

***Mid-Columbia Coho Restoration Project:***

***Beaver Creek Channel Roughening and  
Riparian Habitat Restoration Project***

***Request for Proposals***



# Table of Contents

I.	REQUEST FOR PROPOSAL .....	1
A.	Project Description.....	1
B.	Requested Services.....	1
1.	Prepare the roughened channel work areas .....	1
2.	Installation of channel roughening .....	2
3.	Site restoration/re-vegetation .....	2
C.	In-water work schedule .....	2
II.	INSTRUCTIONS TO BIDDERS .....	2
III.	SCHEDULE.....	7
A.	Selection Schedule .....	7
B.	Payment .....	7
C.	Contract Term .....	7
D.	Other Provisions .....	7



**MID-COLUMBIA COHO RESTORATION PROJECT**  
**REQUEST FOR PROPOSALS**  
**Beaver Creek Channel Roughening and Riparian Habitat Restoration Project**

**I. REQUEST FOR PROPOSAL**

**A. Project Description**

Grette Associates is managing a project for the Yakama Nation that will result in the roughening of two high water sections of channel within Beaver Creek. The goal of the stream roughening is to remove existing barriers and structures within the designated work areas and to stabilize the channel sections with rock and reduce the overall slope severity which may be a barrier to upstream fish migration. Completion of this project would result in two sections of roughened channel each approximately 10 feet in length and at a eight percent (8%) slope (see attached plan views). The completed project must maintain existing flow conditions. In addition to channel roughening, the selected contractor will also be required to restore the riparian habitat in areas impacted by channel roughening actions. Approximately 490 square feet of construction impact is anticipated.

The project site is located at 19115 Chiwawa Loop Road, Leavenworth, WA in Chelan County; Section 12, Township 26N., Range 18E. W.M. The property is commonly known as Mountain Springs Lodge.

The roughened channel project includes:

- The creation of two roughened channels within Beaver Creek. These roughened channels will be constructed by excavating material and placing an immobile framework of large rock mixed with washed gravel and sand to allow fish passage. .
- Construction impacts to the surrounding areas shall be limited to the greatest extent practicable. Areas disturbed as a result of the channel roughening construction process shall be restored/revegetated to mirror pre-construction conditions. Restoration efforts will include but are not limited to: plant installation and mulch installation.

**B. Requested Services**

Grette Associates seeks a contractor to assist with the following tasks:

**1. Prepare the roughened channel work areas**

The selected contractor will be responsible for excavating and preparing the identified channel roughening areas. Site preparation actions will entail diverting water from work areas 1 and 2 as specified in the Statement of Work as well as the installation and maintenance of Temporary Erosion and Sediment Control (TESC) measures.

Note: Prior to dewatering activities, Yakama staff will be required to herd fish out of the in-water work area. The contractor will be required to coordinate with Yakama Nation staff to ensure this work occurs.

## **2. Installation of channel roughening**

After the work areas have been prepared, the contractor will install all channel roughening materials as specified in Section A and the Statement of Work. All project activities shall be conducted in compliance with all permit and regulatory requirements.

## **3. Site restoration/re-vegetation**

Upon completion of the channel roughening project the selected contractor shall restore all disturbed areas to pre-existing conditions and re-vegetate the area per the Statement of work (attached). Post installation monitoring will be conducted by others.

All tasks must be conducted in a manner consistent with the requirements reflected in the attached Statement of Work (attached).

## **C. In-water work schedule**

All in-water work must occur within approved regulatory work windows.

# **II. INSTRUCTIONS TO BIDDERS**

## **1. Execution Of Contract**

The successful bidder is required to execute said contract, and furnish all applicable insurance certificates, within ten (10) days after receiving properly prepared contract documents.

## **2. Proposal Sums**

The sum of money shown on the proposal (contract sum) shall cover all work, items/materials, and associated taxes included in the contract documents and any associated addenda (e.g. labor, material, equipment and use thereof, overhead, and compensation).

## **3. Taxes**

The contract sum and any agreed variations thereof shall include all taxes imposed by law, including Washington State sales tax.

No increase will be made in the amount to be paid by the contact or the owner because of any misunderstanding or lack of knowledge of the Contractor as to liability for, or the amount of, any taxes for which the contractor is liable or responsible for by law or under this agreement.

## **4. Examination Of Site And Conditions**

Before submitting a proposal, the bidder shall examine the project site of the work and ascertain all of the physical conditions in relation thereto. Failure to take this precaution will not release the successful bidder from entering into contracts nor excuse said bidder from performing the

work in strict accordance with the terms of the contract. No statement made by any officer, agent, or employee of the contact/owner/engineer in relation to the physical conditions pertaining to the site of the work will be binding.

A pre-bid onsite meeting and inspection of the site is scheduled for April 27, 2015.

## **5. Interpretation Of Proposed Contract Documents**

If any person contemplating submitting a bid is in doubt about the true meaning of any part of this request for proposals; including but not limited to the Statement of work, plans, or draft contract agreement documents; the bidder may submit to the contact a written request for an interpretation thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the proposed documents will be made only by addendum. Any addendums will be delivered via email or mail to the primary contact (the person to whom this bid package was addressed or the subsequent designee). The contact and/or owner is not to be responsible for any other explanations or interpretations of the proposed documents. The Contact Person must receive all requests for interpretations no later than 5:00 p.m. on **May 1, 2015**, subsequent requests will not receive a response.

## **6. Prohibition Of Alterations**

Except as otherwise provided herein, Proposals which are incomplete or conditioned in any way, or which contain erasures, alterations, or items not called for in the proposal, or which are not in conformity to the law, may be rejected.

This request invites bids on the attached plans. Each bidder shall bid upon the work exactly as specified and as provided in this request for proposals. Only the amounts and information asked for in this request is considered as the bid.

## **7. Submission Of Proposal**

Proposals shall be sent to the contact via regular mail. The following shall be written on the outside of the envelope: Beaver Creek Channel Roughening and Riparian Habitat Restoration Project.

Each submitting firm shall carefully examine the proposal documents and all addenda or other revisions and be thoroughly familiar with the detailed requirements prior to submitting a proposal. Should a firm find discrepancies, ambiguities or omissions within this RFP; or should be in doubt as to the meaning of an RFP element, they shall notify the Contact during the response period who will send addenda to all firms that received the Proposal. All questions during the response period shall be directed in writing to the contact. The contact response period shall end five (5) business days before the submittal deadline. Interpretations, corrections and changes in the proposal documents made in any other manner will not be binding, and firms shall not rely upon them.

To be considered as eligible to submit a proposal, a firm must be legally licensed to operate under applicable laws of the State of Washington.

**All Proposals shall be submitted to the following Contact:**

Tana Hoptowit  
P.O. Box 151  
Toppenish, WA 98948  
Phone: 509-865-6262 ext. 6318

**All RFP inquiries shall be directed to the following Contacts:**

Cory Kamphaus  
Yakama Nation-Mid-Columbia Coho Program  
Project Fisheries Biologist  
Phone: 509.548.9413 ext. 102  
[kamc@yakamafish-nsn.gov](mailto:kamc@yakamafish-nsn.gov)

Ryan Walker, Grette Associates  
Phone: (509) 663-6300  
E-mail: [ryanw@gretteassociates.com](mailto:ryanw@gretteassociates.com)

## **8. Modification Of Proposal**

Modification of Proposals already received will be considered only if the request for the privilege of making such modification is granted and the modification is made prior to the scheduled closing time for the receipt of the Proposals. All modifications must be made in writing over the signature of the bidder.

Electronic transmission modifications are acceptable only if such modification is received prior to the bid opening time and same is confirmed in writing on the letterhead of the Contractor.

## **9. Withdrawal Of Proposal**

At any time prior to the scheduled closing time for receipt of Proposals, any bidder may withdraw his proposal, either personally or by written request and/or electronic transmission, in the manner set forth herein for modification of proposal. If withdrawal is made personally, proper receipt shall be given therefore.

After the scheduled closing time for the receipt of proposals, or before award of contract, no bidder will be permitted to withdraw his Proposal unless said award is delayed for a period exceeding thirty (30) days. Any bids received after the scheduled closing time for receipt of bids shall be returned to the bidder unopened.

