



Request for Proposals:

On-Call Site Evaluation and Small Project Design

Columbia River

April 22, 2025

**Honor. Protect.
Restore.**

OFFICE
P.O. Box 151
401 Fort Road
Toppenish, WA 98948

PHONE
509-881-1462

EMAIL
johj@yakamafish-nsn.gov

Yakama Nation Fisheries is seeking proposals from qualified environmental consulting firms to award an indefinite demand - indefinite quantity engineering and design services contract for assisting salmon habitat restoration activities taking place in the Upper Columbia salmon recovery region (Methow, Entiat, and Wenatchee Basins). Based upon the proposals received under this solicitation, the Confederated Tribes and Bands of the Yakama Nation will award a one year on-call contract to the best quality bidder.

As Yakama Nation Fisheries proceeds with developing habitat restoration projects in Okanogan and Chelan Counties, UCHRP staff biologists will call upon the winning contractor as necessary to enact a portion or all of the work tasks described below. Currently it is anticipated that at least four potential project sites will require engineering and design services under this contract through May 2026. The Contractor shall furnish all supervision, labor, equipment, and tools necessary to complete the Scope of Work.

Proposed Scope of Work

The Contractor will be available on an on-call basis to provide professional engineering and design assistance for the following tasks at any project area specified by Yakama Nation Fisheries in the Upper Columbia Basin:

Task 1 – Existing data review

Review existing data to be provided by Yakama Nation Fisheries, Bureau of Reclamation (BOR) or any other private or government entity that would aid future analysis and design. It is assumed this data may consist of fish habitat survey, stream flow data, and historical air photos.

Task 2 – Geomorphic Field investigation and site survey

To gain a perspective of river process, including fluvial geomorphology and sediment continuity, the river will be walked within the site boundaries and sufficient distances up and downstream to gain a reach level understanding of conditions. Air photos will be used during this investigation. An overview of reach conditions will be documented with general field notes and photos. Appropriate hydraulic cross sections will be identified and marked on maps and in the field for topographic survey.

A site survey will be conducted using a total station or survey grade GPS to collect survey data required for hydraulic analysis, conceptual designs and drawings. LIDAR data may be used in floodplain areas to complete hydraulic cross sections where appropriate.

Topographic and bathymetry survey will be completed on all lands from which ownership permission can be obtained by the Yakama Nation. Cross section survey and profile will be completed to develop a reach level hydraulic model. Survey will be based on an existing horizontal and vertical datum. A number of temporary bench marks using wooden hubs will be established for reference during construction. River and floodplain cross sections will be surveyed to develop both 1 and 2 dimensional models of the entire reach. Obvious infrastructural elements such as riprap, levees,

bridges, irrigation diversions, well heads, power lines, building foundations, and/or other such elements shall be surveyed.

Stream substrate size will be documented by collection of pebble counts. Pebble count locations of representative bed load materials will be determined in the field. The data will be used in design considerations of sediment continuity and stream stability.

Existing riparian vegetative composition will be noted including species and elevations with respect to the stream.

Field and survey data will be downloaded into and summarized in appropriate software (i.e. Excel, AutoCAD).

Assumptions: Access will be provided by the Yakama Nation Staff and stream flows will be low enough for wading.

Task 3 – Hydrology

Peak stream flow frequencies will be estimated or obtained from previous BOR and/or USGS work efforts or developed using available gage data. A channel forming discharge will be estimated based on modeled flow depths in comparison to vegetative and gravel bar indicators surveyed in the field.

Task 4 – Hydraulic analysis

Hydraulic conditions will be modeled using both 1 dimensional and 2 dimensional models. Site survey collected in Task 2 will be used to build an existing conditions model. Manning's n values will be estimated from reference literature, professional experience and opinion. In support of the alternatives analysis and design tasks, the existing conditions model will be copied and modified for project conditions.

The U.S. Army Corps of Engineer's one-dimensional HEC-RAS hydraulic model will be used to consider and certify FEMA flood impacts. Two-dimensional modeling will be used to estimate surface flow behaviors at various stream discharges, including analyzing for changes in flow direction, sheer stress, and bed mobility based on the proposed conditions.

