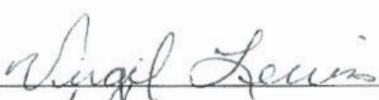


BOR Toppenish Creek Corridor Enhancement Plan

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
ASSISTANCE AGREEMENT

1A. AGREEMENT NUMBER R21AV00012		1B. MOD NUMBER N/A		2. TYPE OF AGREEMENT Public Law 93-638, Title 1, Indian Self-Determination Act Construction Contract		3. CLASS OF RECIPIENT Tribal Government					
4. ISSUING OFFICE Bureau of Reclamation Columbia-Pacific Northwest Region 1150 N. Curtis Rd. Boise, ID 83704-1234				5. RECIPIENT Confederated Tribes and Bands of the Yakama Nation PO Box 151 Toppenish, WA 98948							
				EIN #:		91-0576806		County:		Yakima	
				DUNS #:		803886399		Congress. Dist.		WA-04	
6. RECIPIENT PROJECT MANAGER Mr. Tom Elliot Tributary Enhancement Special Project Leader Confederated Tribes and Bands of the Yakama Nation Physical Address: 61220 Highway 97 South Mailing Address, P.O. Box 151 Toppenish, WA 98948 Phone: 509-314-9703 Email: ellt@yakamafish-nsn.gov				7A. INITIAL AGREEMENT EFFECTIVE DATE: Upon Award of Contract			7B. MODIFICATION EFFECTIVE DATE: N/A				
				8. COMPLETION DATE September 30, 2026							
9A. PROGRAM STATUTORY AUTHORITY Yavapai-Prescott Indian Tribe Water Settlement Act of 1994; P.L. 103-434, Section XII (Yakima River Basin Water Enhancement Plan Project)						9B. CFDA Number 15.531					
10. FUNDING INFORMATION		NON-FEDERAL		RECLAMATION		TOTAL PROJECT COSTS					
Total Estimated Amount of Agreement											
This Obligation											
Previous Obligation											
Total Obligation											
11. PROJECT TITLE Toppenish Creek Corridor Enhancement Plan											
12a. Acceptance of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the above-named recipient BY: <u></u> DATE: <u>9/2/2021</u>				13a. Award of this Assistance Agreement in accordance with the terms and conditions contained herein is hereby made on behalf of the United States of America, Department of the Interior, Bureau of Reclamation KARINA DEL TORO Digitally signed by KARINA DEL TORO Date: 2021.09.08 15:13:10 -06'00' BY: _____ DATE: _____							
12b. NAME AND TITLE OF SIGNER  Delano Saluskin Tribal Chairman				13b. NAME OF GRANTS OFFICER Karina Del Toro Awarding Official							

RECEIVED

SEP 13 2021

Fisheries Resource Mgmt. Program

SELF-DETERMINATION CONSTRUCTION CONTRACT

between the
Department of the Interior, Bureau of Reclamation
and the
Confederated Tribes and Bands of the Yakima Nation

(a) **Authority and Purpose** (and Background)

- (1) **Authority.** This Self-Determination Construction Contract (hereinafter referred to as the "Contract") is entered into by the U.S. Department of the Interior (DOI), Bureau of Reclamation, for and on behalf of the Secretary of the Interior (hereinafter "Reclamation") pursuant to Yavapai-Prescott Indian Tribe Water Settlement Act of 1994; P.L. 103-434, Section XII (Yakima River Basin Water Enhancement Plan Project) and Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) (formerly 25 U.S.C. 450 et seq.) (hereinafter "ISDEAA") and by the Confederated Tribes and Bands of the Yakima Nation (hereinafter "Contractor") (collectively the "Parties") pursuant to Resolution No. T-082-19. The provisions of the ISDEAA (25 U.S.C. 5301 et seq.) (formerly 25 U.S.C. 450 et seq.) are hereby incorporated into this Contract. In accordance with 25 CFR 900.2(c), the provisions of 25 CFR part 900, and any amendment thereto, are also incorporated into this Contract and are binding on Reclamation and the Contractor except as otherwise specifically authorized by an attached waiver by the Assistant Secretary of Water and Science under section 107(e) of the ISDEAA (25 U.S.C. 5328(e) (formerly 25 U.S.C. 450k(e))).
- (2) **Purpose.** The primary objectives under this P.L. 93-638 contract include separating water diverted from the Yakima River and routed through the facilities of the Wapato Irrigation Project (Bureau of Indian Affairs) from the natural stream flow of Toppenish Creek, and restoring the channels, floodplains, and aquifers of Toppenish and Simcoe Creeks in and around the Toppenish alluvial fan and downstream reaches.

Each provision of the ISDEAA and of 25 CFR part 900, and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related construction services, activities, and programs (or portions thereof), that are otherwise contractible under section 102(a) of the ISDEAA (25 U.S.C. 5321(a)) (formerly 25 U.S.C. 450f(a)), including all related administrative functions, from Reclamation to the Contractor.

Nothing herein shall be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the affected tribe(s) or individual Indians. Reclamation, for and on behalf of the Secretary, shall act in good faith in upholding such trust responsibility.

- (3) **Background.** This funding agreement will be used for the implementation of the Toppenish Creek Corridor Plan (Plan) which was called for in the Yakima River Basin Water Enhancement Project Phase II (P.L. 103-434 Section 1204(c)) and was approved by the Yakama Tribal Council on April 2, 2019, by Resolution T-082-19. The Plan describes a set of ten priority actions, to be implemented over ten years, which aim to substantially restore aquatic habitat, water quality, and associated cultural resources on lower Toppenish Creek within the Yakama Reservation.

(b) **Terms, Provisions and Conditions.**

- (1) **Term.** Pursuant to section 105(c)(1) of the ISDEAA (25 U.S.C. 5324(c)(1) (formerly 25 U.S.C. 450j(c)(1))), the term of this Contract shall be five years. The period of this Contract shall be on the basis of a federal fiscal year, unless, pursuant to section 105(d)(1) of the ISDEAA (25 U.S.C. 5324(d)(1) (formerly 25 U.S.C. 450j(d)(1))), the Contractor elects a calendar year basis or Reclamation and the Contractor agree on a different period. Reclamation and the Contractor agree the terms of this contract shall be determined on the basis of a federal fiscal year.

(2) **Effective Date.** This Contract shall become effective on the date of execution by the Contractor and Reclamation, unless the Contractor and Reclamation agree on a different date as stated herein.

(3) **Contract standards.**

(A) **Administrative standards.** Pursuant to 25 CFR 900.36, the Contractor shall develop, implement and maintain systems to administer the programs, services, function and activities (or portions thereof) listed in subsection (a)(2) of this Contract which, at a minimum, incorporate the finance, procurement and property management standards contained in 25 CFR part 900, subpart F.

(B) **Federal laws and regulations applicable to design and construction activities.** In accordance with 25 CFR 900.125(b)(1), the Contractor agrees that any design or construction documents produced as part of the Contract will be produced in accordance with the Program of Requirements¹ and/or project scope of work. The Contractor shall also comply with all Federal laws, regulations, and Executive Orders applicable to the design and construction activities contracted by the Contractor under this Contract including the following:

- Indian Self-Determination and Education Assistance Act (P.L. 93-638, as amended) and 25 CFR Part 900
- Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646)
- Federal Tort Claims Act (28 U.S.C. 1346(b), 2401, 2671-2680) and related Department of Justice regulations in 28 C.F.R. Part 14
- 25 C.F.R. Part 169

Applicable Federal Environmental laws, regulations, and Executive Orders, including:

- Clean Water Act
- National Environmental Policy Act of 1969 (NEPA)
- Fish and Wildlife Coordination Act
- Resource Conservation and Recovery Act
- Federal Standard No. 313 for any hazardous materials to be utilized under this Agreement
- Bald Eagle Protection Act
- Executive Order 11990 – Protection of Wetlands
- Executive Order 12898 – Environmental Justice

Applicable Federal cultural resource laws, regulations and Executive Orders including:

- Archaeological Resource Protection Act of 1979 (P.L. 96-95)
- 25 C.F.R. Part 262 – Protection of Archaeological Resources
- National Historic Preservation Act of 1966, as amended
- Native American Graves Protection and Repatriation Act (P.L. 101-601)
- NAGPRA regulations at 43 C.F.R. Part 10
- 36 C.F.R. Part 800 – Protection of Historic and Cultural Properties
- 43 C.F.R. Part 7 – Protection of Archaeological Resources: uniform Regulations
- Executive Order 11593 – Protection and Enhancement of Cultural Environments
- Executive Order 13007 – Indian Sacred Sites

Applicable Federal labor laws, regulations, and Executive Orders as applicable to ISDEA construction contracts including:

- Occupational Safety and Health Administration (OSHA) (29 U.S.C. 61 et seq)
- Standards applicable to construction in 29 C.F.R. 1900 to end

¹ The Program of Requirements will be a Final Engineering Report (FER) or other appropriate planning document.

- Provisions of the Davis-Bacon Act (40 U.S.C. 276c and 18 U.S.C. 874), as applicable, for subcontracts except for work performed by tribal employees
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330)
- Department of Labor regulations 29 C.F.R. Part 5
- Copeland "Anti-Kickback Act" (18 U.S.C. 874 and 40 U.S.C. 276c) and 29 C.F.R. Part 3
- Contract Disputes Act of 1978 (41 U.S.C. 601 as amended)
- 43 C.F.R. 4.110-126, if a matter is submitted to the Interior Board of Contract Appeals
- Equal Access to Justice Act (5 U.S.C. 504 and 28 U.S.C. 2412 and regulations at 43 C.F.R. 4.601 through 619)

Reclamation and the Contractor will both make a good faith effort to identify any other Federal laws, Executive Orders, or regulations applicable to this Contract, share them with the other party and refer to them by written modification to this Contract. The Parties will also make a good faith effort to identify any tribal laws, ordinances and resolutions which may affect this Contract.

(C) **Design and Construction Standards.** All design and construction activities performed under this Contract shall be completed (1) in accordance with the requirements of 25 CFR 900.125(a)(1-4 and 8-9) and (2) in conformity with the most current versions of applicable subsections, parts, provisions or subdivisions of codes and standards listed below, to the extent that they are suitable and appropriate for design and construction of projects that are authorized under the Contract:

- National Electric Code
- Uniform Building Code
- Uniform Fire Code
- Uniform Mechanical Code
- Uniform Plumbing Code

In addition, the Nation shall comply with certain subsections, parts, provisions, or subdivisions of the published standards of the following organizations, as specifically identified in the approved project plans and specifications:

- American Association of State Highway and Transportation Officials (AASHTO)
- American Concrete Institute (ACI)
- American Institute of Steel Construction (AISC)
- American Iron and Steel Institute (ANSI)
- American Society for Testing and Materials (ASTM)
- American Water Works Associations (AWWA)
- American Welding Society (AWS)
- Concrete Reinforcing Steel Institute (CRSI)
- National Association of Corrosion Engineers (NACE)
- National Sanitation Foundation (NSF)
- Standard General Conditions of the Construction Contract, Engineers, Joint Contract Documents Committee (NSPE, ACEC, ASCE, CSI)
- Repair Concrete (USBR M-47)
- American Society of Mechanical Engineers (ASME)
- Commercial Item Description (CID)
- National Association of Pipe Fabricators (NAPF) Military Specifications (MIL) Quality Products List (QPL)
- National Fire Protection Association (NFPA)
- Institute of Electrical and Electronics Engineers (IEEE)
- Hydraulic Institute (HI)
- National Electrical Manufacturers Association (NEMA)
- Western Wood Products Association (WWPA)
- American Society of Civil Engineers (ASCE)

Reclamation and the Contractor will both make a good faith effort to identify any other standards and

codes applicable to this Contract, share them with the other party, and refer to them by written modification to this Contract. Further, in accordance with 25 CFR 900.126, Reclamation will accept Contractor proposed construction procedures, standards and methods which are consistent with or exceed Federal standards applicable to the contracted construction programs, services, functions or activities.

- (4) **Type of Contract.** This is a cost reimbursement contract.
- (5) **Funding Amount.** Subject to the availability of appropriations, Reclamation shall make available to the Contractor the total amount as specified in the applicable funding agreement(s) incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the ISDEAA (25 U.S.C. 5325) (formerly 25 U.S.C. 450j-1) and 25 CFR 900.128. The first year of funding under this Contract shall also include reimbursement of start-up costs and pre-award costs in accordance with subsections (b)(5)(B) and (b)(5)(C) below. Funding is not guaranteed in future years. The Contractor shall complete the activities specified in the scope of work with the level of funding provided in the AFA.
- (A) **Indirect Costs.** The allowable indirect cost rate, base, and limitations shall be those established in the current negotiated indirect cost rate agreement approved by the cognizant agency for indirect costs. Pursuant to section 106(h) of the ISDEAA (25 U.S.C. 5325(h)) (formerly 25 U.S.C. 450j-1(h)), in calculating the allowable indirect costs associated with this Contract, Reclamation shall take into consideration only those costs associated with administration of the Contract and shall not take into consideration those moneys actually passed on by the Contractor to construction contractors and subcontractors. Because the current negotiated indirect cost rate agreement expired September 30, 2020, Reclamation will use the current rate as a placeholder while a new rate is finalized by the cognizant agency.
- (B) **Allowance of start-up costs.** In accordance with 25 U.S.C. 5325(a)(5)) (formerly 25 U.S.C. 450j-1(a)(5)), start-up costs that have been or will be incurred on a one-time basis by the Contractor pursuant to this Contract during the initial year that this Contract is in effect, are authorized to the extent that the costs are reasonable, allowable and allocable to the Contract.
- (C) **Allowance of pre-award costs.** Pursuant to 25 U.S.C. 5325(a)(6)) (formerly 25 U.S.C. 450j-1(a)(6)), reasonable, allowable and allocable costs incurred by the Contractor before the effective date of this Contract may not be included in the amount required to be funded under paragraph (b)(5) if Reclamation does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.
- (6) **Payment.**
- (A) **In general.** Payments to the Contractor under this Contract shall: be made as expeditiously as practicable and
- (ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.
- (B) **Payment schedule.** For each fiscal year covered by this Contract, Reclamation shall make available to the Contractor the funds specified for the fiscal year in accordance with a payment schedule developed pursuant to 25 CFR 900.132. The applicable payment schedule is specified in the attached fiscal year Annual Funding Agreement (AFA) pursuant to subsection (f)(2) herein.
- (C) **Applicability of the Prompt Payment Act.** Chapter 39 of title 31, United States Code shall apply to the payment of funds due under this Contract and the AFA referred to in clause (B).
- (D) **Use of funds advanced.** Funds advanced to the Contractor shall be used only for purposes authorized under this Contract. The funds advanced cannot be used for any purpose other than an authorized project expenditure, even on a temporary basis.

Further, funds advanced pending disbursement for a purpose authorized under this Contract shall not be transferred to tribal accounts, lent to such tribal accounts, or expended for programs or purposes not specifically authorized under this Contract. Funds advanced, pending expenditure under this Contract, shall be placed in appropriate savings, checking or investment accounts. Such funds when invested or deposited shall be subject to the following:

- (i) Advanced funds not immediately spent for program activities may be invested only in obligations of the United States, in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed by the United States;
- (ii) If not invested, advanced funds must be deposited into accounts that are insured by an agency or instrumentality of the United States or must be fully collateralized to ensure protection of the funds, even in the event of a bank failure;
- (iii) Interest that accrues on any funds provided for by contract become the property of the Contractor pursuant to section 105(b) of the ISDEAA (25 U.S.C. 5324(b)).

Failure to maintain the integrity of contract funds shall result in imposition of one or more of the following sanctions, which shall remain in place until the Contractor provides assurance that the impropriety which resulted in the imposition of sanctions has been rectified and will not recur:

- (i) Pursuant to section 5(d) of the ISDEAA (25 U.S.C. 5305(d) (formerly 25 U.S.C. 450c(d)), funds paid to the Contractor and not used for the purposes for which they were paid shall be repaid to the Treasury of the United States and
 - (ii) Cancellation of advance payment methodology,
- (E) **Suspension, withholding, or delay of advance payment.** Pursuant to 25 CFR 900.132(e) and 900.170, Reclamation may suspend, withhold or delay a future advance payment allocation to the Contractor (1) if the Contractor is delinquent in submission of its allocation period progress reports and financial reports; or (2) Reclamation takes action to suspend or terminate the Contract in accordance with 25 CFR 900.131 (b)(11), (12) or (13).
- (7) **Limitations of Costs.** Pursuant to 25 CFR 900.130(e), the Contractor shall not be obligated to continue performance that requires an expenditure of more funds than are awarded under this Contract. If the Contractor has a reason to believe that the total amount required for performance of this Contract will be greater than the amount of funds awarded, it shall provide reasonable notice to Reclamation. If Reclamation does not increase the amount of funds awarded under the Contract, the Contractor may suspend performance of the Contract until sufficient additional funds are awarded.)
- (8) **Carryover.** Pursuant to section 8 of 25 U.S.C. 13a, any funds provided to the Contractor under this Contract but not expended by the Contractor during any fiscal year during the term of this Contract shall be carried over to the next fiscal year and applied to the completion of work authorized under the Contract.
- (9) **Successor Annual Funding Agreements.** Reclamation shall prepare and supply relevant information and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor AFA. Each successor AFA shall include, at a minimum, a scope of work, a revised project schedule and budget, the amount of fiscal year one-time funding to be transferred to the Contractor, and a payment schedule. Pursuant to 25 CFR 900.32, each successor AFA will be subject to the declination criteria and procedures in 25 CFR part 900 subpart E. Each successor AFA will be incorporated in its entirety into this Contract pursuant to subsection (f)(2) herein.
- (10) **Excess Funds.** Funds Remaining at the End of the Contract. Pursuant to 25 U.S.C. 5309 (formerly 25 U.S.C. 450e-2), where the actual costs of work under this contract are less than the estimated costs thereof, use of the

resulting excess funds shall be determined by Reclamation after consultation with the Contractor. **Access to contractor records.**

- (A) **In general.** Except for previously provided copies of tribal records that Reclamation demonstrates are clearly required to be maintained as part of the record keeping system of the Department of the Interior, records of the Contractor shall not be considered Federal records for purposes of Chapter 5 of Title 5, United States Code (25 U.S.C. 5329(b) (formerly 25 U.S.C. 4501(b); 25 CFR 900.2(d)).
- (B) **Record keeping system.** In accordance with sections 5(a) and (b) of the ISDEAA (25 U.S.C. 5305(a) and (b) (formerly 25 U.S.C. 450c(a) and (b)), the Contractor shall maintain a record keeping system and, upon reasonable advance request, provide access to such records to the Comptroller General, the Secretary of the Interior, Reclamation, or any of their duly authorized representatives until the expiration of three years after completion of all work authorized under this Contract.

(12) **Property.**

- (A) **In general.** The property management system standards and requirements specified in 25 CFR 900.51 – 900.60 and the property donation procedures at 25 CFR 900.85-900.107 shall apply to this Contract. A list of property, facilities, and equipment to be furnished by Reclamation under this Contract as Government-furnished property, as mutually agreed to and accepted by both Parties, shall be included as an attachment to this Contract. This list shall be kept current by the Contractor for the duration of this Contract and provided to Reclamation when requested.
- (B) **Excess and surplus property.** Pursuant to 25 CFR 900.104(a), the Contractor may request donation of excess and surplus Government property for its authorized use under this Contract. The Contractor may submit such a request to Reclamation's Awarding Official for coordination with the General Services Administration (GSA) and the Bureau of Indian Affairs (BIA).
- (C) **Real property.** The title to any real property acquired in whole or in part with Contract funds, or of any facilities or structures constructed with Contract funds, shall remain with the Federal government unless and until Congress specifically authorizes that the title to such property be transferred to the Contractor.

(13) **Procurement.**

- (A) **In general.** The Contractor shall follow the standards and requirements specified in 25 CFR 900.47 – 900.50 when procuring property or services for use in the performance of work authorized under this Contract with Contract funds. The Contractor shall not make an award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension".
- (B) **Privity of contract.** Reclamation recognizes the contractual relationship between the Contractor and its subcontractors in the performance of this Contract. Reclamation shall not direct, advise or provide technical assistance to the Contractor's subcontractors without specific authorization or without a specific request to do so from an authorized official of the Contractor.
- (C) **Indian preference.** As provided in Section 7(b) and 7(c) of the ISDEAA (25 U.S.C. 5307(b) and (c) (formerly 25 U.S.C. 450e(b) and (c)), preference in procurement and employment shall be given to Indians to the greatest extent feasible. The Parties understand and agree that decisions regarding the extent to which preference in employment and procurement is feasible shall be governed by tribal law and determined at the sole discretion of the Contractor. The Contractor shall be solely responsible for developing and implementing preference criteria for subcontracts.
- (D) **Subcontract provisions.** Pursuant to 25 CFR 900.50, all subcontracts should contain a provision informing the subcontractor that its award is funded with Federal funds and that the subcontractor is responsible for identifying and ensuring compliance with applicable Federal laws, regulations, and executive orders, including but not limited to:

- (i) the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented by Department of Labor regulations (19 CFR Part 3);
- (ii) the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5);
- (iii) Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5);
- (iv) the Miller Act (40 U.S.C. 270a-270f) with regard to performance and payment bonds;
- (v) all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1847h-7 et seq.; as amended); Section 508 of the Clean Water Act (33 U.S.C. 1251), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15);
- (vi) mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163);
- (vii) Federal Standard No. 313 (including revisions adopted during the term of the Contract) with regard to Hazardous Material Identification and Material Safety Data;
- (viii) the National Environmental Policy Act (42 U.S.C. 4321) and the National Historic Preservation Act (16 U.S.C. 470) and all other related environmental and cultural resource laws and regulations as they apply to this project;
- (ix) To the greatest extent practicable, ensure that all equipment and products purchased with Contract funds are American-made;
- (x) Retention of all required records for three (3) years after final payment and all other pending matters are closed; and
- (xi) Warranty that delivery of items or work required will be free of asbestos in any form whatsoever except for the use of asbestos cement pipe.

In addition, each subcontract shall contain provisions to ensure compliance with the ISDEAA (25 U.S.C. 5301 et seq.) (formerly 25 U.S.C. 450 et seq.) and the satisfactory completion of the project, including but not limited to:

- (i) Administrative, contractual, or legal remedies in instances where subcontractors violate or breach subcontract terms, and provide for such sanctions and penalties as may be appropriate;
- (ii) Termination for cause and for convenience including the manner by which it will be effected and the basis for settlement;
- (iii) Notice of the Contractor's requirements and regulations pertaining to reporting;
- (iv) Notice of the Contractor's requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such subcontract;
- (v) Notice of the Contractor's requirements and regulations pertaining to copyrights and rights in data; and
- (vi) Access by the Contractor, Reclamation, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the

subcontractor which are directly pertinent to the subcontract for the purpose of making audit, examination, excerpts, and transcriptions.

(14) **Disputes.**

- (A) **In general.** This Contract is subject to section 110 of the ISDEAA (25 U.S.C. 5331) (formerly 25 U.S.C. 450m-1). In the event that the Contractor elects to pursue an administrative appeal, such appeal shall be governed by 25 CFR Part 900 subpart L or subpart N, as applicable, depending on the nature of the dispute.
- (B) **Informal discussions.** Before a decision is issued by Reclamation on a modification or other matter over which Reclamation has authority under this Contract, the Contractor may request informal discussions to be held between the Parties in accordance with 25 CFR 900.153 or 900.217(a), as appropriate.
- (C) **Third-party mediation defined.** For the purposes of this Contract, the term "third-party mediation" means a form of mediation whereby Reclamation and the Contractor nominate a third party who is not employed by or significantly involved with Reclamation or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.
- (D) **Alternative procedures.** In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the ISDEAA (25 U.S.C. 5331) (formerly 25 U.S.C. 450m-1), the Parties to this Contract may jointly:
- (i) submit disputes under this Contract to third-party mediation;
 - (ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;
 - (iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or
 - (iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5 of the United States Code.
- (E) **Effect of decisions.** Reclamation shall be bound by decisions made pursuant to the processes set forth in subparagraph (D), except that Reclamation shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States. **Obligations of the Contractor.** The Contractor is responsible for the successful completion of any design and/or construction phase activities contracted herein in accordance with the approved contract documents:
- (1) **Contract performance.** The Contractor shall manage the day-to-day operations conducted under this Contract and perform the activities as described in the applicable AFA under subsection (f)(2) of this Contract.
- (2) **Contracted activities.** Subject to the availability of appropriated funds, the Contractor shall administer the activities identified in this Contract and funded through the applicable AFA under subsection (f)(2).
- (3) **Construction management services.** If this Contract is solely to perform construction management services, these services shall be limited to administrative support services; coordination; and monitoring oversight of the planning, design and construction process as defined in 25 CFR 900.113(b). The Contractor (or any subcontractors) shall not perform any construction project management or actual design phase or construction phase work in any capacity. In addition, pursuant to 25 CFR 900.118, the Contractor shall have no contractual relationship with or authority to direct construction contractors performing work under a separate contract.

- (4) **Design and construction responsibilities.** In accordance with 25 CFR 900.130(a), subject to the availability of funds, the Contractor is responsible for the successful completion of all engineering, design and construction activities contracted herein in accordance with the approved contract documents.

(A) **Design phase responsibilities.** For all design activities authorized under this Contract, the Contractor shall have the following responsibilities:

- (i) Pursuant to 25 CFR 900.125(b)(1), produce construction documents in accordance with the Program of Requirements (POR) and/or the scope of work. The POR is included in this Contract as Attachment 3; a scope of work is described in each AFA under subsection (f)(2) of this Contract.
- (ii) Pursuant to the requirements of 25 CFR 900.130(b)(1), subcontract with or provide the services of licensed and qualified architects, engineers and other consultants needed to accomplish the work under this Contract.
- (iii) Pursuant to the requirements of 25 CFR 900.130(b)(2), administer and disburse funds provided through this Contract in accordance with 25 CFR 900.42 – 900.45 and implement a property management system in accordance with 25 CFR 900.51 – 900.60.
- (iv) Pursuant to 25 CFR 900.130(b)(3), direct the activities of project architects, engineers, and other consultants.
- (v) Pursuant to 25 CFR 900.130(b)(4), direct the work of its subcontractors.
- (vi) Provide Reclamation opportunities to review, comment and approve project plans and specifications developed under this Contract in accordance with 25 CFR 900.130(b)(5) *or as otherwise negotiated* and specified in the funding agreement(s) incorporated into this Contract under subsection (f)(2).
- (vii) Pursuant to 25 CFR 900.130(b)(6), provide Reclamation with the plans and specifications after their final review so, if needed, Reclamation may obtain an independent government cost estimate in accordance with 25 CFR 900.131(b)(4) for the construction of the project.
- (viii) Pursuant to 25 CFR 900.130(b)(7), retain project records and design documents for a minimum of 3 years following completion of the Contract.

(B) **Construction phase responsibilities.** For all construction activities authorized under this Contract, the Contractor shall have the following responsibilities: Pursuant to 25 CFR 900.125(b)(2), perform all construction in accordance with the final construction documents produced as a part of the design phase of the project. Upon completion, the project documents, including plans and specifications, shall be attached to the applicable AFA.

- (ii) Pursuant to 25 CFR 900.130(c)(1), subcontract with or provide the services of licensed and qualified architects and other consultants as needed to accomplish the construction activities under this Contract.
- (iii) Pursuant to the requirements of 25 CFR 900.130(c)(2), administer and disburse funds provided through this Contract in accordance with 25 CFR 900.42 – 900.45 and implement a property management system in accordance with 25 CFR 900.51 – 900.60.
- (iv) Pursuant to 25 CFR 900.130(c)(3), subcontract with or provide the services of construction contractors or provide its own forces to conduct construction activities in accordance with the project construction documents or as otherwise negotiated and agreed to by the Parties.
- (v) Pursuant to 25 CFR 900.130(c)(4), direct the activities of project architects, engineers, construction contractors and other consultants.

- (vi) Pursuant to 25 CFR 900.130(c)(5), manage or provide for the management of day-to-day activities of this Contract, including issuances of change orders to subcontractors; except that, unless Reclamation agrees, the Contractor may not issue a change order to a construction subcontractor (i) that will cause the Contractor to exceed its budget as specified in the applicable funding agreement, (ii) that will cause the Contractor to exceed the performance period specified in the applicable funding agreement, or (iii) that is a significant departure from the scope or objective of the project, as identified in the applicable funding agreement.
- (vii) Pursuant to 25 CFR 900.130(c)(6), direct the work of its subcontractors so that work produced is provided in accordance with budget(s) and performance periods) as negotiated by the Parties and contained in the applicable AFA(s) under subsection (f)(2) this Contract.
- (viii) Pursuant to the requirements of 25 CFR 900.130(c)(8), maintain on the jobsite or at the project office, and make available to Reclamation during monitoring visits, the following: contracts, major subcontracts, modifications, construction documents, change orders, shop drawings, equipment cut sheets, inspection reports, testing reports, and current redline documents.
- (ix) Pursuant to 25 CFR 900.130(d), upon acceptance of each completed project feature, provide Reclamation with a reproducible copy of the record plans.

(5) Submission of Reports.

- (A) **Progress and financial status reports.** The Contractor shall provide to Reclamation progress and financial status reports in accordance with 25 CFR 900.130(c)(7) or as otherwise negotiated and specified herein or in the applicable annual funding agreement. See AFA for additional progress and financial status reporting information.
- (B) **Closeout report.** Pursuant to 25 CFR 900.130(d), as soon as practicable after the expiration of the performance period for each funding agreement under this Contract, the Contractor shall provide to Reclamation a contract closeout report. This report shall include, at minimum:
 - (i) a summary of work accomplished during the term of the funding agreement and the extent to which the goals and objectives of the project were accomplished;
 - (ii) any problems encountered and corrective actions taken; and
 - (iii) an accounting of amounts and purposes for which the Contract funds were expended.
- (C) **Single audit report.** The Contractor shall submit its single audit report in compliance with section 5(f)(1) of the ISDEAA (25 U.S.C. 5305(f)(1)) (formerly 25 U.S.C. 450c(f)(1)) and 2 CFR 200, subpart F—Audit Requirements. The Contractor agrees to provide a copy of its single audit report directly to Reclamation within 30 days of its completion. **Obligations of Reclamation.**

(1) Trust responsibility.

