

PERSONAL SERVICES AGREEMENT

NO: _____

, Hereinafter called Contractor, and Skagit County, hereinafter called County, agrees as set forth in this Agreement, including:

(General Conditions); Exhibit A (Scope of Work); Exhibit B (Compensation); Exhibit C (Proof of Insurance).

copies of which are attached hereto and incorporated herein by this reference as fully as if set forth herein.

The term of this Agreement shall commence on the _____ day of _____, _____, and continue until _____, _____. Any party may terminate this Contract by giving 30 days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph.

The County has established the following GL expenditure code(s) for this Agreement: _____, which shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 4 (Independent Contractor), 6 (Taxes), 12 (Defense and Indemnity Agreement), 18 (Patent/Copyright Infringement) and 21 (Confidentiality), are totally and fully part of this contract and have been mutually negotiated by the parties.

CONTRACTOR

Signature & Title of Signatory
(Date _____)

Print Name of Signatory

Mailing Address:

Telephone No. _____

Fed. Tax ID # _____

Contractor Lic. #. _____

DATED this _____ day of _____, 2021.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Lisa Janicki, Chair

Peter Browning, Commissioner

Attest:

Ron Wesen, Commissioner

Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

County Administrator

Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director

GENERAL CONDITIONS

1. Scope of Contractor's Services:

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

2. 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 billings, 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. Unless specifically stated in Exhibit "B" or approved in writing in advance by the Skagit County Board of Commissioners, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in performance of this Contract.

Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, through the County voucher system, for the Contractor's service pursuant to the fee schedule set forth in Exhibit "B".

3. Assignment and Subcontracting:

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.

4. 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 County 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 Skagit County employees.

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.

5. 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.

6. 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 make withholding 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.

7. Regulations and Requirement:

This Agreement shall be subject to all laws, rules and regulations of the United States of America, and State of Washington, and political subdivisions of the State of Washington and to any other provisions set forth herein or in the attached exhibits.

8. Right to Review:

This contract is subject to review by any Federal or State 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 County. 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 evaluation 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 3 years after contract termination, and shall make them available for such review, within Skagit County, State of Washington, upon request.

9. Modifications:

Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

10. 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, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. 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, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

11. Termination for Public Convenience:

The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. Whenever the contract 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 contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.

12. 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, attorney's 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 elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or 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. Contractor's insurance shall be primary. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be excess of Contractor's insurance and shall not contribute to it.

Contractor's initials acknowledging indemnity terms: _____

13. **Survival of Indemnity Obligations.** The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

14. **Participation by County – No Waiver.** The County reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of Contractor's indemnity obligations under this Agreement.

15. **Indemnity by Subcontractors.** In the event the Contractor enters into subcontracts to the extent allowed under this Agreement, the Contractor's subcontractors shall indemnify the County on a basis equal to or exceeding Contractor's indemnity obligations to the County.

16. 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.

17. 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 Superior Court of the State of Washington in and for the County of Skagit. This Agreement shall be governed by the law of the State of Washington.

18. Withholding Payment:

In the event the Contractor has failed to perform any obligation to be performed by the Contractor under this Agreement within the time set forth in this Agreement, then the County may, upon written notice, withhold all monies due and payable to Contractor, without penalty, until such failure to perform is cured or otherwise adjudicated.

19. Future Non-Allocation of Funds:

If sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the County will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. NO penalty or expense shall accrue to the County in the event this provision applies.

20. 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.

21. 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. Contractor shall be notified promptly in writing by 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.

22. 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, instructions, and decisions of the Skagit County Commissioners 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 County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 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 30 days of the completion 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 extension of time claimed to be due.

23. 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.

24. 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 Skagit County Prosecuting Attorney 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 proceedings 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.

25. 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 department head of the department for whom services are rendered, and to the Skagit County Commissioners, 1800 Continental Place, Suite 100, Mount Vernon, WA 98273. Notice to the Contractor for all purposes under this Agreement shall be given to the address reflected on the signature page. Notice may be given by delivery or by depositing in the U.S. Mail, first class, postage prepaid.

26. 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.

27. Waiver:

Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No terms or conditions of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

28. Survival:

The provisions of paragraphs 4, 6, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 24, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

29. Entire Agreement:

This written contract represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

EXHIBIT "A"

SCOPE OF WORK

EXHIBIT "B"
COMPENSATION

EXHIBIT "C"

PROOF OF INSURANCE

The Contractor shall provide proof of insurance for Commercial General Liability in the amount of \$1,000,000.00 to cover Contractor's activities during the term of this Contract. Contractor's insurance coverage shall be primary. Any insurance proceeds in excess of the limits and coverage required in this agreement and which is applicable to a given loss will be available to the County. Proof of insurance shall be in a form acceptable and approved by the County.

Insurance is a condition of Payment. Payments due to the Contractor under this Agreement are expressly conditioned upon the Contractor's strict compliance with all insurance requirements under this Agreement. Payment to the Contractor shall be suspended in the event of non-compliance. Upon receipt of evidence of full compliance, payments not otherwise subject to withholding or set-off will be released to the Contractor.

The type of insurance required by this Agreement is marked below.

- ☐ 1) Commercial General Liability Insurance
Certificate Holder – Skagit County
**The Certificate must name the County as additional insured:
Skagit County, its elected officials, officers and employees
are named as additional insured.**
Thirty (30) days written notice to the County of cancellation
of the insurance policy.
- ☐ 2) Professional Liability
Certificate Holder – Skagit County
Thirty (30) days written notice to the County of cancellation
of the insurance policy

Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

NOTE: No contract shall form until and unless a copy of the Certificate of Insurance, properly completed and in the amount required, is attached hereto.

- ☐ 3) Insurance is waived

Date: _____
Risk Manager