## **10. Rejection Of Proposal**

The contact and/or the site owner reserves the right to reject any and/or all proposals. In addition, the contact and/or owner also reserves the right to waive any informalities in connection with said proposals or bids. If any bidder is interested in more than one proposal, all

proposals in which such bidder is interested shall be rejected. If the Proposal includes a supplemental schedule for predetermined unit prices for labor and material, or other items for the purpose of establishing a cost basis on unforeseen Contract changes, the Owner reserves the right to reject, without impairing the balance of the Proposal, any or all such predetermined unit prices on the supplemental schedules which the Owner may consider excessive or unreasonable.

### **11. Evaluation of proposals**

In evaluating the proposals, the Owner may consider Proposal prices, escalation, time of completion, bidder's experience, past performance of bidder in meeting commitments, qualifications of bidder's personnel, bidder's equipment available for execution of the Contract, character and proximity to the Project of bidder's service facilities, effect upon the total cost to the Owner of ownership and operation of the Project, and any other factors that may determine which Proposal best serves the interests of the Owner. The contract will be awarded to the highest scoring firm based on the following rating ratios:

Approach.....	20%
Qualifications and Experience .....	40%
Labor Rate.....	30%
Tribal Preference.....	10%

### **12. Contract Documents**

The attached draft contract agreement shall be used.

### **13. Bidders' Data**

Each bidder shall submit with his bid the following:

1. Name and address of firm submitting proposal, include tribal affiliation if applicable. Note: Tribal corporate ownership and employees will receive preference. For the purposes of this document, tribal is defined as belonging to a federally recognized tribe. In support of the local economy, local firms shall also receive preference.
2. Description of project approach, including a description of how and by whom the project will be managed.
3. Description of qualifications and experience including three references from similar projects. Note: Those firms with project experience the most similar to that of the subject project will be given preference.
4. Subcontractors: The bidder shall describe each portion of the work which he intends to have performed by subcontract or supplied by a sub-supplier, including names and addresses of expected subcontractors and sub-suppliers and a description of the work each is to perform and/or supply.
5. Equipment and Materials: The Bidder shall supply a list of materials, products, suppliers, etc. and major equipment which he proposes for use in completing the Project.

6. Cost proposal including labor rates, material, equipment, overhead and compensation, to complete all of the work. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law, including Washington State sales tax. Note: Expenses will be paid at cost and travel will be billed at standard federal rates.
7. Any applicable bond information

Bid packages shall be limited to single space, typewritten pages (minimum 12 point font) and shall be no more than 20 pages in length. A page is defined as one side of an 8 ½ x 11 inch page.

END INSTRUCTIONS TO BIDDERS

### **III. SCHEDULE**

#### **A. Selection Schedule**

1. This RFP shall be transmitted on: April 15, 2015.
2. Contact response period shall end: May 1, 2015.
3. The Proposals are due by 3PM on: May 8, 2015  
Proposals received after this date will not be accepted.
4. Proposals will be evaluated and a firm selected by: May 21, 2015.
5. A contract will be provided for review and signature on: July 17, 2015.
6. The selected firm shall execute the contract within ten (10) days of receipt.

#### **B. Payment**

This will be a lump sum subcontract. A 50% progress payment will be paid halfway through the project with the balance upon completion.

This project may be subject to sales/use tax. Taxes must be included in cost estimate.

#### **C. Contract Term**

It is anticipated that this project will occur during the last two weeks of August 2015. The duration of the project is expected to be 5 working days.

#### **D. Other Provisions**

Contract terms and conditions shall conform to those of the Draft Contract Agreement.

# **BEAVER CREEK CHANNEL ROUGHENING AND RIPARIAN RESTORATION**

---

## **STATEMENT OF WORK**



## *Statement of Work*

**Project Description:** Grette Associates is managing a project for the Yakama Nation that will result in the roughening of two high water sections of channel within Beaver Creek. The goal of the stream roughening is to remove existing barriers and structures within the designated work areas and to stabilize the channel sections with rock and reduce the overall slope severity which may be a barrier to upstream fish migration. Completion of this project would result in two sections of roughened channel each approximately 40 feet in length and at a eight percent (8%) slope (see attached plan views). The completed project must maintain existing flow conditions. In addition to channel roughening, the selected contractor will also be required to restore the riparian habitat in areas impacted by channel roughening actions. Approximately 490 square feet of construction impact is anticipated.

**Description of Services:** The contractor will provide all necessary labor, equipment, and materials to construct the two roughened channel areas as shown in the attached plans.

- Work Area 1 is comprised of main channel and pond channel as referenced in the plans
- Work Area 2 is comprised of the upper channel as referenced in the plans

### **Period of performance:**

It is anticipated that this project will occur during the last two weeks of August 2015. The duration of the project is expected to be 5 working days.

All work below the bankfull elevation will be completed during the appropriate state-preferred in-water work period as specified in the Hydraulic Permit Approval.

### **Place of performance**

The project site is located at 19115 Chiwawa Loop Road, Leavenworth, WA in Chelan County; Section 12, Township 26N., Range 18E. W.M. The property is commonly known as Mountain Springs Lodge.

### **General Requirements**

The contractor will provide management, communication and construction expertise and will:

- Ensure that the work is performed in a timely and cost effective manner
- Ensure that project deliverables are completed on-time and within budget and that changes in scope that require a modification to the budget are negotiated with Grette Associates
- Ensure that deliverables are adequate to meet the goals of the project

- Coordinate with Grette Associates staff, the Project Engineer, and Yakama Nation staff to maintain and update the project timeline and budget.

## **Specific Requirements**

The contractor shall perform the following tasks:

### *1. Prepare the roughened channel work areas*

- a. Create access. In general, access to the roughened channel construction sites will occur via the existing road. However, short approaches to the work locations will need to be created at the upstream ends of the channels to conduct the work.

Clearing debris shall be disposed of on-site, within 500 feet of the project site at an upland location identified by the landowner. Clearing debris shall be piled and mashed down.

It is anticipated that any large wood, native vegetation, weed-free topsoil or native material displaced during site preparation will be stockpiled for use in site restoration.

- b. Set up TESC and spill prevention measures.

Appropriate erosion and spill prevention controls will be implemented for all construction activities.

All temporary erosion controls will be in place and appropriately installed downslope of applicable project activities until site restoration is complete.

The contractor will develop an adequate, site specific Spill Prevention and Countermeasure or Pollution Control Plan which will include: site plan and narrative describing methods of erosion/sediment control; methods for confining/removing/disposing of excess construction materials and measures for equipment washout facilities; a spill containment plan; and, measures to reduce/recycle hazardous and non-hazardous wastes.

The spill containment control plan will include the following information: notification procedures, specific cleanup and disposal instructions for different products, quick response containment and cleanup measures, proposed methods of disposal of spilled materials and employee training on spill containment.

Materials for containment and cleanup will be available onsite during pre-construction, construction and restoration phases of the project.

- c. Dewater work areas.

To dewater the work areas, sandbags will be placed across the main channel upstream of the work areas to spill all water into the secondary channel of Beaver Creek. In addition, sandbags will also be placed in the secondary channel to form a perimeter around the downstream channel ends. Locations for sandbag placement will be determined by the Project Engineer. This will allow excavation and fill work to be isolated from flowing water.

**Table 1: Area impacted by temporary water diversion through placement of sandbags**

	Length (ft)	Width (ft)	Total Area (sq ft)
<b>Work Area 1 (Main channel and pond channel)</b>	3	6	18
<b>Work Area 2 (Upper channel)</b>	3	6	18

The Contractor will be required to supply and operate a 2”-diameter trashpump to partially dewater downstream ends of the channels. The water shall be discharged to an upland area for infiltration into the ground.

Note: Any device used for diverting water from a fish-bearing stream will be equipped with a fish guard to prevent passage of fish into the diversion device pursuant to RCW 77.57.010 and 77.57.070. Pump intakes will be screened with 3/32-inch mesh to prevent fish from entering the system. The screened intake will consist of a facility with enough surface area to ensure that the velocity through the screen is less than 0.4 feet per second. Screen maintenance will be adequate to prevent injury or entrapment to juvenile fish and the screen will remain in place whenever water is withdrawn from the stream through the pump intake.

Prior to or during dewatering, Yakama staff will be required to capture and safely move food fish, game fish and other fish life from the work area. The contractor will be required to coordinate with Yakama Nation staff to ensure this work occurs.

