## CONTRACT NO. KC-052-24 Professional Services Contract

This Professional Services Contract ("Contract") is between Kitsap County, a Washington state political subdivision, having its principal offices at 614 Division Street, Port Orchard, Washington 98366 ("County") and Barker Creek Consulting LLC, a Limited Liability Company, having its principal offices at PO BOX 2011, Silverdale, WA 98383 ("Contractor").

In consideration of the terms and conditions of this Contract, the parties agree as follows:

#### SECTION 1. TERM AND EFFECTIVE DATE

1.1 The Contract will become effective October 1, 2023 and terminate December 31, 2026, unless terminated or extended. The Contract may be extended for additional consecutive terms at the mutual agreement of the parties. In no event will the Contract become effective unless and until it is approved and executed by the duly authorized representative of Kitsap County.

#### SECTION 2. SERVICES

- 2.1. <u>Scope of Work</u>. The Contractor shall provide all "Services" identified in Attachment A: (Scope of Work), which is incorporated herein by reference. The Contractor shall provide its own equipment, labor, and materials.
- 2.2. <u>Contract</u>. "Contract" means this Contract and any exhibits, amendments, and solicitation documents accepted by the County, and Attachments A (Scope of Work), B (Compensation) Budget All such documents are incorporated herein in full by this reference.
- 2.3. <u>Personnel</u>. The Contractor shall have and maintain complete responsibility for its Personnel. "Personnel" means Contractor and Contractor's employees, subcontractors, volunteers, interns, agents, and any other person utilized by the Contractor directly or indirectly or through third parties to perform any Services under the Contract. The Contractor shall promptly remove any Personnel performing Services on request from the County Representative.
- 2.4. <u>Standards</u>. The Contractor warrants that i) Contractor has the qualifications, knowledge, experience, skills, and resources necessary to provide all Services; ii) all Services shall be provided by Personnel experienced in their respective fields and in a manner consistent with the standards of care, skill, diligence, and knowledge commonly possessed and exercised by experienced professionals in the same discipline in the same or similar circumstances; and iii) all Services shall be performed to the County's reasonable satisfaction and according to the schedule agreed to by the parties.
- 2.5. <u>Communication</u>. The Contractor shall keep the County informed of the progress of the Services in the manner, method, and intervals requested by the County.

#### SECTION 3. COMPENSATION AND PAYMENT

3.1. <u>Compensation</u>. The maximum amount of compensation paid under the Contract by the County shall not exceed \$350,000. A description of the compensation is provided in Attachment B: Compensation, which is incorporated herein by reference.

- 3.2. <u>Invoice</u>. The Contractor will submit one (1) invoice to the County per month for payment of Services completed to date, unless otherwise provided herein. Each invoice shall identify the Services performed, dates performed, and any other information requested by the County.
- 3.3. <u>Payment</u>. The County will make reasonable efforts to pay the Contractor within thirty (30) days from the date the County receives a complete and correct invoice, unless otherwise provided herein. All funds disbursed to the Contractor will be processed by Direct Deposit via Automated Clearing House (ACH), unless otherwise agreed to by the parties.
- 3.4. <u>Insurance/W-9 Compliance</u>. All payments are expressly conditioned upon the Contractor's compliance with all insurance requirements and submission of a current IRS W-9 form to the County. Payments may be suspended in full in the event of noncompliance. Upon full compliance, payments will be released to the Contractor unless otherwise provided herein.
- 3.5. Restrictions. The Contractor will only be entitled to receive payment for Services expressly authorized in the Contract, and received during the Contract term and accepted by the County. The Contractor acknowledges oral requests and approvals of additional services or additional compensation are prohibited and unenforceable. Advance payments are not authorized.

#### SECTION 4. TERMINATION

- 4.1. <u>For Convenience</u>. The County may terminate the Contract, in whole or in part, without penalty, for any reason or no reason, with ten days prior notice to the Contractor.
- 4.2. <u>For Funding issues</u>. If any funding for Services is not available, withdrawn, reduced, or limited in any way, or if additional or modified conditions are placed on the funding after the Contract becomes effective, the County may: (1) accept a decreased price offered by the Contractor; (2) terminate the Contract; or (3) terminate the Contract and re-solicit the requirements.
- 4.3. <u>Termination for Default</u>. The County may immediately terminate the Contract, in whole or part, due to the failure of the Contractor to comply with any Contract term or condition, or to make satisfactory progress in performing the Contract, subject to the provisions of 11.1, or if the County determines the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity. The Contractor shall immediately notify the County if the Contractor becomes suspended or debarred.
- 4.4. <a href="Procedures">Procedures</a>. Upon receipt of notice of termination, the Contractor shall stop all Services as directed in the notice, notify Personnel of the termination date, and minimize further costs. All goods, materials, documents, data, and reports prepared by the Contractor under the Contract shall become the property of, and delivered to, the County on demand. A final payment will be made to the Contractor only for Services performed and accepted by the County through the effective date of termination. No costs incurred after the effective date of the termination will be paid.

