subcontracting:

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

30.3 No Guarantee of Employment:

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

31.1 Ownership of Items Produced:

All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County.

31.2 Patent/Copyright Infringement:

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

A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.

B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 Confidentiality:

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

33.1 Right to Review:

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

34.1 Proof of Insurance:

The Contractor shall carry for the duration of this Agreement insurance with the following minimums.

1) Commercial general liability:

Property Damage - \$1,000,000.00 per occurrence;

General Liability & Bodily injury- \$1,000,000.00 per occurrence.

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and non-contributory, and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

2) Auto insurance, with coverage as provided in attached Exhibit "C".

3) Workers' Compensation and Employers' Liability insurance, with coverage as provided in attached Exhibit "C".

4) Professional Liability - \$1,000,000 per occurrence. If the professional liability insurance is a claims made policy, and should the Contractor discontinue coverage either during the term of this contract or within three years of completion, the Contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver:

With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition:

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

36.2 Conflict of Interest:

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

take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:

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

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

Jon Hutchings, Director, Whatcom County Public Works, 322 N. Commercial Street, Suite 210, Bellingham, WA 98225

37.2 Notice:

Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County's Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the "Contractor Information" section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor's Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions: Not Applicable

38.3 E-Verify: Not Applicable

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

40.1 Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:

Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:

If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:

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

b. Notice of Potential Claims:

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

c. Detailed Claim:

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

d. Arbitration:

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

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

43.1 Venue and Choice of Law:

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

44.1 Survival:

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

45.1 Entire Agreement:

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

EXHIBIT "A"
(SCOPE OF WORK)

Whatcom County (County) authorized Herrera Environmental Consultants, Inc. (Herrera) to develop a scope of work and cost estimate for updating the capital projects section of the Lake Whatcom Comprehensive Stormwater Plan (LWCSP). Whatcom County is committed to protecting, preserving, and enhancing water quality in Lake Whatcom through a series of well-developed capital projects and a subwatershed master plan for the Sudden Valley focus area. The primary goal of this effort is to reduce phosphorus and bacteria loading into Lake Whatcom. To meet this goal, the project has the following objectives:

- Provide the elements needed for the County to update the capital projects section of the LWCSP to effectively guide and coordinate future stormwater efforts in the Lake Whatcom watershed.
- Maximize the effectiveness of the LWCSP by identifying stormwater treatment practices that have demonstrated phosphorus removal benefits and locations where treatment solutions would be most effective.
- Develop a subwatershed master plan for the Sudden Valley focus area.

The project has seven tasks that include:

- Task 1 – Information Gathering
- Task 2 – Public Outreach and Council Briefing Support
- Task 3 – Capital Improvement Program Project Identification
- Task 4 – Develop Subwatershed Master Plan
- Task 5 – Develop Programmatic and Small Works Solutions
- Task 6 – Predesign Reports and Grant Support
- Task 7 – Project Management / Contract Administration

Task 1 – Information Gathering

The Herrera team will coordinate with the County to gather and evaluate applicable data, reports, maps, financial policy information, and other information related to the Lake Whatcom watershed and CIP needs. This information will also include the County's current policies and procedures, the status of the County's efforts to manage stormwater quantity and quality, and previous stormwater management planning and evaluation work for the Lake Whatcom watershed.

The Herrera team will participate in 2- to 3-meetings with select County Public Works staff to collect institutional knowledge of stormwater management issues; each meeting will last approximately 1 hour. Specific topics for discussion at these meetings will be the County's preferred stormwater treatment options, known sources of phosphorus loading to Lake Whatcom, and opportunities and constraints for implementing treatment within the associated watershed. Herrera will prepare an agenda in advance of these meetings and minutes afterwards to summarize key discussion points. These meetings will be followed by field reconnaissance attended by County and Herrera staff to key locations where Herrera staff will gather site-specific information. The Herrera team will use information obtained from the meetings and field reconnaissance to guide subsequent windshield surveys and detailed site evaluations to be performed in Task 3 for identifying CIP projects.

Assumptions:

- The County will provide as much of the information listed in Table 1 as they have available.
- The County will arrange to have key staff participate in the meetings and field reconnaissance. All the meetings will occur on the same day and last no more than 4 hours in total. The field reconnaissance will occur on a separate day and last no more than 6 hours.
- Up to two Herrera team staff will attend the meetings and field reconnaissance.