- (A) **In general.** The Secretary, acting through Reclamation on behalf of the United States, reaffirms the trust responsibility of the United States to the Confederated Tribes and Bands of the Yakama Nation Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.
- (B) **Construction of Contract.** Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to affected Tribe(s) or individual Indians. The Secretary, acting through Reclamation, on behalf of the United States shall act in good faith in upholding such trust responsibility.

(2) **Programs retained.** The United States hereby retains the programs, services, functions, and activities with respect to the Tribe that are not specifically assumed by the Contractor in the applicable Annual Funding Agreement under subsection (f)(2) of this Contract.

(3) **Construction management services.** Pursuant to 25 CFR 900.131(a), if this Contract is solely to perform construction management services, Reclamation will have the following responsibilities:

(A) Reclamation is responsible for the successful completion of the project in accordance with the approved Contract documents. Reclamation will consult with the Contractor on a regular basis *as negotiated* and specified in AFA(s) incorporated into this Contract in subsection (f)(2) to facilitate the exchange of information; and Reclamation will provide the Contractor with opportunities to review work produced by Reclamation in accordance with 25 CFR 900.131(a)(2) *or as otherwise negotiated* and specified in AFA(s) incorporated into subsection (f)(2). **Design and construction responsibilities.**

(A) **Design phase responsibilities.** For design activities being conducted by the Contractor under this Contract, Reclamation will have the following responsibilities:

- (i) Pursuant to 25 CFR 900.131(b)(2), make the final determinations under NEPA or other environmental laws to the extent that the design activities conducted by the Contractor are subject to these laws.
- (ii) Review and approve project plans and specifications for general compliance in accordance with 25 CFR 900.131(b)(5) no later than 21 calendar days from receipt of such documents from the Contractor, unless the Contractor agrees in writing to extend the time for review.
- (iii) Pursuant to the requirements of 25 CFR 900.131(b)(6), Reclamation reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use for Federal government purposes the copyright in any work developed under the Contract and any rights of copyright to which the Contractor or a subcontractor purchases ownership through this Contract.
- (iv) Pursuant to 25 CFR 900.131(b)(7), approve in advance any changes to any work specified under this Contract which require an increase to the negotiated Contract budget or performance period, or are a significant departure from the POR or the scope of the project, as identified in the applicable Funding Agreement.
- (v) Pursuant to 25 CFR 900.131(b)(8), review and comment on specific shop drawings, including design drawings, as negotiated and specified in the applicable Funding Agreement under subsection (f)(2) of this Contract.
- (vi) Pursuant to 25 CFR 900.131(b)(9), conduct on-site monitoring visits, or critical milestone on-site monitoring visits, as negotiated and specified in the applicable AFA under subsection (f)(2) of this Contract. If no time period is specified, Reclamation may conduct on-site monitoring visits monthly. Reclamation shall provide the Contractor reasonable notice of each visit.

(B) **Construction phase responsibilities.** For construction activities performed by the Contractor under this Contract, Reclamation will have the following responsibilities:

- (i) Pursuant to 25 CFR 900(b)(2), make the final determinations under NEPA or other environmental laws to the extent that contracted construction activities are subject to these laws.
- (ii) Pursuant to 25 CFR 900.131(b)(7), approve in advance any changes to any work specified under this Contract which require an increase to the negotiated Contract budget or performance period, or are a significant departure from the POR or the scope of the project.
- (iii) Pursuant to 25 CFR 900.131(b)(9), conduct on-site monitoring visits, or critical milestone on-site monitoring visits, *as negotiated* and specified in the applicable AFA under subsection (f)(2) of this Contract. If no time period is specified, Reclamation may conduct on-site monitoring visits on a

monthly basis. Reclamation shall provide the Contractor reasonable advance written notice of each visit.

- (iv) Pursuant to 25 CFR 900.131(b)(10), conduct final project inspections jointly with the Contractor.
- (v) **Emergency Suspension of Construction Activities.** Notwithstanding the notice provisions for suspension of work of 25 CFR 900.131(b)(11)(ii), if Reclamation makes a determination that there is imminent occasion of harm or danger to safety, health, or the environment during construction, Reclamation may suspend construction activities immediately, to the limited extent necessary to protect safety, health, or the environment. If Reclamation issues an emergency suspension, Reclamation shall provide written notification to the Contractor immediately following the suspension and shall provide immediate technical assistance to the Contractor in an effort to resolve the cause for the suspension as quickly as possible. Reclamation shall issue a notice to proceed or to commence work immediately upon resolution. The Contractor shall have all other rights associated with suspension identified by 25 CFR 900.131(b)(11).

(5) **Suspension of work.** Except as provided in subsection (d)(4)(B)(v) of this Contract, Reclamation can require the Contractor to suspend work under this Contract only in accordance with 25 CFR 900.131(b)(11).

(6) **Termination of contract. For cause.** Reclamation may terminate work under this Contract for cause pursuant to 25 CFR 900.131(b)(12).

(B) **For convenience.** Reclamation may terminate work under this Contract for convenience for those reasons and utilizing those procedures described in 25 CFR 900.131(b)(13).

(7) **Technical assistance.**

(A) Reclamation will provide technical assistance to the Contractor, upon request, in accordance with section 103(d) of the ISDEAA (25 U.S.C. 5322(d)) (formerly 25 U.S.C. 450h(d)).

(B) In response to a specific request from an authorized representative of the Contractor, Reclamation will provide technical assistance to the Contractor, subject to the availability of appropriations and personnel resources. Such technical assistance may include the performance of specific project activities as negotiated and specified in the applicable AFA under subsection (f)(2) of this Contract.

(e) **Other Provisions.**

- (1) **Designated officials.** Senior officials and designated representatives of Reclamation and the Contractor will serve as representatives for notices, proposed amendments to the Contract and other purposes under this Contract. The senior officials and designated representatives of the Parties are as follows:

Contractor's Senior Official

Delano Saluskin
Yakama Nation Tribal Council Chairman
PO Box 151
Toppenish, WA 98948
Phone: (509) 865-5121 ext. 4340

Reclamation's Senior Official

Lorri Gray
Regional Director
Columbia-Pacific Northwest Region
1150 N Curtis Rd., Ste. 100
Boise, ID 83709
Phone: (208) 378-5012

Contractor Designated Technical Representative

Tom Elliot
Tributary Enhancement Project Leader
PO Box 151
Toppenish, WA 98948
Phone: (509) 314-9703
Email: ellt@yakamafish-nsn.gov

Reclamation Designated Awarding Official's Technical Representative

Janine Empel
Project Manager (Engineering)
1917 Marsh Rd.
Yakima, WA 98901-2058
Phone: (509) 573-8057
Email: jempel@usbr.gov

Reclamation Awarding Official

Karina Del Toro
1150 N. Curtis Rd., Ste. 100
Boise, ID 83705
Phone: (208) 378-5270
Email: kdeltoro@usbr.gov

(2) **Contract modifications or amendment.**

- (A) **In general.** Except as provided in subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and Reclamation provide written consent for the modification.
- (B) **Exception.** The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the AFA under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2) (25 U.S.C. 5325(b)(2)) (formerly 25 U.S.C. 450j-1(b)(2)), shall not be subject to subparagraph (A).
- (3) **Officials not to benefit.** No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.
- (4) **Covenant against contingent fees.** The Parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.
- (5) **Federal Tort Claims Act coverage.** In accordance with 25 CFR 900.186(a), for purposes of Federal Tort Claims Act coverage, the Contractor and its employees (including individuals performing personal services contracts with the contractor to provide health care services) are deemed to be employees of the Federal government while performing work under this Contract. This status is not changed by the source of funds used by the Contractor to pay the employee's salary and benefits unless the employee receives additional compensation for performing covered services from anyone other than the Contractor.
- (6) **Insurance and indemnification.** In the event that the Contractor elects to perform construction activities utilizing its own forces, the Contractor and Reclamation agree to discuss whether procurement of liability insurance is advisable and in the best interests of the Contractor and the project.
- (7) **Retrocession.** In accordance with 25 CFR 900.240 -900.245, the Contractor may return to Reclamation any contracted project under this Contract, in whole or in part, for any reason, before the expiration of the term of this Contract.
- (8) **Buy American Act.** To the greatest extent practicable, all equipment and products purchased with funds made available under this Contract should be American-made.

(9) **Lobbying Restrictions.** None of the funds provided to the Contractor under this Contract may be used in any way, directly or indirectly, to influence Congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to members of Congress as described in section 1913 of title 18, United States Code.

(10) **Payments.** All payments under P.L. 93-638 contracts and agreements with Bureau of Reclamation (Reclamation) are made under the Department of Treasury Automated Standard Application for Payments (ASAP) payment system. ASAP is an electronic payment and information system for the request and delivery of pre-authorized P.L. 93-638 award funds.

ASAP is the only allowable method for requesting and receiving payments. The Awarding Official may determine that payment requests will be reviewed and approved prior to disbursement. Please note that ASAP enrollment is specific to each Agency and Bureau. If your organization has an existing ASAP account with another Federal agency or Department of the Interior bureau, but not with Reclamation, you must initiate and complete enrollment in ASAP through submission of Reclamation's enrollment form located at <http://www.usbr.gov/mso/aamd/asap.html>. For further information regarding ASAP enrollment, please visit Reclamation's website link at <http://www.usbr.gov/mso/aamd/asap.html> or contact the Reclamation ASAP Help Desk at BOR_ASAP_Enroll@usbr.gov.

To receive payment, your organization must:

- 1) Have an active registration in ASAP with Reclamation; and
- 2) Have a Data Universal Number System (DUNS) (see <http://fedgov.dnb.com/webform>); and
- 3) Have an active registration in GSA's System for Award Management (SAM) (<http://www.sam.gov>).

(11) **Administrative Requirements, Cost Principles, and Audit Requirements.** Effective December 26, 2014, the joint interim final rule (Federal Register/Vol. 79, No. 244/Friday, December 19, 2014) implemented for all Federal award-making agencies the final guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," published by the Office of Management and Budget (OMB) in 2 CFR part 200 (Uniform Guidance - available at 78 FR 78589). The Department of the Interior adopted 2 CFR 200 at 2 CFR 1402. Effective upon implementation of this final rule, OMB Circulars A-87 (2 CFR 225) and A-133 have been superseded by the requirements of 2 CFR 200, Subpart E (Cost Principles) and Subpart F (Audit Requirements), respectively, which currently apply to this Contract.

With the exception of 2 CFR 200, Subpart F, which is required by the Single Audit Act, in the event of a conflict between statutory and regulatory requirements of P.L. 93-638 (as contained in 25 USC 5301 et seq.) (formerly 25 U.S.C. 450 et seq.) and 25 CFR 900, respectively) and 2 CFR 200, Subpart E (Cost Principles) (and other 2 CFR 200 Subparts negotiated by the Parties as applicable under this Contract), P.L. 93-638 and its implementing regulations will govern.

(12) **Responsible Subcontractors.** Pursuant to 25 CFR 900.48(e), 25 CFR 900.50, and Executive Orders 12549 and 12689, the tribe or tribal organization shall ensure that contracts are awarded only to responsible entities. Contracts shall not be awarded to entities that are debarred, suspended, or otherwise excluded from participation in affected Federal programs. Entities listed in GSA's System for Award Management (SAM) website (<http://www.sam.gov>) as excluded parties have been declared ineligible to participate in affected Federal programs on the basis of statutory or other regulatory procedures and shall not be awarded contracts for the period set forth in the statute or regulations.

(f) **Attachments. -**

(1) **Approval of Contract.** The Confederated Tribes and Bands of the Yakama Nation Resolution No. T-082-19 authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as Attachment 1.

(2) **Annual funding agreements.**

- (A) **In general.** The Annual Funding Agreement (AFA) under this Contract shall contain: terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and
- (ii) such other provisions, including a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by Reclamation), to which the Parties agree.
- (B) **Incorporation by reference.** Each AFA is hereby incorporated in its entirety in this Contract and attached to this Contract as Attachment 2.
- (3) **Program of Requirements.** The Program of Requirements (POR) is included as part of the AFA in Attachment 2.

Attachment 1 to Contract

TRIBAL RESOLUTION



RESOLUTION

T-082-19

WHEREAS, the Yakama Nation is a federally recognized Nation pursuant to the Treaty of 1855 (12 Stat. 951), and

WHEREAS, the Yakama Tribal Council is the governing body of the Confederated Tribes and Bands of the Yakama Nation of the Yakama Reservation by the authority delegated by the Resolution February of 1944 and Resolution T-38-56, and

WHEREAS, the Yakama Tribal Council has the duty and responsibility according to the Resolutions T-38-56 and T-10-61 to protect and preserve the Treaty Rights of the Yakama Nation, and

WHEREAS, from time immemorial the taking of and management of the fisheries resource in a responsible manner has been cultural tradition of the Yakama Nation to protect the welfare of the resident and anadromous fishery which was great cultural and religious importance to the Yakama people, and

WHEREAS, through the Treaty of 1855, the Yakama Nation explicitly reserved for itself and its members the right to maintain their cultural and traditions, including "the right of taking fish at all usual and accustomed places", and

WHEREAS, the Yakima River Basin Water Enhancement Project (YRBWEP)(Title XII of Public Law 103-434) was signed into law in 1994 and the Yakama Nation entered into a Cooperative Agreement by the adoption of T-141-95, and

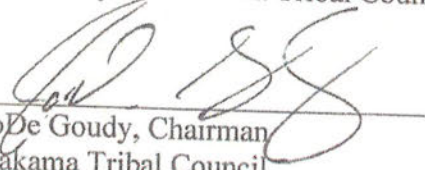
WHEREAS, the Yakama Nation entered into a Self-Determination Grant with the United States Bureau of Reclamation by the adoption of T-61-96 and Yakama Nation participates in the YRWEP process through T-53-91, and

WHEREAS, the approval of the Toppenish Creek Corridor Enhancement Project will provide direction for restoring the natural processes and functioning habitat for fisheries and wildlife resources and assist in modernizing the antiquated Wapato Irrigation Project delivery system.

NOW THEREFORE, BE IT RESOLVED, by the Yakama Tribal Council meeting in Regular Session at the Governmental Headquarters of the Confederated Tribes and Bands of the Yakama Nation, with a quorum being present, that the Toppenish Creek Corridor Enhancement Project is formally adopted and is approved for submittal of the Secretary of Interior.

BE IT FINALLY RESOLVED, that the Yakama Nation does not waive, alter, or otherwise diminish our Sovereign Immunity, whether expressed or implied, by virtue of this resolution for any and all administrative or legal action which may arise directly or indirectly from the same, nor does the Yakama Nation waive, alter or otherwise diminish our rights, privileges, remedies or services guaranteed by the Treaty of 1855.

DONE AND DATED on this 2nd day of April, 2019 by the Yakama Tribal Council by a vote of 10 for, 0 against, and 0 abstentions:


JoDe Goudy, Chairman
Yakama Tribal Council

ATTEST:


Athena Sanchey, Secretary
Yakama Tribal Council

CC: file
f&w ca#114-2019

Attachment 2 to Contract

ANNUAL FUNDING AGREEMENT

Upon Award of Contract and Fiscal Year 2022 (October 1, 2021 – September 30, 2022)

(a) Authority and Purpose.

- (1) **Authority.** This agreement, denoted an Annual Funding Agreement (hereinafter "AFA"), is entered into by the Bureau of Reclamation (hereinafter "Reclamation") on behalf of the Secretary of the Interior, and by the Confederated Tribes and Bands of the Yakama Nation Tribe (hereinafter the "Contractor") (collectively hereinafter the "Parties"), pursuant to Self-Determination Contract No. R21AV00012 between the Parties (hereinafter the "Contract").
- (2) **Purpose.** The purpose of this AFA is to identify the specific activities to be performed upon award of contract and FY 2022, identify the funds to be provided to perform those activities, the time and method of payment, and such other provisions to which the Parties agree.

(b) Terms, Provisions, and Conditions.

- (1) **Effective date.** This AFA shall become effective upon approval and execution by authorized representatives of the Contractor and Reclamation.
- (2) **Activities covered by this AFA.** The following tasks will be completed under this AFA: Task #1 – Task #14.

Task #	Task
1	Coordination year 1
2	Project level monitoring year 1
3	Project level restoration design assessment
4	Pom Pom design
5	Pom Pom pre-monitoring
6	Pom Pom construction
7	Simcoe WWS design
8	Simcoe WWS pre-monitoring
9	3-Way pre-monitoring year 1
10	Upland Checks construction 1
11	Marion Checks 30% design
12	Marion Checks pre-monitoring Year 1
13	U2 re-reg 30% design
14	Alfalfa 60% design

(3)

- (4) **Time and method of payment.** Payment to the Contractor shall be made as expeditiously as possible following the effective date of this AFA utilizing electronic funds transfer. Funds will be available in the ASAP system for the Contractor's access. ASAP authorized drawdown is intended for contractors to access funds. Payments will be made on a semi-annual basis upon progress and financial submission.

(c) Other Provisions.

- (1) Work plan, performance schedule and budget. Attachment A to this AFA incorporates the work plan or scope of work and contains a detailed description of the activities to be performed by the Contractor. Attachment B to this AFA incorporates the performance schedule, and Attachment C to this AFA incorporates the budget showing how the Contractor plans to allocate the funding transferred under the AFA. The work plan and schedule are subject to reasonable modification as deemed necessary and appropriate by the Contractor, as long as the stated goals and purposes of the Contract and this AFA are met. With respect to allocations within the approved budget, the Contractor may re-budget to meet contract requirements if such re-budgeting would not have an adverse effect on the performance of the contract.
- (2) The Management Standards System review was conducted by Bureau of Indian Affairs (BIA) in 2018. Within 60 days of award of this contract, Bureau of Reclamation intends on following up with BIA to determine the status of these recommendations.

(d) Progress and Financial Reporting Requirements

Required Reports	Interim Reports	Final Report
Performance Report		
Format	No specific format required. See content requirements within 2 CFR 200.328.	Summary of activities completed during the entire period of performance is required. See content requirements within 2 CFR 200.328.
Reporting Frequency	Semi-Annual	Final Report due within 120 days after the end of the period of performance.
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date	Within 30 days after the end of the Reporting Period.	Final Report due within 120 days after the end of the period of performance or completion of the project.
First Report Due Date	The first performance report is due for reporting period ending 3/31/2022.	N/A
Submit to:	Karina Del Toro, Awarding Official at bor-pnr-postaward@usbr.gov .	Karina Del Toro, Awarding Official at bor-pnr-postaward@usbr.gov .
Federal Financial Report		
Format	SF-425 (all sections must be completed)	SF-425(all sections must be completed)
Reporting Frequency	Semi-Annual	Final Report due within 120 days after the end of the period of performance or completion of the project.
Reporting Period	October 1 through March 31 and April 1 through September 30.	Entire period of performance
Due Date	Within 30 days after the end of the Reporting Period.	Final Report due within 120 days after the end of the period of performance or completion of project.
First Report Due Date	The first Federal financial report is due for reporting period ending 3/31/2022.	N/A
Submit to:	Karina Del Toro, Awarding Officer t at bor-pnr-postaward@usbr.gov .	Karina Del Toro, Awarding Officer at bor-pnr-postaward@usbr.gov .

(e) Monitoring Plan

- (1) Monthly meetings will be held to discuss updates and the status of the remaining tasks. Field trips will be discussed with the Tribe at the first meeting and will depend on rate of progress made on the phases or tasks being completed. It is estimated that on-site field trips will be conducted twice per year once construction on the project begins.

Attachment A to AFA

WORK PLAN/SCOPE OF WORK

Tasks for work that will be done under this AFA are outlined below. Additional detailed information pertaining to the Work Plan is provided in the proposal.

- Task 1. Coordinate Toppenish Corridor Plan Implementation year 1.**
- Task 2. Project-level monitoring and adaptive management year 1.**
- Task 3. Project-level restoration design assessment for Action #10 "Restore incised reaches of Toppenish & Simcoe creeks".**
- Task 4. Design and Engineering for Pom Pom Road Habitat Restoration Project – Action # 10 "Restore incised reaches of Toppenish and Simcoe Creeks".**
- Task 5. Pre-project monitoring year 1 for Pom Pom Road Habitat Restoration Project – Action # 10 "Restore incised reaches of Toppenish and Simcoe Creeks".**
- Task 6. Construction of the Pom Pom Road project– Action # 10 Restore incised reaches of Toppenish & Simcoe creeks.**
- Task 7. Design and Engineering for Simcoe Creek at West White Swan Road Habitat Restoration Project – Action # 10 "Restore incised reaches of Toppenish and Simcoe Creeks".**
- Task 8. Pre-monitoring year 1 for Simcoe Creek at West White Swan Road Habitat Restoration Project – Action # 10 "Restore incised reaches of Toppenish & Simcoe creeks".**
- Task 9. Pre-monitoring year 1 for 3-way Phase 2 Habitat Restoration Project – Action # 3 "Restore diked reach".**
- Task 10. Install pilot upland check structures, monitor hydrological response, year 1 – Action #1 "Recharge Toppenish Creek Alluvial Fan".**
- Task 11. 30% design for Marion Drain check structures – Action 9 Raise water surface in lower Marion Drain.**
- Task 12. Pre-monitoring year 1 for Marion Drain check structures – Action 9 Raise water surface in lower Marion Drain.**
- Task 13. 30% design for the Unit 2 Reregulation Reservoir – Action 7, Unit 2 Conservation.**
- Task 14. 60% design for the Alfalfa Diversion– Action 8, divert lower Marion Drain directly to the Satus Unit.**

Attachment B to AFA

PERFORMANCE SCHEDULE

Task	Description	FY 2021				FY 2022			
		Q1 (DEC)	Q2 (MAR)	Q3(JUNE)	Q4(SEP)	Q1 (DEC)	Q2 (MAR)	Q3(JUNE)	Q4(SEP)
1	Coordination year 1				X	X	X	X	X
2	Project level monitoring year 1				X	X	X	X	X
3	Project level restoration design assessment				X	X	X	X	X
4	Pom Pom design				X	X	X	X	X
5	Pom Pom pre-monitoring year 1				X	X	X	X	X
6	Pom Pom construction						X	X	X
7	Simcoe WWS design				X	X	X	X	X
8	Simcoe WWS pre-monitoring year 1				X	X	X	X	X
9	3-Way pre-monitoring year 1				X	X	X	X	X
10	Upland Checks construction 1						X	X	X
11	Marion Checks 30% design				X	X	X	X	X
12	Marion Checks pre-monitoring year 1				X	X	X	X	X
13	U2 rereg 30% design				X	X	X	X	X
14	Alfalfa 60% design				X	X	X	X	X

Attachment C to AFA

BUDGET

Budget Item Description	AFA Year 1

Attachment D to AFA

TOPPENISH CREEK CORRIDOR ENHANCEMENT PROJECT PLAN, DECEMBER 2019

The Toppenish Creek Corridor Enhancement Plan provides an overview of the research that has been conducted over two decades in the Toppenish Creek Corridor and defines the major issues that impair the quality and vitality of the Corridor's myriad resources. The Corridor Plan describes previous and ongoing restoration efforts, presents actions that address these problems, and includes an implementation schedule and estimated budget for each action.



COOPERATIVE AGREEMENT

Contract ID

00096709

Contract Release

Contract Modification

Terms

Net 15

BPA CA 96708

Mail Invoice To:

fwinvoices@bpa.gov

F & W Invoices - EWB-4

P. O. Box 3621

Portland OR 97208-3621

Please Direct Inquiries To:

KAREN T WOLFE

ktwolfe@bpa.gov

Title CONTRACT SPECIALIST

Phone: (503) 230-3448

Fax (503) 230-4508

Vendor:

CONFEDERATED TRIBES AND BANDS OF THE
YAKAMA INDIAN NATION

PO BOX 151

TOPPENISH WA 98948

Title

1996-035-01 EXP YAKAMA RESERVATION WATERSHED PROJECT

Contract Value

Total Value

**** NOT TO EXCEED ****

Pricing Method COST, NO FEE

Start Date 04/01/2025

Contract Type COOPERATIVE
AGREEMENT

End Date 03/31/2026



DEPARTMENT OF ENERGY
Bonneville Power Administration
P.O. BOX 3621 • PORTLAND, OREGON 97208-3621



CONTINUATION PAGE

COOPERATIVE AGREEMENT NO. 96709
TITLE: 1996-035-01 EXP YAKAMA RESERVATION WATERSHED PROJECT
RECIPIENT: CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION

(BPA) DUNS No. 043003334
BPA Federal Customer Treasury Fund Account Symbol: 89X4045
BPA Agency Location Code: 89001401; BPA Tax ID: 93-0334712

Contracting Officer's Representative (COR)	Chad Baumler	503-230-2590	cebaumler@bpa.gov
Contracting Officer (CO)	Karen Wolfe	503-230-3448	ktwolfe@bpa.gov

This award is hereby executed under the terms and conditions of between the Bonneville Power Administration (BPA) and the Confederated Tribes and Bands of the Yakama Nation.

- This agreement is issued as follows and consists of:
 - Signature page
 - Continuation page
 - Terms and Conditions
 - Project Description (SOW)
 - Budget
 - Construction Wage Rates for Yakima County, WA (Heavy & Highway)
- The performance period is from 04/01/2025 – 03/31/2026.
- Funding in the amount of [REDACTED] is awarded.
- Refer to Clause C-31M, Reimbursement Payment and Financial Reporting Requirements, for instructions on reimbursement and financial reporting.
- Invoice and Submittal Instructions: Submit requests for reimbursement and required reports marked with the grant number to the COR at the email address provided herein including a copy to fwinvoices@bpa.gov.
- Property inventory is transferred to this cooperative agreement from the previous award 94526.
- A COR designation memo is forwarded to all parties involved in this agreement as reference to responsibilities and authorities.

ATTACHMENT – TERMS AND CONDITIONS

CLAUSES INCORPORATED BY REFERENCE

This award incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at the following address:

Bonneville Financial Assistance Instructions Manual clauses: <https://www.bpa.gov/energy-and-services/customers-and-contractors/financial-assistance-instructions-manual>

Clause 1 Regulations Applicable To BPA Financial Assistance (JUL 2017)
Clause 2 Legal Authority And Effect (JUL 2017)
Clause 3 Non-assignability (JUL 2017)
Clause 4 Compliance With Federal, State, And Municipal Law (JUL 2017)
Clause 5 Inconsistency With Federal Law (JUL 2017)
Clause 7 Contracting Officer's Representative (OCT 2018)
Clause 10 Federal Stewardship (OCT 2018)
Clause 11 Substantial Involvement (OCT 2018)
Clause 12 Nondisclosure And Confidentiality Agreements Assurances (JUL 2017)
Clause 13 Foreign Work and Travel (JUL 2021)
Clause 14 Purchases (JUL 2017)
Clause 15 Lobbying Restrictions (JUL 2017)
Clause 16 Export Controls (JUL 2017)
Clause 18 Extensions Of Period Of Performance (JUL 2017)
Clause 19 Property Trust Relationship & Insurance Coverage (JUL 2017)
Clause 21 Property – Supplies And Equipment (JUL 2017)
Clause 22 Title To And Disposition Of Property (OCT 2018)
Clause 23 Record Retention (JUL 2021)
Clause 24 Audits (OCT 2018)
Clause 25 Suspension Or Termination (JUL 2017)
Clause 26 Claims, Disputes, And Appeals (JUL 2017)
Clause 27 Reporting Program Performance (JUL 2021)
Clause 29 Payment Requests (JUL 2017)
Clause 31 Reimbursement Payment & Financial Reporting Requirements (OCT 2018)
Clause 32 Budget Changes (JUL 2021)
Clause 34 Insolvency, Bankruptcy Or Receivership (OCT 2018)
Clause 35 Nondiscrimination In Federally Assisted Programs (JUL 2017)
Clause 36 Environmental Protection (JUL 2021)
Clause 37 Endangered Species Act Requirements (JUL 2021)
Clause 38 NEPA Requirements (JUL 2021)
Clause 39 Felony Conviction And Federal Tax Liability Assurances (JUL 2017)
Clause 40 Drug-Free Workplace Requirements For Financial Assistance Awards (JUL 2017)
Clause 42 Rights In Data (OCT 2018)
Clause 43 Indemnity (OCT 2018)
Clause 44 Environmental, Safety, And Health (OCT 2018)
Clause 45 Small Unmanned Aircraft (UAS) (JUL 2021)
Clause 46 Closeout (JUL 2021)
Clause 47 National Historic Preservation Act Requirements (JUL 2021)
Clause 50 Buy America Requirement For Infrastructure Projects (FEB 2023)

CLAUSES INCORPORATED BY FULL TEXT

CLAUSE 17 PUBLICATIONS (JUL 2017)

BPA encourages the Recipient to publish or otherwise make publicly available the results of work performed under this Award. The Recipient is required to include the following acknowledgement in publications arising out of or relating to work performed under this Award:

Acknowledgment: "The information, data, or work presented herein was funded in part by the Bonneville Power Administration under Award Number **96709**. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

STATUTORY AND NATIONAL POLICY REQUIREMENTS

Financial assistance awards are subject to the following statutory and national policy requirements below. By signing or accepting the funds under the financial assistance award, the recipient agrees that it will comply with applicable provisions below.

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
NONDISCRIMINATION				
On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by: DOE at 10 CFR Part 1040	All	All	All	Requirements flow down to subrecipients.
On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60 and EPA at 40 CFR Parts 7 and 12.	Grants, cooperative agreements, and other prime awards defined at 40 CFR 60-1.3 as "Federally assisted construction contract."	All	Awards under which construction is to be done.	Requirements flow down to construction subrecipients.