2. *Installation of channel roughening*

Note: All construction for the roughened channels shall be completed within a 18 foot wide corridor down each channel alignment, as shown on the attached site plans. Clearing shall be limited to these corridors, including any vegetation that may interfere with equipment travel and swinging. The clearing limits will be marked on-site by the engineer prior to work. A small hydraulic excavator or mini-excavator will be required for work within these narrow corridors.

- a. Excavate and grade. The existing surface in both areas must be excavated and graded down to acceptable sub-grades as shown on the plans.

The Project Engineer will set stakes for the upstream and downstream ends of the roughened channels as well as the flow control location along the pond channel. The selected contractor will be required to operate a laser level for vertical control (engineer will check/verify).

Excavation for channel subgrades shall be to 2 feet below the final rock elevations. The Project Engineer will advise. Excavated materials will be hauled by small dump truck or loader to disposal site identified by landowner. Disposal site will be an upland site along the existing road and within 500 feet of the project areas. The contractor will be required to spread the excavated materials to match the surrounding topography.

A total of 115 cubic yards of material will be removed from the work areas. The material is anticipated to be a well-mixed assemblage of rounded gravels, sand, silt, and trace clay. Some of these materials will be relatively recent alluvial deposits.

b. Rock placement

After the excavation to subgrade, the roughened channel and flow control (pond channel) areas will be roughened by installing fill material into the prepared areas. The fill material will be composed of 2/3 volume large rocks (12” to 24” size) and 1/3 by volume washed gravel and sand. All fill material shall be obtained from local quarries. If locally available, rounded boulders from a gravel pit shall be used. The washed gravel and sand mix shall be a 50/50 blend. Gravel shall be 1” to 2” in size. Washed sand shall be sourced from historic alluvial deposit. Material less than 0.8 micrometers will be removed from all rock, gravel, and sand.

The volume of material to be placed is described in the tables below:

**Table 2: Total Project area** (values include areas expressed in Table 3)

	Length (ft)	Width (ft)	Total Area (sq ft)	Depth Placed (ft)	Volume Placed (cy)
<b>Work Area 1 (Main channel and pond channel)</b>	40	18	600	2.2	50
<b>Work Area 2 (Upper channel)</b>	30	18	450	2.4	40

**Table 3: Work Areas within Waterbody** (Waterward of Ordinary High Water)

	Length (ft)	Width (ft)	Total Area (sq ft)	Depth Placed (ft)	Volume Placed (cy)
<b>Work Area 1 (Main channel and pond channel)</b>	40	8	320	2.2	26
<b>Work Area 2 (Upper channel)</b>	30	8	240	3.4	21

A total of 90 cubic yards of fill material will be placed in the roughened channels.

The large rock will be placed within the roughened channel work areas one rock at a time. Excavator(s) will require thumb attachment for this work. The large rock would be transported by larger excavator from the existing roadway to the roughened channels for placement with the small or mini excavator.

Large rock placement shall be completed for each roughened channel (main and upper) as well as for the flow control in the pond channel, prior to the sluicing of gravel and sand into the voids.

The gravel sand mix will be sluiced into the large rock voids to completely fill the spaces between the rocks.

### 3. Site Restoration/re-vegetation

Approximately 450 sq ft of riparian vegetation is anticipated to be disturbed for construction access in two areas. A detailed “Construction Access Restoration Plan” is included for these areas. In addition to the construction access disturbance, a total of approximately 490 sq ft of riparian vegetation may be temporarily disturbed during construction of the roughened channels. Any disturbed areas must be revegetated with native riparian vegetation. Revegetation plans are not included for these areas. It is the contractor’s responsibility to restore disturbed area. Refer to Table 4 for an estimate of disturbance:

**Table 4: Disturbed Riparian Areas**

	<b>Length (ft)</b>	<b>Width (ft)</b>	<b>Total Area (sq ft)</b>
<b>Work Area 1 (Main channel and pond channel)</b>	40	7*	280
<b>Work Area 2 (Upper channel)</b>	30	7*	210

\*approximately 3.5 ft of disturbance on either side of the channel is anticipated.

Site restoration and plantings will conform to the following:

- Upon completion of all construction activities, all temporary structures, devices materials or equipment will be completely removed from the site and all excess spoils and/or waste materials properly disposed of in compliance with federal, state, and local regulations.
- When floating or submerged large woody debris must be moved to allow access to or function of the newly created habitat, the wood will be relocated within the water at a similar depth and location such that it will continue to provide comparable aquatic habitat function in the new location.

### General BMPs

- Flows and weather conditions will be monitored daily for events that may cause extremely high flows. In such events, all equipment will be removed from the work site until flows have abated.

- Equipment used for this project operating with hydraulic fluid will use only those fluids certified as non-toxic to aquatic organisms.
- Vehicle staging, cleaning, maintenance, refueling, and fuel storage will be located a minimum of 150 feet from any acclimation pond or any flowing stream or water body.
- When heavy equipment is used, the equipment selected will have the least adverse effect on the environment, e.g., minimally sized, low ground pressure.
- Equipment used for this project will be free of external petroleum-based products. Accumulations of soil or debris will be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its use within 150 feet of any acclimation pond or adjacent water body. Equipment will be checked daily for leaks; any necessary repairs will be completed before commencing work activities.
- All stationary power equipment such as generators, cranes, or stationary drilling equipment operated within 150 feet of any water body will be diapered to prevent leaks unless suitable containment is provided to prevent potential spills from entering the water.
- All waste material such as construction debris, silt, excess dirt or overburden resulting from this project will be deposited above the limits of floodwater in an approved upland disposal site.
- Extreme care will be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the water bodies.
- Wastewater from project activities and water removed from within the work area will be routed to an area landward of the ordinary high water line to allow removal of fine sediment and other contaminants prior to being discharged to the stream.
- Sites will be monitored as flow returns to assure adequate water quality is maintained within adjacent water bodies once the pond water levels return and start flowing out of the pond to the adjacent water bodies.
- If at any time during, or as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop (including equipment leaks or spills), the designated Area Habitat Biologist will be immediately notified. Work will not resume until WDFW approves.

# **BEAVER CREEK CHANNEL ROUGHENING AND RIPARIAN RESTORATION**

---

PLANS

REFERENCE ELEVATION  
2800.0' NAIL IN TREE

EXISTING CONTOURS  
LIGHT DASHED LINES

2796

2796

EXISTING  
ROAD

2794

UPPER CHANNEL  
PROFILE (DRAWING 3)

2792

2792

MAIN CHANNEL  
PROFILE (DRAWING 2)

2794

POND CHANNEL  
PROFILE (DWG 2)

REMOVE EXISTING  
STEEL FLOW CONTROL  
IN POND CHANNEL

2792

EXISTING MAIN CHANNEL  
BEAVER CREEK

TYPICAL EDGE  
OF WATER

2791

UPPER CHANNEL:

18'-WIDE @ UPSTREAM END, THEN  
TAPER TO 14'-WIDE x 30'-LONG  
TOTAL (+/-) ROUGHENED CHANNEL  
WILL BE LAID OUT ON-SITE BY  
ENGINEER w/ GRADUAL MEANDER.  
MEANDER NOT SHOWN OTHER  
DRAWINGS.

NEW ROCK STRUCTURE  
FOR FLOW CONTROL,  
SEE DRAWING 2

MAIN CHANNEL:

18'-WIDE @ UPSTREAM END, TAPER TO  
14'-WIDE @ 10' DOWNSTREAM. TOTAL  
LENGTH 30' (+/-) ROUGHENED  
CHANNEL WILL BE LAID OUT ON-SITE  
BY ENGINEER w/ GRADUAL MEANDER.  
MEANDER NOT SHOWN OTHER  
DRAWINGS. HEAVY DASHED LINE IS  
LOW FLOW NOTCH.

2790

2791

2792

2792

2790

2789

2792

2790

SECONDARY CHANNEL  
BEAVER CREEK

TYPICAL EDGE  
OF WATER

NOTE: PROJECT  
ELEVATIONS ARE  
BASED ON ASSUMED  
ELEVATION AND WILL  
NOT MATCH ACTUAL  
ELEVATIONS.

NORTH  
(APPROX.)