#### SECTION 5. INDEMNIFICATION

5.1. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless Kitsap County and its elected and appointed officials, officers, employees, and agents (collectively "Indemnitees") from and against all Claims resulting from or arising

out of the performance of the Contract, whether such Claims arise from the acts, errors, or omissions of the Contractor, its Personnel, third parties, or Kitsap County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors, or omissions any of them may be liable. It is the specific intent of the parties that the Indemnitees shall, in all instances, except Claims arising from the sole negligence or willful misconduct of the Indemnitees, be indemnified by the Contractor from and against any and all Claims.

- 5.2. With regard to any Claim against any Indemnitee by any of the Contractor's Personnel, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the Contractor's indemnification obligation shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or Contractor's Personnel under workers compensation acts, disability benefit acts, or other employee benefit acts. Solely for the purposes of this indemnification provision, the Contractor expressly waives its immunity under Title 51 RCW (Industrial Insurance) and acknowledges this waiver was mutually negotiated by the parties.
- 5.3. Architectural, Landscape Architectural, Engineering, or Land Surveying Services. Should a court of competent jurisdiction determine the Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the County, its officers, officials, employees, and agents, the Contractor's liability hereunder, including the duty and cost to defend, will be only to the extent of the Contractor's negligence.
- 5.4. <u>Claim.</u> "Claim" means all losses, claims, suits, actions, liabilities, damages, demands, judgments, settlements, expenses, fines, or other liabilities of any kind or nature whatsoever, including without limitation, all costs including costs of Claim processing, investigation, reasonable attorneys' fees, and damages, for any personal or bodily injury, sickness, disease, disability, or death, or loss or damage to tangible or intangible business or property, including the loss of use. Claim includes any infringement of copyright, patent, trademark, or other proprietary rights of any third parties arising out of Contract performance or use by the County of materials furnished or work performed under the Contract.
- 5.5. Obligations/Notice of Claim. The County will provide the Contractor notice of the assertion of liability by a third party that may give rise to a Claim by County against the Contractor based on the indemnity contained herein. The Contractor shall respond to the County's tender of defense of a claim in writing within fourteen (14) calendar days from the notice date, and will advise the County if the Contractor accepts or denies tender of the claim. The County may in its discretion withhold all or part of any payment due the Contractor under the Contract until the Contractor responds to such notice. The Contractor shall keep the County timely and fully informed through all stages of the defense and promptly respond to and comply with County's requests for information. The County at all times reserves the right, but has no obligation to participate in the defense and settlement of any Claim. Such participation shall not constitute a waiver of the Contractor's indemnity and defense obligations under the Contract. The Contractor shall not settle or compromise any Claim in any manner that imposes any obligations upon the County without the prior written consent of the County. The Contractor shall promptly advise the County of any occurrence or information known to the Contractor that could reasonably result in a Claim against the County. The violation of any provisions of this Section, including improper refusal to accept tender, is a material breach.

#### SECTION 6. INSURANCE

- 6.1. Minimum Insurance Required. The Contractor and its subcontractors, if any, shall procure and maintain, until all of the Contract obligations have been fully discharged, including any warranty period, all insurance required in this Section with an insurance company duly licensed in Washington State with an A.M. Best Company ratings of not less than A-VIII and a category rating of not less than "8", with policies and forms satisfactory to the County. Use of alternative insurers requires prior written approval from the County. Coverage limits shall be at minimum the limits identified in this Section, or the limits available under the policies maintained by the Contractor without regard to the Contract, whichever is greater.
- 6.2. <a href="Professional Liability">Professional Liability</a>. Not less than \$1,000,000 per claim and \$2,000,000 annual aggregate. Coverage will apply to liability for professional error, act or omission arising out of or in connection with the Contractor's Services under the Contract. The coverage shall not exclude bodily injury, property damage or hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services under the Contract, including testing, monitoring, measuring operations or laboratory analysis where such Services are rendered under the Contract.
- 6.3. Commercial General Liability ("CGL"). Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include personal injury, bodily injury, and property damage for premise-operations liability, products/completed operations, personal/advertising injury, contractual liability, independent contractor liability, and stop gap/employer's liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required herein, without the prior written approval of the County. The certificate of insurance for the CGL policy shall expressly cover the indemnification obligations required by the Contract.

#### 6.4. <u>Automobile Liability</u>.

$\boxtimes$	Contractor	shall	maintain	personal	automobile	insurance	on	all vehicles	used 1	for
Contrac	ct purposes	as re	equired by	/ law.						