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.). DOE at 10 CFR Part 1040	All	Education al institution [for sex discrimination, excepts all Institution controlled by religious organization, when inconsistent with the organization's religious tenets].		
On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90. DOE at 10 CFR Part 1040	Grants, cooperative agreements, and other awards defined at 45 CFR 90.4 as "Federal financial assistance."	All	All	Requirements flow down to subrecipients.
On the basis of handicap, in: 1. Section 504 of the Rehabilitation Act of 1973 (29 USC 794), as implemented by Department of Justice regulations at 28 CFR Part 41 and DOE at 10 CFR Part 1040.	Grants, cooperative agreements, and other awards included in "Federal financial assistance"	All	All	Requirements flow down to subrecipients.
2. The Architectural Barriers Act of 1968 (42 USC 4151, et seq.).	Grant or loan	All	Construction or alteration of buildings or facilities, except those restricted to use only by able-bodied uniformed personnel.	
3. Americans with Disabilities Act. 42 USC 12101 et. seq	All	All		
LIVE ORGANISMS				
For human subjects:				
For human subjects, the Common Federal Policy for the Protection of Human Subjects. Codified by the: DOE at 10 CFR Part 745	All	All	Research, development, test, or evaluation involving live human subjects.	Requirements flow down to subrecipients

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
P.L. 104-191 Health Insurance Portability and Accountability Act (HIPAA)	As applicable	Covered Entities	As applicable	Limits uses of protected health information (PHI) collected or maintained by researchers within a covered entity or access to PHI from a covered entity. Research uses do not require Business Associate Agreements (defined at 45 CFR part 164.504 (e)(1) between collaborating institutions. Guidance available at http://privacyruleandresearch.nih.gov/
For animals:	All	All		Requirements flow down to subrecipients.
Rules on animal acquisition, transport, care, handling, and use in: (i) 9 CFR Parts 1-4, Department of Agriculture rules that implement the Laboratory Animal Welfare Act of 1966 (7 U.S.C. 2131-2156). Public Health Service Agencies must follow requirements in the PHS Policy on Humane Care and Use of Laboratory Animals, which implements PL 99-158, Sec. 495. NASA requirements for animal welfare are set forth at 14 CFR Part 1232 EPA at 40 CFR Part 40. For USDA/CSREES, "In the case of domestic farm animals housed under farm conditions, the institution should adhere to the principles stated in the Guide for the Care and Use of Agricultural Animals in Agriculture and Teaching, Federation of Animal Science Societies, 1999."	All	All	Research, experimentation, or testing involving the use of animals USDA regulations exempt birds, most rats and mice bred for research, and farm animals used for agricultural research.	
Rules of the Departments of Interior (50 CFR Parts 10-24) and Commerce (50 CFR Parts 217-227) implementing laws and conventions on the taking, possession, transport, purchase, sale, export, or import of wildlife and plants, including the: Endangered Species Act of 1973 (16 U.S.C. 1531-1543); Marine Mammal Protection Act (16 U.S.C. 1361-1384); Lacey Act (18 U.S.C. 42); and Convention on International Trade in Endangered Species of Wild Fauna and Flora.	All	All	Activities which may involve or impact wildlife and plants.	
ENVIRONMENTAL STANDARDS				

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
Comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401, et. Seq.) and Clean Water Act (33 U.S.C. 1251, et. seq.), as implemented by Executive Order 11738 [3 CFR, 1971-1975 Comp., p. 799]. EPA at 40 CFR Part 6	All	All	All, for Clean Air Act, Clean Water Act, and Executive Order 11738.	Requirements flow down to subrecipients.
The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et. seq.) and to prepare Environmental Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process. DOE at 10 CFR Part 1021				
Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et. seq.), which require flood insurance, when available, for Federally assisted construction or acquisition in flood-prone areas. DOE at 10 CFR Part 1022	All	All	Awards involving construction, land acquisition or development, with some exceptions [see 42 U.S.C. 4001, et. seq.].	The Council on Environmental Quality's regulations for implementing NEPA are at 40 C.F.R. Parts 1500-1508. Executive Order 11514 [3 CFR, 1966-1970 Comp., p. 902], as amended by Executive Order 11991, sets policies and procedures for considering actions in the U.S. Executive Orders 11988 [3 CFR, 1977 Comp., p. 117] and 11990 [3 CFR, 1977 Comp., p. 121] specify additional considerations, when actions involve floodplains or wetlands, respectively.
All existing or proposed components of the National Wild and Scenic Rivers system, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271, et seq.). EPA at 40 CFR Part 6	Grants, cooperative agreements, and other "financial assistance" (see 16 U.S.C. 3502).	All	Awards that may affect existing or proposed element of National Wild and Scenic Rivers system.	Requirements flow to subrecipients.

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C. 300h-3). EPA at 40 CFR Part 6	All	All	Construction in All area with aquifer that the EPA finds would create public health hazard, if contaminated.	42 U.S.C. 300h-3(e) precludes awards of Federal financial assistance for all projects that the EPA administrator determines may contaminate a sole-source aquifer so as to threaten public health.
Resource Conservation and Recovery Act 42 USC 6901	All	Awards to states or a political subdivision of a state (which for this purpose includes state and local institutions of higher education or hospitals)		
HEALTH & SAFETY GUIDELINES				
Applicable OSHA Standards in Laboratories 29 CFR 1910.1030 Bloodborne Pathogens; 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories	All	All	Research involving use of hazardous chemicals or bloodborne pathogens	
Handling and transport of etiologic agents Procedures for Domestic Handling and Transport of Diagnostic Specimens and Etiologic Agents, 1994 (3rd ed.), H5a3doc.75, National Committee for Clinical Laboratory Standards	All	All	Research involving etiologic agents	
Hotel and Motel Fire Safety Act of 1990 - P.L. 101-39 40 USC 327-333	Conference or meeting support	All	Alterations and Renovations > \$500,000	
Labor Standards under Federally Assisted Construction: Construction Work Hours and Safety Standards Act 40 USC 327-333	All	All	Alterations and Renovations > \$500,000	
Text Messaging While Driving - EO 13513	All	All	When performing work for or on behalf of government	Adopt and enforce policies that ban text messaging while driving.

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
Increasing Seat Belt Use in the United States Executive Order 13043, Increasing Seat Belt Use in the United States, dated, April 16, 1997	All	All		In accordance with the Executive Order, "grantees are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles."
NATIONAL SECURITY GUIDELINES				
Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, dated September 23, 2001.	All			
GENERAL/MISCELLANEOUS REQUIREMENTS				
Drug Free Workplace 41 USC 701 et seq. DOE at 10 CFR Part 607	All	All		
Civil False Claims Act 31 USC 2739	All	All	All	
Criminal False Claims Act 18 USC 287 and 1001 31 USC 3801, 45 CFR 79	All	All	All	
Government-wide Debarment and Suspension (Nonprocurement) DOE at 10 CFR 1036	All	All		

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
Lobbying Prohibitions 31 USC 1352, stipulates that (1) No Federal appropriated funds have been paid or will be paid, any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit the SF Form LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. DOE at 10 CFR Part 601	All			Requirements flow down to construction subrecipients.
Metric System 15 USC 205 and Executive Order 12770	All	All	All	
Misconduct in Science Policies and responsibilities associated with prevention, detection, and handling of misconduct in science allegations as stipulated in regulations: DOE at 10 CFR Part 733 [Federal Register: December 6, 2000 (Volume 65, Number 235)] [Notices] [Page 76260-76264]	All	All	All	

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
National Historic Preservation The recipient agrees to identify to the awarding agency all property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and to provide all the help the awarding agency may need, with respect to the award. 16 USC 470f	All	All	All	
Paperwork Reduction Act 44 USC 3501	All	All	When data is collected from respondents using a questionnaire or other survey instrument. See, however, M-11-07 dated 12/9/10 entitled, "Facilitating Scientific Research by Streamlining the Paperwork Reduction Act Process." https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2011/m11-07.pdf	Data collection activities, if any, performed under this project are the responsibility of the recipient, and awarding agency support of the project does not constitute approval of any survey design, questionnaire content, or data collection procedures. The recipient shall not represent to respondents that such data are being collected for or in association with Bonneville without the specific written approval of the Bonneville CO. However, this requirement is not intended to preclude mention of Bonneville support of the project in response to an inquiry or acknowledgment of such support in any publication of these data.
U.S. Flag Air Carriers 49 USC 40118 See also General Services Administration amendment to the Federal Travel Regulations, Federal Register (Vol. 63, No. 219, 63417-63421)	All	All	Any air transportation to, from, between, or within a country other than the U.S. of persons or property, the expense of which will be assisted by Federal funding, must be performed by or under a code-sharing arrangement with a U.S.-flag air carrier if service provided by such a carrier is available (see Comp Gen. Decision B-240956, dated September 25, 1991).	

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
Trafficking in Persons By signing or accepting funds under the agreement, the recipient agrees that it will comply with Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as implemented by 2 CFR 175.	All	175.15 (b)l.a. applies to private entities 175.15(b) l.b. applies to other than private entities if award includes subrecipient award to a private entity 117.15(b)l.c. applies to all recipients		Requirements flow down to subrecipients.
Whistleblower Protection Awardees are notified of the applicability of 41 U.S.C. § 4712, as amended by P.L. 112-239, providing protection for whistleblowers.	All	All	All	
Use of United States Flag Vessels 46 CFR 381	All	All		
Patents, Trademarks and Copyrights 35 USC 202-204 and 37 CFR 401	All	Awards to non-profits and small businesses		
Privacy Act 5 USC 552a	All	All		
Pro Children Act 20 USC 7183	All	All	All awards performed in facilities where children are served.	
Uniform Relocation Assistance and Real Property Acquisition Policies Act 42 USC 4601 and 49 CFR 24	All	All		
Constitution Day PL 108-447	All	Educational Institutions		
Copeland Act 40 USC 4135	All	All		
Davis Bacon Act 40 USC 3141 et seq	All	All		

Description	Type of Award	Type of Recipient	Specific Situation	Flow Down Requirements
Earthquake Hazards Reduction Act 42 USC 7701 et seq., EO 12699	All	All	Construction awards within applicable geographic areas	
Freedom of Information Act 5 USC 552	All	All		
Hatch Act 5 USC 7321-7328	All	State or Local Governments		
Limited English Proficiency EO 13166	All	All		
Native American Graves Protection and Repatriation 25 USC 3001-3013	All	All		



Statement of Work Report

Data Current as of: 03/18/2025

Report Printed: 03/18/2025

Project Title: Yakama Reservation Watershed Project
Project #: 1996-035-01
Contract Title: 1996-035-01 EXP YAKAMA RESERVATION WATERSHED PROJECT
Contract #: 96709
Province: Columbia Plateau **Subbasin:** Yakima
Workorder Task(s): WO: 00188520
Task: 1
Perf. Period Budget: [REDACTED] **Perf. Period:** 4/1/2025 - 3/31/2026
Contract Type: Coop **Pricing Type:** Cost Reimbursement (CNF)
Contractor(s): Yakama Confederated Tribes (Prime - YAKINDNA00)
BPA Internal Ref: 96709

SOW Validation: Last validated 03/12/2025 with 0 problems, and 0 reviewable items

Contract Documents: [Transmittal Memo \(03/13/2025\)](#) Transmittal Memo for CR-375392
[Property Inventory \(01/14/2025\)](#) Property Inventory
[Budget - Contract \(03/07/2025\)](#) CR-375392 BPA FY 25-26_2-20-25

Contract Description:

The Yakama Reservation Watershed Project has completed numerous restoration actions since 1996 in the Satus, Toppenish, and Ahtanum Watersheds-- all tributaries of the Yakima River. These actions targeted ESA listed Middle Columbia Steelhead as well as other anadromous and resident fish species. Under this contract, we intend to design and implement projects to further enhance fish habitat.

In FY2025 we plan to implement two major project, Pom Pom and Three Way, and to install a fish screen on the Lawrence Ditch.

Contacts:

Name	Role	Organization	Phone/Fax	Email	Address
Debbie Azure	Interested Party	Yakama Confederated Tribes	(509) 865-5121 6334 / NA	azud@yakamafish-nsn.gov	PO BOX 151 TOPPENISH WA 98948
Brandon Rogers	Interested Party	Yakama Confederated Tribes	(509) 949-4109 / NA	rogb@yakamafish-nsn.gov	
Shannon Adams	Interested Party	Yakama Confederated Tribes	(509) 945-0754 / NA	adas@yakamafish-nsn.gov	
Karen Wolfe	Contracting Officer	Bonneville Power Administration	(503) 230-3448 / NA	ktwolfe@bpa.gov	P.O. Box 3621, Mailstop - NSSP-4 Portland OR 97208-3621
Loverne George	Administrative Contact	Yakama Confederated Tribes	(509) 865-5121 6364 / NA	geol@yakamafish-nsn.gov	
Jackie Olney	Administrative Contact	Yakama Confederated Tribes	(509) 865-5121 6311 / NA	olnj@yakamafish-nsn.gov	P.O. Box 151 Toppenish WA 98948



Tana Hoptowit	Administrative Contact	Yakama Confederated Tribes	(509) 865-5121 6318 / (509) 865-6293	hopt@yakamafish-nsn.gov	P.O. Box 151 Toppenish WA 98948
Tim Resseguie	Technical Contact	Yakama Confederated Tribes	(509) 945-7409 / NA	rest@yakamafish-nsn.gov	
Tom Elliott	Supervisor	Yakama Confederated Tribes	(509) 865-5121 6308 / NA	ellt@yakamafish-nsn.gov	PO Box 151 Toppenish WA 98948
Jesse Wilson	F&W Approver	Bonneville Power Administration	(503) 230-4506 / NA	jcwilson@bpa.gov	P.O. Box 3621 Mailstop - EWL-4 Portland OR 97208-3621
Madeleine Eckmann	Interested Party	Yakama Confederated Tribes	(509) 449-2091 / NA	eckm@yakamafish-nsn.gov	2 Johnson Lane Winthrop WA 98862
Jessica Power	CO Assistant	Bonneville Power Administration	(503) 230-4023 / NA	jcpower@bpa.gov	P.O. Box 3621 NSSP-4 Portland OR 97208-3621
Dallas Reed	Technical Contact	Yakama Confederated Tribes	(509) 790-8596 / NA	reed@yakamafish-nsn.gov	
Shawna Warehime	Interested Party	Yakama Confederated Tribes	(509) 945-1259 / NA	wars@yakamafish-nsn.gov	
Catherine Clark	Env. Compliance Lead	Bonneville Power Administration	(503) 230-4240 / NA	cmclark@bpa.gov	
Chad Baumler	COR	Bonneville Power Administration	(630) 461-5871 / NA	CEBaumler@bpa.gov	
Audrey Scott	Contract Manager	Yakama Confederated Tribes	(509) 790-8596 / NA	scga@yakamafish-nsn.gov	

Work Element Budget Summary:

Work Element - Work Element Title

EC Needed*

Estimate

(%)

- A : 162. Analyze/Interpret Data - Wakish Small Contract
- B : 119. Manage and Administer Projects - Manage Restoration Projects
- C : 165. Produce Environmental Compliance Documentation - Environmental Compliance
- D : 99. Outreach and Education - Conduct Field Education - Restoration - Salmonid Life Histories
- E : 114. Identify and Select Projects - Select habitat improvement actions and identify possible projects for next fiscal year
- F : 160. Create/Manage/Maintain Database - Update Project Database
- G : 161. Disseminate Raw/Summary Data and Results - Create informal summary reports and maps





H : 122. Provide Technical Review and Recommendation - Input to various Tribal planning and policy efforts	
I : 157. Collect/Generate/Validate Field and Lab Data - Operate rotary screw traps for steelhead	*
J : 157. Collect/Generate/Validate Field and Lab Data - Conduct steelhead and bull trout spawner surveys	*
K : 157. Collect/Generate/Validate Field and Lab Data - Collect water temperature data	*
L : 157. Collect/Generate/Validate Field and Lab Data - Collect discharge measurements	*
M : 162. Analyze/Interpret Data - Analyze redd count data	
N : 162. Analyze/Interpret Data - Analyze Steelhead Outmigrant Data	
O : 186. Operate and Maintain Habitat/Passage/Structure - Assist with the operation of diversions and screens on Ahtanum Creek	*
P : 186. Operate and Maintain Habitat/Passage/Structure - Assist with operation of diversions and screens on Toppenish Creek	*
Q : 186. Operate and Maintain Habitat/Passage/Structure - Maintain stock tanks/livestock fences/improved springs	*
R : 198. Maintain Vegetation - Maintain vegetation	*
S : 175. Produce Design - 3-Way Phase II Levee Removal - Design Continuation	*
T : 180. Enhance Floodplain/Remove, Modify, Breach Dike - 3way phase II Levee Removal	*
U : 29. Increase Aquatic and/or Floodplain Complexity - 3way phase II Levee Removal	*
V : 47. Plant Vegetation - 3way phase II Levee Removal	*
W : 30. Realign, Connect, and/or Create Channel - 3way phase II Levee Removal	*
X : 100. Construction Management - Pom Pom RM 40 Bridge and Channel Construction - Construction Management	
Y : 30. Realign, Connect, and/or Create Channel - Pom Pom RM 40 Bridge Construction and Channel Alignment	*
Z : 85. Remove/Breach Fish Passage Barrier - Pom Pom RM 40 Bridge Construction and Channel Alignment	*
AA : 47. Plant Vegetation - Pom Pom Revegetation	*
AB : 174. Produce Plan - On Call Services - Engineering Support	*
AC : 174. Produce Plan - Satus Reach Assessment	*
AD : 175. Produce Design - Toppenish Wood Loading RM 45 - 51- Produce Designs	*
AE : 208. Irrigation Infrastructure Construction or Replacement - Lawrence Ditch Fish Screening	*
AF : 175. Produce Design - Satus RM 23 LWD	*
AG : 185. Produce CBFish Status Report - Periodic Status Reports for BPA	



AH : 132. Produce Progress (Annual) Report - Produce Project
Annual Report for FY23 Mar23-Feb24

Total: [REDACTED]

* Environmental Compliance (EC) needed before work begins.

Statement of Work Report

Work Element Details

A: 162. Analyze/Interpret Data

Title: Wakish Small Contract
Description: David Lind with Wakish will have a small contract to assist Yakama Nation and Tim Resseguie with data analysis and reporting.

Specific scope of work is as follows:

- 1 - Assist YRWP with analysis of juvenile fish movement in Toppenish and Satus Creeks using PIT tag data
- 2 - Assist YRWP with analysis of juvenile fish survival in Toppenish and Satus Creeks using PIT tag data
- 3 - Assist YRWP with reporting on the analysis.

Billing hours as needed for his time to perform tasks 1 - 3.

Deliverable Specification: An error-checked data set and metadata will be stored consistent with the database(s) and protocol documented in contract. (Optional: This includes the following methods: (List methods).) Data will be publicly accessible, with stipulations for limitations of use and data generator attribution. Additional implementation notes and analysis will be in the Annual Report, or attached to the protocol as implementation notes.
The data file/s will be stored in the data repository/ies specified in the contract. In your annual report (WE 132), you are required to provide a link to your data set with a file name in the report's first appendix. If not web accessible, provide instructions (e.g., file name, directory, or position title) for accessing data.

Work Element Budget: [REDACTED]

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Population Status
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Project Feasibility/Development Monitoring
- * Secondary R, M, and E Focal Strategy : Multiple Strategies

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: NPCC Subbasin:

State: HUC5 Watershed:

County: HUC6 Name:

Salmonid ESUs Present:

Study Plan: YRWP Juvenile steelhead outmigration (1996-035-01) v1.0

Study Plan Owner: Tim Resseguie

Protocol: YRWP Juvenile steelhead outmigration (1996-035-01) v1.0

Protocol State: Finalized

Protocol Owner: Tim Resseguie

Sample Design: Analyze PIT tag detections at downstream detection facilities to estimate survival - Yakama Confederated Tribes v1.0

Methods:

ID	Title	Type	Optional	Customized Based On	Status
485	Cormack-Jolly-Seber (CJS) Model v1.0	Data Analysis/Interpretation	No	N/A	Finalized
1734	Fish wet weight v1.0	Data Collection	No	N/A	Finalized
4041	Measuring Fish Length: Fork length v2.0	Data Collection	No	N/A	Finalized
1736	PIT tag marking procedures v1.0	Data Collection	No	N/A	Finalized



133	Rotary Screw Trap Deployment and Operation v1.0	Data Collection	No	N/A	Finalized
5519	Rotary Screw Trap Mark-Recapture Salmonid Outmigration Abundance Estimate v1.0	Data Analysis/Interpretation	No	N/A	Finalized
134	Trap Efficiency Testing v1.0	Data Collection	No	N/A	Finalized

Metrics:

Title	Category	Subcategory	Subcategory focus 1	Subcategory focus 2
Fish length	Fish	Length: Fish Species (ID: 75)	Fish Life Stage: Juvenile - Migrant	NA
Fish weight	Fish	Weight: Fish (ID: 206)	Fish Life Stage: Juvenile Fish	Fish Origin: Natural
Rotary screw trap juvenile steelhead daily catch	Fish	Abundance of Fish (ID: 46)	Fish Life Stage: Juvenile - Migrant	Fish Origin: Natural

Data Repositories:

PTAGIS Website	(http://www.ptagis.org/)
Yakima-Klickitat Fisheries Project website	(http://www.ykfp.org)
Status and Trends Annual Reporting Project [STAR]	(http://dashboard.yakamafish-star.net/)
Yakama Nation Dashboard	

Area of Inference:

Name	Value
Steelhead Summer-Winter Interior Columbia Pop. Name	Toppenish

Note:

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Review, revise, & finalize Study Plan sample design protocol and methods in monitoringResources.org	8/15/2025	3/31/2026	Inactive	The Study Plan's Sample Design, Protocol and Methods for this work element are stored at MonitoringResources.org and need to be completed (i.e., "Finalized" through MonitoringResources.org), preferably prior to data analysis but must be completed upon submittal of your annual report. Preparations for contract renewals must include reviewing any previously finalized Sample Designs, Protocols & Methods to ensure that they are consistent with how work will be done in any subsequent contract.
Deliverable: B. Deliverable: An accessible, error-checked data set with metadata		3/31/2026	Inactive	<i>See the Deliverable Specification above</i>

B: 119. Manage and Administer Projects

Title: Manage Restoration Projects

Description: Covers work by YN to manage this contract. This includes administrative work in support of BPA's programmatic requirements such as metric reporting, and financial reporting (accruals), invoice submittal, and updating of WE budget. YN will provide oversight of the project as needed and manage time in order to meet contract deliverables. Respond to BPA as requested, providing financial, contractual, and administrative documents. Development of a contract renewal package (includes SOW, budget, and property inventory).

Deliverable Specification: Travel and Training under this work element will be to attend trainings, workshops, conferences and symposiums related to stream habitat restoration science and techniques as may occur during the course of this contract period. Provide effective implementation and administration: a) evaluate current workload and monitor implementation progress; b) develop work plan consistent with expected budget availability and potential tasks or projects; c) integrate and manage planning, permitting, environmental compliance, and coordinated implementation of contract actions; and (d) provide contract's financial status report at least once a year attached in contract Documents.

Work Element Budget: [REDACTED]



DIVISION OF FISH AND WILDLIFE

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Attach a FISMA attestation in CBFish each Jan 31st	12/1/2025	2/1/2026	Inactive	The Contract Manager will attach an attestation of compliance as a "FISMA" attachment type in CBFish associated with WE 119 by January 31st each year. Use the required file-naming convention: "FISMA [entity] CY:xxx". (Ex.: "FISMA Smithy Inc. CY2024" where 2024 is the Calendar Year in which the document is due to be uploaded) BPA has reviewed information collected, and determined this SOW is in a "Low" Category. Consistent with that Category, the awardee must provide one of the following signed attestations that confirms that it is protecting BPA information: a) with NIST 800-53 rev5, or NIST 800-171 rev2 (the latter is effective July 1, 2023), b) for some private organizations, use ISO-27001:2022 (ISO/IEC 27001:2022 – Information technology – Security techniques – Information security management systems – Requirements), or c) should a pre-existing, higher FISMA standard Category (Moderate or High) attestation have been required for other federal awards, that yearly attestation may be attached instead
B. Error-check & update actual WE budget spending w/in 4 months (reflect contract close-out value)	4/1/2025	7/1/2025	Inactive	No later than 4 months after the end of the previous contract, (a) open the prior-year contract SOW at the "WE Budget" tab; and (b) enter "Updated" WE budget amounts to reflect the final contract close-out amount actually spent by the contractor.
C. Begin drafting contract renewal documents and conduct internal review as needed	6/28/2025	11/1/2025	Inactive	Your statement of work, line-item budget, and (if required) property inventory for your next contract are due to BPA at least 5 months prior to the contract start date (longer if your internal processes require more time to get the contract signed and in place prior to the start date).
D. Submit contract renewal package (SOW, Excel budget, property inventory) to BPA COR	9/2/2025	11/1/2025	Inactive	Once your statement of work (SOW) in CBFish is complete, and you have attached your line-item budget (LIB) and property inventory (PI) (if required), click the "Submit" button on the SOW tab to notify your COR the package is ready for review.
E. Address comments and revise SOW, LIB, and PI as needed to get BPA manager approval	12/2/2025	1/30/2026	Inactive	Once your COR and his or her BPA manager have reviewed your contract renewal package and returned any comments to you, you will need to provide responses and changes as needed to achieve approval from the BPA manager, who will then forward the package to the Contracting Officer. This should be concluded at least five months prior to the next contract start date.
F. Return signed contract to BPA's Contracting Officer within 30 days	1/1/2026	2/28/2026	Inactive	Respond to the CO and COR indicating any problems with the contract within 20 days, or return the signed contract to the BPA Contracting Officer (CO) within 30 days.
G. Submit final invoice for prior contract within 90 days to facilitate contract closeout	4/1/2025	12/31/2025	Inactive	Within 90 days of the last day of the PRIOR contract, the contractor shall issue a final invoice. In instances where more than 90 days is needed (e.g., because subcontractors have not invoiced), the contractor shall: 1. review records, 2. estimate all outstanding costs, and 3. provide BPA with a single, cumulative estimate of all completed, but uninvoiced work. This amount shall be emailed to FWinvoices@bpa.gov and the COR.
H. Submit Financial Status Report	4/1/2025	3/31/2026	Inactive	Submit a financial status report to the COR via email a minimum of once per contract period. COR will upload to cbfish following review and approval.
I. Facilitate inputting Cost Share information into CBFish at the Project level	9/30/2025	11/14/2025	Inactive	Cost share is not required; however, cost share information can be input anytime during the contract (e.g., concurrent with quarterly status reports) but no later than November 15 for each fiscal year. (a) I am the sole contractor under this project. I will enter previous federal FY's Cost Share information on the Project's Cost Share tab by Nov 15. (Milestone starts Sep. 30 and ends Nov. 15)
J. Comply with all applicable federal, state, tribal and local safety requirements, including reporting	4/1/2025	3/31/2026	Inactive	As described in the contract's Terms and Conditions, the contract manager and contractor shall comply with all applicable federal, state, tribal and local safety laws, rules, regulations and requirements.
K. Revise Line Item Budget to incorporate	1/1/2026	3/28/2026	Inactive	Work with the COR to revise the Line Item Budget and update indirect rate if the rate changes during the contract period. This is required if the new indirect rate



change in indirect rate for the remaining contract period				is to be applied for the remainder of the contract period.
L. Review Approved BPA Vehicle Use Policy	4/1/2025	5/1/2025	Inactive	On at least a yearly basis, Contract Manager shall review with all staff funded under this award, the appropriate use of all vehicles, rented, leased, purchased or authorized to be used to complete the work. This review shall include, but not limited to: the definition of "Official Use Only", the safe operational procedures, limitations on use required under any temporary use agreement (e.g., government leases, awarder fleet or airport rental from a private rental company) as well as all additional awarder policies, procedures and guidance as to vehicle use, regardless of source of the vehicle, to comply with the Terms and Conditions for this award. Use of the term vehicle shall include all mechanized modes of transport including, but not limited to: commercial vehicles, busses, sedans, trucks, SUVs, vans, boats, tractors, ATVs, snowmobiles, carts, scooters, motorcycles, motorized and non-motorized bicycles, and UAVs (Unmanned Aerial Vehicles).
M. Travel for meetings to Portland	4/1/2025	12/31/2025	Inactive	Contract manager will travel to Portland when needed for meetings.
Deliverable: N. Effective implementation management and timely contract administration		3/31/2026	Inactive	See the Deliverable Specification above

C: 165. Produce Environmental Compliance Documentation

Title: Environmental Compliance

Description: Assemble, gather, acquire, or prepare documents in support of obtaining environmental compliance from BPA (such as providing maps, drafting a Biological Assessment, obtaining permits, conducting public involvement activities, completing an archaeological survey, etc.).

Deliverable Specification: For all WEs requiring Environmental Compliance, YRWP staff will complete those processes before implementation begins.

Work Element Budget: [REDACTED]

Planned Metrics:

- * Are herbicides used as part of work performed under this contract?: No
- * Will water craft, heavy equipment, waders, boots, or other equipment be used from outside the local watershed as part of work performed under this contract?: Yes

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Discuss HIP ESA coverage with Bonneville EC lead	4/1/2025	2/1/2026	Inactive	The EC Lead will determine if work under this work element may be able to have ESA-coverage (NMFS & USFWS) under the current version of the Habitat Improvement Program Biological Opinions (HIP BiOps). Work that qualifies must comply with conservation measures in the HIP Handbook. Medium to high risk projects will require a technical review by the Bonneville Engineering Technical Services. Before conceptual design commences, contact the EC lead for HIP applicability, instructions and information requirements. The HIP activity categories and risk criteria are located in the "Note" section of the work element background page here: https://www.cbfish.org/WorkElement.mvc/Summary/165
B. Use Best Management Practices to stabilize soils and prevent spread of noxious weeds	4/1/2025	3/31/2026	Inactive	Use applicable BMPs to retain existing vegetation and achieve re-establishment of vegetation in disturbed areas to at least 70% of pre-disturbance levels. For example, see "Shrub-Steppe and Grassland Restoration Manual For the Columbia River Basin" (http://wdfw.wa.gov/publications/01330/wdfw01330.pdf), or "Revegetation for Stream Restoration and Fish Passage Projects" (https://www.wsdot.wa.gov/publications/manuals/fulltext/M25-30/830.pdf) for guidance on re-vegetation in the Columbia River Basin.
C. Provide BPA EC Lead with calendar year 2025 actual herbicide use form.	4/1/2025	1/31/2026	Inactive	Contractor submits any actual herbicide use on an approved form to the BPA Environmental Compliance Lead. The BPA EC Lead will send the form out in December of each year; it will be due January 31. Use this milestone only when you are using BPA funding to apply herbicides as part of your work. Data is reported to NOAA on a calendar year basis.