Deliverables:

- Draft and final meeting agenda.
- Meeting minutes.

Table 1. Datasets for identifying and prioritizing stormwater treatment and flow control projects.

Data Set	Use
Basin boundaries and topography	Define drainage basins and directions.
Known problem areas	Identify hot spots
Stormwater infrastructure	Identify potential flow accumulation points for new regional facilities Identify potential stormwater facility retrofit locations Identify of areas already receiving treatment
Parcel and right of way boundaries,	Identify available space for facilities
Impervious areas	Identify pollution-generating surfaces and available space
Land Use data	Identify potential for pollutant generation
Soils/geologic data/boring data	Determine shallow infiltration potential (surface permeability) and deep infiltration potential (availability of deeper unsaturated and receptive layer)
Groundwater data	Determine shallow infiltration potential (depth to groundwater) and deep infiltration potential
Utility data	Identify potential utility conflicts
Water Quality Data	Identify areas requiring improved water quality treatment
Priority Habitats and Species	Identify important natural resources that may be at risk from stormwater

Task 2 – Public Outreach and Council Briefing Support

The Herrera team will participate in two outreach meetings to obtain input from the general public for identifying CIP projects. The goal of the first meeting will be to obtain input from the public on potential projects. The goal of the second meeting will be to present selected projects to the public and the method used for their prioritization.

To advertise the public outreach meetings, the Herrera team will prepare draft and final post cards that will be mailed to County residents in advance of the meetings. At the first meeting, the Herrera team will give a short presentation to describe the specific goals of the project and provide a process that will allow the public to identify proposed CIP projects. At the second meeting, the Herrera team will provide poster sized summaries for up to 30 prioritized CIP projects for wall display and a display panel of key elements of the subwatershed plan developed for the Sudden Valley focus area.

Herrera will also brief the County Council on the project at up to two Surface Water Work Sessions. The first presentation will be conducted towards the beginning of the project to brief the County Council on the goals and objectives of the project. The second presentation will be conducted towards the end of the project to summarize proposed CIP projects and their priority for implementation. The Herrera team will provide technical assistance to the County for preparing handouts to be distributed to County Council at these work sessions.

Assumptions:

- County staff will attend the public outreach meetings.
- Up to three staff from the Herrera team will attend the public outreach meetings.
- Each public outreach meeting will last no more than 3 hours.
- This task includes development of the following materials for the public outreach meetings:
 - Draft and final post cards advertising the meetings.

- Poster sized summaries for proposed CIP projects and the subwatershed plan developed for the Sudden Valley focus area.
- The County will be responsible for mailing the post cards to County residents and all associated costs.
- One Herrera team member will attend up to two Surface Water Work Sessions to brief the County Council on the project.
- The County will lead required coordination with the County Council for this task, including the scheduling of briefings at Surface Water Work Sessions.
- Handouts that will be provided to County Council at the Surface Water Work Sessions are expected to be 1- to 2-page factsheets with minimal graphics.

Deliverables:

- Draft and final post cards advertising the public outreach meeting.
- PowerPoint presentation and poster sized summaries for the public outreach meetings.
- Handouts for public and County Council to be provided at two Surface Water Work Sessions.

Task 3 – Capital Improvement Program Project Identification

Under this task, the Herrera team will identify and prioritize CIP projects in the Lake Whatcom watershed. It is assumed the primary factor that will be used to prioritize these CIP projects will be their cost effectiveness for reducing phosphorus and bacteria loading to Lake Whatcom; however, other secondary factors may also be identified based on input from the County. Previously identified CIP projects from the LWCSF will be evaluated and prioritized collectively with any new CIP projects. CIP projects for the Lake Whatcom watershed will be identified and prioritized using the following stepwise process:

1. The Herrera team will work with the County to identify the specific primary and secondary factors that should be used for prioritizing CIP projects in the Lake Whatcom watershed.
2. Focus areas for field reconnaissance will be mapped based on a review of existing information. The specific goal of these maps will be to identify “hot spot” areas in the watershed with high potential for phosphorus loading. This review will include the LWCSF and other County planning documents, land use information, and published monitoring results. County institutional knowledge will also be leveraged to identify these areas.
3. The Herrera team will conduct windshield surveys to assess the feasibility and potential benefits of implementing CIP projects in up to 60 candidate sites that are identified in the focus areas from Step 1. Probable feasibility will be based on topography, available space, site drainage patterns, and loss of site use (e.g., parking spots that would be displaced). Probable benefit will be based on a qualitative assessment of the phosphorus contribution from the site given the prevailing land use, new area that would receive treatment, and presence or absence of existing treatment. Results from the windshield surveys will be documented using a standardized form. The Herrera team will provide a draft version of the standardized form to the County for review and comment prior to the windshield surveys.
4. Working with the County, the Herrera team will prioritize a subset of up to 35 candidate sites from Step 2 for more detailed field assessments. The following information will be recorded on standardized forms during these assessments:
 - Estimate of drainage area.
 - Description and sketch of project concept.
 - Anticipated site challenges, potential high cost items, risks.
 - Impacts of project on existing property use or amenity.
 - Existing treatment at the site.
 - Potential ancillary benefits of the project.
 - Site photographs.
 - Sketch of existing site conditions and proposed project.

5. Based on the information collected from Step 4, the Herrera team will evaluate the cost effectiveness of the projects identified for each candidate site based on their estimated annual phosphorus load reduction and a planning level cost estimate. The cost effectiveness of previously identified CIP projects from the LWCSPP will be similarly evaluated based on existing information.
6. Working with the County, the Herrera team will prioritize a subset of up to 30 projects from Step 5 for more detailed evaluation; this subset of projects may include previously identified projects from the LWCSPP and new projects that were identified through Steps 1 through 5. It is assumed the primary factor that will be used to prioritize these CIP projects will be their cost effectiveness for reducing phosphorus loading to Lake Whatcom; however, other secondary factors (e.g., public visibility, education benefits, and aesthetics) may also be considered. The relative benefit each factor provides (e.g., high, medium, low) for each CIP project will be summarized in a tabular format to facilitate the prioritization process.
7. For each of the projects identified in Step 6, the Herrera team will prepare an update to the capital projects section of the LWCSPP. This update will include CIP project summaries and costs in an abbreviated 1- to 2-page format. These summaries will include GIS-based maps and graphics, project narrative information, pollutant load reduction estimate, an evaluation summary and cost estimate.

Results from this evaluation will be summarized in a concise addendum to the capital projects section of the LWCSPP. This addendum will include the following information:

- A description of the methods used to identify and prioritize the CIP projects.
- CIP project summaries.
- A chapter for the sub watershed plan to be developed for the Sudden Valley focus area (see Task 4).
- A chapter for programmatic and small works solutions (see Task 5).

Assumptions

- Windshield surveys will be conducted by Herrera using 2-person teams; up to 30 candidate sites will be visited per day.
- Detailed field assessments will be conducted by Herrera using 2-person teams; up to 10 candidate sites will be visited per day.
- The county to provide relevant GIS data for this task.
- CIP project costs will be estimated using parametric methods that rely on typical cost per square foot or per treatment unit for analogous (similar) projects. Appropriate percentages will be applied for allied costs (design, geotech, construction management).
- This task will include one 3-hour meeting with County staff to prioritize projects. Herrera will summarize key discussion points from the meeting in minutes. The County will provide one consolidated set of comments on the meeting minutes.
- The County will provide one consolidated set of comments on the addendum to the capital projects section of the LWCSPP using a standardized form to be provided by the Herrera team.

Deliverables

- Minutes from the prioritization meeting.
- Draft and final table showing factors used to prioritize CIP projects.
- Draft and final list of prioritized CIP projects.
- Map showing location of CIP projects in Lake Whatcom Watershed.
- Draft and final addendum to the Lake Whatcom Comprehensive Plan.

Task 4 – Develop Subwatershed Master Plan

Under this task, the Herrera team will develop a subwatershed master plan for the Sudden Valley focus area that will include the following information:

- Summary of existing stormwater systems and facilities (ditches, pipes, catch basins).
- Identification and evaluation of known stormwater problems.
- Map showing CIP projects from Task 3 that have been prioritized for the focus area.
- Description of other stormwater management strategies (e.g., programmatic solutions) that are recommended for the focus area.

As a first step towards developing this plan, the Herrera team will attend one 2- to 3-hour strategy meeting with County staff, the Sudden Valley Homeowners Group, and Wilson Engineering to discuss stormwater management issues in the focus area and potential solutions. The Herrera team will coordinate with the County to prepare an agenda for the meeting and summarize key discussion points in minutes. The strategy meeting will be followed by a 2- to 3-hour field reconnaissance in the focus area; this field reconnaissance will include participants from the strategy meeting and will augment the field reconnaissance that will also be performed in connection with Task 3.