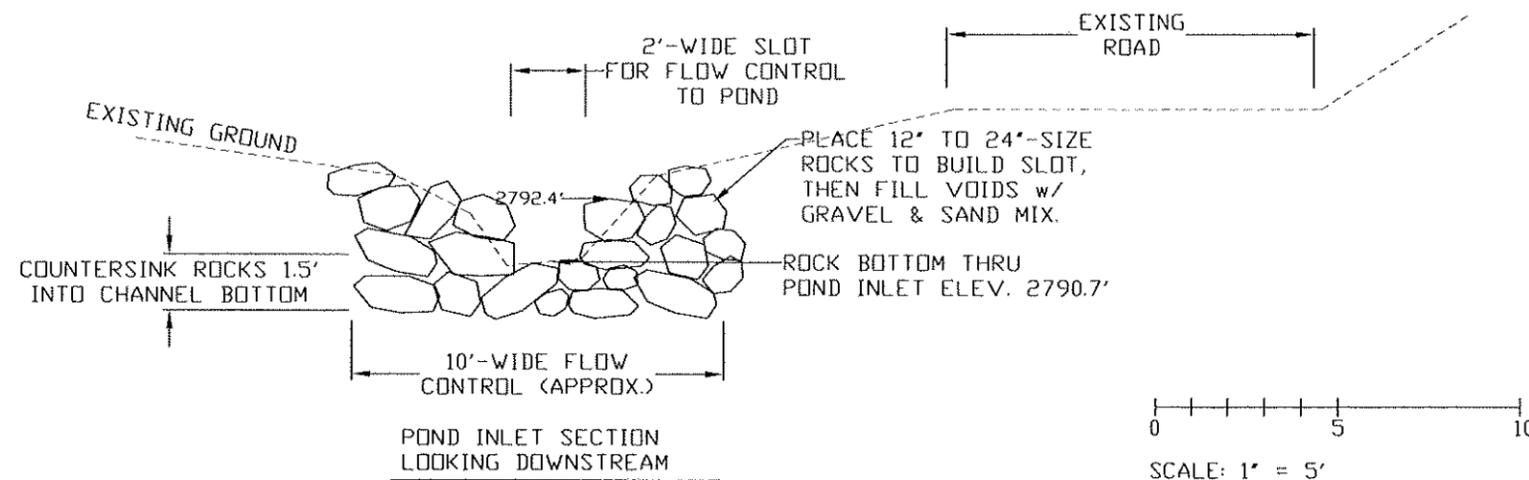
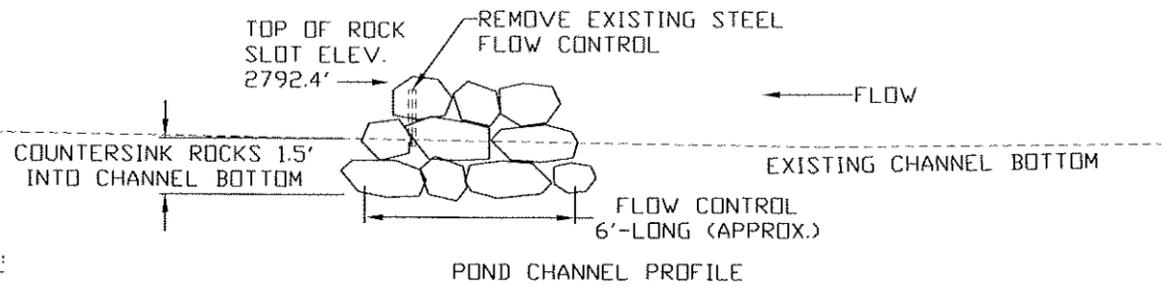
JANUARY 2015

BEAVER CREEK ROUGHENED CHANNELS  
YAKAMA INDIAN NATION

PROJECT SITE PLAN  
DRAWING 1

0 5 10 20 FEET  
SCALE: 1" = 10'

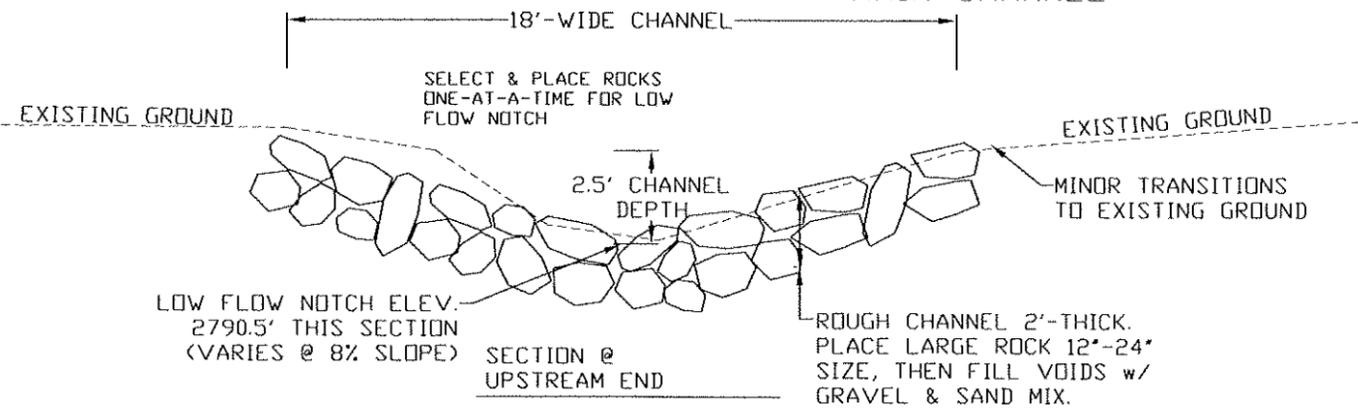
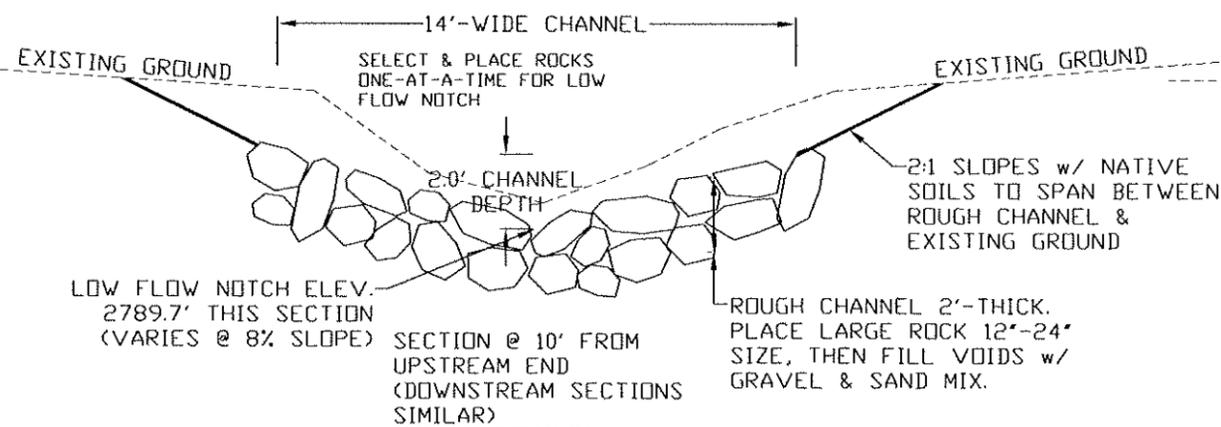
POND INLET SECTION  
LOOKING DOWNSTREAM



NOTES:

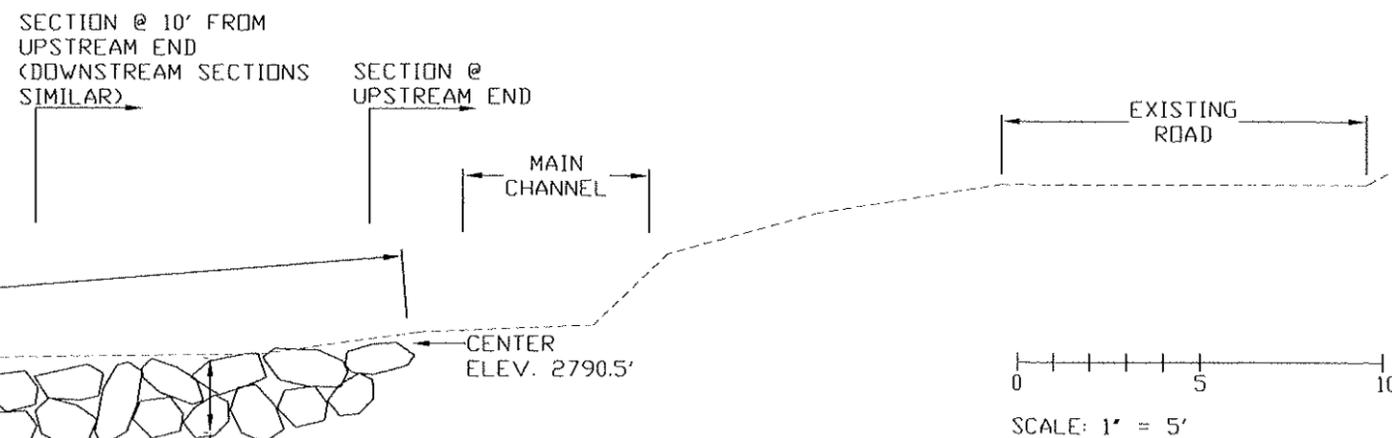
1. BUILD NEW FLOW CONTROL SLOT w/ 12"-24" SIZE ROCKS, SEE SECTION.
2. FLOW CONTROL ROCKS CONNECT WITH MAIN CHANNEL ROCKS, SEE SITE PLAN.