- Not less than \$100,000 per occurrence and \$300,000 annual aggregate. If a personal automobile liability policy is used to meet this requirement, it must include a business rider and cover each vehicle to be used in the performance of the Contract. If Contractor will use non-owned vehicles in performance of the Contact, the coverage shall include owned, hired, and non-owned automobiles.
- Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include liability for any and all owned, hired, and non-owned vehicles. Coverage may be satisfied with an endorsement to the CGL policy.
- 6.5. <u>Umbrella or Excess Liability</u>. The Contactor may satisfy the minimum liability limits required for the CGL and Automobile Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the annual aggregate limit shall not be less than the highest "Each Occurrence" limit for either CGL or Automobile Liability. The Contractor agrees to an endorsement naming the County as an additional insured as provided in this Section, unless the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

- 6.6. Workers' Compensation and Employer Liability. If applicable, the Contractor shall maintain workers' compensation insurance as required under the Title 51 RCW (Industrial Insurance), for all Contractor's Personnel eligible for such coverage. If the Contract is for over \$50,000, then the Contractor shall also maintain employer liability coverage with a limit of not less than \$1,000,000.
- 6.7. <a href="Primary">Primary</a>, Non-Contributory Insurance/Subcontractors</a>. The Contractor's and its subcontractors' insurance policies and additional named insured endorsements will provide primary insurance coverage and be non-contributory. Any insurance or self-insurance programs maintained or participated in by the County will be excess and not contributory to such insurance policies. All Contractor's and its subcontractors' liability insurance policies must be endorsed to show as primary coverage. The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All subcontractors shall comply with all insurance and indemnification requirements herein.
- 6.8. Review of Policy Provisions. Upon request, the Contractor shall provide a full and complete copy of all requested insurance policies to the County. The County reserves the right without limitation, but has no obligation to revise any insurance requirement, or to reject any insurance policies that fail to meet the requirements of the Contract. The County also has the right, but no obligation to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. The County has the right to request and review the self-insurance retention limits and deductibles, and the Contractor's most recent annual financial reports and audited financial statements, as conditions of approval. Failure to demand evidence of full compliance with the insurance requirements or failure to identify any insurance deficiency shall not relieve the Contractor from, nor be construed or deemed a waiver, of its obligation to maintain all the required insurance at all times as required herein.
- 6.9. <u>Waiver of Subrogation</u>. In consideration of the Contract award, the Contractor agrees to waive all rights of subrogation against the County, its elected and appointed officials, officers, employees, and agents. This waiver does not apply to any policy that includes a condition that expressly prohibits waiver of subrogation by the insured or that voids coverage should the Contractor enter into a waiver of subrogation on a pre-loss basis.
- 6.10. Additional Insured, Endorsement and Certificate of Insurance. All required insurance coverage, other than the workers' compensation and professional liability, shall name the County, it's elected and appointed officials, officers, employees, and agents, as additional insureds and be properly endorsed for the full available limits of coverage maintained by Contractor and its subcontractors. Endorsement is not required if the Contractor is a self-insured government entity, or insured through a government risk pool authorized by Washington State.

The Certificate of Insurance and endorsement shall identify the Contract number and shall require not less than thirty (30) days' prior notice of termination, cancellation, nonrenewal or reduction in coverage. At the time of execution, the Contractor shall provide the Certificate of Insurance, endorsement, and all insurance notices to: Risk Management Division, Kitsap County Department of Administrative Services, 614 Division Street, MS-7, Port Orchard, Washington 98366.

- 6.11. General. The coverage limits identified herein are minimum requirements only and will not in any manner limit or qualify the liabilities or obligations of the Contractor under the Contract. All insurance policy deductibles and self-insured retentions for policies maintained under the Contract shall be paid by the Contractor. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its elected and appointed officials, officers, employees, or agents. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, subject to the limits of the insurer's liability.
- 6.12. <u>Claims-Made</u>. If the Contractor's liability coverage is written as a claims-made policy, the Contractor shall purchase an extended-reporting period or "tail" coverage for a minimum of three (3) years following completion of the performance or attempted performance of the provisions of this Contract.

#### SECTION 7. NOTICE AND CONTRACT REPRESENTATIVES

7.1. Any notices, demands and other communications required by the Contract will be effective if personally served upon the other party or if mailed by registered or certified mail, postage prepaid, return receipt requested, to the other party's Contract Representative at the address below. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three (3) days following the date of mailing, or immediately if personally served. For service by facsimile, service will be effective at the beginning of the next working day. Each party will designate a "Contract Representative", which may be changed by providing fifteen (15) days prior notice to the other party.

#### County's Contract Representative

Name: Hannah Shockley
Title: Program Supervisor
Address: 614 Division St MS-23

Phone: 360-337-4827

Email: hshockle@Kitsap.gov

#### Contractor's Contract Representative

Name: Shannon Thompson Title: Principal Owner

Address: PO BOX 2011, Silverdale, WA 98383

Phone: 360-271-9207

Email: shannont@barkercreek-ors.com

#### SECTION 8. AMENDMENTS, SUBCONTRACTS, INDEPENDENT CONTRACTOR

- 8.1. <u>Amendment</u>. No amendment or modification to the Contract will be effective without the prior written consent of the authorized representatives of the parties.
- 8.2. <u>Successors and Assigns</u>. To the extent permitted by law, the Contract is binding on the parties' respective partners, successors, assigns, executors, and legal representatives.