Task 5 – Development of Conceptual Report and Drawings

The contractor will provide restoration/enhancement strategies and options to benefit adult and juvenile salmonid habitats at range of discharges and where possible low summer river stage. These strategies will be detailed with drawings and a technical report describing the proposed restoration strategy. The contractor will work closely with Yakama Nation UCHRP staff through conceptual development.

Task 6 – Stakeholder Meetings and Communications

Based on the conceptual report, the contractor will create a power point presentation that explains all findings, assumptions, conclusions and project strategy options. The contractor will present such findings to landowners and agency stakeholders. The presentation will focus on existing river processes, future trends, project benefits, relative project costs, project risks, future river processes as they relate to each project opportunity and how each potential project fits within existing and likely future conditions.

Task 7 – Design level survey (if additional survey is needed)

Supplementary site survey may be completed to gather additional field data on existing conditions so that robust restoration designs can be produced. Supplementary surveys may include further topographic survey, bathymetric surveys, groundwater testing, and/or geologic surveys, among other things.

Task 8 – Development of Permit Level Construction Plan

Design deliverables provided under this task will provide suitable detail to allow for environmental permits to be acquired for the project (includes accurate depiction of areas being impacted and estimates of material quantities).

Task 9 – Stakeholder Meetings and Communications

If requested, the contractor will assist in presenting the Draft Construction Drawing Set to landowners and agency stakeholders for additional feedback and buy-in.

Task 10 – Development of Final Construction Plan

The contractor will produce final stamped designs of the project (includes construction specs and engineer's stamp - should be usable for producing bid document).

Task 11 – Create and Provide a Design Report

The Design Report will summarize project goals, field data collection, and technical design of the project including site survey, hydrology, hydraulics, grading, anchoring, and quantities/totals. A draft report will be provided for review, comment, and feedback. Revisions will be made to finalize the report.

Task 12 – Stakeholder Meetings and Communications

If requested, the contractor will assist in presenting the Final Construction Drawing Set to landowners and agency stakeholders.

Task 13 – Assistance during Bidding

This task includes assistance to Yakama Nation staff with preparation of the construction bid package and review of contractor bids. The task includes any necessary pre-bid meetings with contractors at the project site or elsewhere.

Task 14 – Engineer's Oversight during Project Construction

This task will complete construction oversight duties for all construction projects related to the restoration designs. Contractor will work closely with selected construction contractors and Yakama Fisheries managers to implement the projects. Inspection and direction of construction activities will occur throughout the project. Any changes or in field adjustments that are required will be under the supervision of Contractor with the approval of Yakama Nation Fisheries staff. This work includes any pre-construction staking and/or identification of survey control.

A daily observation report will be produced by the contractor for all days during construction oversight activities. The report template will be provided to the contractor by the Designated Representative.

Task 15 – Produce a Monitoring Plan

Contractor will develop a Monitoring Plan for each project that gets installed under this contract. The Monitoring Plan will document post-construction conditions and will outline future monitoring activities that will be completed. Documentation of post-construction conditions will include a description of the completed project, preparation of as-built drawings, and results of initial post-construction monitoring. This information will serve as a baseline for comparison to future monitoring data. The plan will also identify specific future monitoring activities and schedule; however, actual future monitoring activities will be conducted under a separate scope of work. Monitoring activities to be described in the plan may include photos, notes/sketches, measurements, ocular sediment data, and other activities depending on the project type and objectives. The monitoring schedule will describe the plan for regular scheduled monitoring as well as for monitoring in response to high water events. There will also be a discussion of site conditions that would trigger action items or

interventions/adaptive management. The Monitoring Plan will be submitted to Yakama Fisheries staff for review, comment, and feedback. Revisions will be made as necessary to finalize the plan.

Bid Directions

All bids must be received by close of business on **Thursday, May 15, 2025**. Submissions must include a signed bid sheet and required supporting documentation. Send hardcopies via postal or parcel delivery to:

Yakama Nation Fisheries
Attn: Annet Dillman
RE: Site Eval and Small Project
PO Box 151
401 Fort Road
Toppenish WA, 98948

We recommend mailing your proposal early to ensure timely delivery. We also recommend that you email Annet Dillman (dila@yakamafish-nsn.gov) a digital copy of your final bid documents as well as a copy of your certified mail certificate for proof of submission. Make sure the certified mail certificate clearly lists the name and address of the sender and recipient.