POND CHANNEL  
MAIN CHANNEL



NOTES:

1. LOW FLOW NOTCH w/ GRADUAL MENDER FOR MAIN CHANNEL ONLY.
2. ADJUST ROCK SLOPES FOR MEANDER AS INSTRUCTED BY ENGINEER (vs. UNIFORM ROCK SLOPES ENTIRE CHANNEL LENGTH).
3. UPSTREAM CHANNEL WIDTH = 18' TAPERS TO 14'-WIDE @ 10' DOWNSTREAM, SAME FOR MAIN AND UPPER CHANNELS.



SECONDARY CHANNEL  
BEAVER CREEK  
CENTER  
ELEV. 2788.1'

MAIN CHANNEL PROFILE

ROUGH CHANNEL 2'-THICK.  
PLACE LARGE ROCK 12"-24"  
SIZE, THEN FILL VOIDS w/  
GRAVEL & SAND MIX.

JANUARY 2015

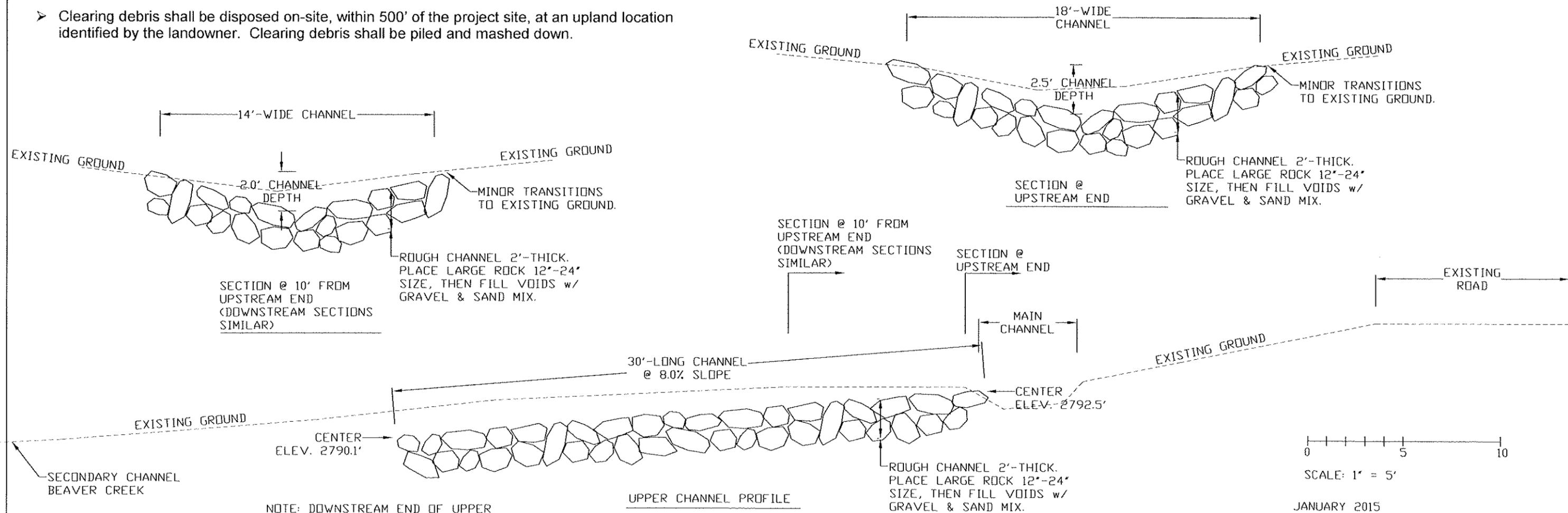
BEAVER CREEK ROUGHENED CHANNELS  
YAKAMA INDIAN NATION

MAIN & POND CHANNEL DETAILS  
DRAWING 2

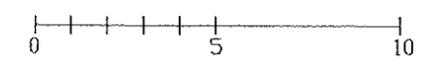
**Work Sequence and Notes:**

- Access to roughened channel construction sites by existing road, then scratch out short approaches to upstream ends of channels.
- Engineer will set stakes for upstream and downstream ends of roughened channels, and also for flow control location along pond channel. Contractor to operate laser level for vertical control (engineer will check).
- Sandbags to be placed across main channel upstream of projects to spill all water into secondary channel of Beaver Creek. Also, sandbags to be placed in secondary channel to form a perimeter around downstream channel ends, so excavation & fill work would be isolated from flowing water.
- Contractor to supply & operate 2"-diameter trashpump to partially de-water downstream ends of channels (within secondary channel), with discharge of muddy water to upland area for infiltration into ground. Rocks for roughened channels may be placed in shallow standing water.
- All construction for roughened channels shall be done within a 15'-wide corridor down each channel alignment (see site plan). Clearing shall be limited to these corridors, including any vegetation that interferes with equipment travel and swinging. Clearing limits will be marked on-site by the engineer prior to work. A small excavator or mini-excavator will be required for work within these narrow corridors.
- Clearing debris shall be disposed on-site, within 500' of the project site, at an upland location identified by the landowner. Clearing debris shall be piled and mashed down.

- Excavation for channel subgrades shall be to 2' below final rock elevations (engineer will advise). Excavated materials shall be hauled by small dump truck or loader to disposal site identified by landowner, to be an upland site along the existing road and within 500' of the projects. Contractor to spread excavated materials to match surrounding topography.
- After excavation to subgrade, roughened channels and the flow control (pond channel) would be built one rock at a time (thumb needed on excavator). Large rocks would be transported by larger excavator from the existing road into the roughened channel corridors for placement with the small or mini-excavator.
- The engineer has a step-by-step process previously used to efficiently build 60+ roughened channels state-wide, and Contractor will be advised start-to-finish. Rock placements shall be completed for each roughened channel (main & upper), and the flow control in pond channel, prior to sluicing gravel & sand into the voids between large rocks.
- Gravel & sand mix shall be a 50/50 blend of washed sand and washed gravel (1" to 2" gravel size). These small materials shall be sluiced into rock voids to completely fill spaces between large rocks.
- A small sump shall be left downstream of each roughened channel, water allowed to accumulate in these sumps, then the trashpump shall be operated to sluice the sand & gravel. Sluice water shall be recycled until sluicing operations are completed, then this turbid water shall be pumped out for upland discharge and infiltration into the ground.