- 8.3. <u>Assignments</u>. Except with the prior written consent of the other party, each party shall not assign or transfer, including by merger (whether that party is the surviving or disappearing entity), consolidation, dissolution, or operation of law any right, duty, obligation, or remedy under the Contract. Any purported assignment or transfer in violation of this section shall be void.
- 8.4. <u>Subcontracts</u>. The Contractor shall provide the County a list of all subcontractors and the subcontractors' proposed responsibilities. "Subcontract" means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or service for the performance of the Contract. All subcontracts shall incorporate by reference the terms and conditions of this Contract. The Contractor is solely responsible for the performance and payment of its subcontractors.
- 8.5. Independent Contractor. Each party under the Contract shall be for all purposes an independent contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Contractor shall have complete responsibility and control over its Personnel. Neither the Contractor nor its Personnel shall be, or be deemed to be, or act or purport to act, as an employee, agent or representative of the County. The Contractor and its Personnel shall have no County employee-type benefits of any kind whatsoever, including without limitation, insurance, pension plan, vacation pay or sick pay, or other right or privilege afforded to County employees. The Contractor and its Personnel shall be responsible for payment of all insurance, taxes, and benefits.

#### SECTION 9. OWNERSHIP, CONFIDENTIAL INFORMATION AND BREACH

- 9.1. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films, or any other materials created, prepared, produced, constructed, assembled, made performed, or otherwise produced by the Contractor or its Personnel for delivery to the County under this Contract shall be the sole and absolute property of the County. All such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material the Contractor uses to perform this Contract that is not created, prepared, constructed, assembled, made, performed, or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of the Contract.
- 9.2. <u>Confidential Information/Breach</u>. The Contractor shall ensure that all personal identifying information, financial information, and other information submitted or made available to the Contractor by, or on behalf of, the County, or acquired or developed by the Contractor in the performance of the Contract (unless publicly available) is kept confidential, secured, and protected to prevent unauthorized access. Such information will be utilized by the Contractor solely as necessary for the performance of Services under the Contract and not made available to any other person without the County's prior written consent. In the event of unauthorized access or other security breach, the Contractor shall immediately notify the Contract Representative and shall at its sole expense comply with all requirements of RCW 19.255.010, in effect at any given time. Upon expiration or termination of the Contract, all confidential information shall be returned to the County or destroyed at the County's discretion.

#### SECTION 10. REPRESENTATIONS AND RECORDS

- 10.1. No Fee. The Contractor certifies it has not received, nor paid or agreed to pay, another person or entity, other than a bona fide employee working exclusively for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Contract.
- 10.2. <u>Licenses, Permits and Taxes</u>. The Contractor shall, at its own expense, have and maintain all licenses, registrations, permits, and approvals necessary for the performance of the Contract, including without limitation, registration with the Washington State Department of Revenue. The Contractor shall pay all fees (including licensing fees) and applicable federal, state, and local taxes.
- 10.3. <u>Compliance</u>. The Contractor and its Personnel, and the Services provided by the Contractor and its Personnel, shall comply with all applicable laws, codes, and standards in effect at any given time regardless as to whether such laws are referred to by the County. If required for the Services provided, the Contractor and its Personnel shall submit to a background check as directed by the County.
- 10.4. <u>Nondiscrimination</u>. The Contractor and its Personnel shall not discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of the Contract.
- 10.5. Public Records. The Contractor agrees that the Contract and all records associated with the Contract shall be available to the County for inspection and copying by the public pursuant to the Public Records Act, Chapter 42.56 RCW ("Act"). If the County determines that records in the custody of the Contractor are needed to respond to a request under the Act, the Contractor shall make all such records promptly available to the County at no cost to the County. With the exception of the Contract, if the Contractor considers any portion of any record, electronic or hard copy, to be protected from disclosure under the Act, the Contractor shall clearly identify all specific information it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy proprietary information that has been identified by the Contractor as protected from disclosure and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligation will be to make a reasonable effort to notify the Contractor of the request and the date that such protected information will be released unless the Contractor obtains a court order to enjoin disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County will not be liable to the Contractor for releasing records pursuant to the Act.
- 10.6. <u>Advertising, Logo</u>. The Contractor shall not use, advertise, or promote for commercial benefit information concerning the Contract or use any trade name, trademark, or logo of the County, without the County's prior written consent.

10.7. <u>Audit and Record Retention</u>. The Contractor and its Personnel shall retain all books, documents, and records relating to performance of the Contract and Services provided in connection with this Contract for six (6) years after completion of the Contract or longer if requested by the County. All records shall be subject to inspection and audit by the County. Upon request, the Contractor shall promptly make available to the County a legible copy of all books, documents, and records at no cost to the County.