Submission Requirements

- Certified Rate Schedule
- A roster of key personnel including resumes/SOQ
- Provision of a separate roster of other non-key project personnel is recommended

*Please note that proposals dependent upon subcontracting will not be preferred.

Please review the attached Consultant Services Agreement template for typical Yakama Nation contracting terms and conditions including reporting/invoicing requirements.

Bid Evaluation Criteria

Category	Weight
Demonstrated experience with this type of work	15%
Demonstrated quality of work	15%
Cost	15%
Schedule	10%
Company integrity/references	10%
Demonstrated experience with permitting agencies in the Upper Columbia Region	10%
Adequacy/quality of staff and equipment proposed	15%
Completeness of Proposal (Based on RFP Submission Requirements)	10%

The Yakama Nation reserves the right to accept or reject any and all of the proposals received as a result of this request, or to cancel in part or entirely this request if it is in the best interest of the Yakama Nation to do so. This request does not commit the Yakama Nation to pay any costs incurred in the preparation of a proposal.

The contractor shall furnish all supervision, labor, equipment and tools necessary to complete the work as outlined in the Scope of Work.

Should you have any questions regarding this RFB or the project, please don't hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jarred Johnson", with a stylized flourish at the end.

Jarred Johnson
Senior Habitat Scientist
johj@yakamafish-nsn.gov
509-881-1462

CONSULTANT SERVICES AGREEMENT

This consultant services agreement is between the CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, a sovereign native nation with its governmental headquarters located at P.O. Box 151 / 401 Fort Road, Toppenish, WA 98948 on the Yakama Reservation (“**Yakama Nation**”), and [REDACTED], EIN Number [REDACTED], with its primary place of business located at 501 Portway, Suite 101, Hood River, WA, 97031 (“**Consultant**”).

The Yakama Nation wants to obtain technical assistance to accomplish the project, task, study, or other work described in Exhibit A (Scope of Work) to this agreement.

Consultant states that it has the necessary technical expertise, skill, and capability to complete this work for the Yakama Nation.

The parties therefore agree as follows:

ARTICLE 1. STATEMENT OF SERVICES

1.01 **Work & Standard of Performance.** Consultant shall perform the work described in Exhibit A (Scope of Work) to this agreement (the “**Work**”). Consultant shall, at its sole expense, provide all labor, services, and equipment necessary to complete the Work timely and to the Yakama Nation’s satisfaction, except as expressly provided otherwise in this agreement. Consultant’s performance shall comply with applicable tribal, federal, state, and local law and policy, and be consistent with generally accepted professional best practices, both of which Consultant states it has knowledge of.

1.02 **Term.** This agreement will be effective on the date when both parties have signed it, and will terminate as set forth below, unless terminated earlier in accordance with Article 9 of this agreement (if neither option is selected, Option B shall be the default):

☐ *Option A:* On December 31, 2021

☒ *Option B:* Upon Consultant’s satisfactory performance of the Work.

1.03 **Prior Performance.** If the Consultant has performed any Work prior to the effective date of this agreement, then this agreement will govern such prior performance. Except that the Consultant’s invoicing obligations, and the Yakama Nation’s associated payment obligations, as set forth in Exhibit C (Payment Terms), will not arise until after the effective date of this agreement.

1.04 **Key Personnel.** If any of Consultant’s employees or agents are specifically identified in Exhibit A (Scope of Work) as the employee(s) or agent(s) expected to perform the Work, they will be considered Consultant’s “**Key Personnel**” for purposes of this agreement. Consultant shall ensure that

Consultant Services Agreement btw. Yakama Nation and [REDACTED].

Key Personnel continue to be assigned to the Work until its completion, unless Consultant obtains the Yakama Nation Project Manager's written consent to a staff substitution.