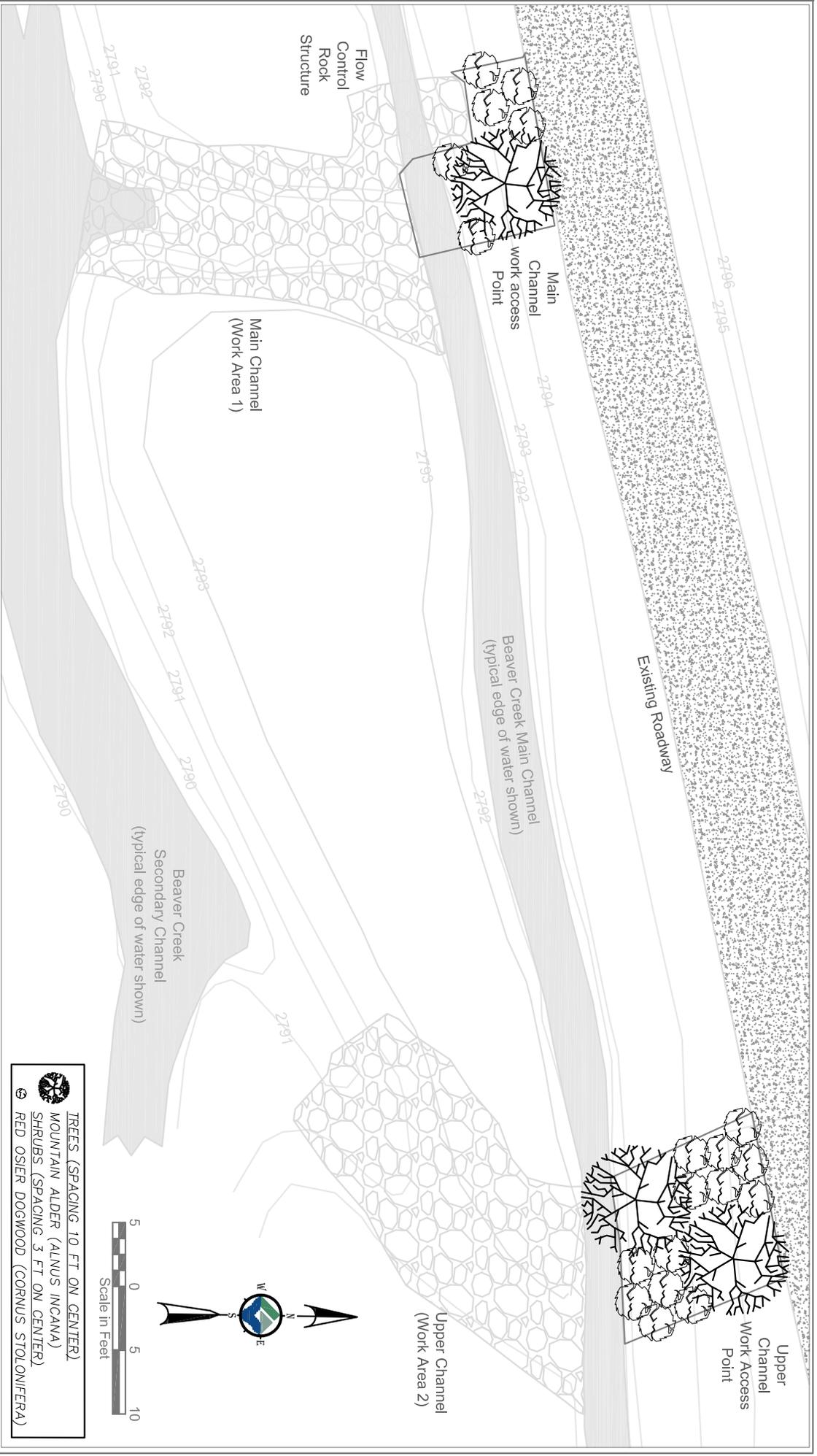


NOTE: DOWNSTREAM END OF UPPER CHANNEL WILL BE LOWER THAN SURROUNDING NATIVE SOILS (OKAY).



SCALE: 1" = 5'

JANUARY 2015  
 BEAVER CREEK ROUGHENED CHANNELS  
 YAKAMA INDIAN NATION  
 UPPER CHANNEL DETAILS & NOTES  
 DRAWING 3



**PURPOSE:** Restoration of Construction Access

**ADJACENT PROPERTY OWNERS:**

- ① Stephen F. Willet et al.  
PO Box 606, Leavenworth, WA 98826
- ② USDA  
US Forest Service, 215 Melody Lane  
Wendichee, WA 98801

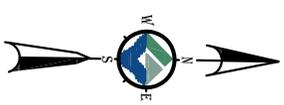
## Construction Access Restoration Plan



LAT: 47.767162 N; LONG: -120.651789 W

STR: 0726N18E WM  
TPN: 261807230000

-  TREES (SPACING 10 FT ON CENTER)
-  SHRUBS (SPACING 3 FT ON CENTER)
-  RED OSIER DOGWOOD (CORNUS STOLONIFERA)



**IN: BEAVER CREEK**  
**AT: 19115 CHIMAWA LOOP ROAD**  
**LEAVENWORTH, WA 98826**  
**COUNTY OF: CHELAN**  
**STATE: WA**

**APPLICANT: YAKAMA NATION**  
**AUTHORIZED AGENT: CORY KAMPHAUS**  
**OWNER: BILL NEWELL**

**BEAVER CREEK CHANNEL ROUGHENING  
AND RIPARIAN RESTORATION**

---

DRAFT CONTRACT AGREEMENT

CONSTRUCTION SERVICES AGREEMENT

BETWEEN

THE YAKAMA NATION

AND

**Vendor, Address**

THIS AGREEMENT is entered into on the date shown below between the Yakama Nation and \_\_\_\_\_ **(hereinafter "Contractor")**.

1. **TERM**

The period of this agreement will be from \_\_\_\_\_.

2. **PERFORMANCE**

The Contractor agrees to perform the services set forth in the attached scope of work, **Exhibit "A,"** which is incorporated by reference in this agreement.

3. **COMPENSATION**

The Yakama Nation agrees to compensate the Contractor for services provided in the amounts and under the terms and conditions set forth below. [The nature and payment of compensation depends on the type of contract, e.g. fixed fee/lump sum, fixed fee part payment, time and materials, cost plus fixed fee, etc.]

4. **PAYMENT OF COMPENSATION**

Invoicing also depends on the type of contract; different provisions are appropriate depending on whether partial payments are authorized. Partial payments of flat fee contracts depend on the creation of a schedule of values or a price list. Payment will be made as set in **Exhibit "C"**.

5. **PROPERTY DEVELOPED BY CONTRACTOR**

The Contractor agrees that it will retain no interest in the information, data, proposals, papers, copyrights, patents, or any other material or property developed, discovered, invented, and/or accumulated by the Contractor in connection with the performance of this agreement. Subject to applicable law, the Contractor shall turn over such information, data, proposals, papers, copyrights, patents, discoveries, inventions, and other material or property to the Yakama Nation upon the expiration or termination of this agreement or upon request.

6. **PUBLICATION OF INFORMATION**

The dissemination or publication of documents, information material or other property developed or generated by the contractor during the course of this agreement shall require the written approval of the Yakama Nation. This paragraph shall not be construed to prohibit or impair the transfer of information contemplated by paragraphs 4, 5 and 6 above.

7. **ACCESS TO RECORDS, PERSONNEL AND FACILITIES**

Subject to applicable law, the Yakama Nation will provide the Contractor access to its personnel, facilities, and records necessary to the performance of this agreement.

8. **INDEPENDENT CONTRACTORS**

At all times during the course of this agreement, the Contractor shall act as an independent contractor, and shall not receive any benefits to which employees of the Yakama Nation are entitled. Unless expressly agreed to herein, the Yakama Nation shall not be responsible for the payment of any taxes, permits, licenses or other expenses incurred by the Contractor during the performance of this agreement.

9. **SUBCONTRACTING**

The Contractor shall not hire a subcontractor to perform the services contemplated by this agreement without express prior written consent. Award of this contract based on a bid or proposal naming specific subcontractors and identifying the portions of the work to be performed by the subcontractors shall constitute prior written consent to the hiring of the named subcontractor(s). Subcontractor selection and subcontractor employment shall be subject to applicable **TERO and Indian Preference requirements**.

10. **ASSIGNMENT OF INTEREST**

The Contractor shall not assign its interest in this contract, or any part thereof, including its right to receive payment for services performed, to another party.

11. **INDEMNIFICATION**

The Contractor shall hold harmless and indemnify the Yakama Nation and its officers and employees against any and all losses, costs, damages, expenses or other liabilities whatsoever, arising out of or connected with, directly or indirectly, the Contractor's performance of its duties under this agreement, including, but not limited to, accidents or injuries to persons or property.

12. **SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK**

A. The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

- (1) Conditions bearing upon transportation, disposal, handling, and storage of materials;
- (2) The availability of labor, water, electric power, and roads;
- (3) Uncertainties of weather, river stages, tides, or similar physical conditions at the site;

- (4) The conformation and conditions of the ground; and
- (5) The character of equipment and facilities needed preliminary to and during work performance.