The sub watershed master plan will be included as a chapter in the addendum to the LWCSP from Task 3.

Assumptions

- Up to two Herrera team staff will attend the strategy meeting and field reconnaissance.
- Existing stormwater systems and facilities will be summarized using existing information and no new field intensive data collection (e.g., survey) will be conducted.

Deliverables

- Draft and final meeting agenda.
- Meeting minutes.
- Map showing location of CIP projects in subwatershed.
- Draft and final chapter in the addendum to the LWCSP.

Task 5 – Develop Programmatic and Small Works Solutions

This task will review the data collected under Task 2 to identify watershed focused small works projects requiring minimal engineering, design and permitting that can be readily implemented to solve problems. In addition, this task will identify and outline implementation steps for stormwater issues where a programmatic solution may be more effective than a structural solution.

A summary of each small works project and programmatic recommendation that includes a discussion of the problem, the recommended solution, a list of implementation steps, benefits that would be obtained, other resources or considerations where helpful, and a high-level cost estimate will be prepared. These summaries will be included as a chapter in the addendum to the Lake Whatcom Comprehensive Plan from Task 3.

Assumptions

- Herrera will coordinate with the County on the selection of small works or programmatic solutions.

Deliverables

- Draft list of small works and programmatic solutions with short descriptions will be prepared for County review.
- Draft 1 to 2 page summary sheets of small works and programmatic solutions with more detailed descriptions, benefits, implementation steps, and costs for review by the County.

- Draft and final chapter in the addendum to the Lake Whatcom Comprehensive Plan.

Task 6 – Predesign Reports and Grant Support

The Herrera team will develop predesign reports that include a detailed project definition, project benefits, and a refined conceptual design and cost estimate for the two highest priority CIP projects identified through the prioritization process from Task 3. Each predesign report will include a more detailed project definition, project benefits, and a more refined conceptual design and cost estimate. The predesign reports will be organized in a format that is suitable for attachment to the latest version of Ecology's stormwater retrofit grant application (i.e., the heading structure will match the data needs of the grant application). Herrera will also assist the County to assemble and prepare responses to other required questions necessary for a stormwater retrofit grant application to Ecology.

Assumptions

- Two days of field reconnaissance may be required to obtain information required for the predesign reports; the project budget includes travel costs for one Herrera staff to participate in this work.
- The County will provide one consolidated set of comments on the two predesign reports within 15 business days of its receipt.

Deliverables

- Two draft predesign reports in Word and pdf format.
- Two final predesign reports in Word and PDF format.

Task 7 – Project Management / Contract Administration

Herrera will be responsible for ongoing management and contract administration of this project, including tracking and updating the project schedule, preparing invoices, and coordinating work efforts with the County's project manager, Kirk Christensen. Herrera's project manager (John Lenth) will have phone and e-mail contact with Kirk Christensen on an as-needed basis.

Assumptions

- Monthly invoices and one-page progress reports.
- Project schedule and updated project schedule if schedule changes.

Deliverables

- Project schedule, updated when necessary.
- Invoices with progress reports.

EXHIBIT "B"
(COMPENSATION)

HERRERA ENVIRONMENTAL CONSULTANTS
Cost Estimate for
Lake Whatcom Stormwater Capital Program Updates
Herrera Project No. 15-04068-000