ARTICLE 2. COMPENSATION

2.01 **Maximum Compensation.** The maximum total compensation approved by the Yakama Nation and payable to Consultant for Work under this agreement is \$_____. The Yakama Nation shall not pay Consultant more than this maximum amount for the Work. Consultant acknowledges that this maximum amount (a) is sufficient to perform the Work consistent with the terms and conditions of this agreement and (b) includes all eligible expenses associated with Consultant's performance of the Work.

2.02 **Payment.** The Yakama Nation shall pay Consultant according to the invoicing and payment terms described in Exhibit B (Budget) and Exhibit C (Payment Terms) to this agreement.

2.03 **Expenses.** The Yakama Nation shall only compensate Consultant for eligible expenses directly associated with the performance of the Work. Consultant acknowledges that "eligible expenses" means reasonable, allocable, and allowable expenses that are incurred by Consultant in performance of the Work with the prior written approval of the Yakama Nation, for which the Consultant provides a reasonably detailed receipt or other proper proof. The Yakama Nation shall pay eligible expenses, including any authorized travel expenses, consistent with applicable tribal and/or federal law and policy.

2.04 Federal, State, or Privately Granted Funds.

(a) *Compliance.* Consultant acknowledges that federal, state, or grant funds utilized to compensate Consultant may be subject to certain laws, regulations, requirements and restrictions, which may include, but are not limited to, 2 C.F.R. Part 200. Consultant shall utilize funds in accordance with applicable funding requirements and restrictions, and shall reimburse the Yakama Nation for any expenses that are paid by the Yakama Nation but subsequently disallowed by the federal or state agency or other grantor.

(b) *Availability of Funds.* Consultant acknowledges that where the Work is funded by federal, state, or other external sources, Yakama Nation's payment obligations to Consultant for Work under this Agreement are entirely dependent and conditioned upon Yakama Nation receiving the funds from such agency or agencies.

ARTICLE 3. PROJECT MANAGEMENT

3.01 **Project Managers.** Each party will designate an internal project manager to facilitate the completion of the Work. Being designated as a party's project manager does *not* endow the representative with any legal authority to bind that party. Either party may change their project manager by giving notice to the other party.

(a) The Yakama Nation's Project Manager is _____. S/he may be reached at _____, or _____.

(b) The Consultant's Project Manager is _____. S/he may be reached at _____, or _____.

ARTICLE 4. LEGAL NOTICE

4.01 **Valid Notice.** For a notice under this agreement to be valid, it must be in writing, properly addressed to the party's current legal contact, and delivered (a) by a national transportation company with all fees prepaid and receipt signature required, or (b) by USPS certified mail, return receipt requested, postage prepaid. Notice will be effective upon the date of receipt. Either party may change its designated address or recipient for legal notice by giving the other party reasonable notice of such change.

4.02 **Notice to the Yakama Nation.** Notice to the Yakama Nation must be sent to the Tribal Council Chairman at P.O. Box 151 / 401 Fort Road, Toppenish, WA 98948, with courtesy copies to the Yakama Nation's Project Manager electronically at their email address listed above in section 3.01(a), and to the Yakama Nation Office of Legal Counsel at P.O. Box 150 / 401 Fort Road, Toppenish, WA 98948.

4.03 **Notice to Consultant.** Notice to Consultant must be sent to _____ at _____.

ARTICLE 5. RECORDS, ACCOUNTING & AUDITS

5.01 **Recordkeeping.** Consultant shall maintain auditable records during the term of this Agreement and for a period of at least three (3) years following the termination of this Agreement. Consultant shall comply with the Audit Act of 1984, P.L. 98-502 (31 U.S.C. § 7501 et. seq.), as amended, and the Office of Management and Budget's Uniform Guidance requirements set forth at, 2 C.F.R. Part 200, Subpart F, as amended, in maintaining its records.

5.02 **Accounting.** Consultant shall adhere to a systematic accounting method in performing the Work to ensure timely and appropriate resolution of audit findings and recommendations, and compliance with the Office of Management and Budget's Uniform Guidance requirements set forth at, 2 C.F.R. Part 200, Subpart F, as amended.

5.03 **Audits.** Except as prohibited by law, the Yakama Nation, the United States (if applicable), and any grantor agency (if applicable), and/or their duly authorized representative(s), may audit, examine, request, or make copies of Consultant's records that concern or are relevant to the subject matter of this agreement or to Consultant's performance of its obligations under this agreement. Consultant shall provide such authorized auditors with timely access to its records.