Milestone Title	Start Date	End Date	Status	Milestone Description
D. Determine if contract work could adversely affect Pacific lamprey	4/1/2025	2/1/2026	Inactive	Contractor will review work proposed under this contract and determine the following: 1) Will field work take place in any area where lamprey may be present? (Any tributary or subbasin where anadromous fish exist is also accessible Pacific lamprey habitat.) 2) Are there any stream disturbing activities or instream activities that could adversely impact Pacific lamprey? Examples of activities posing a threat to lamprey may include (this list is not intended to be all-inclusive): aquatic habitat improvements, fish passage improvements, culvert replacements, water diversions, altered management of water flows, dewatering of any portions of streams, or alteration of irrigation practices. If the answer is yes to BOTH 1 and 2, the contractor must follow guidance from USFWS "Best Management Guidelines for Native Lampreys During In-water Work" at https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm
E. Report lamprey observation and catch data to USFWS by Feb. 15	4/1/2025	2/15/2026	Inactive	All contractors doing instream work (e.g., surveys, habitat improvements, electrofishing, screwtraps, etc.) in anadromous fish areas are required to annually report lamprey observations or catch, including zero, by Feb 15 for the previous calendar year's work. A data template is available at: (https://www.cbfish.org/EfwDocument.mvc/DownloadFile/11) As per instructions on the form, email your data to christina_wang@fws.gov at US Fish and Wildlife Service and CC your COR. For identification of lamprey life stages see USFWS "Best Management Guidelines for Native Lampreys During In-water Work" at https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm
F. Inspect water craft, waders, boots, etc. to be used in or near water for aquatic invasive species	4/1/2025	3/31/2026	Inactive	Aquatic invasive Species Guidance: Uniform Decontamination Procedures: http://www.aquaticnuisance.org/wordpress/wp-content/uploads/2009/01/Recommended-Protocols-and-Standards-for-Watercraft-Interception-Programs-for-Dreissenid-Mussels-in-the-Western-United-States-September-8.pdf -- Best management guidance for boaters: http://www.westernais.org -- Aquatic Nuisance Species newsletter: http://www.aquaticnuisance.org/newsletters -- State Aquatic Invasive Species Management Plans: Oregon: http://www.aquaticnuisance.org/wordpress/wp-content/uploads/2009/01/Recommended-Protocols-and-Standards-for-Watercraft-Interception-Programs-for-Dreissenid-Mussels-in-the-Western-United-States-September-8.pdf -- Washington: http://www.wdfw.wa.gov/publications/pub.php?id=00105 -- Montana: http://www.anstaskforce.gov/Montana-FINAL_PLAN.pdf -- Idaho: http://www.anstaskforce.gov/stateplans.php
G. Inspect and, if necessary, wash vehicles and equipment infested with terrestrial invasive species	4/1/2025	3/31/2026	Inactive	Prevent spread of invasive species by identifying and removing invasive species from work vehicles and equipment. Consult resources such as the Plants Database (http://plants.usda.gov/index.html) or the NatureServe Explorer (http://www.natureserve.org/explorer/) with assistance identifying invasive plants. Other resources include state natural resource offices (https://www.fws.gov/offices/statelinks.html) or a local U.S. Fish and Wildlife Service Office (https://www.fws.gov/offices/).
H. Participate in ESA Consultation	4/1/2025	3/31/2026	Inactive	Work may include drafting BA (or other ESA documentation), completing HIP forms, submitting high risk project designs to the EC Lead, providing copies of Section 10, 4(d), or 6 permits, etc., or submitting Hatchery Genetic Management Plan to BPA for review and ESA consultation initiation, and providing input for the ensuing consultation. Once the program has completed Section 7 consultation and has obtained relevant permits or authorizations (Section 10, 4 (d), etc), be familiar with and follow all terms and conditions, including annual reporting, associated with the ESA consultation or permit. Notify BPA immediately of any instances when take has been exceeded or terms and conditions or conservation measures have been violated.
I. Provide information for Section 106 Cultural review	4/1/2025	3/31/2026	Inactive	Email EC Lead detailed project description, map, and shapefiles so that BPA can initiate Section 106 review.
J. Plan for field inventory	4/1/2025	3/31/2026	Inactive	Coordinate with EC Lead and BPA archaeologist to determine appropriate approach and methodology for field inventory, if determined necessary by BPA archaeologist.
K. Cultural resource surveys	4/1/2025	3/31/2026	Inactive	Coordinate with EC Lead to schedule cultural resources surveys if required by BPA archaeologist.
L. Provide EC Lead with the status of RM&E ESA Permit(s)	4/1/2025	3/31/2026	Inactive	Provide EC Lead with the status of RM&E ESA permits: type of permit(s) [e.g. Sec 4(d), 7 or 10] required by the Services (NMFS, USFWS), when applied, permit status, responses from the Services. Once final permit(s) is received, forward a copy or copies to EC Lead for review and documentation of completion of ESA for WE.
M. Obtain/Renew	4/1/2025	3/31/2026	Inactive	Work done to obtain permits such as Sec. 401 or 404 (including RGP process),



applicable local, state, federal and tribal environmental permits				shoreline, NPDES, or any other required federal, state, or local permits. Send copies of final permits to EC Lead as requested.
Deliverable: N. Complete Environmental Compliance Documentation		3/31/2026	Inactive	<i>See the Deliverable Specification above</i>

D: 99. Outreach and Education

Title: Conduct Field Education - Restoration - Salmonid Life Histories
Description: Project Staff will work with local educators at high schools, colleges (Heritage primarily), Washington Conservation Corps, local Job Corps, and Natural Resource Departments that have student interns, to develop curriculum (salmonid life history etc.) and field opportunities to learn about habitat restoration and protocols of implementation.

Staff generally conducts 6 of these sessions a year.

Deliverable Specification: Out reach performed

Work Element Budget:

Planned Metrics:
 * # of students reached: 30
 * # of general public reached: 20
 * # of teachers reached: 2

Locations:

Country: US

State: WA

County: Yakima

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

NPCC Subbasin: Yakima

HUC5 Watershed: Multiple

HUC6 Name: Multiple

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Work with local educators and public as opportunities allow.	4/1/2025	3/31/2026	Inactive	When requested staff will meet with LaSalle school district along with other school districts to discuss project intent and goals.
B. Work with LaSalle High School	4/1/2025	12/31/2025	Inactive	YN will cooperate and provide demonstrations for LaSalle High School in Union Gap. LaSalle students and teachers have opportunities throughout the year to run the screw trap with Yakama Nation staff and learn to identify outmigrating steelhead.
C. Work with Heritage University	4/1/2025	12/31/2025	Inactive	YN will cooperate and provide demonstrations for Heritage University. Heritage University Students have opportunities to work with Yakama Nation Staff on projects such as beaver dam analogues, plantings, and fencings, while learning about how these elements aid in restoration for Steelhead.
Deliverable: D. Out reach performed		3/31/2026	Inactive	<i>See the Deliverable Specification above</i>

E: 114. Identify and Select Projects

Title: Select habitat improvement actions and identify possible projects for next fiscal year
Description: Identify, prioritize, and select potential projects for implementation through staff discussion, watershed assessment, subbasin review, public outreach, landowner contact, interagency communication, and personal observation. Projects may include stabilizing stream banks, dike removal, channel reconnection, vegetation planting, fence building, channel alignment, developing alternative stock water sources, conducting controlled burns, etc.

Deliverable Specification: Provide a list of prioritized habitat projects (including acquisitions) you are likely to implement in the next 2-3 years. Priority projects are those evaluated and selected on the basis of criteria derived from a conceptual strategy, restoration framework or implementation work plan. A project list template is available from your COR. You may use an alternative reporting template providing it conveys the required detail.

Upload to CBFish (use Attachment Type: "Communication") and email the COR, Habitat Area Lead, and EC-lead that it has been uploaded.

Work Element Budget:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Determine priority areas and actions (projects) based on the most current empirical data	4/1/2025	12/18/2025	Inactive	Prioritize areas and actions (projects) at the site, reach, or watershed level based on the most current biological and physical data (e.g., habitat and fish data).
B. Review proposed near-term habitat work before drafting a SOW for the subsequent contract (CR)	7/1/2025	10/15/2025	Inactive	Communicate with the COR and EC-lead; to check in and discuss the near-term list of prioritized projects (next 12-mos). Complete a conference call with BPA's Environmental Compliance (EC) staff about which projects the contractor is likely to design and permit, or implement, in the next contract period. Your communication should include: what Work Elements to use in the SOW with guidance from COR/EC, the applicability of EC review requirements and timelines (especially for activities that include ground-disturbing work) and work plan, before you start editing your subsequent SOW. (milestone end-date is 6-mos before contract end).
C. For Habitat Projects: Discuss prioritized list w COR, Habitat Lead, EC Lead.	7/1/2025	10/15/2025	Inactive	Coordinate with the BPA COR, Habitat Area Lead (HAL) and EC Lead for large, complex, or multi-year habitat restoration projects before including the project in the SOW, or developing a design. Coordination for these types of projects could include holding coordination meetings; leading site visits; and/or including the COR and EC Lead at annual reviews, solicitation meetings, or other sponsor-lead evaluations. Assure that project design review and approval, and funding commitments, are fully vetted with BPA staff; timely environmental compliance clearance for planned work requires the earliest possible coordination.
D. Project prioritization list	4/1/2025	11/30/2025	Inactive	Attach in CB Fish and notify COR and Habitat Area Lead (HAL.)
Deliverable: E. Develop or update (out-year) prioritized Habitat Project list: Upload to CBFish		3/31/2026	Inactive	See the Deliverable Specification above

F: 160. Create/Manage/Maintain Database

Title: Update Project Database

Description: Manage and maintain YRWP databases. Databases include: stream discharge, Large Woody Debris, stream temperature, habitat surveys, salmonid redd locations (spatial), fence locations (spatial), snorkel surveys, sediment inventories, photopoints, stock wells (spatial) restoration project location (spatial.) These databases are used on a daily basis to make resource management decisions like instream flow amounts and prioritization of restoration projects. Programs are often getting updated and managed from flow measurements to adding groundwater gauges to monitor the effectiveness of restoration projects.

Responsible Proponent Tim Resseguie

Deliverable Specification: Database updated

Work Element Budget:

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Population Status
- * Secondary R, M, and E Focal Strategy : Multiple Strategies

Study Plan:

Study Plan Owner:

Protocol:

Protocol State:

Protocol Owner:

Data Repositories:

- Yakima-Klickitat Fisheries Project website (<http://www.ykfp.org>)
- Status and Trends Annual Reporting Project [STAR] (<http://dashboard.yakamafish-star.net/>)
- Yakama Nation Dashboard (<http://www.ynwildlife.org/index.php>)
- Yakama Nation Wildlife website



Yakama Nation Fisheries Website (<http://www.yakamafish-nsn.gov/>)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Update the various Project databases as needed.	4/1/2025	3/31/2026	Inactive	Staff will enter field data into the appropriate databases as needed. Tim Resseguie is the primary to do this work element, and the data repositories include Yakima-Klickitat Fisheries Project Website, Status and Trends Annual Reporting Project (STAR), Yakama Nation Dashboard, and PITAGIS.
Deliverable: B. database updated		3/31/2026	Inactive	See the Deliverable Specification above

G: 161. Disseminate Raw/Summary Data and Results

Title: Create informal summary reports and maps

Description: Disseminate data in raw or informal form to various agencies. Project staff typically are asked to disseminate information in some form, on average of 2 time per month. Data requests vary from biological data from Biologic Assessment documents to stream flow data for determining irrigation intake amounts. Data is provided to various agencies including Yakima County NOAA Fisheries, Washington Dept. of Fish and Wildlife, Yakima Tributary Access and Habitat Project, Yakima Klickitat Fisheries Project, Yakima County and other Tribal Programs.

Staff have an all-hands meeting where they present on completed projects, and status of ongoing projects in design or construction.

Deliverable Specification: UCHRP will create informal data summaries to disseminate raw/provisional data.

Work Element Budget:

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Population Status
- * Secondary R, M, and E Focal Strategy : Multiple Strategies

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Staff disseminate raw data in the form of GIS derived maps and informal reports and email summary	4/1/2025	3/31/2026	Inactive	This is done on a bi-monthly basis as data is collected.
Deliverable: B. Informal summaries created		3/31/2026	Inactive	See the Deliverable Specification above

H: 122. Provide Technical Review and Recommendation

Title: Input to various Tribal planning and policy efforts

Description: Project staff provide technical review and input into Tribal, local and regional planning and policy efforts including: the Yakima Basin Sub Basin Plan, Ahtanum Creek Flood Plan, Yakima Basin Salmon Recovery Plan, Yakama Nation Water Code permit review, Yakama Nation Inter Disciplinary Team participation and review of presented project plans, Yakama Nation Tribal Council technical information and review. YRWP staff's input into these planning and permitting efforts is critical because these efforts will directly impact fish and streams in the various watersheds. The YRWP has more knowledge of these watersheds than any other entity and we must apply that knowledge to these efforts in order that the most benefit to fish and streams are received. Our input into Tribal planning and permitting efforts allows us to steer various activities, like logging in the upper watershed or bridge building in the lower watershed, in the best direction for stream and fish health.

Deliverable Specification: YRWP staff will provide technical assistance and expertise to ongoing Tribal water policy processes. These processes may be larger issues, such as how the Tribal Water Code is administered from a fisheries perspective, and may also include smaller issues such as providing fisheries expertise on fish screen operation.

Work Element Budget:

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Input to Tribal water policy	4/1/2025	3/31/2026	Inactive	Objective is to maintain instream flows in the Toppenish, Satus, and Ahtanum Watersheds, with a goal of maintaining instream flow throughout the year.



Milestone Title	Start Date	End Date	Status	Milestone Description
Deliverable: B. Participation in Tribal water policy process		3/31/2026	Inactive	See the Deliverable Specification above

I: 157. Collect/Generate/Validate Field and Lab Data

Title: Operate rotary screw traps for steelhead

Description: Juvenile Smolt Traps: Juvenile smolt traps (4 foot rotary screw traps) are operated continuously on Satus and Ahtanum Creeks downstream from all known steelhead spawning habitat between mid-November and mid-June when flows are favorable and outmigration is occurring. Traps are checked each day (including weekends). Fish are measured and weighed. A target number of juveniles over 80 mm are PIT tagged. Scale samples are collected from a subsample of PIT tagged fish. PIT tagged juveniles are released upstream to determine the trap efficiency. DNA samples are collected and provided to researchers in WDFW for stock identification project and CRITFC for Kelt reconditioning project. Data collected are used to estimate outmigration numbers for each population. Timing is described. Interrogations of PIT tagged smolts from downstream passage facilities are used to estimate survival and migration timing. Lengths, weights and ages describe the physical characteristics and condition factor of outmigrating smolts.
Range for number of fish tagged in 200-800 steelhead juveniles. All traps are installed on October 15 and fished until June 1.

Deliverable Specification: Outmigration estimate, timing, and other demographics data from screw traps at the mouths of Satus and Ahtanum Creeks

In your annual report (WE 132), you are required to provide a link to your data set with a file name in the report's first appendix. If not web accessible, provide instructions (e.g., file name, directory, or position title) for accessing data. Any derived data will be produced under work element 162, Analyze Data.

Work Element Budget: [REDACTED]

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Population Status
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Tributary Habitat

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US **NPCC Subbasin:** Yakima

State: WA **HUC5 Watershed:** Toppenish Creek

County: Yakima **HUC6 Name:** Snake Creek-Toppenish Creek

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Study Plan: [YRWP Juvenile steelhead outmigration \(1996-035-01\) v1.0](#)

Study Plan Owner: Tim Resseguie

Protocol: [YRWP Juvenile steelhead outmigration \(1996-035-01\) v1.0](#)

Protocol State: Finalized

Protocol Owner: Tim Resseguie

Sample Design: Collect Juvenile Steelhead - Yakama Confederated Tribes v1.0

Methods:

ID	Title	Type	Optional	Customized Based On	Status
485	Cormack-Jolly-Seber (CJS) Model v1.0	Data Analysis/Interpretation	No	N/A	Finalized
1734	Fish wet weight v1.0	Data Collection	No	N/A	Finalized
4041	Measuring Fish Length: Fork length v2.0	Data Collection	No	N/A	Finalized
1736	PIT tag marking procedures v1.0	Data Collection	No	N/A	Finalized
133	Rotary Screw Trap Deployment and Operation v1.0	Data Collection	No	N/A	Finalized
5519	Rotary Screw Trap Mark-Recapture Salmonid Outmigration Abundance Estimate v1.0	Data Analysis/Interpretation	No	N/A	Finalized



134	Trap Efficiency Testing v1.0	Data Collection	No	N/A	Finalized
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Metrics:

Title	Category	Subcategory	Subcategory focus 1	Subcategory focus 2
Fish length	Fish	Length: Fish Species (ID: 75)	Fish Life Stage: Juvenile - Migrant	NA
Fish weight	Fish	Weight: Fish (ID: 206)	Fish Life Stage: Juvenile Fish	Fish Origin: Natural
Rotary screw trap juvenile steelhead daily catch	Fish	Abundance of Fish (ID: 46)	Fish Life Stage: Juvenile - Migrant	Fish Origin: Natural

Data Repositories:

PTAGIS Website (<http://www.ptagis.org/>)
Yakima-Klickitat Fisheries (<http://www.ykfp.org>)
Project website
Status and Trends Annual Reporting Project [STAR] (<http://dashboard.yakamafish-star.net/>)
Yakama Nation Dashboard

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Review, revise, and finalize study plan sample design protocol and methods in MonitoringResources.org	4/1/2025	10/1/2025	Inactive	The Study Plan's Sample Design, Protocol and Methods for this work element are stored at MonitoringResources.org and need to be completed (i.e., "Finalized" through MonitoringResources.org), preferably prior to data collection. Preparations for contract renewals must include reviewing any previously finalized Sample Designs, Protocols & Methods to ensure that they are consistent with how work will be done in any subsequent contract.
C. Implement Study Plan	4/1/2025	3/28/2026	Inactive	Implement the study plan's protocols and sample design consistent with the WE description and methods in the SOW. The start date of this milestone is used to set the completion date for the EC milestone.
D. Secure data back-up	4/1/2025	3/31/2026	Inactive	Minimum requirements: Hard copies of field sheets and original dataloggers secured against fire and flood. At least daily data back-up of electronic data on a separate hard drive. Secure cloud-based or off-site location data back-up to preclude catastrophic data loss at least weekly. More frequent cloud/off-site back-up is greatly encouraged. [Timing guidance: from beginning to end of contract]
E. Yearly upload of error-checked datasets	4/1/2025	3/31/2026	Inactive	Upload datasets with associated metadata to a publicly accessible site each year as soon as they have been QA/QC checked. This generally happens within 6 months for direct field-to-database input, but may be longer if laboratory analysis is required (e.g., scale reading or genetic analyses). If data is not QA/QCed within 1 year, data must be made accessible with acknowledgement of QA/QC limitations. Periods for dataset collection should be no longer than a year, and coincide with the logical biology of the data collection, which may not be on a calendar year. Example of a dataset: redd counts for one species for one season for a particular brood year. Dataset upload requirements apply to both original and derived data, which should be at a level of quality suitable for release to resource co-managers to make decisions – not the rigor required as if you were going to use the data for a peer-reviewed publication.
F. Remove screw traps	4/1/2025	6/1/2025	Inactive	Screw traps will be removed for the season.
G. Collect scale samples	4/1/2025	3/31/2026	Inactive	Scale samples are collected from a subsample of PIT tagged fish. 100 fish each from Satus, and Ahtanum Creeks.
H. Collect Field Data for MY 25 juveniles	4/1/2025	7/1/2025	Inactive	Operate rotary screw trap during the steelhead smolt outmigration season April through June. lengths, weights, PIT tag
I. Collect Field Data for MY 26 juveniles	10/1/2025	3/31/2026	Inactive	Operate rotary screw trap during the steelhead smolt outmigration season October through March. Length, Weight, PIT tag
J. Install screw traps	10/15/2025	10/15/2025	Inactive	Screw traps are installed for the season.



Milestone Title	Start Date	End Date	Status	Milestone Description
Deliverable: K. Use data from screwtrap to produce accessible, error-checked datasets		3/31/2026	Inactive	See the Deliverable Specification above

J: 157. Collect/Generate/Validate Field and Lab Data

Title: Conduct steelhead and bull trout spawner surveys

Description: Spawning surveys: Three pass Redd Count Surveys are conducted on Satus and Ahtanum watersheds for steelhead. (Toppenish Creek is covered under the BiOp M&E Toppenish Creek contract under this project.) Surveys are typically performed between mid-March and mid-May. 114 miles of stream (Satus = 82 miles, Ahtanum=32 miles) are surveyed (during each pass) including most known steelhead spawning habitat. At this time redd counts are the most reliable way to assess trends in steelhead spawning escapement and are critical to evaluating the success of this project. Ahtanum surveys will be completed only if staff and volunteers are available and conditions permit. We will use a portable instream PIT tag array located above the confluence on the mainstem Ahtanum Creek to estimate adult escapement to spawning habitat and determine the number of adult steelhead per redd in the mainstem Ahtanum Creek steelhead spawning habitat. All adult steelhead that enter the Denile fish trap at Prosser Dam on the Yakima River are now PIT tagged by the Yakama Nation (10 to 20 percent of the Yakima MPG run). A total count at the dam is obtained with video counting equipment. YN is able to disaggregate the total Prosser count into separate populations by detecting the number passing different points where antennae are installed. In addition to an adult steelhead escapement estimate we will use this estimate of adult abundance to determine the number of fish/redd. Fish per redd and fish per spawner will be used to evaluate freshwater productivity of the Ahtanum population. Assist other agencies Bull Trout (3 miles upper South Fork Ahtanum) in the Ahtanum watershed.

Deliverable Specification: Redd counts for Satus, Toppenish, and Ahtanum Creeks for Steelhead and bull trout.

Notes:

1. In your annual report (WE 132), you are required to provide a link to your data set with a file name in the report's first appendix. If not web accessible, provide instructions (e.g., file name, directory, or position title) for accessing data.
2. Any derived data will be produced under work element 162, Analyze Data.

Work Element Budget:

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Population Status
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Tributary Habitat

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US **NPCC Subbasin:** Yakima

State: WA **HUC5 Watershed:** Simcoe Creek

County: Yakima **HUC6 Name:** Agency Creek

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Study Plan: YRWP Adult steelhead abundance (1996-035-01) v1.0

Study Plan Owner: Tim Resseguie

Protocol: YRWP Adult steelhead abundance (1996-035-01) v1.0

Protocol State: Finalized

Protocol Owner: Tim Resseguie

Sample Design: Conduct steelhead spawning surveys in Toppenish Creek - Yakama Confederated Tribes v1.0

Methods:

ID	Title	Type	Optional	Customized Based On	Status
195	Estimating Adult Spawner Abundance v1.0	Data Collection	No	N/A	Finalized
402	Fish per redd v1.0	Data Analysis/Interpretation	No	N/A	Finalized
131	Redd Count Survey v1.0	Data Collection	No	N/A	Finalized
4112	Redd Density v1.0	Data Analysis/Interpretation	No	N/A	Finalized



Metrics:

Title	Category	Subcategory	Subcategory focus 1	Subcategory focus 2
adult steelhead abundance	Fish	Abundance of Fish (ID: 46)	Fish Life Stage: Adult Fish	Fish Origin: Natural
Steelhead redd count (an index of adult spawner abundance)	Fish	Abundance of Fish (ID: 46)	Fish Life Stage: Adult - Spawner	Fish Origin: Natural

Data Repositories:

Status and Trends Annual Reporting Project (STAR) [\(http://dashboard.yakamafish-star.net/\)](http://dashboard.yakamafish-star.net/)
 Yakama Nation Dashboard
 Yakima-Klickitat Fisheries Project website <http://www.ykfp.org>

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Review, revise, and finalize study plan sample design protocol and methods in MonitoringResources.org	4/1/2025	11/1/2025	Inactive	The Study Plan's Sample Design, Protocol and Methods for this work element are stored at MonitoringResources.org and need to be completed (i.e., "Finalized" through MonitoringResources.org), preferably prior to data collection. Preparations for contract renewals must include reviewing any previously finalized Sample Designs, Protocols & Methods to ensure that they are consistent with how work will be done in any subsequent contract.
C. Implement Study Plan	4/1/2025	11/1/2025	Inactive	Implement the study plan's protocols and sample design consistent with the WE description and methods in the SOW. The start date of this milestone is used to set the completion date for the EC milestone.
D. Secure data back-up	4/1/2025	3/31/2026	Inactive	Minimum requirements: Hard copies of field sheets and original dataloggers secured against fire and flood. At least daily data back-up of electronic data on a separate hard drive. Secure cloud-based or off-site location data back-up to preclude catastrophic data loss at least weekly. More frequent cloud/off-site back-up is greatly encouraged. [Timing guidance: from beginning to end of contract]
E. Yearly upload of error-checked datasets	4/1/2025	3/31/2026	Inactive	Upload datasets with associated metadata to a publicly accessible site each year as soon as they have been QA/QC checked. This generally happens within 6 months for direct field-to-database input, but may be longer if laboratory analysis is required (e.g., scale reading or genetic analyses). If data is not QA/QCed within 1 year, data must be made accessible with acknowledgement of QA/QC limitations. Periods for dataset collection should be no longer than a year, and coincide with the logical biology of the data collection, which may not be on a calendar year. Example of a dataset: redd counts for one species for one season for a particular brood year. Dataset upload requirements apply to both original and derived data, which should be at a level of quality suitable for release to resource co-managers to make decisions – not the rigor required as if you were going to use the data for a peer-reviewed publication.
F. Conduct redd count surveys for steelhead	4/1/2025	3/31/2026	Inactive	Complete 3 pass redd counts in Satus Creek including GPS locations of all redds. Conduct surveys in Ahtanum Creek if conditions allow.
G. Assist other Agencies with bull trout surveys	9/1/2025	10/16/2025	Inactive	Assist WDFW with Survey on the South Fork Ahtanum creek with Bull trout surveys.
Deliverable: H. Complete 3 pass surveys in Ahtanum and Satus Creeks		3/31/2026	Inactive	See the Deliverable Specification above

K: 157. Collect/Generate/Validate Field and Lab Data

Title:

Collect water temperature data

Description:

Water Temperature: Hobo temp dataloggers are deployed at 40 sites annually between April and October (some are in place year round). Some sites are used for long term monitoring and others are established to monitor the effects of specific restoration projects (e.g. Mid Toppenish Grade Control Project) or management actions (e.g. water withdrawal at the Olney Lateral Diversion) on in-stream water temperatures. Restoration projects near temperature



monitoring sites: Panther Creek road crossing meadow restoration, Graves culvert removal, Mid Toppenish Grade Control Project, Satus Side Channel, Salus Dam Removal, Lincoln Meadows Restoration, Lakebeds Road Rehabilitation, Ahtanum Side Channel Instream flow compliance at most diversions

Deliverable Specification: Water temperature data for 3 watersheds.

Notes:

1. In your annual report (WE 132), you are required to provide a link to your data set with a file name in the report's first appendix. If not web accessible, provide instructions (e.g., file name, directory, or position title) for accessing data.

2. Any derived data will be produced under work element 162, Analyze Data.

Water temperature data had been uploaded to the NorWeST database. However, they have not maintained it, and newer data is not available, but is kept by Yakama Nation Staff.

Work Element Budget:

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Tributary Habitat
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Population Status

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US **NPCC Subbasin:** Yakima

State: WA **HUC5 Watershed:** Multiple

County: Klickitat | Yakima **HUC6 Name:** Multiple

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Study Plan: YRWP continuous temperature monitoring (1996-035-01) v1.0

Study Plan Owner: Tim Resseguie

Protocol: Assessing limiting factors for steelhead production v1.0

Protocol State: Finalized

Protocol Owner: Tim Resseguie

Sample Design: Collect water temperature data - Yakama Nation_7 v1.0

Methods:

ID	Title	Type	Optional	Customized Based On	Status
6575	Calculating stream temperature metrics for trout streams v1.0	Data Analysis/Interpretation	No	N/A	Finalized
1451	Stream Cross-sectional Discharge Measurement (wading) v1.0	Data Collection	No	N/A	Finalized
319	Water Temperature - Data Logger v1.0	Data Collection	No	N/A	Finalized

Metrics:

Title	Category	Subcategory	Subcategory focus 1	Subcategory focus 2
Continuous water temperature	Water Quality	Water Temperature (ID: 162)	NA	NA
stream discharge	Hydrology/Water Quantity	Flow (ID: 104)	NA	NA

Data Repositories: NorWeST Regional Stream Temperature Database (https://data.fs.usda.gov/geodata/edw/datasets.php?xmlKeyword=norwest_temperature)
StreamNet Data Store (https://app.streamnet.org/datastore_search_classic.cfm)
STORET Data Warehouse (<http://www.epa.gov/storet/dbtop.html>)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.



Milestone Title	Start Date	End Date	Status	Milestone Description
B. Review, revise, and finalize study plan sample design protocol and methods in MonitoringResources.org	4/1/2025	2/28/2026	Inactive	The Study Plan's Sample Design, Protocol and Methods for this work element are stored at MonitoringResources.org and need to be completed (i.e., "Finalized" through MonitoringResources.org), preferably prior to data collection. Preparations for contract renewals must include reviewing any previously finalized Sample Designs, Protocols & Methods to ensure that they are consistent with how work will be done in any subsequent contract.
C. Implement Study Plan	4/1/2025	2/28/2026	Inactive	Implement the study plan's protocols and sample design consistent with the WE description and methods in the SOW. The start date of this milestone is used to set the completion date for the EC milestone.
D. Secure data back-up	4/1/2025	3/31/2026	Inactive	Minimum requirements: Hard copies of field sheets and original dataloggers secured against fire and flood. At least daily data back-up of electronic data on a separate hard drive. Secure cloud-based or off-site location data back-up to preclude catastrophic data loss at least weekly. More frequent cloud/off-site back-up is greatly encouraged. [Timing guidance: from beginning to end of contract]
E. Yearly upload of error-checked datasets	4/1/2025	3/31/2026	Inactive	Upload datasets with associated metadata to a publicly accessible site each year as soon as they have been QA/QC checked. This generally happens within 6 months for direct field-to-database input, but may be longer if laboratory analysis is required (e.g., scale reading or genetic analyses). If data is not QA/QCed within 1 year, data must be made accessible with acknowledgement of QA/QC limitations. Periods for dataset collection should be no longer than a year, and coincide with the logical biology of the data collection, which may not be on a calendar year. Example of a dataset: redd counts for one species for one season for a particular brood year. Dataset upload requirements apply to both original and derived data, which should be at a level of quality suitable for release to resource co-managers to make decisions – not the rigor required as if you were going to use the data for a peer-reviewed publication.
F. Deploy and retrieve dataloggers	4/15/2025	3/31/2026	Inactive	Launch and deploy at the beginning of the season and retrieve at the end of the season or download loggers in the field.
G. Process and report data	10/16/2025	1/15/2026	Inactive	Process the data using available software and generate descriptive statistics and metrics for each site.
Deliverable: H. Water temperature record		3/31/2026	Inactive	See the Deliverable Specification above

L: 157. Collect/Generate/Validate Field and Lab Data

Title: Collect discharge measurements

Description: Discharge measurements: Manual discharges are measured at 37 sites in Ahtanum, Toppenish and Satus creeks. Most sites are permanent and measured weekly throughout the year providing valuable information to assess restoration projects that aim to improve stream function, and in turn, flow regime (i.e. greater summer base flows). Discharge measurements are invaluable for instream flow maintenance and water management. Measurements are used to develop and manage minimum instream flows in Ahtanum, Simcoe, and Toppenish Creeks. Manual discharges are also used to generate rating curves for stream gages, staff gages, and weir blades. Additional sites in the Satus watershed will be monitored as staff time permits.