#### SECTION 11. RIGHTS AND REMEDIES

- 11.1. <u>Failure to Perform</u>. If County determines the Contractor has failed to perform any material obligation of the Contract, and such failure has not been cured within ten (10) days' following notice from the County, the County may without penalty, in its discretion, withhold all monies due the Contractor until such failure is cured to the reasonable satisfaction of the County.
- 11.2. Right of Assurance. If the County in good faith has reason to believe the Contractor does not intend, or is unable to perform, or continue performing under the Contract, the County may demand in writing that the Contractor give a written assurance of intent to perform. Should the Contractor fail to provide adequate assurance to the reasonable satisfaction of the County, by the date specified the demand, the County may terminate all or part of the Contract and pursue all other rights and remedies available at law and in equity.
- 11.3. Responsibility for Errors. All Services shall be completed to the reasonable satisfaction of the County and as required herein. Upon request, the Contractor shall provide any clarifications and/or explanations regarding any Services provided as required by the County, at no additional cost to the County. In the event of an error or omission under the Contract, the Contractor shall, at no cost to the County, provide all necessary design drawings, estimates, and all other professional services the County deems necessary to rectify and correct the matter to the satisfaction of the County. The Contractor shall continue to be responsible for the accuracy of Services, even after the Work is accepted by the County and the termination or expiration of the Contract.
- 11.4. Remedies. All County rights and remedies under the Contract are in addition to, and shall in no way limit, any other rights and remedies that may be available to the County at law and in equity.
- 11.5. Right of Off-Set; Reimbursement. The County will be entitled to offset against any sums due the Contractor and to reimbursement from the Contractor for any damages, expenses, or costs incurred by the County due to the Contractor's nonconforming performance or failure to perform the Services under the Contract.
- 11.6. Waiver. Either party's failure to insist upon the strict performance of any provision of the Contract, or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach, will not constitute a waiver of any right or remedy under the Contract unless expressly so agreed in writing by an authorized representative.
- 11.7. <u>Breach</u>. In the event of a material breach by the Contractor, the County may procure, on terms and in the manner that it deems appropriate, Services to replace those under the Contract. The Contractor shall be liable to the County for any and all costs, expenses, penalties, and fees incurred by the County in procuring such Services in substitution for those due from the Contractor under the Contract.

#### SECTION 12. GOVERNING LAW, DISPUTES

- 12.1. Governing Law; Venue. The Contract will be governed in all respects by the laws of the State of Washington, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington or as provided by RCW 36.01.050.
- 12.2. <u>Disputes</u>. Conflicts and disagreements between the parties related to the Contract will be promptly brought to the attention of the County. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County's Contract Representative. All decisions of the County's contract Representative are considered final; however, nothing herein prohibits either party from seeking judicial relief.

#### SECTION 13. PREVAILING WAGE

Does Not Apply

#### SECTION 14. GENERAL PROVISIONS

- 14.1. <u>Implied Contract Terms</u>. Each provision of law and any terms required by law to be in the Contract are made a part of the Contract as if fully stated in it.
- 14.2. <u>Headings/Captions</u>. Headings and captions used are for convenience only and are not a part of the Contract and do not in any way limit or amplify the terms and provisions hereof.
- 14.3. <u>No Party the Drafter</u>. The Contract is the product of negotiation between the parties, and no party is deemed the drafter of the Contract.
- 14.4. <u>No Third Party Beneficiary</u>. No provision of the Contract is intended to, nor will it be construed to, create any third party beneficiary or provide any rights or benefits to any person or entity other than the County and the Contractor.
- 14.5. <u>Severability</u>. If a court of competent jurisdiction holds any provision of the Contract to be illegal, invalid, or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected, and the parties' rights and obligations will be construed and enforced as if the Contract did not contain the particular provision held to be invalid. If any provision of the Contract conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.
- 14.6. <u>Precedence</u>. The Contract documents consist of this Contract and its attachments and exhibits. In the event of a conflict between or among the Contract documents, the order of precedence shall be this Contract, then the attachments and exhibits.
- 14.7. <u>Counterparts/Electronic Signature</u>. The Contract may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement. A facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures and deemed to constitute duplicate originals.

- 14.8. <u>Non-Exclusive Contract.</u> The County may at its discretion enter into multiple agreements to obtain the same or similar services that are the subject of this Contract or may have its own employees perform the same or similar services contemplated by the Contract.
- 14.9. <u>Survival</u>. Those provisions of this Contract that by their sense and purpose should survive expiration or termination of the Contract shall so survive. Those provisions include, without limitation: Sections 5 (Indemnification), 6 (Insurance), 8.5 (Independent Contractor), 9 (Ownership, Confidential Information and Breach), 11 (Rights and Remedies), 12 (Governing Law, Disputes), and 14 (General Provisions).
- 14.10. Entire Agreement. The parties acknowledge the Contract is the product of negotiation between the parties and represents the entire agreement of the parties with respect to its subject matter. All previous agreements and representations, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by the Contract.
- 14.11. <u>Authorization</u>. Each party signing below warrants to the other party, that they have the full power and authority to execute this Contract on behalf of the party for whom they sign.