5.04 **Access to Yakama Nation Records, Personnel & Facilities.** Except as prohibited by law, the Yakama Nation shall provide Consultant with reasonable access to its personnel, facilities, and records necessary for Consultant's performance of this agreement.

5.05 **Confidential Information.** If the Yakama Nation provides Consultant with documents or information typically maintained as confidential by the Yakama Nation ("**Confidential Information**"), Consultant shall make all reasonable efforts, and take all reasonable precautions, to prevent the disclosure of that Confidential Information to non-parties, except as may be required by law or court order. Consultant shall not use Confidential Information for any purpose except the performance of this agreement.

5.06 **Continuing Obligation.** Consultant's obligations under Article 5 of this agreement are intended to survive the termination of this agreement.

ARTICLE 6. WORK PRODUCT

6.01 **Definition.** "**Work Product**" includes, but is not limited to, all papers, reports, information, drawings, internal memoranda, files, proposals, papers, copyrights, patents, photographs, data, and all written or graphic material, or any other material or property, whether stored electronically or in hard copy, in any format including native formats, and however produced, prepared, collected, generated, or created by the Consultant in connection with this agreement.

6.02 **Ownership.** Consultant acknowledges that all Work Product it produces pursuant to this agreement will be works for hire, which the Yakama Nation will own, and which Consultant will not retain any interest in or rights to. Consultant shall give all its Work Product to the Yakama Nation promptly upon the termination of this agreement or upon request in a format acceptable to the Yakama Nation.

ARTICLE 7. RISK MANAGEMENT

7.01 **Insurance Requirement.** Consultant shall be required to purchase and maintain insurance during the term of this agreement, as set forth in Section 7.02 below: ☒ YES ☐ NO. (If neither box is checked, insurance is required.)

7.02 **Insurance Coverage.** If insurance is required under Section 7.01, Consultant shall, at its own expense, maintain the following minimum insurance coverage during the term of this agreement and for a period of three years following the completion of the Work:

(a) Either Commercial General Liability Insurance OR Professional Liability Insurance, including errors and omissions insurance, in the amount of at least one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

(b) If the performance of the Work requires Consultant to use one or more automobiles, Commercial Automobile Insurance coverage for all vehicles used in performance of the Work in an amount equal to the greater of either (i) one million dollars (\$1,000,000), or (ii) any other amount specified by applicable law.

(c) Any other insurance coverage required by applicable law, which may include (but may not be limited to) workers compensation insurance or disability benefits insurance.

7.03 Additional Insured. Consultant shall name the Yakama Nation as an additional insured on its applicable insurance policies, provide the Yakama Nation with certificates of insurance, and at the Yakama Nation's request, provide Yakama Nation with copies of the relevant policies. The additional insured coverage provided by Consultant to Yakama Nation shall be on a primary and noncontributory basis.

7.04 No Subrogation. Consultant hereby waives for insurance purposes all subrogation rights it may have against the Yakama Nation and any of the Yakama Nation's officers, agents, employees, governmental entities, contractors, or subcontractors.

7.05 Indemnification. Consultant shall indemnify, hold harmless, and (at the Yakama Nation's discretion, and with counsel acceptable to the Yakama Nation) defend the Yakama Nation and its officers, agents, employees, and assigns (each and all considered the "Yakama Nation" for purposes of this Section) against any claim, demand, judgment, loss, cost, damage, expense or other liability whatsoever, including legal fees and expenses, which are incurred by or claimed against the Yakama Nation and arise, either directly or indirectly, from any action, omission, error or breach of contract by Consultant or its officers, agents, employees, or subcontractors. The requirements of this Section 7.05 are intended to survive the termination of this agreement.

7.06 Injunctive Relief. Consultant acknowledges that its breach or threatened breach of Article 5 (Records, Accounting, Audits) or Article 6 (Work Product) of this agreement would cause irreparable injury to the Yakama Nation, which could not be completely compensated by money damages, and that injunctive relief to enforce Articles 5 or 6 of this agreement would be proper.