Deliverable Specification: Weekly discharge measurements from at least 37 sites in the Satus, Toppenish, and Ahtanum Creeks.

Notes:

1. In your annual report (WE 132), you are required to provide a link to your data set with a file name in the report's first appendix. If not web accessible, provide instructions (e.g., file name, directory, or position title) for accessing data.
2. Any derived data will be produced under work element 162, Analyze Data.

Work Element Budget:**Planned Metrics:**

- * Primary R, M, and E Focal Strategy : Multiple Strategies
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Tributary Habitat

Locations:

37

Primary Focal Species:

Steelhead (O. mykiss) - Middle Columbia River DPS

Country:

US

NPCC Subbasin:

Yakima

State:

WA

HUC5 Watershed:

Multiple



DIVISION OF FISH AND WILDLIFE

County: Klickitat / Yakima
Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)
Study Plan: YRWP discharge measurements (1996-035-01) v1.0
Study Plan Owner: Tim Resseguie
Protocol: Stream discharge measurements (1996-035-01) v1.0
Protocol State: Draft
Protocol Owner: Tim Resseguie
Sample Design: Collect discharge measurements - Yakama Confederated Tribes v1.0
Methods:

ID	Title	Type	Optional	Customized Based On	Status
1451	Stream Cross-sectional Discharge Measurement (wading) v1.0	Data Collection	No	N/A	Finalized

Metrics:

Title	Category	Subcategory	Subcategory focus 1	Subcategory focus 2
Stream discharge	Hydrology/Water Quantity	Flow (ID: 104)	NA	NA

Data Repositories: Yakima-Klickitat Fisheries Project website (<http://www.ykfp.org>)
Status and Trends Annual Reporting Project [STAR] (<http://dashboard.yakamafish-star.net/>)
Yakama Nation Dashboard (<http://waterdata.usgs.gov/nwis>)
USGS National Water Information System (NWIS) database

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Review, revise, and finalize study plan sample design protocol and methods in MonitoringResources.org	4/1/2025	2/28/2026	Inactive	The Study Plan's Sample Design, Protocol and Methods for this work element are stored at MonitoringResources.org and need to be completed (i.e., "Finalized" through MonitoringResources.org), preferably prior to data collection. Preparations for contract renewals must include reviewing any previously finalized Sample Designs, Protocols & Methods to ensure that they are consistent with how work will be done in any subsequent contract.
C. Implement Study Plan	4/1/2025	2/28/2026	Inactive	Implement the study plan's protocols and sample design consistent with the WE description and methods in the SOW. The start date of this milestone is used to set the completion date for the EC milestone.
D. Secure data back-up	4/1/2025	3/31/2026	Inactive	Minimum requirements: Hard copies of field sheets and original dataloggers secured against fire and flood. At least daily data back-up of electronic data on a separate hard drive. Secure cloud-based or off-site location data back-up to preclude catastrophic data loss at least weekly. More frequent cloud/off-site back-up is greatly encouraged. [Timing guidance: from beginning to end of contract]
E. Yearly upload of error-checked datasets	4/1/2025	3/31/2026	Inactive	Upload datasets with associated metadata to a publicly accessible site each year as soon as they have been QA/QC checked. This generally happens within 6 months for direct field-to-database input, but may be longer if laboratory analysis is required (e.g., scale reading or genetic analyses). If data is not QA/QCed within 1 year, data must be made accessible with acknowledgement of QA/QC limitations. Periods for dataset collection should be no longer than a year, and coincide with the logical biology of the data collection, which may not be on a calendar year. Example of a dataset: redd counts for one species for one season for a particular brood year. Dataset upload requirements apply to both original and derived data, which should be at a level of quality suitable for release to resource co-managers to make decisions – not the rigor required as if you were going to use the data for a peer-reviewed publication.
F. Collect periodic manual discharge measurements	4/1/2025	3/31/2026	Inactive	We will collect wading discharge measurements weekly for sites critical to monitoring instream flows and periodically for other sites of interest.



Milestone Title	Start Date	End Date	Status	Milestone Description
Deliverable: G. Discharge measurements		3/31/2026	Inactive	See the Deliverable Specification above

M: 162. Analyze/Interpret Data

Title: Analyze redd count data

Description: We will evaluate the distribution of redd gps waypoints and generate adult abundance index.

Deliverable Specification: Redd distribution and adult abundance index
Data will be publicly accessible, with stipulations for limitations of use and data generator attribution. Additional implementation notes and analysis will be in the Annual Report, or attached to the protocol as implementation notes. A link to the data set with a file name in the report's first appendix will be in the Annual Report. If not web accessible, provide instructions (e.g., file name, directory, or position title) for accessing data.

Work Element Budget: [REDACTED]

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Population Status
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Tributary Habitat

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: NPCC Subbasin:

State: HUC5 Watershed:

County: HUC6 Name:

Salmonid ESUs Present:

Study Plan: YRWP Adult steelhead abundance (1996-035-01) v1.0

Study Plan Owner: Tim Resseguie

Protocol: YRWP Adult steelhead abundance (1996-035-01) v1.0

Protocol State: Finalized

Protocol Owner: Tim Resseguie

Sample Design: Analyze redd count data - Yakama Confederated Tribes v1.0

Methods:

ID	Title	Type	Optional	Customized Based On	Status
195	Estimating Adult Spawner Abundance v1.0	Data Collection	No	N/A	Finalized
402	Fish per redd v1.0	Data Analysis/Interpretation	No	N/A	Finalized
131	Redd Count Survey v1.0	Data Collection	No	N/A	Finalized
4112	Redd Density v1.0	Data Analysis/Interpretation	No	N/A	Finalized

Metrics:

Title	Category	Subcategory	Subcategory focus 1	Subcategory focus 2
adult steelhead abundance	Fish	Abundance of Fish (ID: 46)	Fish Life Stage: Adult Fish	Fish Origin: Natural
Steelhead redd count (an index of adult spawner abundance)	Fish	Abundance of Fish (ID: 46)	Fish Life Stage: Adult - Spawner	Fish Origin: Natural

Data Repositories:

Salmon Population Indicators (<https://catalog.data.gov/dataset/wdfw-salmonid-population-indicators-database-spi-metrics-and-indicators>)

Status and Trends Annual Reporting Project (STAR) (<http://dashboard.yakamafish-star.net/>)

Yakama Nation Dashboard

CAP Fish HLIs (CAX) (<https://cax.streamnet.org/>)

SalmonScape (<https://apps.wdfw.wa.gov/salmonscape/>)



Area of Inference:

Name	Value
Steelhead Summer-Winter	Satus Creek
Interior Columbia Pop. Name	
Steelhead Summer-Winter	Toppenish
Interior Columbia Pop. Name	
Steelhead Summer-Winter	Naches River
Interior Columbia Pop. Name	

Note:

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Review, revise, & finalize Study Plan sample design protocol and methods in monitoringResources.org	4/1/2025	2/28/2026	Inactive	The Study Plan's Sample Design, Protocol and Methods for this work element are stored at MonitoringResources.org and need to be completed (i.e., "Finalized" through MonitoringResources.org), preferably prior to data analysis but must be completed upon submittal of your annual report. Preparations for contract renewals must include reviewing any previously finalized Sample Designs, Protocols & Methods to ensure that they are consistent with how work will be done in any subsequent contract.
B. Analyze redd count distribution data.	4/1/2025	10/31/2025	Inactive	Assess steelhead spawner abundance and map spatial distribution of steelhead redds.
Deliverable: C. Redd distribution and adult abundance index		3/31/2026	Inactive	See the Deliverable Specification above

N: 162. Analyze/Interpret Data

Title: Analyze Steelhead Outmigrant Data

Description: Generate smolt outmigration estimates using screw trap catch data, assess timing and survival.

Deliverable Specification: Generate smolt outmigration estimates using screw trap catch data, assess timing and survival. Data will be publicly accessible, with stipulations for limitations of use and data generator attribution. Additional implementation notes and analysis will be in the Annual Report, or attached to the protocol as implementation notes. The data file/s will be stored in the data repository/ies specified in the contract. In your annual report (WE 132), you are required to provide a link to your data set with a file name in the report's first appendix. If not web accessible, provide instructions (e.g., file name, directory, or position title) for accessing data.

Work Element Budget:

Planned Metrics:

- * Primary R, M, and E Focal Strategy : Population Status
- * Primary R, M, and E Type : Status and Trend Monitoring
- * Secondary R, M, and E Type : Action Effectiveness Monitoring
- * Secondary R, M, and E Focal Strategy : Tributary Habitat

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: NPCC Subbasin:

State: HUC5 Watershed:

County: HUC6 Name:

Salmonid ESUs Present:

Study Plan: YRWP Juvenile steelhead outmigration (1996-035-01) v1.0

Study Plan Owner: Tim Resseguie

Protocol: YRWP Juvenile steelhead outmigration (1996-035-01) v1.0

Protocol State: Finalized

Protocol Owner: Tim Resseguie

Sample Design: Analyze smolt outmigration data - Yakama Confederated Tribes v1.0

Methods:

ID	Title	Type	Optional	Customized Based On	Status
485	Cormack-Jolly-Seber (CJS) Model v1.0	Data Analysis/Interpretation	No	N/A	Finalized
1734	Fish wet weight v1.0	Data Collection	No	N/A	Finalized
4041	Measuring Fish Length: Fork length v2.0	Data Collection	No	N/A	Finalized



1736	PIT tag marking procedures v1.0	Data Collection	No	N/A	Finalized
133	Rotary Screw Trap Deployment and Operation v1.0	Data Collection	No	N/A	Finalized
5519	Rotary Screw Trap Mark-Recapture Salmonid Outmigration Abundance Estimate v1.0	Data Analysis/Interpretation	No	N/A	Finalized
134	Trap Efficiency Testing v1.0	Data Collection	No	N/A	Finalized

Metrics:

Title	Category	Subcategory	Subcategory focus 1	Subcategory focus 2
Fish length	Fish	Length: Fish Species (ID: 75)	Fish Life Stage: Juvenile - Migrant	NA
Fish weight	Fish	Weight: Fish (ID: 206)	Fish Life Stage: Juvenile Fish	Fish Origin: Natural
Rotary screw trap juvenile steelhead daily catch	Fish	Abundance of Fish (ID: 46)	Fish Life Stage: Juvenile - Migrant	Fish Origin: Natural

Data Repositories: WDFW - JMX (<http://www.wdfw.wa.gov/>)
CAP Fish HLLs (CAX) (<https://cax.streamnet.org/>)

Area of Inference: Name Value
NPPC Subbasins YAKIMA
HUC4 - Sub Basin LOWER YAKIMA
Note:

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Review, revise, & finalize Study Plan sample design protocol and methods in monitoringResources.org	4/1/2025	12/29/2025	Inactive	The Study Plan's Sample Design, Protocol and Methods for this work element are stored at MonitoringResources.org and need to be completed (i.e., "Finalized" through MonitoringResources.org), preferably prior to data analysis but must be completed upon submittal of your annual report. Preparations for contract renewals must include reviewing any previously finalized Sample Designs, Protocols & Methods to ensure that they are consistent with how work will be done in any subsequent contract.
B. Analyze steelhead outmigrant abundance and timing	4/1/2025	3/31/2026	Inactive	Generate smolt outmigration estimates using screw trap catch data, assess timing and survival.
Deliverable: C. Steelhead outmigration metrics		3/31/2026	Inactive	See the Deliverable Specification above

O: 186. Operate and Maintain Habitat/Passage/Structure

Title: Assist with the operation of diversions and screens on Ahtanum Creek
Description: YRWP staff assist with the operation of the Wapato Irrigation Project's (WIP) upper and lower canals on Ahtanum Creek and monitor other canals. Project staff monitor the amount of intake into the diversion as well as instream flow. The purpose of this work is to assure the the YN's minimum instream flow criteria is met throughout the irrigation season. Staff collect information to support operation and do not physically operate the headgate. Staff manage the operation by making diversion amount change requests to WIP based on stream and canal flow measurements we take (wading discharge measurements.) Stream flow measurements are taken at 4 sites, and involve reading staff gages. Generally this takes 2 people 6hrs including the travel time. It is often necessary to take this series of measurements twice a week. These measurements are taken from April through the end of irrigation in October. The instream flow provided by this work affects 16 miles of Ahtanum Creek, and benefits both the rearing and adult life stages of steelhead, bulltrout, chinook and coho.

Deliverable Specification: Diversions regulated and screens maintained

Work Element Budget:

Planned Metrics: * # of miles of streambank protected by fence maintenance: 0.00
* # of acres protected by fence maintenance: 0.00

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS



DIVISION OF FISH AND WILDLIFE

Country: US
 State: WA
 County: Yakima
 Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

NPCC Subbasin: Yakima
 HUC5 Watershed: Ahtanum Creek
 HUC6 Name: Multiple

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff
B. Ensure that any O&M follows recommendations to minimize adverse impacts to lamprey	4/15/2025	10/15/2025	Inactive	Contractors should plan operations and maintenance to minimize negative impacts to lamprey by following guidance from these documents: Best Management Guidelines for Native Lampreys During In-water Work, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Pacific Lamprey Habitat Restoration Guide, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Exploring Techniques to Reduce Lamprey and Salmonid Entrainment into Canals, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Dredging white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Entrainment white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm
C. Removal of silt and/or gravel	4/1/2025	3/31/2026	Inactive	Ensure that any removal of substrate or sediment follows guidelines to protect lamprey. Dredging or removal of substrate can remove and kill multiple year classes of lamprey larvae and juveniles. Where lamprey are present, contractors should follow operation and maintenance guidelines from these documents: Best Management Guidelines for Native Lampreys During In-water Work, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Pacific Lamprey Habitat Restoration Guide, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Exploring Techniques to Reduce Lamprey and Salmonid Entrainment into Canals, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Dredging white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Entrainment white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Lamprey presence can be determined from this Data Basin map, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm , however this map does not show distribution everywhere due to limited data, so pre-project lamprey surveys should be done (as described in the USFWS lamprey Guidelines document) if the map does not show presence.
D. Make irrigation diversion amount change requests	4/1/2025	3/31/2026	Inactive	Recommend instream flow to Water code before irrigation season begins.
E. Collect stream and diversion discharge data to determine diversion amount	4/1/2025	3/31/2026	Inactive	Stream flow measurements are taken at 4 sites and involve reading staff gages. Generally, this takes 2 people 6hrs including the travel time. It is often necessary to take this series of measurements twice a week.
Deliverable: F. Diversions regulated and screens maintained		3/31/2026	Inactive	See the Deliverable Specification above



P: 186. Operate and Maintain Habitat/Passage/Structure

Title: Assist with operation of diversions and screens on Toppenish Creek

Description: Project staff collect information to support operation of 6 diversions in the Toppenish Creek watershed. Staff provide Wapato Irrigation Project and Tribal Water Code personnel flow measurements and recommendations on minimum instream flows. Project staff also coordinate with landowners to insure that diversions are run as efficiently as possible. Project staff monitor the amount of intake into the lateral as well as the instream flow throughout the summer irrigation season, however Wapato Irrigation Project staff actually operate the headgate during those months. The purpose of YRWP's involvement is to maintain an instream minimum flow and to insure that excess water from the Olney Lateral is not dumped as tailwater into Simcoe Creek, thus causing a false attraction of Toppenish steelhead into Simcoe Creek. Although no irrigation occurs during the winter months, the Olney Lateral is used by cattlemen for stock water year-round. Since the inception of the instream minimum flow in 2003, Project staff have found the habitat it creates (2.5 miles of previously dried up streambed) hold a significant number of juvenile steelhead. Staff also assist with maintenance of fish screens and notify water code when they are not operating properly.

Deliverable Specification: UCHRP staff will assist Wapato Irrigation Project, Bureau of Reclamation and Yakama Nation Water Code with the operation of fish screens on Toppenish Creek. This may include sharing discharge data, review of proposed operations changes and maintenance of the facilities themselves.

Work Element Budget: [REDACTED]

Planned Metrics:

- * # of miles of streambank protected by fence maintenance: 0.00
- * # of acres protected by fence maintenance: 0.00

Locations: 6

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US **NPCC Subbasin:** Yakima

State: WA **HUC5 Watershed:** Multiple

County: Yakima **HUC6 Name:** Multiple

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/1/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Ensure that any O&M follows recommendations to minimize adverse impacts to lamprey	4/1/2025	3/1/2026	Inactive	Contractors should plan operations and maintenance to minimize negative impacts to lamprey by following guidance from these documents: Best Management Guidelines for Native Lampreys During In-water Work, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Pacific Lamprey Habitat Restoration Guide, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Exploring Techniques to Reduce Lamprey and Salmonid Entrainment into Canals, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Dredging white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Entrainment white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm
C. Assist with the operation and maintenance of irrigation diversions and fish screens.	4/1/2025	3/31/2026	Inactive	Project staff will assist with the operation of irrigation diversions by taking discharge measurements and assisting YN Watercode and WIP with maintenance to ensure compliance with minimum instream flows. They will also maintain, repair, and clean the 4 fish screens installed by the YRWP project and assist with maintenance of other screens in the Toppenish watershed.
Deliverable: D. Assist with operations of diversions and screens on Toppenish Creek		3/31/2026	Inactive	See the Deliverable Specification above

Q: 186. Operate and Maintain Habitat/Passage/Structure

Title: Maintain stock tanks/livestock fences/improved springs

Description: Project staff maintains approximately 16 miles of riparian fence. Most of the range unit fencing is located along the



perimeter of the Project's leased range units. The riparian fence is distributed as follows: 10 miles in the Ahtanum watershed, 3 miles in the Toppenish Watershed and 3 miles in the Satus Watershed. Stock wells and their maintenance are necessary because meeting the instream minimum fish flow often necessitates the shutting down of the various irrigation ditches associated with Ahtanum and Toppenish Creeks. As the ditches are shut down, cattlemen still need water for stock, thus the need for stock wells. These wells were purchased through BPA funds and constructed in 2002. Range unit fencing and its maintenance is necessary because of the Project's lease of several important Range Units in the Satus and Loggy Creek Watersheds. If the range unit fences fall into disrepair, cattle from adjoining Range Units will be able to enter our units, and negatively impact those watersheds. Staff constantly monitor the various structures for condition and functionality. This includes site visits to all stock wells and stock tanks and visual review of all fencing. Structures not functioning are repaired or replaced as needed. Most if not all the work is done with Project employees. Major repairs or upgrades may be performed during down time in the off season (winter.) Structures will be in good repair and functioning during the times of year they are in use. If structures malfunction or break during times of use, Staff will repair them in a timely manner.

Deliverable Specification: Fences maintained.

Work Element Budget:

Planned Metrics:

* # of miles of streambank protected by fence maintenance: 16.00
 * # of acres protected by fence maintenance: 100.00

Locations:

30

Primary Focal Species:

Steelhead (O. mykiss) - Middle Columbia River DPS

Country:

US

NPCC Subbasin:

Yakima

State:

WA

HUC5 Watershed:

Multiple

County:

Yakima

HUC6 Name:

Multiple

Salmonid ESUs Present:

Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Ensure that any O&M follows recommendations to minimize adverse impacts to lamprey	4/1/2025	3/31/2026	Inactive	Contractors should plan operations and maintenance to minimize negative impacts to lamprey by following guidance from these documents: Best Management Guidelines for Native Lampreys During In-water Work, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Pacific Lamprey Habitat Restoration Guide, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Exploring Techniques to Reduce Lamprey and Salmonid Entrainment into Canals, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Dredging white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Entrainment white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm
C. Procure parts and supplies for pump installations	4/1/2025	3/31/2026	Inactive	Project may need to procure parts to maintain installations throughout the fiscal year.
D. Provide Final Metrics	4/1/2025	12/31/2025	Inactive	Verify implemented work is consistent with approved design plans and planned metrics and update final metrics in CB Fish.
E. Turn on livestock pumps and prepare installations for use	2/1/2026	3/31/2026	Inactive	Initial startup procedures followed at beginning of grazing season (Feb 1 - April 1) to be sure pumps and associated facilities are operating properly.
F. Maintain livestock fencing	4/1/2025	3/31/2026	Inactive	Staff will maintain range unit and riparian fencing throughout all three watersheds.
Deliverable: G. fences and maintained		3/31/2026	Inactive	See the Deliverable Specification above

R: 198. Maintain Vegetation



Title: Maintain vegetation

Description: Project staff maintain planted or pre-existing vegetation through physical and mechanical activities such as scalping, installing mats or mulch, mowing, and irrigating to prevent or reduce animal damage ten years after implementation. This work element is on each fiscal year to care for and maintain vegetation of restoration projects implemented using BPA funds.

If low survival occurred after the first year of planting, more plants will be added the second year and will be repeated as such until established. Project staff collect large numbers of willow, dogwood, and cottonwood cuttings for planting. Locations include all past restoration project sites where plantings were established as well as established monitoring sites.

Three-Way: year 6 of 10
Shaker Church: year 7 of 10
Simcoe West White Swan: Year 2 of 10

Deliverable Specification: Vegetation maintained

Work Element Budget:

Planned Metrics:

- * # of riparian miles treated: 0.75
- * # of acres of riparian wetland habitat treated: 2.70
- * # of years treated: 1
- * # of acres maintained: 23.00
- * Biological plant removal: No
- * Herbicide plant removal: No
- * Mechanical plant removal: Yes
- * Conduct controlled burn: No

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US

NPCC Subbasin: Yakima

State: WA

HUC5 Watershed: Multiple

County: Yakima

HUC6 Name: Multiple

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Maintain planted or pre-existing vegetation-Simcoe West White Swan	4/1/2025	3/31/2026	Inactive	Project staff maintain planted or pre-existing vegetation through physical and mechanical activities such as scalping, installing mats or mulch, mowing, and irrigating to prevent or reduce animal damage. Each past restoration project site is inspected annually and weeds removed mechanically if needed. For example at the 3 way levee removal project, the setback levee is inspected and vegetation removed if it affects its integrity. Project inspected for 10 years after completion. Simcoe West White Swan, Year 2 of 10. Additional trees and willows are to be planted, re-seeding if needed.
C. Maintain planted or pre-existing vegetation-Three Way Phase One	4/1/2025	3/31/2026	Inactive	Project staff maintain planted or pre-existing vegetation through physical and mechanical activities such as scalping, installing mats or mulch, mowing, and irrigating to prevent or reduce animal damage. Each past restoration project site is inspected annually and weeds removed mechanically if needed. For example at the 3 way levee removal project, the setback levee is inspected and vegetation removed if it affects its integrity. Project inspected for 10 years after completion. Three-Way Phase One: year 6 of 10 is to be observed, but may not receive additional treatments, however, it may involve some mechanical pulling of weeds.



Milestone Title	Start Date	End Date	Status	Milestone Description
D. Maintain planted or pre-existing vegetation-Shaker Church	4/1/2025	3/31/2026	Inactive	Project staff maintain planted or pre-existing vegetation through physical and mechanical activities such as scalping, installing mats or mulch, mowing, and irrigating to prevent or reduce animal damage. Each past restoration project site is inspected annually and weeds removed mechanically if needed. For example at the 3 way levee removal project, the setback levee is inspected and vegetation removed if it affects its integrity. Project inspected for 10 years after completion. Shaker Church: Year 7 of 10, mechanical pulling anticipated, no additional planting and seeding.
Deliverable: E. Vegetation maintained		3/31/2026	Inactive	See the Deliverable Specification above

S: 175. Produce Design

Title:

3-Way Phase II Levee Removal - Design Continuation

Description:

Yakama Nation Staff is working with NRCS on section 106 as they have been identified as the lead agency. It is recognized that BPA may need to complete independent NEPA analysis. A formal lead agency determination is pending. The BPA COR and HAL will be provided design iterations as they are developed and at EC will be provided the 60% to facilitate NEPA clearance. There is the potential that BPA funds may be used for implementation in 2025, therefore these designs will be provided to assure alignment.

Most of the design costs are covered by other funding sources and are being used as cost share.

This is a continuation from FY24 94506 WE Y, because the cultural resource program has identified the area has high risk, and requested additional time for review, surveys, and comment period on design iterations. Therefore, the project will continue to be designed in FY25, with implementation slated for 2025.

Project Description:

Toppenish Creek is important for listed aquatic species like steelhead (*Oncorhynchus mykiss*) and as a corridor through a semi-arid landscape for terrestrial and avian species within the Yakima watershed. A levee constructed in the 1970s limits the productivity of the floodplain and aquatic habitat at that location.

Levee removals/set-backs/breaching are an important and beneficial component of floodplain and side-channel reconnection projects. These projects are rarely limited to the simple removal of a levee and then leaving the river to passively recover. River channels adjust to the presence of levees in complex ways, and the effects often extend up and downstream. Levees can have a profound effect on flood conveyance, sediment transport, channel migration, large wood processes, vegetation conditions, and aquatic habitat. Just as the presence of levees affects these components, so does their removal or breaching. It is therefore critical to understand the consequences of levee modifications and to address those as part of design. This is typically performed via hydraulic modeling, sediment transport analysis, and fluvial geomorphological investigations. Inter-Fluve has performed these assessments, designs, and implementation for many levee modifications in the region, including the Phase I Toppenish 3-Way levee removal in 2019.

Engineered designs are needed to remove the levee safely and effectively on Toppenish Creek.

Deliverable Specification: Designs complete

Work Element Budget:



Locations:

1

Primary Focal Species:

Steelhead (*O. mykiss*) - Middle Columbia River DPS

Country:

US

NPCC Subbasin:

Yakima

State:

WA

HUC5 Watershed:

Toppenish Creek

County:

Yakima

HUC6 Name:

Olney Creek-Toppenish Creek

Salmonid ESUs Present:

Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	8/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.



Milestone Title	Start Date	End Date	Status	Milestone Description
B. Reduce or Eliminate Impacts to Native Mussels (Genera Anodonta, Margaritifera, and Gonidea)	4/1/2025	8/1/2025	Inactive	(If the project involves in water work and Native Freshwater Mussels are potentially present in the project area use this milestone.) Incorporate into the plan/design methods and considerations to reduce, minimize or avoid harm to Native Freshwater Mussels. Follow Best Management Practices when developing these plans found in the "Mussel-Friendly Restoration" guide (https://xerces.org/sites/default/files/publications/19-013.pdf) and "Conserving the Gems of Our Waters" Best Management Practices Manual (https://xerces.org/sites/default/files/2018-05/18-001_01_XercesSoc_Protecting-Native-Western-Freshwater-Mussels-BMPs_web.pdf).
C. Provide projected construction start date to BPA COR and EC	4/1/2025	7/1/2025	Inactive	Provide month and year of projected construction start date to assist in project planning, environmental compliance, planning and design review timelines. Provide during conceptual design stage and no later than 15% design. Include in WE description if possible.
D. Determine cost estimate, permitting, construction, and M&E	5/1/2025	7/1/2025	Inactive	All designs shall include an engineer's construction estimate (including, but not limited to): volume of materials and cost per volume, hours and rates for each person, equipment hours and rates, delivery costs, travel and per diem costs, and supplies
E. Cultural resource clearance obtained	4/1/2025	8/1/2025	Inactive	If planning or design work requires ground disturbance including but not limited to geotechnical surveys, ground water monitoring, or well exploration, obtain appropriate cultural resources consultation prior to any ground disturbance. Notify EC Lead well in advance of ground disturbing work. On-the-ground work associated with this work element may not proceed until this milestone is concluded. Milestone is concluded when BPA environmental compliance staff provides final documentation.
F. NEPA clearance obtained	6/12/2025	8/1/2025	Inactive	Project shall not proceed without NEPA sign-off from BPA EC Lead.
G. Upload final design set	6/12/2025	8/1/2025	Inactive	Upload final approved design plan set and basis of design to the contract documents and notify COR and EC lead when complete.
H. Subcontractor hired for implementation	7/1/2025	8/1/2025	Inactive	Sponsors shall follow their own procurement process, so long as there is no conflict of interest. Provide BPA COR the updated subcontract budget.
Deliverable: I. Designs complete		8/1/2025	Inactive	See the Deliverable Specification above

T: 180. Enhance Floodplain/Remove, Modify, Breach Dike

Title:

3way phase II Levee Removal

Description:

Toppenish Creek is important for listed aquatic species like steelhead (*Oncorhynchus mykiss*) and as a corridor through a semi-arid landscape for terrestrial and avian species within the Yakima watershed. A levee constructed in the 1970s limits the productivity of the floodplain and aquatic habitat at that location.

Levee removals/set-backs/breaching are an important and beneficial component of floodplain and side-channel reconnection projects. These projects are rarely limited to the simple removal of a levee and then leaving the river to passively recover. River channels adjust to the presence of levees in complex ways, and the effects often extend up and downstream. Levees can have a profound effect on flood conveyance, sediment transport, channel migration, large wood processes, vegetation conditions, and aquatic habitat. Just as the presence of levees affects these components, so does their removal or breaching. It is therefore critical to understand the consequences of levee modifications and to address those as part of design. This is typically performed via hydraulic modeling, sediment transport analysis, and fluvial geomorphological investigations. Inter-Fluve has performed these assessments, designs, and implementation for many levee modifications in the region, including the Phase I Toppenish 3-Way levee removal in 2019.