Dated this 18 day of January , 2024	Dated this 29 day of January, 2024
BARKER CREEK CONSULTING LLC	KITSAP COUNTY, WASHINGTON BOARD OF COUNTY COMMISSIONERS
Shannon Thompson, Principal Owner	KATHERINE T. WALTERS, CHAIR
	CHRISTINE ROLFES, COMMISSIONER
	Charlatte Janido  CHARLOTTE GARRIDO, COMMISSIONER
	STATESTIE SANTES, SOMMOOISTEN



ATTEST:

Dana Daniels, Clerk of the Board

#### Attachment A

#### BARKER CREEK CONSULTANTS SCOPE OF WORK

#### **Objective**

A BCC Project Manager will work with the Project Coordinators and construction managers to provide professional project management support as requested throughout: 1) Pre-Construction administration phase, 2) Construction phase, and 3) Close out phase for this project. This work will be performed on a time and materials basis as stated in the assumptions below. This is a Time and Materials contract, and additional funds may be requested for an approved budget if necessary. The proposed work activities are as follows:

#### **Activities**

The following activities will be coordinated with the Owner and Project Coordinator:

- Create project budget and update financials as requested by Owner.
- Utilize project management tools to manage project schedules and deliverables.
- Set up and maintain master document control system to track correspondence, shop drawing submittals, RFI's, laboratory and test reports, work directives, and change orders.
- Assist with final preparation of bid set, RFP, and selection of General Contractor.
- Lead administration of Professional Service Contracts for additional consultants.
- Lead coordination of utility contracts, schedule work, and manage related permits.
- Coordinate and oversee all project related permits, testing, and inspections.
- Monitor grant expenditures, change orders, design modifications.
- Review all project documents i.e., bid sets, contracts, change orders, pay requests, and other documents requested by Owner.
- Prepare weekly project updates for Owner meetings.
- Prepare and draft meeting agendas and meeting notes for weekly construction meetings.
- Oversee General Contractor master schedule progress reports, schedule of values, and pay requests.
- Provide observation of project construction activities, logging construction activity, and construction photos.
- Oversee inspection of day-to-day construction activities, work methods, and products to verify compliance with the project documents.
- Monitor and document quality and quantities of materials purchased and installed by General Contractor
- Coordinate project close out and punch list with the Owner and design team.

Barker Creek Consultants will provide the services listed above and other services requested by the Owner. These services will be performed upon a time and materials basis.

#### **Deliverables**

The following deliverables will be prepared as requested by Owner:

- Document Control of the following:
  - > Project budget
  - Project schedule
  - > Work change directives
  - > Field orders
  - > Pay request reviews
  - > Grant funding/reimbursable reports
  - > Other document as requested by Owner
- Provide weekly:
  - > Notification of project changes (budget or schedules)
  - > Risk, safety, security alerts
  - > Construction agenda
  - Meeting notes
  - Meeting documentation
  - > Site walks, tours as needed

#### BARKER CREEK CONSULTING

# Attachment B Compensation

Barker Creek Employee	Role	2023	2024	2025
Shannon Thompson	Principal in Charge, PM	\$175	\$185	\$185
Cynthia Rogers	Project Coordinator/ Sr. Controls Specialist	\$145	\$145	\$145
Sydney Thompson	Project Coordinator/ Communication Specialist	\$135	\$135	\$135
Ryan Judd	Construction Manager/ Observer	\$125	\$125	\$125
Anna Ma	Contract Specialist	\$145	\$145	\$145

Work Element Completed By

Notice to Proceed	Received Authorization on September 27, 2023
Anticipated Substantial Completion Date	November 2024
Anticipated Final Contract Completion Date	January 31 <sup>st</sup> 2025

## ATTACHMENT C SPECIFIC TERMS AND CONDITIONS

#### PROJECT ASSUMPTIONS AND CONDITIONS

This Scope of Work and associated fee schedule assume that BARKER CREEK CONSULTING will provide Project Management Services for the above stated project on a time and material basis. The Scope of Work and associated fee schedule is based on a time and materials not to exceed budget. Work beyond that time has not been included in the costs for this Scope of Work and would be considered additional or extra work.

- If the project is delayed, the Contractor works on unworkable or non-working days, or the project's working days exceed this time, then the effort needed to provide construction services by BARKER CREEK CONSULTING will need to be increased. The Owner and BARKER CREEK CONSULTING will work closely to optimize this additional-required level of effort by BARKER CREEK CONSULTING.
- Normal working day and night work hours shall be in accordance (Monday through Friday 8:00 AM 5:00 PM). Saturday, Sunday, and holidays, plus nighttime work may be required at the need of the project or by the request of the Owner. Work performed on those days, will be reimburse in accordance with the hourly rates contained within this proposal.
- BARKER CREEK CONSULTING has provided this Scope of Work and related cost spreadsheet with the assumption that a competent General Contractor is selected by the Owner for the project.