ARTICLE 8. DISPUTE RESOLUTION

8.01 Negotiation. If the parties disagree about the performance, interpretation, or enforcement of this agreement, they shall first attempt to resolve their disagreement informally through (a) dialogue between their project managers, and then (b) face-to-face negotiations between their leaders, which must be held in Toppenish, WA. If the parties cannot resolve their disagreement after taking these steps, it will be deemed a 'dispute'.

8.02 Mediation. The parties shall endeavor to resolve any disputes through non-binding mediation before resorting to any other dispute resolution procedure. Such mediation must be held at

a mutually agreeable location in Yakima, Washington. Any demand for mediation must be made in writing and delivered to the other party in accordance with the provisions of Article 4 (Notice) of this agreement. The parties shall share equally the costs of hiring a mediator and securing a suitable location for the mediation proceedings. The requirements of this Section 8.02 are intended to survive the termination of this agreement.

ARTICLE 9. TERMINATION

9.01 **For Convenience.** Either party may terminate this agreement by giving to the other party at least 90 days prior written notice. The notice must specify the effective date of termination.

9.02 **For Breach.** Either party may immediately terminate this agreement by written notice following a material breach by the other party. The parties acknowledge that the terms of Article 5 (Records, Accounting & Audits), Article 7 (Risk Management), and Section 1.04 (Key Personnel) are material terms. Consultant acknowledges that time is of the essence for performance of the Work.

9.03 **By Tribal Council Executive Committee.** The Yakama Nation Tribal Council Executive Committee may immediately terminate this agreement upon written notice to Consultant.

9.04 **Effect.** Termination of this agreement will not relieve either party of any liabilities or obligations that arise under this agreement before the agreement is terminated. Termination will not limit the Yakama Nation's rights or remedies at law or equity, including, but not limited to, the right to contract with other qualified persons to complete the Work.

ARTICLE 10. GENERAL TERMS

10.01 **Independent Contractor.** Consultant acknowledges that it is an independent contractor and not an agent or employee of the Yakama Nation for purposes of this agreement. The parties state that they are not engaged in a joint venture or partnership. Neither party may speak for or bind the other.

10.02 **Conflicts.** During the term of this agreement, Consultant shall not accept work from any non-party, which would create a real or apparent conflict of interest with Consultant's performance of the Work for the Yakama Nation.

10.03 **Subcontractors.** Consultant shall not hire a subcontractor to perform any portion of the Work for this Agreement, except as expressly authorized in writing by the Yakama Nation. Where the Yakama Nation has authorized Consultant's hiring of a subcontractor, Consultant shall require the subcontractor to comply with all relevant terms and conditions of this agreement in performing their portion of the Work. Any unauthorized attempt by Consultant to subcontract the Work will be null and void, and Consultant shall be responsible for all expenses, fees, and costs associated with the unauthorized subcontract(s).

10.04 Fair Employment Practices. Consultant shall not discriminate against any employee or applicant for employment because of handicap, race, age, religion, sex, gender, or sexual orientation. Consultant shall take affirmative steps to ensure that applicants and employees are treated fairly during hiring and employment. This provision is not intended to prevent Consultant from implementing a lawful Indian preference employment policy.

10.05 Indian Preference Employment. When Consultant performs Work within the boundaries of the Yakama Reservation, or on Yakama trust property outside the boundaries of the Yakama Reservation, Consultant acknowledges that it is subject to and shall comply with applicable Indian preference employment laws of the Yakama Nation, including its Tribal Employment Rights Ordinance (Yakama Revised Law & Order Code, Title 71, as amended) ("**TERO**"). Consultant further acknowledges that under Section 703(i) of the 1964 Civil Rights Act, it may implement an Indian Preference hiring policy for all work performed near (within reasonable commuting distance from) the Yakama Reservation. Consultant hereby adopts the TERO and its associated policies as its Indian preference hiring policy for Work it performs near the Yakama Reservation, and shall publicize the same.

10.06 Permits and Approvals; Taxes and Fees. The Consultant shall, at its expense, obtain any and all permits, approvals, or authorizations from local, state, federal or tribal authorities necessary or required for the completion of the Work. Unless the parties have expressly agreed otherwise in this agreement, Consultant shall pay any taxes or fees applicable to or associated with its completion of the Work.