Removal of 0.4 miles of levee on Toppenish Creek at River Mile 42 and the construction of new channels a and floodplain to restore conditions prior to the construction of the levee in the mid 1970s

Deliverable Specification:

UCHRP staff will complete 0.4 miles of levee removal.

Work Element Budget:

Planned Metrics:

- * # of miles of habitat accessed to the next upstream barrier(s) or likely limit of habitable range: 0.00
- * # of acres of riparian non-wetland habitat treated: 40.00
- * # of acres of habitat treated by full dike removal in the Riparian zone: 20.00
- * # of acres of habitat treated by full dike removal in the Estuarine zone: 0.00
- * # of acres of habitat treated by full dike removal in the Freshwater Non-Tidal zone: 0.00
- * # of acres of habitat treated by dike breaching in the Riparian zone: 0.00



- * # of acres of habitat treated by dike breaching in the Estuarine zone: 0.00
- * # of acres of habitat treated by dike breaching in the Freshwater Non-Tidal zone: 0.00
- * # of acres of habitat treated by dike setbacks in the Riparian zone: 0.00
- * # of acres of habitat treated by dike setbacks in the Estuarine zone: 0.00
- * # of acres of habitat treated by dike setbacks in the Freshwater Non-Tidal zone: 0.00
- * # of miles of dike removed or modified by Full removal in the Riparian zone: 0.40
- * Full dike removal: Yes
- * Partial dike removal: No
- * Dike breaching: No
- * Dike setback: No
- * Dike height reduction: No
- * # of miles of dike removed or treated: 0.40

Locations:

Primary Focal Species:

Country:

State:

County:

Salmonid ESUs Present:

Steelhead (O. mykiss) - Middle Columbia River DPS

US

WA

Yakima

Middle Columbia River Steelhead DPS (Accessible)

NPCC Subbasin:

Yakima

HUC5 Watershed:

Toppenish Creek

HUC6 Name:

Mill Creek-Toppenish Creek

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	8/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Supplies/materials/equipment delivered	4/1/2025	8/1/2025	Inactive	Materials necessary for completion of restoration actions acquired and staged onsite.
C. Implement approved habitat design	8/1/2025	10/31/2025	Inactive	Implement habitat actions in accordance with approved plan set. Milestone dates include staging and site cleanup and all in-water work will be conducted during the approved in-water work window.
D. Seed or stabilize areas disturbed by construction activities	8/1/2025	3/31/2026	Inactive	Seed or stabilize disturbed areas with native seed mix in accordance with designs and permit requirements.
E. Excess spoils disposed of in accordance with approved designs	8/1/2025	3/31/2026	Inactive	Spoils from levee/berm/dike modification will be disposed of in accordance with approved design set.
Deliverable: F. Completed Three Way Phase II habitat restoration project		3/31/2026	Inactive	See the Deliverable Specification above

U: 29. Increase Aquatic and/or Floodplain Complexity

Title:

3way phase II Levee Removal

Description:

Toppenish Creek is important for listed aquatic species like steelhead (*Oncorhynchus mykiss*) and as a corridor through a semi-arid landscape for terrestrial and avian species within the Yakima watershed. A levee constructed in the 1970s limits the productivity of the floodplain and aquatic habitat at that location.

Following levee removal aquatic and floodplain complexity will be enhanced through the addition of 600 individual pieces of LWD, channel spanning jams, 3 apex jams, 87 meander jams, resulting in the creation of 20 pools. Complexity will be enhanced along 1 miles of main and side channel and 20 acres of floodplain is expected to be activated at 240 cfs flow.

Aquatic and floodplain complexity will be completed by 11/1/2025

Deliverable Specification:

90 log jam structures installed and as built uploaded to cbfish.

Work Element Budget:

[REDACTED]

Planned Metrics:

- * # of miles of stream with improved complexity: 1.00
- * Start latitude of treated stream reach: 46.329061
- * End latitude of treated stream reach: 46.320371



* Start longitude of treated stream reach: -120.770000
 * End longitude of treated stream reach: -120.777429
 * # of logjam structures installed for only complexity: 90
 * # of pools created for only complexity: 20
 1

Locations:
Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS
Country: US **NPCC Subbasin:** Yakima
State: WA **HUC5 Watershed:** Toppenish Creek
County: Yakima **HUC6 Name:** Mill Creek-Toppenish Creek
Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	8/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Acquire/harvest woody material	4/1/2025	8/1/2025	Inactive	Large wood material and slash meeting the design specification will be purchased and staged onsite in the approved staging areas.
C. Implement approved habitat design	8/1/2025	10/31/2025	Inactive	Implement habitat actions in accordance with approved plan set. Milestone dates include staging and site cleanup and all in-water work will be conducted during the approved in-water work window or extension. If an extension is granted it shall be uploaded to the contract documents and e-mailed to the COR and EC lead.
D. Materials for structure composition obtained (logs, boulders, ect.)	4/1/2025	10/31/2025	Inactive	Materials necessary for completion of structures acquired and staged onsite.
E. Provide final metrics	4/1/2025	3/31/2026	Inactive	Verify implemented work is consistent with planned metrics and update final metrics in cbfish.
Deliverable: F. Floodplain Enhancement Complete		3/31/2026	Inactive	See the Deliverable Specification above

V: 47. Plant Vegetation

Title: 3way phase II Levee Removal
Description: Toppenish Creek is important for listed aquatic species like steelhead (*Oncorhynchus mykiss*) and as a corridor through a semi-arid landscape for terrestrial and avian species within the Yakima watershed. A levee constructed in the 1970s limits the productivity of the floodplain and aquatic habitat at that location.

 After removal, planting will occur on flood plain, area where dike is

 500 PLANTS/TREES/SHRUBS will be planted on 10 acres consisting of cottonwood, willow, alder, wild rose etc. and native grasses

Deliverable Specification: PLANTING/SEEDING will be completed by SUBCONTRACTOR.
 10 acres of habitat reseeded and planted with native vegetation.

Work Element Budget:

Planned Metrics:
 * # of riparian miles treated: 0.50
 * # of acres of upland non-wetland habitat treated: 3.00
 * # of acres of upland wetland habitat treated: 3.70
 * # of acres of riparian non-wetland habitat treated: 2.00
 * # of acres of riparian wetland habitat treated: 3.00

Locations: 1
Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS
Country: US **NPCC Subbasin:** Yakima
State: WA **HUC5 Watershed:** Toppenish Creek
County: Yakima **HUC6 Name:** Mill Creek-Toppenish Creek
Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	7/31/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Fall tree and shrub planting	8/1/2025	11/28/2025	Inactive	Plant trees and shrubs in accordance with approved plan set. Milestone dates should include a planting window appropriate to assure reasonable plant survival.
C. Herbaceous Seeding	8/1/2025	11/28/2025	Inactive	Seed areas with native seed in accordance with the approved plan set to enhance herbaceous cover of grasses and forbs. Milestone dates should include a planting window appropriate to assure reasonable plant survival.
D. Provide Final Metrics	12/1/2025	3/31/2026	Inactive	Verify implemented work is consistent with approved design plans and planned metrics and update final metrics in cbfish. Only the initial planting and seeding efforts for the purpose of enhancing degraded areas shall be reported. Metrics reporting shall include seeding for vegetation enhancement but shall not include post construction seeding with the sole purpose of stabilizing soils disturbed by construction. Planting area acreage shall only be reported in the plant vegetation metrics once even if replanting or multiple methods (planting and seeding) are utilized on the same acreage.
Deliverable: E. Revegetation completed		3/31/2026	Inactive	See the Deliverable Specification above

W: 30. Realign, Connect, and/or Create Channel**Title:** 3way phase II Levee Removal**Description:** Toppenish Creek is important for listed aquatic species like steelhead (*Oncorhynchus mykiss*) and as a corridor through a semi-arid landscape for terrestrial and avian species within the Yakima watershed. A levee constructed in the 1970s limits the productivity of the floodplain and aquatic habitat at that location.

After removing the levee on site we will create a 3/4 mile of new meandering channel to replace 1/2 mile of straightened channel. Additionally, 4 high flow side channels that will activate approximately a mile during late spring/early summer and 2 alcoves will be created.

Deliverable Specification: Meanders in main channel and 4 high flow side channels created.**Work Element Budget:****Planned Metrics:**

- * Start latitude of treated stream reach: 46.328922
- * End latitude of treated stream reach: 46.319267
- * Start longitude of treated stream reach: -120.771010
- * End longitude of treated stream reach: -120.778116
- * # of acres of freshwater non-wetland habitat treated: 20.00
- * # of miles of side channel treated in the freshwater non-tidal zone: 0.00
- * # of miles of main channel treated in the freshwater non-tidal zone: 0.50
- * # of miles of side channel created in the freshwater non-tidal zone: 1.00
- * # of miles of main channel created in the freshwater non-tidal zone: 0.50

Locations:**Primary Focal Species:** Steelhead (*O. mykiss*) - Middle Columbia River DPS**Country:** US**NPCC Subbasin:** Yakima**State:** WA**HUC5 Watershed:** Toppenish Creek**County:** Yakima**HUC6 Name:** Mill Creek-Toppenish Creek**Salmonid ESUs Present:** Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	8/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Conduct fish salvage	8/1/2025	10/31/2025	Inactive	Conduct fish salvage within any reaches directly impacted by construction or that will be dewatered as flow is moved to new channel segments.
C. Conduct out of water channel grading	8/1/2025	10/31/2025	Inactive	Conduct channel grading activities that are isolated from stream flows and can be completed outside of the in-water work window.



Milestone Title	Start Date	End Date	Status	Milestone Description
D. Fill old channel segments and complete in-water work	8/1/2025	10/31/2025	Inactive	Fill old channel segments upon the completion of fish salvage and dewatering efforts in accordance with approved design plan.
E. Implement approved habitat design	8/1/2025	10/31/2025	Inactive	Implement habitat actions in accordance with approved plan set. Milestone dates include staging and site cleanup and all in-water work will be conducted during the approved in-water work window or extension.
F. Introduce stream flows to new main/side channel (s)	8/1/2025	10/31/2025	Inactive	Route flow into new main and perennial side channel segments in a controlled and metered manner that minimizes downstream turbidity due to the wetting of the new channel segments.
G. Provide final metrics	8/1/2025	3/31/2026	Inactive	Verify implemented work is consistent with planned metrics and update final metrics in cbfish.
H. Begin construction	8/1/2025	10/31/2025	Inactive	[ENTER INFORMATION ON CONSTRUCTION SPECIFICS HERE] Start date is the planned earliest date that you will be implementing on the ground work. End date is latest date that construction could begin during in-water work window.
Deliverable: I. Completed channel construction		3/31/2026	Inactive	See the Deliverable Specification above

X: 100. Construction Management

Title:

Pom Pom RM 40 Bridge and Channel Construction - Construction Management

Description:

Construction management will include technical and contractual oversight for the implementation of [Pom Pom RM 40 Bridge and Channel Construction] as outlined in the milestones. KPFF and Interfluv project staff will provide construction oversight, contract administration, and assure the project is completed in accordance with the BPA approved designs for the bridge/culverts and restoration, respectively. BPA approved designs shall not be altered without cause and communication. If modifications are required to approved design elements or elements are significantly altered or not implemented due to unanticipated site conditions approval shall be obtained in writing from the BPA COR as soon as possible and prior to contractor demobilization. Documentation of alterations and approvals shall be uploaded to the contract documents.

The design engineers, KPFF and Interfluv, will be subcontracted to provide technical oversight during construction in addition to the construction oversight provided by project staff. Engineering oversight will include being on site during installation of the bridge, water main, and three culverts at a minimum, but may also include oversight for channel construction, or their subcontractor Indicator will be present.

Deliverable Specification:

1) Collect and review construction logs; 2) Review/approve change order requests (Contractor shall consult with BPA CO (in consultation with BPA COR) on any desired change orders before directing the construction contractor to make them); 3) Review subcontractor's requests for payments.

Work Element Budget:



Primary Focal Species:

Steelhead (O. mykiss) - Middle Columbia River DPS

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Engineering construction oversight	8/1/2025	3/31/2026	Inactive	The design engineers will be subcontracted to provide technical oversight during construction as outlined in the work element description.
B. Advertise construction contracts	5/1/2025	7/1/2025	Inactive	YN will competitively advertise (following federal contracting guidelines) contracts for 1) construction of the Pom Pom roadway/bridge, and 2) the Toppenish Creek restoration actions.
C. Award construction contracts	6/1/2025	8/31/2025	Inactive	YN will award contracts to selected contractors for 1) construction of the Pom Pom roadway/bridge, and 2) the Toppenish Creek restoration actions.
D. Provide construction inspection	9/1/2025	3/31/2026	Inactive	YN will work with Engineering contractor(s) to oversee and inspect ensure project is constructed according to plans and in compliance with permitting and funding requirements. YN will notify BPA CO and COR when construction inspection is complete.
E. As-built survey	2/3/2026	3/31/2026	Inactive	An as-built survey will be completed upon project completion and approval and uploaded to the contract documents. The COR will be notified upon completion.



Milestone Title	Start Date	End Date	Status	Milestone Description
F. Oversee demobilization and site cleanup	3/3/2026	3/31/2026	Inactive	Upon completion of the work and contract manager approval the construction contractor will demobilize equipment, remove temporary access roads and staging areas, clean and stabilize disturbed areas and submit final invoices for approval.
G. Approve implemented work	8/1/2025	3/31/2026	Inactive	Ensure all work is completed as designed and adjustments made within the in-stream work window. The BPA COR and EC Lead shall be notified if there are deviations from the BPA approved design and prior to completion.
H. Engineering construction oversight	8/1/2025	3/31/2026	Inactive	The design engineers (KPFF and Interfluve) will be subcontracted to provide technical oversight during construction as outlined in the work element description.
I. Project stake-out	8/1/2025	11/29/2025	Inactive	The project will be staked out just prior to construction. If alterations to the approved project design are required the COR, HAL, and EC will be contacted to discuss the proposed changes.
J. Assure implementation is in accordance with BPA approved designs	8/1/2025	3/31/2026	Inactive	BPA approved designs shall not be altered without cause and communication. If modifications are required to approved design elements or elements are significantly altered or not implemented due to unanticipated site conditions approval shall be obtained in writing from the BPA COR as soon as possible and prior to contractor demobilization.
K. Oversee Mobilization and staging	8/1/2025	9/30/2025	Inactive	Oversee construction contractor mobilization of equipment and material staging within approved staging areas. Oversight shall include assuring that sourced materials meet specifications.
Deliverable: L. Construction Management Complete		3/31/2026	Inactive	See the Deliverable Specification above

Y: 30. Realign, Connect, and/or Create Channel

Title:

Pom Pom RM 40 Bridge Construction and Channel Alignment

Description:

Pom Pom RM 40 construction will be phased over a two-year period, provided revised specifications under the 150' bridge meet HIP requirements. Yakama Nation will bid out the construction for the bridge and culverts, and any replanting / revegetation associated with it once the ESA and NEPA obligations are satisfied. The first phase of the project will include the installation of a new bridge and creation of the 200 feet of new channel alignment, UNDER the bridge, that will be activated during the second phase of the project. Three high flow culverts will also be installed to facilitate floodplain connectivity realized in phase 2 of the project. The second phase of the project will be partially completed in 2025, with completion in 2026. Additional funding and will be included in a future agreement.

In the line-item budget, Yakama nation staff has put elements that are aligned with channel reconstruction, planting, and revegetation. The rest of the construction elements for the bridge, culverts, and water main are to be funded with Yakama Nation Transportation Funds, a Water-Smart grant, and the Toppenish Creek Corridor Enhancement Project.

In the event that designs need to be altered, or a biological assessment pursued, Yakama Nation will work with BPA staff for a re-alignment of funds during the agreement performance period.

HIGH LEVEL PRIORITIZATION

Location RM40 near Pom Pom Road this reach was selected after Interfluve conducted an assessment of Upper Toppenish Creek to determine levels of degradation and limiting habitat factors. Pom Pom area was identified as an area of high concern due to the high level of incision (10 - 15 feet deep) and lack of floodplain connectivity. It appeared the channel was mechanically moved at some point in the past thus abandoning up to 1 river mile of complex habitat, established riparian vegetation, and braided channel network. The abandoned channel to the north also has a spring line that feeds the channel supplying year-round cold water that is critical for steelhead juveniles when rearing during the summer months.

There is little to no riparian vegetation in the current channel alignment to provide stability to the soils and provide shade for steelhead, there is no instream large wood for habitat complexity for staging and rearing, and due to this area being highly degraded, adult steelhead have not used it for spawning for a decade. The riparian vegetation that was present before the Slide Ranch Fire burned the project area in 2024, was largely destroyed by the high intensity burn. This 2025/2026 restoration project will also focus on restoring the riparian and floodplain vegetation communities.

Toppenish Creek is critical for Middle Columbia Steelhead, and reconnecting Toppenish Creek to existing complexity habitats and the spring line to the north will be benefit to all life stages of Steelhead for spawning, rearing, holding, and protection. Habitat complexity will increase with the addition of instream woody debris, removal of fish passage barriers, and availability of spawning gravels, while reconnecting the historic floodplain and healthy riparian corridor.

Deliverable Specification:

Subcontractor will complete phase 1 of channel construction (work in the dry).



Work Element Budget:

[Redacted Budget Information]

Planned Metrics:

- * Start latitude of treated stream reach: 46.341100
- * End latitude of treated stream reach: 46.341411
- * Start longitude of treated stream reach: -120.712304
- * End longitude of treated stream reach: -120.710858
- * # of acres of freshwater non-wetland habitat treated: 0.00
- * # of miles of main channel treated in the freshwater non-tidal zone: 0.00
- * # of miles of main channel created in the freshwater non-tidal zone: 0.00

Locations:

Primary Focal Species:

Steelhead (O. mykiss) - Middle Columbia River DPS

Country:

US

NPCC Subbasin:

Yakima

State:

WA

HUC5 Watershed:

Toppenish Creek

County:

Yakima

HUC6 Name:

Mill Creek-Toppenish Creek

Salmonid ESUs Present:

Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	6/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Initiate Implementation of approved habitat design	8/1/2025	3/31/2026	Inactive	Initiate Implementation habitat actions in accordance with approved plan set. Milestone dates include staging and site cleanup and all in-water work will be conducted during the approved in-water work window or extension.
C. Initiate out of water channel grading	9/1/2025	3/1/2026	Inactive	Initiate channel grading activities that are isolated from stream flows and can be completed outside of the in-water work window.
D. Provide final metrics	3/1/2026	3/31/2026	Inactive	Work will not be completed until the end of 2026 so there will be no completed metrics during this contracting period.
Deliverable: E. Completed phase 1 of channel construction		3/31/2026	Inactive	See the Deliverable Specification above

Z: 85. Remove/Breach Fish Passage Barrier

Title:

Pom Pom RM 40 Bridge Construction and Channel Alignment

Description:

This work will provide perennial access to groundwater fed habitat with much greater hydraulic complexity than the existing channel which is severely incised and seasonally disconnected from groundwater fed springs. This will be accomplished through the removal of a fish passage barrier (perched culvert) and the strategic placement of a bridge over the improved floodplain habitat.

Barrier removal will be completed by a subcontractor following the construction designs completed by the subcontractor KPFF. The bridge and culverts will be constructed in 2025, but will not be connected to the restored channel habitat until the restoration is completed in 2026.

Deliverable Specification:

Bridge Installation Complete and as built uploaded to Cbfish.

Work Element Budget:

[Redacted Budget Information]

Planned Metrics:

- * # of miles of habitat accessed to the next upstream barrier(s) or likely limit of habitable range: 0.00
- * # of culvert partial passage barriers removed in the freshwater non-tidal zone: 1

Locations:

1

Primary Focal Species:

Steelhead (O. mykiss) - Middle Columbia River DPS

Country:

US

NPCC Subbasin:

Yakima

State:

WA

HUC5 Watershed:

Toppenish Creek

County:

Yakima

HUC6 Name:

Mill Creek-Toppenish Creek

Salmonid ESUs Present:

Middle Columbia River Steelhead DPS (Accessible)



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	7/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Implement approved bridge/culvert designs.	7/1/2025	3/31/2026	Inactive	Construction of approved bridge/culvert designs in accordance with approved plan set. This will require little or no in-water work and will be completed by a subcontractor.
C. Provide final metrics	7/1/2025	3/31/2026	Inactive	Verify implemented work is consistent with approved design plans and planned metrics and update final metrics in cbfish. Since the new bridge/culverts will not be connected to the new channel until the restoration is complete in 2026, there will be no completed metrics for this work element in 2025.
D. Supplies/materials/equipment delivered	7/1/2025	12/31/2025	Inactive	Materials necessary for completion barrier removal acquired and staged onsite.
E. Conduct fish salvage	7/1/2025	10/31/2025	Inactive	Conduct fish salvage within any reaches directly impacted by construction or that will be dewatered to complete construction. This may or may not be necessary depending on water levels at the time of construction.
F. Construct three culverts	7/1/2025	3/31/2026	Inactive	Three culverts will be constructed across the floodplain, between the newly constructed 150' bridge and an existing 80' bridge to the south according to the designs created by KPFF. The culverts are meant for flood relief across the floodplain, to protect the road, and prevent washing out of the new bridge and old bridge.
G. Construct 150' Bridge	7/1/2025	3/31/2026	Inactive	New 150' bridge will be constructed in accordance with the approved design sets completed by KPFF. A new water main will also be part of this structure, and road grading to meet elevation of the bridge. The bridge and streambed design will protect footings of the bridge, and reflect stream conditions upstream and downstream as provided in the designs provided by Interfluv.
Deliverable: H. Bridge Installation Complete		3/31/2026	Inactive	See the Deliverable Specification above

AA: 47. Plant Vegetation

Title: Pom Pom Revegetation

Description: Planting at this site will address re-establishing riparian and upland vegetation following the 2024 Slide Ranch Fire that burned the project area. Additionally, any construction related impacts will be revegetated.

Approximately 70 acres of upland will be reseeded with a mix of Blue wildrye, Bluebunch wheatgrass and other native grasses. Approximately 80 acres of riparian will be seeded with a mix of Blue wildrye, wheatgrass. The entire project area will be planted with native shrubs and trees including cottonwood, willow, dogwood and other native shrubs.

Replanting in areas that will not be heavily impacted by construction, but were burned in the slide ranch fire, starting in the fall of 2025. The revegetation work will not be completed until the fall of 2026.

Deliverable Specification: Seeding initiated in upland and riparian areas of burn scar.

Work Element Budget:

Planned Metrics:

- * # of riparian miles treated: 0.00
- * # of acres of upland non-wetland habitat treated: 80.00
- * # of acres of upland wetland habitat treated: 0.00
- * # of acres of riparian non-wetland habitat treated: 0.00
- * # of acres of riparian wetland habitat treated: 70.00

Locations:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US

NPCC Subbasin: Yakima

State: WA

HUC5 Watershed: Toppenish Creek

County: Yakima

HUC6 Name: Mill Creek-Toppenish Creek

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)



Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	10/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Tree and shrub planting	10/1/2025	3/31/2026	Inactive	Plant trees and shrubs in accordance with approved plan set.
C. Herbaceous Seeding	10/1/2025	3/31/2026	Inactive	Seed areas with native seed in accordance with the approved plan set to enhance herbaceous cover of grasses and forbs.
D. Provide Final Metrics	3/1/2026	3/31/2026	Inactive	Verify implemented work is consistent with approved design plans and planned metrics and update final metrics in cbfish. Only the initial planting and seeding efforts for the purpose of enhancing degraded areas shall be reported since this work will be completed in the fall of 2026.
E. Purchase and/or gather plants/seeds	10/1/2025	3/31/2026	Inactive	Order native plants/seeds/weed free straw to be distributed during plantings in 2025 and 2026.
Deliverable: F. Phase one of revegetation completed		3/31/2026	Inactive	<i>See the Deliverable Specification above</i>

AB: 174. Produce Plan

Title:

On Call Services - Engineering Support

Description:

This WE supports an on-call conceptual engineering subcontract that will allow Yakama Nation Fisheries to quickly evaluate and produce conceptual designs for new project areas being developed during landowner outreach activities within priority restoration assessment units and areas that have reach assessments completed.

The ability to opportunistically survey, model, and draft concepts for new projects opportunities helps provide a more informed discussion with our partners in the Upper Columbia, and reduces confusion and conjecture that often surrounds a potential project. Assumptions built into the subcontract will include survey, modeling, and draft concept development on multiple project sites from June 1, 2023 to May 31, 2024.

Potential Project Areas include: Lower Toppenish Creek, Wapato Reach of the Yakima River, Lower and Middle Satus Creek, Ahtanum Creek

Deliverable Specification: Upon completion the plan shall be uploaded to Cbfish.

Work Element Budget:



Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	6/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Discuss HIP ESA coverage with BPA EC Lead and obtain risk determination	4/1/2025	8/30/2025	Inactive	FOR HABITAT ACTIONS ONLY: The EC Lead will determine if work under this work element may be able to have full ESA-coverage (NMFS & USFWS) under the Habitat Improvement Program Biological Opinion (HIP). The HIP has expanded coverage for projects that may pose a moderate to high risk of impacting an ESA-listed species or critical habitat that would normally require a Biological Assessment. For work that qualifies, projects will undergo a review by the EC Lead and Engineering Technical Services (ETS) team. Before conceptual design commences, contact the EC Lead for HIP consideration, instruction, and information needs and requirements for coverage eligibility.
C. Finalize Construction Plan Set	4/1/2025	7/31/2025	Inactive	Finalize Construction Plan Set
Deliverable: D. Upload Plan to Cbfish		3/31/2026	Inactive	<i>See the Deliverable Specification above</i>

AC: 174. Produce Plan

Title:

Satus Reach Assessment

Description:

Satus Creek exhibits degradation throughout numerous reaches due to current and past land-use actions and



ecological disturbance. Abnormally high fire frequency due to the proximity of HWY-97 produces low riparian complexity, low LWD recruitment opportunity, high summer temperatures, and the establishment of invasive species. Furthermore, cattle grazing and a lack of sediment capture associated with low abundance of LWD and well-established roots results in significant incision throughout several reaches. Importantly, many reaches would benefit from riparian plantings; however, anthropogenic influences to the hydrologic system result in uncertainty in regard to groundwater availability and interactions within the hyporheic zone.

In 2026 a riparian restoration project secured through a separate funding source is proposed to take place near RM 12 and RM 32 on Salus Creek to increase the abundance of native tree species. However, prior to implementing riparian restoration actions we require a better understanding of riparian processes, hydraulic interactions and instream habitat conditions. Therefore, in 2025 we plan to conduct a reach assessment two miles upstream and downstream of the proposed restoration sites, totaling to 8 rivermiles (10-14 and 29.5-33.5). The first component of this assessment is an analysis of ecological interactions between riparian plant communities and the stream (i.e., groundwater measurements, 1D flow modeling, landscape-unit characterization, etc.), which will be facilitated by a separate funding source. The second aspect of the assessment, which will be funded through the BPA cooperative agreement, will characterize current habitat conditions and geomorphic processes so that future in-stream restoration projects may be identified and prioritized. The proposed assessment sites border the RM 23 project that is scheduled for implementation this year and will identify ways to enhance the priority watershed.

The purpose of this assessment is to identify potential habitat restoration opportunities that best address key ecological concerns. This will be done through the collection of a variety of field based data (i.e., geomorphic, biological, and Forest Service Level II habitat data) and detailed analysis of hydrologic interactions. Reach Based Ecosystem Indicators (REIs), restoration strategies, and a project prioritization list will be produced to allow YRWP to plan and prioritize implementation of future fish habitat restoration actions throughout Lower Salus Creek. This is significant because it will allow YN to make informed decisions on restoration actions based on landscape-level ecological interactions and it will ensure that proposed riparian restoration projects will not interfere with future habitat enhancement projects.

Deliverable Specification: Upon completion the plan shall be uploaded to CBfish.

Work Element Budget:

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	12/31/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Discuss planning scope with BPA COR, HAL, and ETS	5/1/2025	12/31/2025	Inactive	Prior to solicitation discuss the planning scope with the BPA COR, HAL, and ETS. This discussion should include a summary of past nearby habitat work, prior BPA funding of that work. Scheduled a follow-up site visit if requested and of value to assure BPA, YN, and contractor alignment.
Deliverable: C. Upload Plan to CBfish		1/31/2026	Inactive	See the Deliverable Specification above

AD: 175. Produce Design

Title:

Description:

Toppenish Wood Loading RM 45 - 51- Produce Designs

Yakama Nation (YN) will complete final design (per Manual 18 Appendix D) for a restoration project to increase the instream channel complexity by supplementing instream wood in a reach of Toppenish Creek upstream from Willy Dick Creek from River Mile 45.2 up to River mile 51.0. This reach has low levels of large wood due to past logging and road building activities. YN will hire a consultant to complete an assessment, design wood structures, and determine placement. The goal of this project is to increase steelhead production in the lower canyon of Toppenish Creek

This project is located in the mainstem Toppenish Creek from approximately River Mile 45 (Lat. 46.301195; Lon. -120.812579) to River mile 51 (Lat. 46.268430 -120.889136). Toppenish Creek is a tributary of the Yakima River

The designs for this project are scheduled to be completed in 2025. Implementation will occur in 2026. We will attempt to coordinate with other helicopter wood projects in the Yakima Basin if possible

Selection Criteria:



The Toppenish Creek steelhead population is one of the four populations in the Yakima Basin major population group which is part of the middle Columbia steelhead DPS. Although, not specifically identified in the Yakima Basin Steelhead Recovery Plan, this project will support Basin Actions 11, 12 and 13 on pages 151 and 152. It may support Toppenish action 1: "Rehabilitate alluvial fan and downstream floodplain of Toppenish Creek". Page 184, depending on how downstream floodplain is designed.

This project will fit into a larger project to supplement large wood in the lower canyon and upper alluvial fan of Toppenish Creek. One of the five sections to receive wood supplementation have been completed. The first section was completed in 2018 with 800 logs distributed by helicopter to an approximately 5 mile reach. Yakama Nation completed this work, under the BPA project, RELEASE 178.

Deliverable Specification: Designs completed for an unanchored wood supplementation project on 4 to 5 miles of Toppenish Creek.