## Mental Health, Chemical Dependency and Therapeutic Court Program 2024 Special Project Budget Form

Agency Name: Barker Creek Project: Pacific Building Shelter

Enter the estimated costs assolcated	Sugar Advisor Sugar	2023		2024					
with your project/program	Award	Expenditures	%	Request	Modifications	%			
Personnel									
Managers	<b>-</b>	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Staff	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Total Benefits	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
SUBTOTAL	<b> </b> \$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Supplies & Equipment			a andrewski a						
Equipment		\$ -	#DIV/0!		\$ -	#DIV/0!			
Office Supplies	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Other (Describe):	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
SUBTOTAL	Ī	\$ -	#DIV/0!		\$ -	#DIV/0!			
Administration		Special and							
Advertising/Marketing	<b>s</b> -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Audit/Accounting	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Communication	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Insurance/Bonds	<b>s</b> -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Postage/Printing	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Training/Travel/Transportation	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
% Indirect (Limited to 5%)	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Other (Describe):Construction Manager		\$ -	#DIV/0!	\$ 350,000.00		#DIV/0!			
SUBTOTAL	\$ -	\$ -	#DIV/0!	\$ 350,000.00	\$ 350,000.00	#DIV/0!			
Ongoing Operations & Maintenance									
Janitorial Service	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Maintenance Contracts	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Maintenance of Existing Landscaping	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Repair of Equipment and Property	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Utilites	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Other (Describe):	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Other (Describe):	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Other (Describe):	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
SUBTOTAL	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Sub-Contracts	4.0								
Organization:	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Organization:	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Organization:	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Organization:	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
SUBTOTAL	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Other									
Debt Service	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Other (Describe):	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
SUBTOTAL	\$ -	\$ -	#DIV/0!	\$ -	\$ -	#DIV/0!			
Total Project Budget	<b>.</b> .	•	#DIV/0!	\$ 350,000.00	\$ 350,000.00	#DIV/0!			

NOTE: Indirect is limited to 5%

**BARKCRE-01** 

**BPRADO** 



#### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/19/2023

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 have ADDITIONAL INSURED provisions or 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)

and detailed a death of the rights to the detailed and related in the	· · · · · · · · · · · · · · · · · · ·						
PRODUCER	CONTACT NAME:						
Basin Pacific Insurance & Benefits PO Box 544	PHONE (A/C, No, Ext): (509) 488-5787	FAX (A/C, No):(509)	488-0558				
Othello, WA 99344	E-MAIL ADDRESS: vgomez@basinpacific.com						
	INSURER(S) AFFORDING COVER	AGE	NAIC #				
	INSURER A: Hiscox Insurance Company Inc.						
INSURED	INSURER B : AMGUARD Ins Co		42390				
Barker Creek Consulting LLC	INSURER C:						
PO Box 2011	INSURER D :						
Silverdale, WA 98383	INSURER E :						
	INSURER F:						
COVERA CEO	DE/ ((0) 0)	MUMBER					

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 INSURED AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EVALUATIONS OF SUCH POLICIES LIMITS SHOWING MAY HAVE BEEN BEDITION OF BY PAID CLAIMS

NSR LTR		TYPE OF INSURANCE	ADDL S	SUBR POLICY NUMBER	POLICY EFF	POLICY EXP (MM/DD/YYYY)	LIMIT	s	
A	Х	COMMERCIAL GENERAL LIABILITY	INSU	WVD	(WIW/DD/TTTT)	(MINUDD/TTTT)	EACH OCCURRENCE	\$	1,000,000
		CLAIMS-MADE X OCCUR		P1010172822	4/9/2023	4/9/2024	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	100,000
							MED EXP (Any one person)	\$	5,000
							PERSONAL & ADV INJURY	\$	1,000,000
	GEN	I'L AGGREGATE LIMIT APPLIES PER:	1 1				GENERAL AGGREGATE	\$	2,000,000
	X	POLICY PRO- LOC					PRODUCTS - COMP/OP AGG	\$	2,000,000
		OTHER:						\$	
В	AUT	OMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident)	\$	1,000,000
		ANY AUTO		BAAU439553	4/9/2023	4/9/2024	BODILY INJURY (Per person)	\$	
		OWNED AUTOS ONLY X SCHEDULED AUTOS					BODILY INJURY (Per accident)	\$	
	X	HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY					PROPERTY DAMAGE (Per accident)	\$	
								\$	
		UMBRELLA LIAB OCCUR					EACH OCCURRENCE	\$	
		EXCESS LIAB CLAIMS-MADE					AGGREGATE	\$	
		DED RETENTION \$						\$	
	WOR	KERS COMPENSATION EMPLOYERS' LIABILITY					PER OTH- STATUTE ER		
	ANY	PROPRIETOR/PARTNER/EXECUTIVE CER/MEMBER EXCLUDED?	N/A				E.L. EACH ACCIDENT	\$	
							E.L. DISEASE - EA EMPLOYEE	\$	
	DES	, describe under CRIPTION OF OPERATIONS below					E.L. DISEASE - POLICY LIMIT	\$	
Α	Med	I/Professional Lia		P1010173272	4/9/2023	4/9/2024	Prof Liability		1,000,000