The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Yakama Nation and information available to the public from local government agencies, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for properly estimating the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Yakama Nation.

B. The Yakama Nation assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Yakama Nation. Nor does the Yakama Nation assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

### 13. **PHYSICAL DATA**

Data and information furnished or referred to below is for the Contractor's information. The Yakama Nation shall not be responsible for any interpretation of or conclusion drawn from the data or information made available to the Contractor. Further, the Yakama Nation specifically does not warrant construction methodology which may be included in such documents.

- (a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by **visual inspection of the site**. (insert a description of investigational methods used, such as surveys, auger borings, core borings, test pits, probings, test tunnels).
- (b)       n/a       (insert other pertinent information).

### 14. **SCHEDULE FOR CONSTRUCTION**

A. Unless the construction schedule is specifically addressed elsewhere in this agreement, the Contractor shall, within five days after the work commences on the contract or another period of time determined by the Yakama Nation, prepare and submit to the Yakama Nation three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion each week during the contract period. If the Contractor fails to submit a schedule within the time prescribed, the Yakama Nation may withhold approval of progress payments until the Contractor submits the required schedule. Should the Contractor fall behind its schedule, a revised schedule shall be forwarded with the next Contractor's request for progress payment. Additional schedules shall be furnished to the Yakama Nation as soon as practicable if so requested.

B. With any and each partial payment request, the Contractor shall submit a copy of the last submitted schedule annotated to indicate actual progress made to date. If at any time, in the opinion of the Yakama Nation, the Contractor has fallen behind the schedule to an extent which would jeopardize timely completion, the Contractor shall take the steps necessary to improve its progress, including those that may be required, to enable timely completion without additional cost to the Yakama Nation. Such steps may include, but are not limited to, increasing the number of shifts, the amount of overtime, days of work per week, and/or the amount of construction plant being utilized. The Contractor shall submit any supplementary schedules the Yakama Nation deems necessary to demonstrate how the rate of progress necessary for timely completion will be regained.

C. Failure of the Contractor to comply with the requirements of the Yakama Nation under this clause shall be grounds for a determination by the Yakama Nation that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Yakama Nation may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

#### **15. DIFFERING SITE CONDITIONS**

The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Yakama Nation of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent to the type of work provided for in the contract. Unless specifically identified in the contract, discoveries of archaeological or historical remains such as graves, fossils, skeletal materials and artifacts protected by the Archaeological Resources Protection Act (36 CFR 1214) are considered type 2 conditions.

#### **16. LAYOUT OF WORK**

The Contractor shall lay out its work from the Yakama Nation-established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for the execution of the work to the lines and grades that may be established or indicated by the Yakama Nation. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Yakama Nation until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Yakama Nation may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

#### **17. SPECIFICATIONS, DRAWINGS AND MATERIAL SUBMITTALS**

A. Omissions from the drawings and specifications or the misdescription of details of work which are manifestly necessary to carry out the intent of the drawings and specifications, or which are customarily performed, shall not relieve the Contractor from performing such omitted or mis-described details of the work. They shall be performed as if fully and correctly set forth and described in the drawings and specifications.

B The Contractor shall check all drawings furnished by the Yakama Nation prior to starting work and shall promptly notify the Yakama Nation of any discrepancies. Figures marked on drawings shall in general be followed in preference to scale measurements. Large scale drawings shall in general govern small scale drawings. The Contractor shall compare all drawings and verify the figures before laying out the work, and will be responsible for any errors which might have been avoided thereby.

#### 18. MATERIAL AND WORKMANSHIP

A. All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. Use of recycled materials for the manufacture of such products is encouraged. Equipment, material, or articles specified by trade name, make, or catalog number, shall be provided. Equivalent items are not acceptable unless specifically authorized in the specification.

B. All work under this contract shall be performed in a skillful and workmanlike manner. The Yakama Nation may require, in writing, that the Contractor remove from the work any employee the Yakama Nation deems incompetent, unsafe, or otherwise objectionable.

#### 19. SUPERINTENDENCE BY THE CONTRACTOR

At all times during performance of this contract, and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Yakama Nation and has authority to act for the Contractor.

#### 20. PERMITS AND RESPONSIBILITIES

Unless otherwise provided in this contract, the Contractor shall, without additional expense to the Yakama Nation, be responsible for obtaining any necessary licenses and permits, and for complying with any Yakama Nation, federal, state, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

#### 21. OTHER CONTRACTS

The Yakama Nation may undertake or award other contracts for additional work, or may utilize in-house construction forces, at or near the site of the work. The Contractor shall fully cooperate with such other contractors and the Yakama Nation employees, and carefully adapt scheduling and performance of the work under this contract to accommodate simultaneous performance, heeding any direction that may be provided by the Yakama Nation. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractors or by the Yakama Nation employees.

**22. USE AND POSSESSION PRIOR TO COMPLETION**

The Yakama Nation shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Yakama Nation shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Yakama Nation intends to take possession of or use. However, failure of the Yakama Nation to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Yakama Nation's possession or use shall not be deemed an acceptance of any work under the contract.

**23. CLEANING UP**

A. The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the owner of the underlying real property. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Yakama Nation.

B. Unless specifically set forth in the contract, the Contractor shall not burn any material on site, on the right-of-way or on the access roads to the sites. All material and debris shall be hauled to an appropriate disposal site.

**24. ROAD MAINTENANCE**

The Contractor shall maintain all roads used by it, and upon completion of the job shall leave them in as good a condition as when first used. A road grading machine - not a bulldozer - shall be used for maintenance and final grading. In no event shall the Contractor interfere with the property owner's use of roads existing prior to the Contractor's entry.

**25. STOP WORK ORDER**

A. The Yakama Nation may order the Contractor to suspend all or any part of the work of this contract for the period of time that the Yakama Nation determines appropriate for the convenience of the Yakama Nation.

B. The contractor shall immediately comply with the Yakama Nation's order and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order.

**26. PROTECTION OF EXISTING VEGETATION, STRUCTURES, AND IMPROVEMENTS**

A. The Contractor shall preserve and protect all structures, equipment, utilities, other improvements, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workers, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Yakama Nation's representative.

B. If the Contractor fails or refuses to repair the damage promptly, the Yakama Nation may have the necessary work performed and charge the cost to the Contractor.

## 27. **INSURANCE**

A. The following minimum kinds and amounts of insurance are applicable in the performance of the work under this contract.

(1) *Workers' compensation and employer's liability.* Contractor is required to comply with applicable Federal and State workers compensation and occupational disease statutes. Employer's liability coverage of at least \$100,000 shall be required.

(2) *General liability.* Contractor shall provide general liability insurance of at least \$1,000,000 per occurrence. Any policy aggregate limits which apply, shall be modified to apply to each location and project. The policy shall name the Yakama Nation, its officials, officers, employees and agents, as insured's with respect to the contractor's performance of services.

(3) *Automobile liability.* The contractor shall provide automobile liability insurance covering the operation of all automobiles used in performing the contract. Policies shall provide limits of at least \$1,000,000 per accident and include coverage for all owned, non-owned and hired automobiles. The contractor's policy shall be primary to any insurance of the Yakama Nation.

(4) *Environmental impairment liability.* The contractor shall provide environmental impairment liability insurance of at least \$1,000,000 per occurrence. Such insurance will include coverage for the cleanup, removal, storage, disposal, transportation and/or use of pollutants. The insurance policy shall name the Yakama Nation, its officials, officers, employees and agents as insured. The contractor's policy shall be primary to any insurance of the Yakama Nation.

B. The Contractor may, with the approval of the Yakama Nation, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.

C. Before commencing work under this contract, the Contractor shall provide to the Yakama Nation certificates of insurance from the insurance company stating the insurance required has been obtained and is in force. The certificate(s) shall identify the contractor and the contract(s) for which coverage is provided, and shall contain a statement that the insurer will give notice of cancellation or any material change to the Yakama Nation at least 30 days before the effective date. In addition, the contractor shall provide certificates as the policies are renewed throughout the period of the contract. If the contractor's insurance does not cover the subcontractors involved in the work, the contractor shall provide certificates stating that the required insurance has been obtained by the subcontractors.

## 28. **INSPECTION - SERVICES AND CONSTRUCTION**

A. The Yakama Nation may inspect the work called for by the contract at any time and place. The Yakama Nation will perform inspections in a manner that will not unduly delay the work.