Work Element Budget:

Locations: 1
Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS
Country: US
State: WA
County: Yakima
Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

NPCC Subbasin: Yakima
HUC5 Watershed: Toppenish Creek
HUC6 Name: Olney Creek-Toppenish Creek

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	3/31/2026	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Provide projected construction start date to BPA COR and EC	10/1/2025	10/31/2025	Inactive	Provide month and year of projected construction start date to assist in project planning, environmental compliance, planning and design review timelines. Provide during conceptual design stage and no later than 15% design. Include in WE description if possible.
C. Submit 15% Design	4/1/2025	4/30/2025	Inactive	Submit 15% Design for BPA review and comments.
D. Develop and submit preferred alternative (typically 30%) for review	5/1/2025	6/30/2025	Inactive	Develop preferred alternative design and cost estimate. Submit plans, draft Basis of Design Report (BDR), and other supporting documentation (profiles, details, cross sections, quantities, technical analyses/appendixes, etc.) to the COR and EC Lead. Schedule time for review (typically one month for NOAA/USFWS and BPA review). The 30% design should incorporate technical comments and recommendations from previous review and shall address design requirements provided by BPA in the BDR template.
E. Determine cost estimate, permitting, construction, and M&E	9/6/2025	2/28/2026	Inactive	All designs shall include an engineer's construction estimate (including, but not limited to): volume of materials and cost per volume, hours and rates for each person, equipment hours and rates, delivery costs, travel and per diem costs, and supplies
F. Submit completed landowner agreement	4/1/2025	10/31/2025	Inactive	Submit landowner agreement to BPA that documents acknowledgement/approval of project. The COR can provide an agreement template.
G. Cultural resource clearance obtained	4/1/2025	2/28/2026	Inactive	If planning or design work requires ground disturbance including but not limited to geotechnical surveys, ground water monitoring, or well exploration, obtain appropriate cultural resources consultation prior to any ground disturbance. Notify EC Lead well in advance of ground disturbing work. On-the-ground work associated with this work element may not proceed until this milestone is concluded. Milestone is concluded when BPA environmental compliance staff provides final documentation.
H. NEPA clearance obtained	4/1/2025	1/31/2026	Inactive	Project shall not proceed without NEPA sign-off from BPA EC Lead.
I. Upload final design set	1/1/2026	2/28/2026	Inactive	Upload final approved design plan set and basis of design to the contract documents and notify COR and EC lead when complete.
J. Provide construction schedule and in-water work window	9/6/2025	1/31/2026	Inactive	Provide schedule to BPA outlining construction schedule and in-water work windows. Should unforeseen circumstance arise, notify BPA immediately of resulting changes in schedule and cost.
K. HIP coverage obtained	4/1/2025	1/31/2026	Inactive	Complete HIP Project Notification Form and document ESA coverage in coordination with EC Lead.



Milestone Title	Start Date	End Date	Status	Milestone Description
L. Subcontractor hired for implementation	1/1/2026	3/28/2026	Inactive	Sponsors shall follow their own procurement process, so long as there is no conflict of interest. Provide BPA COR the updated subcontract budget.
M. Develop and submit permit-ready designs (typically 60% to 80%) for review	9/6/2025	2/28/2026	Inactive	Develop and submit permit ready designs to the COR and EC Lead. Schedule time for review, typically one month for NOAA/USFWS and BPA review. Provide 80% designs for final technical, functional, and NMFS/USFWS review. The 80% design shall incorporate technical comments and recommendations from previous design reviews. 80% design submittals should include near-final drawings and specifications, site locations, site plans, profiles, cross sections, details, construction quantities, implementation resource plans, and design technical analyses as summarized in a Basis of Design Report. If technical requirements are not met, additional review may be necessary.
Deliverable: N. Designs completed		3/31/2026	Inactive	See the Deliverable Specification above

AE: 208. Irrigation Infrastructure Construction or Replacement

Title: Lawrence Ditch Fish Screening

Description: The goal with this project is to prevent steelhead and lamprey entrainment into an agricultural ditch that branches off of Toppenish Creek (46.331796, -120.537527), and to maintain wetland function in about 100 acres downstream. A PIT array installed and over the last 2 years showed no tagged juvenile steelhead that have entered the ditch have been detected downstream.

YN will install a fish screen in the Lawrence Ditch (46.331807, -120.537458). This ditch diverts water from Toppenish Creek near Harrah Road and has been shown by PIT tag data to entrain juvenile steelhead. Yakama Nation Fisheries desires to screen the diversion while maintaining flow to important wetlands supplied by the ditch. The fish screen will allow for a maximum ditch flow of 8cfs.

A partner working with YN on this project is the Washington Department of Fish and Wildlife Screen shop.

Deliverable Specification: YRWP staff will ensure all billing for this line item is complete and no further documentation is required for YN internal review.

Work Element Budget:

Planned Metrics: In known/potential lamprey habitat, does screen meet the following conditions:: Yes

Locations: 1

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US

NPCC Subbasin: Yakima

State: WA

HUC5 Watershed: Toppenish Creek

County: Yakima

HUC6 Name: Snake Creek-Toppenish Creek

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete.	4/1/2025	7/1/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Integrate lamprey guidelines in design and specifications for irrigation infrastructure	4/1/2025	7/15/2025	Inactive	Irrigation diversion canals, pumps and associated infrastructure can harm Pacific lamprey, especially juveniles and larvae. To minimize impacts such as screen impingement, entrainment in canals, sediment dredging, etc., follow guidance in the following links: Best Management Guidelines for Native Lampreys During In-water Work, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Pacific Lamprey Habitat Restoration Guide, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm Dredging white paper, https://www.fws.gov/pacificlamprey/BPALampreyGuidanceDocuments.cfm
C. Work with AquaSystems 2000 to design, fabricate, and ship the fish screen.	4/1/2025	7/15/2025	Inactive	Work with screen shop to complete final designs, fabricate, and ship the fish screen. Coordinate between Fisheries Engineers and AquaSystems 2000 to ensure we have all materials needed to install the fish screen once it arrives.



Milestone Title	Start Date	End Date	Status	Milestone Description
D. Submit designs to BPA for review	6/3/2025	7/31/2025	Inactive	BPA EC Lead & ETS will review AquaSystems designs for fish screen to ensure it adheres to HIP risk levels. The final designs (100%) were approved by BPA and currently the PNF is being produced.
E. Determine if work is included in BPA AquaSystems Screens contract for metric reporting	6/1/2025	8/30/2025	Inactive	Work with COR to determine if work is included in other BPA/AquaSystems 2000 screens contract and assure metrics are only reported once.
F. Update Planned Metrics	4/1/2025	3/31/2026	Inactive	Work with COR to update planned metrics once details are available. This shall include the completion of all relevant planned metrics.
G. Install Lawrence Ditch Fish Screen	9/1/2025	3/31/2026	Inactive	Work will be completed in Fall, won't be in stream. The ditch will be de-watered to avoid any in-water work. Install concrete with gate and screen and pump.
H. Complete BPA Snapshot of project	9/1/2025	3/31/2026	Inactive	Complete BPA snapshot and upload to CB Fish.
Deliverable: I. Complete final billing and YN internal closeouts.		3/31/2026	Inactive	<i>See the Deliverable Specification above</i>

AF: 175. Produce Design

Title: Satus RM 23 LWD

Description: This WE covers ongoing design work on the Satus RM 23 project, which will focus on adding LWD to the active channel and potentially reconnecting several side channels. Plans are currently at 60% and will be brought to 100% by the end of August. BPA has been aware of these designs and we will continue to provide updates and seek comments as we near completion.

The Project aims to improve habitat for Endangered Species Act (ESA)-listed steelhead, and secondarily to benefit Pacific lamprey, in a section of Satus Creek, a tributary to the Yakima River. Although Satus Creek is one of the most productive tributaries in the Yakima River basin for steelhead, it is also heavily impacted by multiple factors that have reduced salmonid production, such as heavy grazing, beaver removal, loss of large woody debris, widespread conversion of the riparian forest cover, and the development of a regional highway corridor.

YRWP considers that improving steelhead habitat capacity and quality in Status Creek will lead to more steelhead production on Reservation lands. The section of Satus Creek immediately downstream of Logy Creek was identified as the highest priority reach for habitat improvements, and this reach was designated as the Satus Creek RM 20 to 25 Restoration Project area. YRWP envisions that design and implementation of restoration of this 5-milelong reach will proceed in phases, with later phases benefitting from the lessons learned from earlier phases. Approximately 3 to four more phases could be designed for the other reaches ranked 2nd, 3rd, 4th, and 5th, after this reach.

Deliverable Specification: UCHRP staff will oversee the production of a complete design set for the Satus RM23 LWD project.

Work Element Budget:

Locations:

1

Primary Focal Species: Steelhead (O. mykiss) - Middle Columbia River DPS

Country: US

NPCC Subbasin: Yakima

State: WA

HUC5 Watershed: Lower Status Creek

County: Yakima

HUC6 Name: Poisel Butte-Status Creek

Salmonid ESUs Present: Middle Columbia River Steelhead DPS (Accessible)

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Environmental compliance requirements complete	4/1/2025	12/31/2025	Inactive	On-the-ground work associated with this work element cannot proceed until this milestone is complete. Milestone is complete when final documentation is received from BPA environmental compliance staff.
B. Determine Native Mussel (Genera Anodonta, Margaritifera, and Gonidea) Presence in Project Area	4/1/2025	5/1/2025	Inactive	[If the project involves in water work, use this milestone.] Follow the "Mussel-Friendly Restoration" guide (https://xerces.org/sites/default/files/publications/19-013.pdf) and "Conserving the Gems of Our Waters" Best Management Practices Manual (https://xerces.org/sites/default/files/2018-05/18-001_01_XercesSoc_Protecting-Native-Western-Freshwater-Mussels-BMPs_web.pdf) to determine the presence and extent of freshwater mussels in the project area.



Milestone Title	Start Date	End Date	Status	Milestone Description
C. Reduce or Eliminate Impacts to Native Mussels (Genera Anodonta, Margaritifera, and Gonidea)	4/1/2025	5/1/2025	Inactive	[If the project involves in water work and Native Freshwater Mussels are potentially present in the project area use this milestone.] Incorporate into the plan/design methods and considerations to reduce, minimize or avoid harm to Native Freshwater Mussels. Follow Best Management Practices when developing these plans found in the "Mussel-Friendly Restoration" guide (https://xerces.org/sites/default/files/publications/19-013.pdf) and "Conserving the Gems of Our Waters" Best Management Practices Manual (https://xerces.org/sites/default/files/2018-05/18-001_01_XercesSoc_Protecting-Native-Western-Freshwater-Mussels-BMPs_web.pdf).
D. Provide projected construction start date to BPA COR and EC	12/1/2025	2/2/2026	Inactive	Provide month and year of projected construction start date to assist in project planning, environmental compliance, planning and design review timelines. Provide during conceptual design stage and no later than 15% design. Include in WE description if possible.
E. Determine cost estimate, permitting, construction, and M&E	8/1/2025	11/1/2025	Inactive	All designs shall include an engineer's construction estimate (including, but not limited to): volume of materials and cost per volume, hours and rates for each person, equipment hours and rates, delivery costs, travel and per diem costs, and supplies
F. Develop and submit permit-ready designs (typically 60% to 80%) for review	4/1/2025	6/1/2025	Inactive	Develop and submit permit ready designs to the COR and EC Lead. Schedule time for review, typically one month for NOAA/USFWS and BPA review. Provide 80% designs for final technical, functional, and NMFS/USFWS review. The 80% design shall incorporate technical comments and recommendations from previous design reviews. 80% design submittals should include near-final drawings and specifications, site locations, site plans, profiles, cross sections, details, construction quantities, implementation resource plans, and design technical analyses as summarized in a Basis of Design Report. If technical requirements are not met, additional review may be necessary.
G. HIP coverage obtained	4/1/2025	3/31/2026	Inactive	Complete HIP Project Notification Form and document ESA coverage in coordination with EC Lead.
H. NEPA clearance obtained	4/1/2025	3/31/2026	Inactive	Project shall not proceed without NEPA sign-off from BPA EC Lead.
I. Upload final design set	8/1/2025	10/1/2025	Inactive	Upload final approved design plan set and basis of design to the contract documents and notify COR and EC lead when complete.
Deliverable: J. Completed Design Set for Satus RM 23 LWD		3/31/2026	Inactive	See the Deliverable Specification above

AG: 185. Produce CBFish Status Report

Title: Periodic Status Reports for BPA

Description: The Contractor shall report on the status of milestones and deliverables in CBFish. Reports shall be completed monthly, quarterly, or as negotiated with the BPA COR. In each report, when the work reaches a terminal status, additional data (actual metrics, updated budgets, final locations, etc.) may be required upon submitting the report to the BPA COR.

Deliverable Specification:

Work Element Budget: [REDACTED]

Milestone Title	Start Date	End Date	Status	Milestone Description
A. Apr-Jun 2025 (4/1/2025 - 6/30/2025)	7/1/2025	7/15/2025	Inactive	
B. Jul-Sep 2025 (7/1/2025 - 9/30/2025)	10/1/2025	10/15/2025	Inactive	
C. Oct-Dec 2025 (10/1/2025 - 12/31/2025)	1/1/2026	1/15/2026	Inactive	
D. Final Jan-Mar 2026 (1/1/2026 - 3/31/2026)	3/17/2026	3/31/2026	Inactive	



AH: 132. Produce Progress (Annual) Report

Title: Produce Project Annual Report for FY23 Mar23-Feb24

Description: Produce Annual Report for prior year. Annual report should include details on where the data collected is stored and address all the work elements in the contract.

Deliverable Specification: The Deliverable is considered concluded when the final report is published. It usually takes BPA 30-45 days to publish the final PDF version of a report. This milestone's end date should therefore be 45 days after the final version is uploaded in CBFish. You will receive an email from BPA confirming your report has been published to the web. If you do not receive such an email after 45 days, contact your COR.

Work Element Budget: [REDACTED]

Planned Metrics:

- * Start date of reporting period : 3/1/2023
- * End date of reporting period : 2/28/2024

Milestone Title	Start Date	End Date	Status	Milestone Description
A. RM&E Technical Report Guidance Review	8/1/2025	9/14/2025	Inactive	Contractors should review Progress (Annual) Report guidance and templates before starting the first draft of their technical report. Please follow BPA required format for technical reports at https://www.cbfish.org/EfwDocument.mvc/DownloadFile/62 . BPA Fish and Wildlife project sponsors who have the following work elements, 156 Develop RM&E Methods and Designs, 157 Collect/Generate/Validate Field and Lab Data, 158 Mark and Tag Animals, and/or 162 Analyze/Interpret Data, in their contracts are required to upload a RM&E technical report. (Milestone start/end: August 1 - September 14)
B. RM&E Technical Report Draft	9/15/2025	1/15/2026	Inactive	Upload your draft RM&E report into the CBFish contract's "Documents" tab in a MS Word document format as a "Progress (Annual) Report" and subtype "Technical, Draft" for BPA review. BPA will review the draft RM&E report and may provide comments for consideration for your final document. Alternative formats like PDFs may be accepted if approved by the COR. If your file is too big to be uploaded, contact CBFish Support (support@cbfish.org). (Milestone start/end: September 15 - January 15)
C. RM&E Technical Report Final	1/16/2026	3/16/2026	Inactive	Address any BPA comments, if provided, from a draft or previous report, then finalize your report for submission to BPA. Upload your Progress (Annual) Report as a "Technical, Final" in a MS Word document format to the contract's "Documents" tab in CBFish. During the upload you will be asked to validate that your title page matches BPA requirements. Alternative formats like PDFs may be accepted if approved by the COR. If your file is too big to be uploaded, contact CBFish Support (support@cbfish.org). (Note: The milestone will be concluded once the report is published and the file accepted by the COR is uploaded. If the report is returned, you will need to address comments and select "Edit" to resubmit a revised report.) (Milestone start/end: Jan 16 - Mar 15)
D. Non-Technical Draft Progress (Annual) Report	10/1/2025	2/1/2026	Inactive	[DELETE THIS MILESTONE IF YOUR PROJECT INCLUDES ANY RM&E WORK ELEMENTS AND USE RM&E TECHNICAL REPORT MILESONES] Upload your draft report into the CBFish contract's "Documents" tab in a MS Word document format as a "Progress (Annual) Report" and subtype "Non-Technical, Draft" for BPA review. BPA will review the draft RM&E report and may provide comments for consideration for your final document. If your file is too big to be uploaded, contact CBFish Support (support@cbfish.org). (Milestone start/end: September 15 - January 15)
Deliverable: E. Completed Progress (Annual) Report		3/16/2026	Inactive	See the Deliverable Specification above

Inadvertent Discovery Instructions

BPA is required by section 106 of the National Historic Preservation Act (NHPA) to consider the effects of its undertakings on historic properties (16 USC 470). Prior to approving the expenditure of funds or conducting a federal undertaking, BPA must follow the section 106 process as described at 36 CFR 800. Even though BPA has completed this process by the time an undertaking is implemented, if cultural materials are discovered during the implementation of a project, work within the immediate area must stop and the significance of the materials must be evaluated and adverse effects resolved before the project can continue (36 CFR 800.13(b)(3)). The Inadvertent Discovery of Cultural Resources Procedure form outlines the steps to be taken and notifications to be made. If the undertaking takes place on tribal lands (16 USC 470w), BPA must also "comply with applicable tribal regulations and procedures and obtain the concurrence of the Indian tribe on the proposed action" (36 CFR 800.13(d)).



Inadvertent Discovery of Cultural Resources Procedure form:

<https://www.bpa.gov/efw/FishWildlife/InformationforContractors/IFCDocuments/InadvertentDiscoveryProcedure.pdf>



RCO–Yakama Nation Tribal Grant Agreement

Project Sponsor: Confederated Tribes and Bands of the Yakama Nation

Project Number: 24-1713R

Project Title: Toppenish Creek RM 40 at Pom Pom Road (Ph II)

Approval Date: 01/01/2025

A. PARTIES OF THE AGREEMENT

This Recreation and Conservation Office Agreement (Agreement) is entered into between the State of Washington by and through the Salmon Recovery Funding Board (SRB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and Yakama Nation (Sponsor, primary sponsor), PO Box 151, Toppenish, WA 98948, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

The identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) enter into this project agreement on behalf of the Sponsor(s), (2) enter any amendments thereto on behalf of the Sponsors. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all sponsors, unless otherwise allowed in Amendments to Agreement Section.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

B. PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the State Building Const or Natural Climate Solns Acct of the State of Washington. This grant is administered by the Recreation and Conservation Office (RCO).

C. DESCRIPTION OF PROJECT

Yakama Nation proposes to restore habitat on Toppenish Creek, in the Yakama Reservation south of White Swan, by relocating the main channel back to its historic alignment and improving instream fish habitat complexity with engineered wood structures. The channel re-alignment will shift the main flow from the current 1.0 mile long degraded, canal-like channel to a 1.7-mile-long historic channel that has been disconnected for over 50 years. The historic channel runs through dense riparian forest, is more sinuous, and is well connected to the floodplain, such that re-watering it will have immediate and dramatic habitat benefits to ESA listed Mid-Columbia Steelhead. In addition, the reconnected channel will be connected to 0.3 miles of cold-water spring brook and a 0.4-mile-long side channel providing off-channel habitat. The new channel alignment will increase the two-year flood inundation extent from essentially zero to over 200 acres. This increase in floodplain connectivity provides flood storage, groundwater recharge, riparian, and off-channel habitat benefit for lamprey and steelhead. This project is shovel-ready. Habitat restoration (Ph II) will begin after 2024 once the 150' bridge, and three 21' culverts (Ph I) are installed on Pom Pom Rd. These infrastructure actions are fully funded with federal Bipartisan Infrastructure Act funding and will allow for the Toppenish Cr channel realignment while providing much greater flood conveyance and improved fish passage.

D. PERIOD OF PERFORMANCE

The period of performance begins on June 1, 2025 (project start date) and ends on December 31, 2028 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

E. STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS

For this restoration project, Sponsor's compliance and long-term obligations shall be for a minimum of ten (10) years, or more as specified in the Landowner Agreement (if applicable), after the final RCO reimbursement and shall survive the completion/termination of this Agreement unless otherwise identified in the Agreement or as approved by the funding board.

Where conflicts may exist between this section and other sections of the agreement, the latter shall apply.

G. PROJECT FUNDING

The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
SRFB – Salmon State Targeted Invest			
Total Project Cost			

H. CLIMATE COMMITMENT ACT PROJECTS/FUNDING

Where this section conflicts with other provisions of this Agreement, the requirements of this section shall prevail.

Project Funding, Laws, and Rules

This project is funded through the Climate Commitment Act (Chapter 316, Laws of the State of Washington, 2021 ("CCA" or "the Act"). Funds provided here in is from one or more of the following accounts in the state treasury: Carbon Emissions Reduction Account (CERA), Climate Investment Account (CIA), Climate Commitment Account (CCA), Natural Climate Solutions Account (NCSA), and Air Quality and Health Disparities Improvement Account (AQHDA). Sponsor shall comply with the requirements of the Act and specific requirements for each account that funds the project. Sponsors shall also follow all applicable Agencies' (see below) WAC's and policies established pursuant to the Act.

Geographic Scope of Work

Funding through the Act's accounts (listed above) for this Agreement shall only be spent on the project and within the state of Washington.

Reporting

Sponsor shall assist RCO with its reporting requirements per the Act, and any applicable WAC's including but not limited to WAC 173-446B, and Agencies' request.

At the direction of RCO, Sponsor shall report project information to Washington State Department of Ecology ("ECY"), Washington State Department of Commerce, Washington State Department of Natural Resources, the Washington State Department of Health (DOH), the Office of the Governor, the Washington State Legislature ("LEG") to include the Joint Legislative Audit and Review Committee, the Environmental Justice Council (ECY, DOH), and the Office of Financial Management ("Agencies"), through 2045. Sponsor must provide RCO any requested project information needed to complete its Environmental Justice Assessment and Review and plans and assessments required by Act through 2045.

At the direction of RCO, Sponsor shall use reporting tools provided by the RCO or the Agencies to complete Sponsor and RCO's reporting requirements per this Agreement and the Act, and any WAC's or policies established by the Agencies pursuant to the Act.

Outreach

At the request of RCO, Sponsor shall provide a copy of all Sponsor project education and outreach materials via email to RCO for review prior to distribution.

Funding Source Acknowledgement and Branding

To strengthen public awareness of how CCA funding is used, Sponsor shall ensure consistent branding and funding acknowledgments are used in all communications and included in funding agreements, contracts, press releases and project related publications, media, and at the project site in the form of signs during all phases of the project to include pre-construction, pre-renovation, pre-rehabilitation, and for completed projects at the project site. Sponsor shall also ensure its contractors, subcontractors, service providers and others who assist Sponsor in implementing the project include recognition of CCA project funding on their website and other promotional or informational materials. Sponsor shall request RCO provide the format for acknowledgement and branding language and logo in the language and font, and logo color, font, and format, consistent with CCA funding requirements as set for in this subsection. Acknowledgement shall include the following language and Act logo. For logos, Sponsor shall access

RCO's website and be bound to the language, logos, and format therein):

- Language: "The Toppenish Creek Restoration at Pom Pom Road is supported with funding from Washington's Climate Commitment Act. The CCA supports Washington's climate action efforts by putting cap-and- invest dollars to work reducing climate pollution, creating jobs, and improving public health. Information about the CCA is available at www.climate.wa.gov."
- Logo: Sponsor shall request RCO send it logo templates approved by the state. The RCO provided logos should always be used in its entirety, with the wordmark and symbols together. The logo should not be altered in any way, including changing the colors, proportions or fonts. The logo should be displayed on a white background. If a white background isn't possible, use the primary logo with the border or one of the approved white logos. The primary color palette is the shades of green, but it can also be used in black and white and/or gray scale as required. The logo can be used in a variety of applications, including websites, social media, print materials, and signage. When using the logo in digital applications or printing for signage, it is important to use a high-resolution version of the logo file.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

J. AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO's director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all applicable federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the Sponsor's performance of this Agreement shall comply with, all applicable state and federal laws and regulations (including without limitation applicable RCO WACs), applicable RCO policies in the manuals as identified below (including without limitation RCO funding board policies), and any applicable federal program and accounting rules effective as of the date of this Agreement, and with respect to any amendments to this Agreement, as of the effective date of that amendment.

For the purpose of this Agreement, applicable policies in the following RCO manuals will also govern Sponsor's performance under this Agreement:

- Restoration Projects – Manual 5
- Long Term Obligations – Manual 7
- Reimbursements – Manual 8
- Salmon Recovery Grants – Manual 18

For the purposes of this agreement, WAC title 420 (for salmon recovery projects), and WAC title 286 (for recreation projects) shall apply as terms of this Agreement, provided that nothing in those WACs and this Agreement are intended or shall be interpreted to prevent a Sponsor from implementing an Indian preference employment policy that is lawful under applicable federal, state, and tribal law.

L. SPECIAL CONDITIONS – CULTURAL RESOURCES

CONDITION APPLIES TO THE FOLLOWING AREA(S): Uploaded APE

Federal - RCO Lead: THPO Requirements (Tribal Lands): This agreement requires compliance with Executive Order 21-02 and/or Section 106 of the National Historic Preservation Act and is occurring on Tribal Land. RCO has initiated consultation for this project with the Yakama Nation. RCO will defer to the Yakama Nation's cultural resources treatment recommendations for the work within their jurisdiction. All work on Tribal Lands must be reviewed by Yakama Nation Cultural Resources staff and may not proceed until consultation is complete. If archaeological or historic materials are discovered while conducting project actions, work in the immediate vicinity must stop and the Sponsor must ensure compliance with the provisions found in this agreement. If this project receives federal funding or permits in the future, RCO will defer to the federal lead agency under Section 106 of the NHPA for the funded/ permitted project actions.

M. AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Sponsor Project Contact

Madeline Eckmann
Fisheries Biologist
2 Johnson Lane
Winthrop, WA 98862
eckm@yakamafish-nsn.gov

RCO Contact

Elizabeth Butler
Outdoor Grants Manager
PO Box 40917
Olympia, WA 98504-0917
elizabeth.butler@rcowa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change.

N. ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE

This Agreement, for the project, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the Sponsor and the RCO, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed, and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the attached STANDARD TERMS AND CONDITIONS OF THE RECREATION AND CONSERVATION OFFICE AGREEMENT.

The signatories listed below represent and warrant their authority to bind the parties to this Agreement.

Yakama Nation

By Gerald Lewis Date 04.17.2025
Authorized Representative/Agent
Name (printed): Gerald Lewis
Chairman
Title: Yakama Nation Tribal Council
(or authorized designee)



WASHINGTON STATE
Recreation and
Conservation Office

State of Washington Recreation and Conservation Office On behalf of the [board]

04/23/2025

By:  Date: _____
Megan Duffy
For: Director
Recreation and Conservation Office
Pre-approved as to form

By: 
Assistant Attorney General

Date 5/9/2020

RCO–Yakama Nation Tribal Grant Agreement

Project Sponsor: Confederated Tribes and Bands of the Yakama Nation

Project Number: 24-1713R

RCO 24-1713



WASHINGTON STATE
Recreation and
Conservation Office

Project Title: Toppenish Creek RM 40 at Pom Pom Road (Ph II)

Approval Date: 01/01/2025

Eligible Scope Activities

ELIGIBLE SCOPE ACTIVITIES

Restoration Metrics

Worksite #1, Pom Pom RM40 Restoration, Phase II

Targeted salmonid ESU/DPS (A.23):

Targeted species (non-ESU species):

Miles of Stream and/or Shoreline Treated or Protected (C.0.b):

Steelhead-Middle Columbia River DPS
Lamprey

2.40

Toppenish Creek will be moved from its current, artificial route, back into 1.7 miles of historic channel, conferring instantaneous habitat benefits as this channel possesses complex stream habitat, is well connected to its floodplain, and traverses high-quality riparian forest. A 0.3 mile long Coldwater spring brook will be reconnected to Toppenish Creek with the restoration / reconnection of the 1.7 mile long historic channel. 0.4 miles of groundwater fed, off-channel, habitat, will be preserved with these restoration efforts.

Therefore the 1.6 mile modern, artificial, configuration of Toppenish Creek will be replaced with 2.4 miles of higher quality, complex, rearing and spawning habitat for Steelhead. $1.7 + 0.3 + 0.4 = 2.40$ miles treated and protected. Additional habitat actions, such as channel grading, old channel plug, micro-topography, instream riffles, large wood structures, bank stabilization, and exclusion fencing will occur within the 2.4 miles.

Toppenish Creek Corridor Enhancement Project (TCCEP), Yakama Nation Department of Natural Resources, 2019. 2009 Yakima Steelhead Recovery Plan, prepared by the Yakima Basin Fish & Wildlife Recovery Board, 2009, compiled by Alex Cortley, Joel Freudenthal, David Lind, Yakama Nation, Phil Mees, Benton County Richard Visser, Washington Department of Fish and Wildlife Upper Toppenish Creek Reach Assessment & Restoration Strategy, 2014, Interfluv

Project Identified In a Plan or Watershed Assessment (C.0.c):

Type Of Monitoring (C.0.d.1):

Implementation Monitoring

Design firm will be on site to monitor implementation, and confirm that all specs are being met, or will help any on-the ground changes in the event of an in-advertant discovery of cultural resources. Yakama Nation YRWP staff will also be present, and Yakama Nation cultural resource program staff will monitor.