10.07 Force Majeure. The parties' obligations under this agreement are subject to force majeure. If acts of God, severe weather conditions, fire, or unforeseen catastrophic events caused by nonparties which are beyond the control of the parties, prevent the parties from performance, such non-performance must not be considered a breach of this agreement.

10.08 Entire Agreement. This agreement constitutes the entire understanding between the parties with respect to the subject of this agreement, and supersedes all prior or contemporaneous agreements, whether written or oral, between the parties. The parties acknowledge that they each participated in negotiating this agreement, and that they have read, understood, and approved its terms. Headings are provided in this agreement for convenience, and are not intended to affect the meaning of the provisions to which they are affixed.

10.09 Exhibits Incorporated by Reference. This agreement includes any terms or documents incorporated by reference, as well as those exhibits listed below. If the terms of an exhibit or incorporated document conflict with the terms of the body of this agreement, the terms in the body of this agreement must prevail.

- (i) Exhibit A – Scope of Work
- (ii) Exhibit B – Budget

(iii) Exhibit C – Payment Terms

10.10 Change Orders. Change orders must be in writing and authorized by an appropriate representative of the Yakama Nation as follows:

(a) *Material Changes.* Any material changes to this agreement or the Work to be performed must be authorized in writing and signed by the Yakama Nation Tribal Council Chair as modifications or addendums to this agreement. Material changes are (i) any changes which require an increase in the maximum ‘not to exceed’ contract amount set forth in Section 2.01 of this agreement, or (ii) any changes to *what* Work is to be performed.

(b) *Immaterial Changes.* The Yakama Nation’s Project Manager may authorize immaterial changes in writing. Immaterial changes are those that concern *how* the Work will be accomplished, but do *not* change the scope of what Work will be performed, or the overall contract payment amount.

10.11 Amendments; Waiver. The parties may amend this agreement by a written instrument signed by the authorized representatives of both parties. No waiver of a right or obligation under this agreement will be effective unless it is in writing and signed by an authorized representative of the party granting the waiver. A waiver granted on one occasion will not operate as a waiver on other occasions.

10.12 Execution. If the parties sign this agreement in several counterparts, each will be deemed an original, but all counterparts together will constitute one instrument. The parties may sign and deliver this agreement (and any ancillary documents) to each other electronically, and the receiving party may rely on the electronic document as if it was a hard-copy original.

10.13 Choice of Law and Venue. Yakama law governs the validity and interpretation of this agreement, and any adversarial proceedings brought by one party against the other party arising out of this agreement. Any court action filed to enforce or interpret this agreement must be in the Yakama Tribal Courts. Consultant acknowledges that this agreement will be considered to have been executed at the Yakama Nation governmental headquarters in Toppenish, WA, and that this agreement establishes a consensual business relationship between the parties for purposes of Yakama Tribal Court jurisdiction. Consultant shall not raise any personal jurisdiction objections to Tribal Court jurisdiction.

10.14 Severability. If any term of this agreement is found to be illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability. All other terms shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable that comes closest to expressing the parties’ original intention.

10.15 Sovereign Immunity. In entering into this agreement, the Yakama Nation is not waiving its sovereign immunity from suit, and is not waiving, altering, or otherwise diminishing its rights, privileges, remedies, or services guaranteed by the U.S. Treaty with the Yakamas of June 9, 1855.

10.16 Special Terms & Conditions. In addition to the forgoing terms and conditions, the following requirements will apply to this Agreement:

(a) Consultant's Work under this agreement is being funded under Intergovernmental Master Agreement 56662 ("IG-MA 56662"), as amended, between the Bonneville Power Administration and the Yakama Nation, and its applicable funding release ("Release"). Consultant acknowledges that Yakama Nation's obligation to compensate Consultant for Work performed under to this agreement is entirely dependent and conditioned upon such funds being made available to the Yakama Nation by BPA for this Work.