B. If any of the services do not conform to contract requirements, the Yakama Nation may require the Contractor to perform the services again in conformity with the contract at no cost to the Yakama Nation. When the defects in services cannot be corrected by re-performance, the Yakama Nation may deduct from the contract payments an amount which reflects the reduced value of the services performed.

C. Neither inspection, lack of inspection, acceptance, nor payment shall relieve the Contractor of any of its obligations under this contract.

D. If the Contractor does not promptly replace or correct rejected work, the Yakama Nation may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, and may (2) terminate for default the Contractor's right to proceed.

Unless otherwise specified in the contract, acceptance by the Yakama Nation will be in writing and shall be made as promptly as practicable after completion and inspection of all work required by the contract or that portion of the work the Yakama Nation determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Yakama Nation's rights under any warranty or guarantee.

## 29. **WARRANTY - CONSTRUCTION**

A. In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

B. This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Yakama Nation takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Yakama Nation takes possession.

C. The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Yakama Nation-owned or controlled real or personal property, when that damage is the result of

- (1) The Contractor's failure to conform to contract requirements; or
- (2) Any defect of equipment, material, workmanship, or design furnished by the Contractor.

D. The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

E. The Yakama Nation shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

F. If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Yakama Nation shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

G. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

- (1) Obtain all warranties that would be given in normal commercial practice;
- (2) Require all warranties to be executed, in writing, for the benefit of the Yakama Nation, if directed by the Yakama Nation; and
- (3) Enforce all warranties for the benefit of the Yakama Nation, if directed by the Yakama Nation.

H. Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Yakama Nation nor for the repair of any damage that results from any defect in Yakama Nation-furnished material or design.

- (i) This warranty shall not limit the Yakama Nation's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.

### 30. **FEDERAL, STATE AND LOCAL TAXES**

The contract price shall include all applicable Federal, State, and local taxes and duties.

### 31. **TERMINATION FOR THE CONVENIENCE OF THE YAKAMA NATION**

A. The Yakama Nation may terminate all or any part of this contract, at any time, upon written notice to the contractor. Upon receipt of the termination notice, the contractor shall stop work on the terminated portion of the contract.

B. The contract amount shall be revised as a result of termination under this clause. [On fixed-price contracts the revised amount shall not exceed the pre-termination contract price plus reasonable termination expenses. On cost-reimbursement contracts it will not exceed the total of allowable and allocable costs of performance prior to termination plus termination expenses plus an adjustment of the fee on the terminated portion of the contract.] No payment will be made for anticipated profits on the terminated portion, or consequential damages, of the contract. The contractor shall submit a settlement proposal within 30 days of the notice of termination.

### 32. **TERMINATION OF AGREEMENT**

The Yakama Nation may terminate this agreement, without cause, upon 30 days written notice or sooner. Upon such termination, the liability of the parties for the further performance of this agreement shall cease, but the parties shall not be relieved of the duty to perform their obligations up to the date of termination.

The Yakama Nation may terminate this agreement at any time in the event of a breach or violation of any of the terms and provisions of this agreement. Upon such breach, violation, or termination of this agreement, the Yakama Nation, to the extent permitted by applicable law, shall be entitled to enforce its rights under this Agreement, and recover its court costs and reasonable attorney's fees, as determined by

the court. The foregoing shall not in any way limit or restrict any right or remedy at law or equity which would otherwise be available to the Yakama Nation, including, but not limited to, the right to contract with other qualified persons to complete the performance of services identified in or contemplated by this agreement.

**33. FORCE MAJEURE**

This agreement is subject to force majeure, and is contingent on strikes, accidents, acts of God, weather conditions, fire regulations, the actions of any government, including funding and/or budgetary decisions, and other circumstances which are beyond the control of the parties. If the terms and conditions of this agreement are unable to be performed as a result of any cause of force majeure, then this agreement shall be void, without penalty to any party for such non-performance.

**34. SEVERABILITY**

If any term or provision of this agreement is held invalid, the remaining provisions shall not be affected and shall remain in full force and effect.

**35. NOTICE**

Notice to the Contractor shall consist of a letter, delivered postage prepaid, addressed to:

Vendor, Address, City, ST, zip

Notice to the Yakama Nation shall consist of a letter, delivered postage prepaid, addressed to:

JoDe Goudy, Chairman  
Yakama Tribal Council  
PO Box 151  
Toppenish, WA 98948

and a copy to the Yakama Nation's designated representative.

**36. SUPERVISION OF CONTRACT/DESIGNATED REPRESENTATIVE**

The Contractor shall act under the supervision of the following designated representative (s) of the Yakama Nation in performing services under this agreement: Melvin R. Sampson/Bill Fiander.

**37. PENALTY FOR THEFT, EMBEZZLEMENT AND/OR FRAUD**

By law, any officer, director, agent, employee or such other person connected in any capacity with this agreement or any subcontract thereunder that embezzles, willfully misapplies, steals or obtains by fraud any of the money, funds, assets of property provided through this agreement shall be fined not more than \$10,000 or imprisoned for not more than two years, or both. If the amount embezzled, misapplied, stolen, or obtained by fraud does not exceed \$100, such person shall be fined not more than \$1,000 or imprisoned not more than one year or both. These penalties are not exclusive.

38. **COMPLIANCE PROVISIONS**

A. **Discrimination**

The Contractor will not discriminate against any employee or applicant for employment because of handicap, race, age, religion, or sex. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their handicap, race, age, religion, or sex.

B. **Indian Preference**

Notwithstanding the provisions of paragraph 39 (A) above, for all work performed under this agreement, the Contractor shall give preference in employment, including subcontracts there under, to qualified Indians regardless of their handicap, age, religion or sex. To the extent feasible and consistent with the efficient performance of this agreement, the Contractor shall provide employment and training opportunities to Indians that are not fully qualified to perform under this agreement, regardless of their handicap, age religion or sex. Further, The Contractor shall comply with any Indian preference requirements established by the Yakama Nation to the extent that such requirements are consistent with the purpose and intent of this paragraph.

39. **APPLICABLE LAW**

The Contractor shall comply with the laws of the Yakama Nation and all applicable Federal laws and regulations, including the Davis Bacon Act and related federal labor law requirements associated with federally funded construction projects.

40. **DISPUTE RESOLUTION**

In the event a dispute arises between the Contractor and the Yakama Nation relating to the performance or interpretation of this agreement, the aggrieved party shall submit the matter, in writing, to the Chairman of the Yakama Tribal Council within ten (10) days of its occurrence. A copy of the aggrieved party's submission shall be served upon the other party. The Chairman shall immediately convene a meeting of the parties, which shall be held in Toppenish, Washington, to resolve the matter. The decision of the Chairman shall be final and binding upon both parties.

Nothing herein this paragraph shall operate to prohibit the Yakama Nation from enforcing its rights under this agreement in a court of appropriate jurisdiction. The Yakama Nation may at its own election seek recovery of monetary damages from the Contractor's breach of any terms in this agreement in a federal and state court of competent jurisdiction.

41. **SOVEREIGN IMMUNITY**

The Yakama Nation, by entering into this agreement, does not waive its sovereign immunity from suit. This agreement shall be governed by the laws of the Yakama Nation except as otherwise expressly provided herein, and shall become effective on the first day written above.

42. **ADDITIONAL SERVICES**

Except as otherwise provided in this contract, no payment for additional services shall be made unless such services and the price therefore have been requested and authorized in advance in writing by the Yakama Nation.

43. **CHANGES TO THE CONTRACT**

This agreement may be modified or amended only by mutual agreement of the parties in writing and signed by each of the parties hereto.

44. **ENTIRE AGREEMENT**

This agreement incorporates all the agreements, covenants and understandings between the parties. No agreement or understanding, verbal or otherwise, of the parties regarding their responsibilities under this contract shall be valid or enforceable unless embodied in this agreement.

**CONFEDERATED TRIBES AND BANDS  
OF THE YAKAMA NATION**

**CONTRACTOR:**

\_\_\_\_\_  
**JoDe Goudy, Chairman      Date**  
**Yakama Tribal Council**

\_\_\_\_\_  
**(contractor)      DATE**  
**EIN #: \_\_\_\_\_**

EXHIBIT A

**SCOPE OF WORK**

**EXHIBIT B**  
**BUDGET**

**EXHIBIT "C"**  
**PAYMENT**