Lake Whatcom Stormwater Capital Program Updates																		
Number of Tasks : 7																		
COST SUMMARY	Task 1 Information Gathering		Task 2 Public Outreach		Task 3 Capital Improvement Project Identification		Task 4 Develop Subwatershed Master Plans		Task 5 Develop Programs and Small Works		Task 6 Pre-design Reports and Grant Support		Task 7 Project Management / Contract Administration		TOTAL			
	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost				
Travel and per diem		\$10,139		\$8,304		\$60,434		\$3,799		\$11,540		\$12,751		\$9,990	\$116,957			
Other direct costs (ODCs)		\$0		\$0		\$0		\$0		\$0		\$0		\$0	\$0			
Subcontractants		\$200		\$500		\$1,000		\$10,000		\$0		\$0		\$0	\$1,700			
		\$0		\$3,500		\$5,000		\$0		\$0		\$0		\$0	\$18,500			
GRAND TOTAL		\$10,339		\$12,304		\$66,434		\$13,799		\$11,540		\$12,751		\$9,990	\$137,157			
LABOR																		
PERSONNEL																		
P6 Lenth, John	Rate/Hour	\$4,312	Hours	4	Cost	\$734	Hours	2	Cost	\$392	Hours	4	Cost	\$734	Hours	4	Cost	\$734
P6 Webb, Chris		\$196.00		17	\$3,249		12	\$2,293		\$6,026		16	\$3,056		\$8,406		104	\$20,384
P6 Azous, Amanda		\$182.91		2	\$366		4	\$732		\$7,316		0	\$0		\$0		130	\$24,021
P4 Avolio, Christina		\$444.41		0	\$0		0	\$0		\$0		0	\$0		\$0		54	\$23,877
P4 Fontaine, Matt		\$139.56		4	\$558		0	\$0		\$0		0	\$0		\$0		16	\$2,233
P3 Feller, Meghan		\$128.94		0	\$0		0	\$0		\$0		0	\$0		\$0		74	\$9,569
P3 Skener, Ondrej		\$128.94		10	\$1,289		4	\$506		\$16,533		0	\$0		\$0		16	\$2,031
P2 Matsumura, Kristen		\$95.84		6	\$575		14	\$1,342		\$9,775		0	\$0		\$0		214	\$27,185
P4 Schmidt, Jennifer		\$730.30		0	\$0		4	\$292		\$5,079		0	\$0		\$0		134	\$12,842
P2 Tonkikh, Katalya		\$72.79		0	\$0		0	\$0		\$0		0	\$0		\$0		66	\$6,600
A4 Jackowich, Pamela		\$95.53		0	\$0		0	\$0		\$82		4	\$382		\$0		8	\$582
		\$0		0	\$0		0	\$0		\$764		0	\$0		\$0		16	\$1,529
SUBTOTAL LABOR (Burdened Labor)		\$10,139		56	\$8,304		461	\$60,434		\$3,799		84	\$11,540		\$9,990		814	\$116,957
OTHER DIRECT COSTS (ODCs)																		
Photocopying, CAD Plots, and Printing	Unit	Cost	Units	56	Cost	\$500.00	Units	22	Cost	\$11,000.00	Units	0	Cost	\$0.00	Units	0	Cost	\$0.00
Printing/Graphics (Vendor)	Cost	\$200.00	Cost	\$500.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00
SUBCONSULTANT COSTS																		
Veda	Unit	Cost	Units	0	Cost	\$3,500.00	Units	0	Cost	\$0.00	Units	0	Cost	\$0.00	Units	0	Cost	\$3,500
CH2M	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$10,000.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$10,000
GeoEngineers	Cost	\$0.00	Cost	\$0.00	Cost	\$5,000.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$0.00	Cost	\$5,000
SUBTOTAL SUBCONSULTANT		\$0		0	\$3,500		0	\$10,000		\$0		0	\$0		\$0		0	\$18,500

Budget Narrative

Contract amounts shall not exceed the total budget referenced (above). As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the hourly rates provided in the project budget (Exhibit B). Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. Lodging and per diem shall not exceed the GSA rate for the location where services are provided. Other expenditures such as printing, postage, and telephone charges shall be reimbursed at actual cost plus 10%. Expense reimbursement requests must be accompanied by copies of paid invoices. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense.



IRONSHORE SPECIALTY INSURANCE COMPANY

Mailing Address:
75 Federal Street
5th Floor
Boston, MA 02110
Toll Free: (877) IRON411

Endorsement # 7

Policy Number: 000826905

Effective Date of Endorsement: October 01, 2015

Insured Name: Herrera Environmental Consultants, Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIFIED ADDITIONAL INSURED(S) PRIMARY AND NON-CONTRIBUTORY

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL PROTECTION INSURANCE COVERAGE PACKAGE (EPIC PAC)

It is hereby agreed that the policy to which this Endorsement is attached is amended as follows:

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s)
<p style="text-align: center;">Whatcom County 322 N. Commercial Street Suite 301 Bellingham, WA 98225</p>

A. **SECTION II – WHO IS AN INSURED**, Paragraph 4.e. is amended to specify the entity indicated in the Schedule above as:

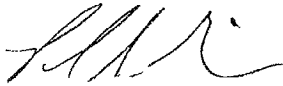
e. Any person or organization you agree to include as an insured in a written contract, written agreement or permit, but only with respect to **bodily injury, property damage, environmental damage or personal and advertising injury** arising out of your operations, **your work**, equipment or premises leased or rented by you, or **your products** which are distributed or sold in the regular course of a vendor's business, however:

(1) A vendor is not an insured as respects **bodily injury, property damage, environmental damage or personal and advertising injury**:

- (a)** For which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement except that which the vendor would have in the absence of the contract or agreement;
- (b)** Arising out of any express warranty unauthorized by you;
- (c)** Arising out of any physical or chemical change in the product made intentionally by the vendor;
- (d)** Arising out of repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from you, and then repackaged in the original container;

- (e) Arising out of any failure to make inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - (f) Arising out of demonstration, installation servicing or repair operations, except such operations performed at the vendor's location in connection with the sale of the product; or
 - (g) Arising out of products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.
- (2) A manager or lessor of premises, a lessor of leased equipment, or a mortgagee, assignee, or receiver is not an insured as respects **bodily injury, property damage, environmental damage or personal and advertising injury**:
- (a) Arising out of any **occurrence** that takes place after the equipment lease expires or you cease to be a tenant; or
 - (b) Arising out of structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor of premises, or mortgagee, assignee, or receiver.
- B. **SECTION IV – CONDITIONS, Condition 17. Other Insurance**, Paragraph a. is amended to specify the entity indicated in the Schedule above as a person or organization you agreed to insure and we will not seek contributions from any such other insurance issued to such person or organization.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS OF THIS POLICY REMAIN UNCHANGED.



Authorized Representative

October 7, 2015
Date

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

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

PRODUCER Propel Insurance Tacoma Commercial Insurance 1201 Pacific Ave, Suite 1000 Tacoma, WA 98402	CONTACT NAME: Elizabeth Olson PHONE (A/C, No, Ext): 206.262.4354 FAX (A/C, No): 866.577.1326 E-MAIL ADDRESS: ero@propelinsurance.com
	INSURER(S) AFFORDING COVERAGE INSURER A: Ironshore Specialty Insurance NAIC # 25445 INSURER B: Hartford Underwriters Insurance 30104 INSURER C: Travelers Indemnity Company 25658 INSURER D: INSURER E: INSURER F:
INSURED Herrera Environmental Consultants Inc 2200 6th Avenue #1100 Seattle, WA 98121	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC	X		000826905	11/24/2014	11/24/2015	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> \$1,000 Comp <input checked="" type="checkbox"/> \$1,000 Coll <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BA0041P07714SEL	11/24/2014	11/24/2015	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB CLAIMS-MADE DED RETENTION \$			000827005	11/24/2014	11/24/2015	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N/A	52WECEP2858 WA Stop Gap	11/24/2014	11/24/2015	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Professional & Pollution Liab.			000826905	11/24/2014	11/24/2015	\$1,000,000 Occurrence \$2,000,000 Aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Herrera Project No. 15-06048-000
 Project Name: Lake Whatcom Stormwater Capital Program Updates

CERTIFICATE HOLDER Whatcom County 322 N. Commercial Street Suite 301 Bellingham, WA 98225	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Deanna Winchester</i>

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

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

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| A. BROAD FORM NAMED INSURED | H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT |
| B. BLANKET ADDITIONAL INSURED | I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT |
| C. EMPLOYEE HIRED AUTO | J. PERSONAL EFFECTS |
| D. EMPLOYEES AS INSURED | K. AIRBAGS |
| E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS | L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS |
| F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS | M. BLANKET WAIVER OF SUBROGATION |
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PROVISIONS

A. BROAD FORM NAMED INSURED

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

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

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

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and

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

C. EMPLOYEE HIRED AUTO

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

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

COMMERCIAL AUTO

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

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

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

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

D. EMPLOYEES AS INSURED

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

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

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

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

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

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

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

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph B.7., Policy Period, Coverage Territory, of SECTION IV – BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or

within such country or jurisdiction, for Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., Limit Of Insurance, of SECTION II – LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., Limit Of Insurance, of SECTION II – LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available

to the "insured" whether primary, excess contingent or on any other basis.

- (c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

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

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

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

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

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

J. PERSONAL EFFECTS

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

Personal Effects

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

- (1) Owned by an "insured"; and
- (2) In or on your covered "auto".

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

No deductibles apply to this Personal Effects coverage.

K. AIRBAGS

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

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

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

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

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

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

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph B.2., **Concealment, Misrepresentation, Or Fraud**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.