Instream Habitat Project

Total Miles Of Instream Habitat Treated (C.4.b):

2.40

Toppenish Creek will be moved from its current, artificial route, back into 1.7 miles of historic channel, conferring instantaneous habitat benefits as this channel possesses complex stream habitat, is well connected to its floodplain, and traverses high-quality riparian forest. A 0.3 mile

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Eligible Scope Activities (Continued)

Channel reconfiguration and connectivity (C.4.c.1) Type of change to channel configuration and connectivity (C.4.c.2): Miles of Stream Treated for channel reconfiguration and connectivity (C.4.c.3): Miles of Off-Channel Stream Created or Connected (C.4.c.4): Acres Of Channel/Off-Channel Connected Or Added (C.4.c.5): Instream Pools Created/Added (C.4.c.6): Channel structure placement (C.4.d.1) Material Used For Channel Structure (C.4.d.2): Miles of Stream Treated for channel structure placement (C.4.d.3): Pools Created through channel structure placement (C.4.d.5): Number of structures placed in channel (C.4.d.7): Permits Obtain permits Architectural & Engineering	long Coldwater spring brook will be reconnected to Toppenish Creek with the restoration / reconnection of the 1.7 mile long historic channel. 0.4 miles of groundwater fed, off-channel, habitat, will be preserved with these restoration efforts. Therefore the 1.6 mile modern, artificial, configuration of Toppenish Creek will be replaced with 2.4 miles of higher quality, complex, rearing and spawning habitat for Steelhead. $1.7 + 0.3 + 0.4 = 2.40$ miles treated and protected. Additional habitat actions, such as channel grading, old channel plug, micro-topography, instream riffles, large wood structures, bank stabilization, and exclusion fencing will occur within the 2.4 miles. Channel Bed Restored, Creation/Connection to Off-Channel Habitat 2.40 1.7 of historic channel, with some minor channel grading to encourage a flow path through the historic channel. Reconnection to a 0.3 mile long spring brook that will feed the historic channel. And preservation of a 0.4 mile long, off-channel habitat that enhances the complexity of the site and has been noted to be used by Beaver. 0.70 0.3 miles of a spring brook reconnected 0.4 miles off channel habitat used by beaver to stay connected. 6.5 estimated 6.5 acres of floodplain will be connected / enhanced. This is based on a snapshot of a 2 year event hydrologic model, completed by the firm Interfluv. 5 estimated five pools will be created, based on the number of log structures planned to be installed, and their proximity to each other. Individual Logs (Anchored), None, Rocks/Boulders (Fastened Or Anchored), Stumps With Roots Attached (Rootwads) Logs will be anchored by burying 2/3rds of the logs into the bank. All will be root wads, and root wads will not be buried. None stands for the material for Riffle types 1 and 2, that are not boulders, but simulated stream bed material. Rock / Boulders checked, there will be 50, and will not be anchored. Rootwads checked, because all 98 pieces of wood brought in, will have rootwads. Rootwads / logs = 40 feet in length and DBH = 18 inches. 1.70 This is the length of the north, historic, channels 5 estimated five pools will be created, based on the number of log structures planned to be installed, and their proximity to each other. 12 estimated 12 structures based on plan set. Confirming number with firm, Interfluv
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Project Milestones

PROJECT MILESTONE REPORT

Complete Milestone	Target Date	Comments/Description
Special Conditions Met	03/31/2025	Review CR Special Condition and prepare to document in PRISM when condition is satisfied
Applied for Permits	05/30/2025	
Project Start	06/01/2025	
Final Design to RCO	06/30/2025	Pre-construction design deliverables described in Application Project Proposal
Annual Project Billing Due	07/31/2025	
Permits Complete	07/31/2025	
Progress Report Due	12/31/2025	
Cultural Resources Documents	12/31/2025	Document the work on Tribal Lands was reviewed and approved to proceed by YN Cultural Resources Staff. Must occur before ground disturbing activities begin.
Cultural Resources Complete	01/30/2026	RCO CR team clears condition.
Riparian Enhancement Plan	01/31/2026	For planting (unless planting plan is included in the construction plan set)
Bid Awarded/Contractor Hired	06/01/2026	
Progress Report Due	06/30/2026	
Landowner Agreement to RCO	06/30/2026	If work is occurring on land not owned by the YN (before construction begins)
Restoration Started	07/01/2026	Construction Start
Annual Project Billing Due	07/31/2026	
Restoration Started	10/15/2026	Revegetation Started
Final Report Due	12/31/2026	Drafted in PRISM before final site visit. Wait to submit until final bill is submitted.
Funding Acknowl Sign Posted	12/31/2026	
Restoration Complete	12/31/2026	Construction and Planting.
Progress Report Due	12/31/2026	
Stewardship Plan to RCO	01/31/2027	
Final Billing Due	03/31/2027	Or once the funds are fully expended, before the agreement end date.
RCO Final Inspection	04/30/2027	Or may be pushed out farther if funds remain for riparian plant maintenance.
Progress Report Due	06/30/2027	May continue with planting maintenance if funding remains
Annual Project Billing Due	07/31/2027	
Progress Report Due	12/31/2027	
Progress Report Due	06/30/2028	
Annual Project Billing Due	07/31/2028	
Agreement End Date	12/31/2028	PROJECT CLOSING. All expenditures must be prior to this date. May close earlier if funding is fully expended and work is complete.



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**Standard Terms and Conditions of the
Recreation and Conservation Office**

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STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This agreement reflects Standard Terms and Conditions as of 09/16/2019.

1. CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project—A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

Agreement or project agreement—The document entitled "RCO Tribal Project Agreement" accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the Recreation and Conservation Office Agreement, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Agreement subject to any limitations on their effect.

applicable manual(s)—A manual designated in this Agreement to apply as terms of this Agreement, subject to substitution of the "RCO director" for instances where the term "board" occurs.

applicable WAC(s)—Designated chapters or provisions of the Washington Administrative Code that are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the "RCO director" for instances where the term "board" occurs.

applicant—Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds administered by RCO.

application—The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the "Application" in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent—A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R.—Code of Federal Regulations

contractor—An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion—A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

director—The chief executive officer of the Recreation and Conservation Office or that person's designee.

effective date—The date when the signatures of all parties to this agreement are present in the agreement.

equipment—Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board—The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board, or both as may apply.

Funding Entity—the entity that approves the project that is the subject to this Agreement.

grant program—The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost—Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

long-term compliance period—The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.

long-term obligations—Sponsor's obligations after the project end date, as specified in the Agreement and applicable regulations and policies.

match or matching share—The portion of the total project cost provided by the Sponsor.

milestone—An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

Office—Means the Recreation and Conservation Office or RCO.

pass-through entity—A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance—The period beginning on the project start date and ending on the project end date.

pre-agreement cost—A project cost incurred before the period of performance.

primary Sponsor—The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project—An undertaking that is, or may be, funded in whole or in part with funds administered by RCO.

project area—A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project cost—The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date—The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date—The specific date identified in the Agreement on which the period of performance starts.

RCO—Recreation and Conservation Office—The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

reimbursement—RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project—A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

RCW—Revised Code of Washington

secondary Sponsor—One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor—A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent—A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB—Salmon Recovery Funding Board

subaward—Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

subrecipient—Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

useful service life—Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

WAC—Washington Administrative Code.

2. PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement. Provided, however, that Sponsor's obligations under this agreement will be subject to force majeure. If acts of God, severe weather conditions, fire, a public health emergency, or any other unforeseen catastrophic event caused by someone other than the Sponsor, which was beyond the control of the Sponsor, prevents the Sponsor's performance, such non-performance shall not be considered a breach of this Agreement.

3. ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the RCO.

4. RESPONSIBILITY FOR PROJECT

While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

5. INDEMNIFICATION

- A. Subject to the limitations provided in this Agreement, the Sponsor shall (to their proportional share of responsibility) defend (or pay the cost of such defense), either or both of which shall not be applied to any liability limits described in this agreement, indemnify and hold the Recreation and Conservation Office (RCO), the Recreation and Conservation Funding Board, the Salmon Recovery Funding Board, collectively referred to herein as "the RCO" and its officers and employees harmless from all damage, loss, claims, demands, or suits at law or equity, which concern property damage, personal injury, bodily injury, or death, arising in whole or in part from any actual or alleged negligent acts, errors, omissions by Sponsor in connection with this

Agreement (including without limitation all work or activities thereunder) or by the Sponsor or the Sponsor's agents, employees, officers, or officials. If the RCO is immune from suit pursuant to a specific statutory exemption and or limitation as to the particular claim, demand(s), or suit(s) at law or equity, the Sponsor shall have no obligation to defend, indemnify or hold the RCO harmless. Should this section 5 of the Agreement conflict with any other section of this Agreement, excepting section 33 regarding terms applicable to federally recognized Indian tribes, the terms of this section shall take precedence.

- B. Provided that nothing herein shall require a Sponsor to defend (or pay the cost of such defense) or indemnify the RCO against and hold harmless the RCO from claims, demands or suits at law or equity based solely upon the negligence of the RCO, its employees and/or agents for whom the RCO is vicariously liable.
- C. Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents, employees, officers, or officials for whom the Sponsor is vicariously liable, and (b) the RCO, its employees and agents, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or the negligence of the Sponsor's agents, employees, officers, or officials.
- D. If Sponsor engages contractors to perform any of Sponsor's obligations under this Agreement or work associated with this Agreement, Sponsor shall require such contractor to likewise indemnify, defend, and hold RCO harmless through an indemnification provision consistent with and at least as protective as the above. The Sponsor shall also require such contractor to add RCO as an additional insured to any liability insurance that covers the contractor on the project. If contractor fails to indemnify RCO or if it fails to add RCO as additional insured or the insurance lapses for any reason, Sponsor's indemnification obligations to RCO under subsections A through C above shall apply to any and all claims that may arise due to contractor negligence and/or any vicarious liability of Sponsor's contractor. The term "contractor" includes all subcontractors of any tier. If any such contractors have sovereign immunity, the indemnification requirement shall also require such contractors provide the State a limited waiver of sovereign immunity to the State.
- E. RCO and Yakama Nation understand and agree that Yakama Nation employees' claims for workplace injuries are governed by Title 90 (Workmen's Compensation Plan) of the Yakama Nation Revised Law & Order Code, as amended ("RYC"). RYC Title 90 provides that all work-related injuries and deaths sustained by employees of the Yakama Nation and its enterprises are withdrawn from private controversy except as permitted under Title 90, and that Title 90 provides the exclusive legal remedy available to the Yakama Nation employee. Pursuant to Title 90, injured Yakama Nation employees who have properly exhausted their administrative remedies under Title 90 may appeal Yakama Nation's decision only to the Yakama Tribal Courts. Yakama Nation's indemnification and defense obligations to RCO shall, subject to the terms and conditions of this Agreement, apply where a Yakama Nation employee (or their heirs or estate) sues or submits claims to the state for a workplace injury or death associated with such employee's performance of this Agreement.
- F. In all matters of indemnification for third party claims, this section shall only apply to suits and claims that have standing in a court of law.
- G. Sponsor shall be responsible for paying only its share of any judgement, including legal costs, which shall be proportional to its actual liability as determined by a court of law.

6. INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by applicable federal, state, and/or local laws.

7. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52 if applicable; or any similar applicable statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

8. COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations).

- A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act; provided, however, that nothing in this Agreement is intended or shall be interpreted to prevent a Sponsor from implementing an Indian preference employment policy that is lawful under applicable federal, state, and tribal law. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause, or a clause substantially alike in content, in each contract for construction of this project:

"During the performance of this contract, the contractor agrees to comply with all applicable federal and state nondiscrimination laws, regulations and policies."

- B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees that if state prevailing wage laws (RCW 39.12) are applicable to Sponsor, it will comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with applicable provisions of the rules and regulations of the Washington State Department of Labor and Industries. However, applicable tribal wage and safety rules and preferences may otherwise apply if the Sponsor is a federally recognized Indian Tribe. This Agreement is not intended to, nor shall it be interpreted as creating a contractual obligation for Sponsor to comply with federal or state prevailing wage laws, safety laws, or Department of Labor and Industries regulations that would not otherwise apply to Sponsor.

If Sponsor is a federally recognized Indian Tribe, the following shall apply: The Tribe shall provide workers compensation coverage for all of its employees in accordance with applicable tribal worker's compensation laws. To the extent that any of Sponsor's grant-funded employees are not subject to tribal workers compensation program coverage, they shall be covered by applicable state or federal workers compensation laws.

As set forth in section 5 (Indemnification), the tribal Sponsor's indemnification and defense obligations shall, subject to the terms and conditions of this Agreement, apply where an employee of the Sponsor (or their heirs or estate) sues or submits claims to the state for a workplace injury or death associated with the employee's performance of this Agreement

- D. **Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor's Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.
- E. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- F. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily

excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

9. RECORDS

- A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. **Maintenance.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. **Access to Records and Data.** At no additional cost, Sponsor's records relating to the Agreement, including materials generated under the Agreement, shall, at Sponsor's location and during Sponsor's regular business hours, be subject to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that is reasonably necessary to support the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose to RCO any information directly related to the expenditure of project funding under this Agreement as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to RCO, Sponsor understands that RCO may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit RCO to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release RCO from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying, provided that (1) RCO follows RCW 42.56 and applicable regulations and guidance, including without limitation RCW 42.56.300's protections regarding records that concern tribal cultural resources, and (2) RCO promptly provides notice to tribal Sponsors regarding any public records act requests that affect Sponsor's tribal records and affords Sponsor a reasonable opportunity within RCO's required timeline to disclose such records for response to assert any legal objection(s) to the release of Sponsor's records.

10. PROJECT FUNDING

- A. **Authority.** This Agreement and funding is made available to Sponsor through the RCO. This Agreement is funded through a grant award from the recreation and conservation funding board per WAC 286 and/or the salmon recovery funding board per WAC 420. The director of RCO enters into this Agreement per delegated authority in RCW 79A.25.020 and 77.85.120.
- B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement.
- C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

11. PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, which

ever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.

- B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the material terms of this Agreement.
- D. **Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:
 - 1. All approved or required activities outlined in the Agreement are done;
 - 2. On-site signs are in place (if applicable);
 - 3. A final project report is submitted to and accepted by RCO;
 - 4. Any other required documents and media are complete and submitted to RCO;
 - 5. A final reimbursement request is submitted to RCO;
 - 6. The completed project has been accepted by RCO;
 - 7. Final amendments have been processed;
 - 8. Fiscal transactions are complete, and
 - 9. RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

12. ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

13. RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with applicable state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Overpayment Payments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

14. COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

15. INCOME (AND FEES) AND USE OF INCOME

- A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the

funding source and the Agreement and any applicable manuals, RCWs, and WACs.

- B. **Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
1. The Sponsor's matching resources;
 2. The project's total cost;
 3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 5. Capital expenses for similar acquisition and/or development and renovation; and/or
 6. Other purposes explicitly approved by RCO.
- C. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
1. Grant program laws, rules, and applicable manuals;
 2. Value of any service(s) furnished;
 3. Value of any opportunities furnished; and
 4. Prevailing range of public fees in the state for the activity involved.

16. PROCUREMENT REQUIREMENTS

Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state, and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists, the Sponsor must follow these minimum procedures:

1. Publish a notice to the public requesting bids/proposals for the project;
2. Specify in the notice the date for submittal of bids/proposals;
3. Specify in the notice the general procedure and criteria for selection; and
4. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
5. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer; provided, however, that nothing in this Agreement is intended or shall be interpreted to prevent a Sponsor from implementing an Indian preference employment policy that is lawful under applicable federal, state, and tribal law.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

17. TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

- A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or as specified in the rules of the applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- B. **Loss or Damage.** The Sponsor shall be responsible for its loss of or damage to equipment in its possession.

18. RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure has been executed, it will further stipulate and define the RCO's right to inspect and access lands acquired or developed with this funding assistance.

19. STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and RCO manuals, this Agreement, or as otherwise reasonably directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols reasonably recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

20. ACKNOWLEDGMENT AND SIGNS

- A. **Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- B. **Signs.**
 - 1. If the project site is open to the public, during the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and
 - 2. During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access if the project funded herein is a recreational site. Provided, that this requirement shall not apply to, and public access will not be required for fish or wildlife habitat projects conducted on (a) privately owned land, (b) land owned by an Indian tribe in fee or held in trust or restricted status for an Indian tribe or its members, or (c) land held by any individual, entity, or government that is located within a closed area of an Indian reservation not generally accessible to non-tribal members.
- C. **Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies.

21. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force:

- A. **Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. **Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all applicable legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
 - 1. Change orders that impact the amount of funding or changes to the scope of the project as described to and

approved by the RCO must receive prior written approval of the RCO.

- C. **Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure (such as landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in this Agreement and any applicable manual as of the effective date of this Agreement and determines the long-term compliance period unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- D. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009; "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.

22. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. RCO grant funded properties that are not considered acquisition projects shall be managed by Sponsor to function as intended after the period of performance for a term as described in the Section F (as may apply) of this Agreement. Provided that impacts to or changes to the function of the site due to natural process or disasters (etc.) shall not be considered the responsibility of or otherwise assigned to the Sponsor and therefore the Sponsor shall not be responsible to remedy the impact of such processes or disaster and it shall not be considered a conversion (see below). However, the above exclusion from conversion shall not apply if the project in question is a recreation project that due to damage (regardless of source) has become unusable to the public for the intended purpose, and the damage can be cured for an amount less than 50% of the amount provided under the grant. Also, the project site shall remain in the same ownership and in public use/access status for the term of Sponsor's long-term obligations described in Section F of this Agreement unless otherwise expressly provided in the Agreement or applicable policy, or unless a transfer or change in use is approved by the RCO through an amendment. Provided, that public access requirements of this Agreement shall not apply to, and public access will not be required for, fish or wildlife habitat projects conducted on (a) privately owned land, or (b) land owned by an Indian tribe in fee or held in trust or restricted status by the United States for an Indian tribe or any of its members; or for any project conducted on land held by any individual, entity, or government that is located within a closed area of an Indian reservation not generally accessible to non-tribal-members. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion (see below).
- B. **Conversion:** A project status that results when use or function of recreation or habitat land or facilities paid for by RCO changes, due to the actions or neglect of Sponsor, to uses or functions other than those for which assistance originally was approved. Provided, the Sponsor's failure to cure damage to a recreation project that renders it usable to the public for the intended purpose, when the damage may be cured for an amount less than 50% of the amount of the grant, shall be a conversion. If a conversion occurs, sponsor shall remedy such conversion per the terms of this Agreement. Determination of whether a conversion has occurred shall be based upon the terms of this Agreement, including without limitation all WACs and manuals deemed applicable and all applicable laws. If a conversion occurs/exists, Sponsor shall remedy such conversion by providing a new like facility or habitat area with equal or greater utility or habitat function than the grant funded property for the long-term obligation period/term identified in Section F.
- C. Notwithstanding any other provision of this Agreement, for any remedy owed by Sponsor to RCO for long-term obligations and conversion, the Sponsor is only responsible, to the extent the responsibility is owed per this Agreement, either for repayment of the grant, or for providing replacement property to remedy the conversion, but not both.

23. CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force for this agreement:

- A. **Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
 - 1. According to applicable federal, tribal, state, and local laws and regulations, including public health standards and building codes;
 - 2. In a reasonably safe condition for the project's intended use;
 - 3. Throughout its estimated useful service life so as to prevent undue deterioration;
 - 4. In compliance with all applicable federal and state nondiscrimination laws, regulations and policies.

- B. **Open to the public.** Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:

1. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current applicable guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
3. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

24. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB, the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203(b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

25. PROVISIONS FOR FEDERAL SUBAWARDS.

The following provisions shall be in force for this agreement:

- a. Sub-Recipient (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- b. Binding Official. Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."
- c. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.
- d. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a "federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- e. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines "construction work" as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- f. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not

less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in the Federal Fund Information Section. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION.

- g. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- h. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- i. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION and the Regional Office of the Environmental Protection Agency (EPA).
- j. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier-to-tier up to the non-federal award.
- k. Procurement of Recovered Materials. A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- l. Required Insurance. The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R. § 200.310 (2013)).

- m. Debarment and Suspension (Executive Orders 12549 and 12689). The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- n. Conflict of Interest. Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R. 200.

26. ORDER OF PRECEDENCE

This Agreement is entered into by RCO pursuant to, and under the authority granted by applicable federal and state laws, and by Yakama Nation pursuant to its governmental authority as a sovereign Native Nation, federally recognized by the Treaty with the Yakama of 1855 (12 Stat. 951). The provisions of the Agreement shall be construed to conform to applicable law. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order, if the source is legally applicable:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- E. State law (constitution, statute);
- F. Washington Administrative Code;

27. LIMITATION OF AUTHORITY

The parties may amend this Agreement only by a written instrument signed by the authorized representatives of both parties. Provided, that extensions of the period of performance and minor Project scope adjustments consented to in writing (including email) by the Sponsor's Project Contact need only be signed by RCO's director or designee.

RCO's Authorized Representative: Only RCO's Director or authorized delegate (per delegation of authority memo on file with the RCO) shall have the authority to agree to alter, amend, modify, or waive any clause or condition of this Agreement on behalf of RCO.

Sponsor's Authorized Representative: Only Yakama Nation's Tribal Council Chairman or authorized Tribal Council Executive Board designee shall have the authority to agree to alter, amend, modify, or waive any clause or condition of this Agreement on behalf of the Yakama Nation, provided an amendment would be required for such alteration, amendment, modification or waiver.

28. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the authorized representatives of the parties, and attached as an amendment to the original Agreement.

29. APPLICATION REPRESENTATIONS—MISREPRESENTATIONS OR INACCURACY OR BREACH

The Funding Entity (if different from RCO) and RCO relies on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

30. SPECIFIC PERFORMANCE

RCO may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the project as described in this Agreement and/or enforcement of long-term or other obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

31. TERMINATION AND SUSPENSION

The RCO will require strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. For Cause.

1. The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project.
2. Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
3. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1. The Sponsor was not in default; or
2. Failure to perform was outside Sponsor's control, fault or negligence.

C. Rights or Remedies of the RCO.

1. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
2. In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any unspent funds, overpayments, or improperly paid amount be repaid to RCO for redeposit into the account from which the funds were derived. However, Sponsor shall repay all such amounts of grant funds if required by state law, or in the case of a federally funded grant, the federal funding agency. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. Non-Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

1. Suspension: The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

32. DISPUTE RESOLUTION

General. This Dispute Resolution section applies only to disputes between the Sponsor and RCO regarding the Parties' rights and responsibilities under this Agreement, including disputes concerning any claims of the Parties for any indemnification pursuant to this Agreement for third party claims.

The parties shall, if possible, first attempt to resolve any disputes through Informal Negotiations as described below. If that is not possible or is unsuccessful, the parties shall elect to resolve the dispute through (1) a Dispute Hearing process if agreeable to both parties, or (2) binding arbitration; provided the Sponsor shall have the option to elect to resolve the dispute in state or federal court if such courts possess jurisdiction over the dispute in question.

For all of the dispute resolution methods, (1) each party shall bear its own attorney's fees and costs; and (2) during utilization of any and/or all of the mediation, arbitration and/or Dispute Hearing steps and processes, any statutes of limitation shall be tolled, and in no circumstances shall any time utilizing such steps and processes be considered when determining whether any statutes of limitation have expired.

Informal Negotiations. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within 30 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include with reasonable particularity (a) a statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 60 days after delivery of the notice, the executives of both parties shall meet at a mutually acceptable time and place.

Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above. Such closure shall not preclude continuing or later negotiations, if desired.

All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

Dispute Hearing. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues.

A party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the RCO director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the funding board's chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the dispute panel according to the nature and complexity of the issues involved. The process may be solely based on written material, if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the legal authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a dispute hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute, or completion of any Informal Negotiations conducted by the parties concerning the disputed action or position, whichever is later.

All fees and costs associated with the implementation of this process (excluding each party's own attorney's fees and costs) shall be shared equally by the parties.

Arbitration. In the event the Parties do not agree to resolve the dispute through a Dispute Hearing Process as set forth above, the parties shall resolve any controversy, claim or dispute concerning the making, formation, validity, obligations under, or breach of, this Agreement (Disputed Matter) through binding arbitration conducted under Judicial Arbitration and Mediation Services (JAMS) rules. Prior to invoking arbitration, the parties may agree to mediation, in which event the parties will use their best efforts to select a mediator

as soon as possible. The mediator's costs and attendant costs of mediation (excluding each party's own attorney's fees and costs) shall be borne equally by the parties.

Either party may make a written demand for binding arbitration before a qualified arbitrator in Seattle, Washington, or at another place as the parties may agree in writing. Request for binding arbitration under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute, or completion of any Informal Negotiations conducted by the parties concerning the disputed action or position, or within thirty (30) days after completion of any mediation process conducted by the parties concerning the dispute action or position, whichever is later. A qualified arbitrator will mean a person generally familiar with the subject matter of the Disputed Matter with at least five years of arbitration experience, and knowledge of federal Indian law, if federal Indian law is part of the dispute. If the parties cannot agree on a single arbitrator, a three-person arbitration panel shall be selected as follows: each party shall select an arbitration panel member and the two selected panelists shall select a third. If the panelists cannot agree on a third arbitrator, the third arbitrator shall be selected by JAMS. The arbitration shall be administered by JAMS pursuant to its Expedited Procedures as now written or hereafter amended. Each party will pay for its own attorneys' fees and costs. The substantially prevailing party is entitled to reimbursement from the other party of all moneys it paid to the third arbitrator or JAMS related to the arbitration proceeding. The arbitrator's award shall be binding upon the parties and no appeal shall be permitted, except for a request to vacate under RCW 7.04A.230 or 9 U.S.C. § 10.

33. GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the authorities set forth in the Order of Preference section. In the event of a lawsuit involving this Agreement, venue shall be determined as set forth in section 33, below.

34. PROVISIONS FOR FEDERALLY RECOGNIZED INDIAN TRIBES

The following provisions apply where Sponsor is a federally recognized Indian tribe:

- A. **Limited Waiver of Sovereign Immunity.** The Tribe expressly retains all rights and benefits of sovereign immunity. Nothing in this Agreement shall be deemed as a waiver of sovereign immunity or as increasing the Tribe's liability beyond any statutory or other limitation of liability, except as expressly stated herein.

The Tribe hereby grants and provides only to RCO (including suits in the name of the "state" insofar as the RCO is the state actor in question) and not to any other individual, agency, or entity, a limited waiver of sovereign immunity exclusively for the following purposes, and as limited by the terms of this Agreement:

1. to enforce the express terms of this Agreement, including the indemnification provisions, and of any documents recorded pursuant to this Agreement, such as those related to real property interests in the form of deeds, easements, or covenants,
 2. to enforce the Dispute Resolution provisions of this Agreement,
 3. to compel arbitration of a Disputed Matter (unless the Tribe has elected to resolve the dispute through suit brought in a court of competent jurisdiction),
 4. to enforce any mediation agreement, Disputes Panel Decision, or Arbitration award or judgment, or to vacate an Arbitration award or judgment under RCW 7.04A.230 or 9 U.S.C. § 10,
 5. to enforce the long-term obligations of this Agreement.
- B. This limited waiver of sovereign immunity shall apply only to matters described in the above subsection A brought in federal district court in the jurisdiction where the project is situated, or if the federal district court lacks jurisdiction, then in a State court of competent jurisdiction. Such court may render judgment and issue such orders as may be necessary to enforce such awards or judgments. This waiver does not extend to and is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties; nor does it extend to any other type of action or to any other forum or regarding any other matter. No award for indirect, consequential, or punitive damages of any kind may be made or enforced against the Tribe. Further, the limited waiver of sovereign immunity shall be of limited duration, applying during the period of performance of this Agreement and then afterwards only as follows:
1. For restoration projects: Limited to the 10 years following the final RCO project reimbursement,
 2. For non-capital projects: Limited to the period of performance. Non-capital projects include Planning, Research, Monitoring, Education, Enforcement, Maintenance, Preliminary Design, Assessment, Acquisition of Water Rights, and Studies.
 3. For capital projects: Limited to the 25 years after the end date of this agreement. Capital projects include Development and Renovation (construction and/or renovation), and completed final designs.
 - a. For the purposes of this Agreement only, final designs for restoration of habitat that do not include engineered

construction or removal of structures shall be considered a non-capital project and treated under subsections B(1) and C(1) of this section 34.

- C. **Liability Limits.** The Tribe's total monetary liability arising from (1) monetary judgments or awards made pursuant to a resolution or judgment under the Dispute Resolution section, (2) any defense and/or indemnity obligations under this Agreement, (3) Sponsor's long-term obligations, and (4) defaults of any explicit duty owed by the Tribe under the terms of this Agreement, shall be limited by and to the following:
1. For Noncapital Projects (Planning, Research, Monitoring, Education, Enforcement, Maintenance, Preliminary Design, Assessments, Acquisition of Water Rights, and Studies.): The RCO grant amount.
 2. For Restoration, Development (construction/renovation), Renovation, and completed final design projects: a per occurrence limit of \$1 million (with a maximum aggregate limit of \$3 million), or the grant amount, whichever greater, or in the case of a long-term obligation the cost of conversion or replacement property based on the current fair market value of a replacement property or an equivalent amount if the Sponsor has not obtained or is unable to obtain replacement property.
- D. Payment of a monetary judgment arising from the Tribe's indemnity obligations to RCO under this Agreement, or from a default of an explicit duty owed by the Tribe to the RCO under the terms of this Agreement, shall be further limited to payment from the Tribe's insurance if such indemnity obligation or default is covered by such insurance. The foregoing does not apply to the costs of defense under the indemnity.
- E. In disputes between the parties, each party shall bear its own attorneys' fees and costs. Attorneys' fees and costs in connection with third party claims subject to the Sponsor's indemnification of RCO shall not reduce the Sponsor's liability limits in subsection C above.
- F. Nothing in this Agreement (including without limitation Sponsor's obligations to comply with applicable federal and state laws, regulations, and policies in performing its obligations under this Agreement) is intended to or shall be interpreted to subject the Sponsor to federal or state regulatory jurisdiction to which they would not otherwise be subject.
- G. Notwithstanding the limited waiver of sovereign immunity contemplated by the forgoing subsections of section 34: For non-capital projects (including final design projects that do not include engineered construction or removal of structures), the Tribe shall have the right to, and may, through a unilaterally executed notice to RCO (which must be signed by the Tribe prior to or concurrent with its execution of this Agreement, and submitted to RCO along with the Tribe's executed copy of the Agreement), provide in writing to RCO that the Tribe chooses not to waive its sovereign immunity. Such notice shall be considered a part of this Agreement as hereby incorporated by reference in this subsection. In such case, the limited waiver of sovereign immunity provided for in section 34 shall not apply to this Agreement. Provided further, that if the Tribe chooses to exercise this right and preserve its sovereign immunity, then RCO shall have no obligation to reimburse the Tribe for any project costs until the project period of performance has ended and the Tribe has completed all associated grant requirements, including submission of a final bill and any other required documentation.

35. SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

36. END OF AGREEMENT

This is the end of the agreement.

24-1713 Agreement - YNProjAgrmnt

Final Audit Report

2025-04-23

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