(b) Consultant shall comply with any and all requirements applicable to subcontractors set forth in the IG-MA 56662 and any associated BPA funding Release(s). If Consultant is authorized under this Agreement to hire any subcontractors, Consultant shall ensure that their subcontracts include a requirement for compliance with these terms. The IG-MA 56662 can be accessed using a web browser at the following address: <http://yakamafish-nsn.gov/restore/projects/bpa-master-agreement-terms-and-conditions>. When prompted, enter "YN Fish1855" as the webpage password to access the IG-MA 56662 and its modifying amendments. Consultant hereby states and certifies that it has read the Master Agreement and agrees to be bound by the applicable terms. Consultant further states that it has the capacity to comply with the Master Agreement's applicable terms.

[Signature pages follow.]

Each party is signing this agreement on the date stated opposite that party's signature:

THE CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION:

By: Gerald Lewis (or authorized designee)

Date

Title: Tribal Council Chairman

Consultant:

EIN #: _____

By: _____

Date

Title:

EXHIBIT A – SCOPE OF WORK

EXHIBIT B – BUDGET

2. Applicable Rate Schedule. Consultant shall invoice, and the Yakama Nation shall pay, according to the following rate schedule:

EXHIBIT C – PAYMENT TERMS

1. Schedule. The Consultant shall invoice for work performed in accordance with the following schedule [if no schedule is selected, invoicing shall occur per Option A – Monthly Time & Materials]:

☒ **A. Monthly Time & Materials:** The Consultant shall invoice monthly on a time and materials basis for actual Work completed during the invoice period. Unless the parties agree in writing to different terms, invoice periods shall begin on the first day of each month and end on the last day of each month.

☐ **B. Progress:** The Consultant shall invoice following the completion of each major Work task identified in Exhibit A (Scope of Work). A Work task will not be considered complete until it has been reviewed and accepted by Yakama Nation’s Project Manager.

☐ **C. Alternative Schedule:** The Consultant shall invoice as follows: _____.

2. Invoicing Requirements. Invoices must include appropriate supporting documentation, which may include, but is not limited to, detailed expense receipts, and a brief summary of activities associated with the Work performed by Consultant. Consultant shall submit invoices to the Yakama Nation’s designated Project Manager within 15 days after the end of the invoice period in which the Work was performed and/or expenses were incurred. Consultant hereby waives the right to receive full payment on invoices submitted more than 60 days following the end of the invoice period. (The ‘end’ of the invoice period for progress payments will be considered the last day of the calendar month in which the Work task was completed.) Sample invoice, expense, and travel forms are attached and available upon request for Consultant’s review and convenience.

If a question or concern arises regarding an invoice, Yakama Nation shall promptly notify Consultant of the question or concern. Within 15 business days following such notification, Consultant shall sufficiently explain or correct the issue, or Consultant will be deemed to have waived their right to demand payment for the associated Work or expense.

3. Payment. Subject to the terms of this Agreement, the Yakama Nation shall pay all approved invoices within 60 days following the date of invoice.

Invoice #: _____
 Pages attached: _____

FY19 BILLING FORM FOR CONSULTANT/CONTRACTOR

DATE: _____
 CONSULTANT: _____ EIN: _____
 ADDRESS: _____ CONTRACT: _____
 PROJECT #: _____
 PO #: (we provide you a PO #)
 VENDOR #: our finance system ID#
 FOR BILLING PERIOD: _____ to _____

Total Time _____ hrs _____ (rate per hr) See pg 2 DESCRIPTION OF SERVICES PROVIDED	
Total Expenses _____ See pg 3 ITEMIZED EXPENSES Please attach detailed receipts to billing Expenses should be listed on page 3. Expenses such as telefax, copies, telephone may be reimbursed at actual cost (subject to limits in approved budget). Authorized travel expenses subject to Federal Travel Regulations & Yakama Policies	\$0.00
Total Mileage _____ miles x \$ _____ (\$/mi.) See pg 4 TRAVEL/MILEAGE Please show purpose of travel, odometer readings, total miles. and travel time spent traveling. Provide expenses such as lodging and airfare to page three	\$0.00
TOTAL AMOUNT OF BILLING	\$0.00

Signature _____ date _____

Consultant Services Agreement btw. Yakama Nation and _____.