CERTIF	ICATE HOLD	ER

CANCELLATION

**Kitsap County Human Services 507 Austin Avenue** Port Orchard, WA 98366

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** 



(Rev. October 2018) Department of the Treasury

### **Request for Taxpayer Identification Number and Certification**

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

	1	Name (as shown on your income tax return). Name is required on this line; do n	ot leave this line blank.									
		rker Creek Consulting LLC										
	2	Business name/disregarded entity name, if different from above										
Print or type. Specific Instructions on page 3.		Check appropriate box for federal tax classification of the person whose name following seven boxes.  Individual/sole proprietor or C Corporation S Corporation single-member LLC	in:	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any)								
tior	V	Limited liability company. Enter the tax classification (C=C corporation, S=S	corporation, P=Partners	ship) ►						-		
Print or type. ic Instruction		Note: Check the appropriate box in the line above for the tax classification or LLC if the LLC is classified as a single-member LLC that is disregarded from another LLC that is not disregarded from the owner for U.S. federal tax purp is disregarded from the owner should check the appropriate box for the tax	of the single-member own the owner unless the oposes. Otherwise, a sing	ner. Do r wner of th	e LLC	s	emptic ode (if a		FATC	A repo	orting	) 
€	Г	Other (see instructions) ▶				(Ar	plies to a	ccounts n	naintainea	outside	the U	.S.)
Spe	5 /	Address (number, street, and apt. or suite no.) See instructions.		Requeste	r's nan	ne and	addres	s (opti	onal)			
See	PO	box 2011										
(0	6	City, state, and ZIP code										
	Silv	verdale, WA 98383										
	7 L	ist account number(s) here (optional)										
Par	t I	Taxpayer Identification Number (TIN)										
backu reside	p w nt a s, it	r TIN in the appropriate box. The TIN provided must match the name ithholding. For individuals, this is generally your social security numb lien, sole proprietor, or disregarded entity, see the instructions for Pa is your employer identification number (EIN). If you do not have a number (EIN).	er (SSN). However, fo art I, later. For other	for a			]-[]					
Note:	lf th	ne account is in more than one name, see the instructions for line 1. A	lso see What Name and Emplo			yer ide	ver identification number					]
Numb	er 7	o Give the Requester for guidelines on whose number to enter.			8 2	] -[	4 9	7	8 7	0	5	
Par	i II	Certification				<u> </u>						
Under	pei	nalties of perjury, I certify that:										
2. I an Ser	n no vice	mber shown on this form is my correct taxpayer identification numbe it subject to backup withholding because: (a) I am exempt from back (IRS) that I am subject to backup withholding as a result of a failure ler subject to backup withholding; and	up withholding, or (b)	I have n	ot bee	n noti	ied by	the Ir	nterna			
3. I an	nal	U.S. citizen or other U.S. person (defined below); and										
4. The	FA	TCA code(s) entered on this form (if any) indicating that I am exempt	from FATCA reporting	g is corre	ect.							
you ha	ve f	ion instructions. You must cross out item 2 above if you have been noti alled to report all interest and dividends on your tax return. For real estate or abandonment of secured property, cancellation of debt, contribution interest and dividends, you are not required to sign the certification, but	te transactions, item 2 is to an individual retire	does not ement arr	apply angen	. For m	nortga( RA), an	ge inte d gene	rest pa erally, p	aid, oaym	ents	
Sign Here		Signature of U.S. person ► Samon D. Tho mpSon		Date ► 12	/19/20	23						
Gei	1e	ral Instructions	• Form 1099-DIV (div funds)	vidends,	includ	ing the	ose fro	m sto	cks or	mut	ual	
Section	n re	eferences are to the Internal Revenue Code unless otherwise	• Form 1099-MISC (	various t	pes c	f inco	me, pr	izes, a	awards	s, or	gros	s

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

#### **Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

• Form 1099-INT (interest earned or paid)

- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



### **Debarred Contractors List**

A debarred contractor may not bid on, or have a bid considered on, any public works contract. You can search and filter this list using the options presented below.

Company Name:	Barker Creek	Consulting	Principal:				F	rom: 0	1/09/2023	To: 01/09	/2024
WA UBI Number:			RCW:	All			<b>~</b> P	enalty [	Due:	Wage Due:	
License Number:								All	~	All	•
	Apply Filters	Reset							Download	all debarme	nt data 🔞
Show 25 <b>∨</b> pe	r page Showing	0 records			***************************************	· · · · · · · · · · · · · · · · · · ·		-	First	Previous N	ext Last
Company Name	▲ UBI ≎	License	Principa	uls ¢	Status	≎ RCW ≎	Debar Begins		Debar Ends	♦ Penalty ♦ Due	Wages ≎ Due
7			There are n	o records	that match	your search criteria					
Show 25 <b>→</b> pe	r page Showing	0 records							First	Previous N	lext Last