

**ADDENDUM
To
CONSULTANT AGREEMENT
Between
The YAKAMA NATION
And
Kittitas County Department of Public Works**

The Yakama Nation and Kittitas County Department of Public Works, parties to the original agreement, executed November 1, 2011, with this Addendum agree to modify and amend the terms and conditions of the existing agreement between the parties as follows:

1. Term

The period of this agreement shall be extended through June 30, 2013.

2. Compensation

A. The overall amount of this agreement shall not exceed \$4,500.00 which includes expenses as further detail in the attached budget Exhibit "B".

1. The maximum allowable amount of compensation for Contractor's fees shall be increased by \$2,500.00 for the budget period July 1, 2011 - June 30, 2013 See attachments for budget break down.

All other terms and conditions of the parties' original agreement shall remain in full force and effect.

DATED this 5th day of September ~~June~~ 2012.

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

BY:


Harry Smiskin, Chairman
Yakama Nation Tribal Council

Kittitas County Dept. of Public Works Board

BY:


Alan Crankovich, Chair

Obie O'Brien, Vice-Chair

Paul Jewell, Commissioner

Yakama Nation's Copy

Exhibit "B"

**Kittitas County Department of Public Works
July 1, 2011 To June 30, 2012**

	<i>Budget</i>	<i>Modify</i>	Revised Budget
I. CONSULTANT FEE			
	2,000.00	2,500.00	4,500.00
GRAND TOTAL:	2,000.00	2,500.00	4,500.00

****Yakama Nation's Copy****

Agreement for Contractual Services

THIS AGREEMENT is entered into between the Yakama Nation and:

Kittitas County Department of Public Works.

TERMS AND CONDITIONS

1. Contract Period

The period of this contract shall be July 1, 2011 to June 30, 2012.

2. Services to be Provided

The contractor agrees to perform the services set forth in the scope of work, "exhibit A". In consideration of such services, the Yakama Nation agrees to compensate contractor as set forth below.

3. Payment

Payment for services provided shall be made upon completion of services performed in accordance with this contract. Upon termination of this contract payments made under this paragraph shall cease. In the event a prepayment is made, and the work is not completed satisfactorily to the Program Manager or designated official then the Yakama Nation may pursue remedies pursuant to section 10 paragraph 3..

4. Compensation

The overall amount of this contract shall not exceed \$ 2,000.00, which includes compensation for all services and direct expenses.

The reasonableness and allowability of travel expenses shall be determined in accordance with 48 CFR 31.205-46.

For disbursements the contractor shall submit an invoice and supporting documentation-summarizing contractor's daily activities and shall use the standard contractual services billing form attached

hereto. Such invoice shall be submitted within fifteen (15) working days after the end of the month in which the services were provided or expenses incurred. Upon the request of the Yakama Nation, contractor will provide oral or written reports on the status of the work.

5. Auditable Records

Contractor shall maintain auditable records during the period of this agreement and for a period of three (3) years following expiration or termination of the agreement. The Yakama Nation, the United States, or their authorized governmental representative shall have access to books or records of the contractor relating to the subject matter of this agreement for audit purposes.

6. Financial Management for Accounting and Audits

Any and all of contractor's records shall be subject to audit and shall be maintained to comply with the Single Audit Act of 1984, P.L. 98-502 (31 United States Code sec. 7501, et seq.) and Office of Management & Budget (OMB) circular A-128, "Audits of State and Local Governments".

Contractor shall adhere to a systematic accounting method which assures timely and appropriate resolution of audit findings and recommendations. Contractor shall comply with: (a) OMB Circular A-122, Cost Principles for Nonprofit Organizations; (b) OMB circular A-87, Cost Principles for State and Local Governments; and 48 CFR Parts 31.2 and 931.2, Contracts with Commercial Organizations.

7. Confidentiality

Contractor recognizes that the Yakama Nation has and will have the following information: products, prices, costs, business affairs, process information, technical information, copyrights and other proprietary information (collectively, "Information") which are valuable, special and unique assets of the Yakama Nation. Contractor agrees that he will not at any time or in any manner, either directly or indirectly, use any Information for Contractor's own benefit, or divulge, disclose, or communicate in any manner any information to any third party without the prior written consent of the Yakama Nation. Contractor will protect the Information and treat it as strictly confidential. A violation of this paragraph shall be a material violation of this Agreement.

8. Property

Upon termination of this Agreement, Contractor shall deliver all records, notes, data, memoranda, models, and equipment of any nature that are in Contractor's possession or under Contractor's control and that are Yakama Nation's property or relate to Yakama Nation's business.

The Dissemination or publication of documents, information, material or other property developed by contractor to any person or entity not a party to this agreement shall require written approval of the Yakama Nation.

9. Access to Program

Contractor must receive prior approval from Program Manager or Designated Representative before receiving access to Program. This includes its personnel, facilities, and records necessary to perform this agreement.

10. Independent Contractor

The contractor shall be considered an independent contractor and shall not

receive benefits to which employees of the Yakama Nation are entitled. Unless expressly agreed otherwise, the Yakama Nation shall not be liable for the payment of any taxes, permits, licenses or other expenses incurred by contractor under this agreement.

11. Subcontracting

Contractor shall not be permitted to subcontract the services contemplated by this agreement without the prior written approval of the Yakama Nation. Where such subcontracting is authorized, contractor shall utilize Indian Preference in the selection of subcontractors.

12. Assignability

This contract is not assignable.

13. Indemnification

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, contractor's performance of its duties under this agreement, including, but not limited to, accidents or injuries to persons or property.

14. Termination

Upon termination, the liability of the parties for 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.

This Agreement shall terminate automatically upon completion by Contractor of the Services required by this agreement.

The Yakama Nation may terminate this agreement, without cause, upon 30 days written notice or may terminate this agreement at any time in event of nonperformance of contract, breach or

violation of any of the terms and provisions of this agreement

Upon breach, violation or termination of this agreement, the Yakama Nation shall be entitled to enforce its rights under this agreement and recover costs and reasonable attorney's fees. 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 or entities to complete their performance of services identified in or contemplated by this agreement. Termination or expiration of this agreement shall not relieve any party of the obligations of paragraphs 4,5,6,8 and 11 above. This contract shall automatically terminate upon completion of requirements by Contractor.

15. 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, and other circumstances beyond the control of the parties. If this contract cannot be performed as the result of force Majeure, the agreement shall be void, without penalty to any party for nonperformance. Such an event shall not relieve any party of its obligations set forth in paragraphs 4, 5, 6, 8 and 11 above.

This contract is contingent upon the availability of funds by the Yakama Nation.

16. 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.

17. Notice

Notice to contractor shall consist of a letter, delivered postage prepaid to:

*Kittitas County Department of Public Works
ATTN: Kelly Carlson
411 North Ruby Suite # 1
Ellensburg, Wa 98926*

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

*Harry Smiskin, Chairman
Yakama Indian Nation
PO Box 151
Toppenish, Wa 98948*

18. Contract Supervisor

Contractor shall act under supervision of the following designated representative(s) of the Yakama Nation in performing services under this agreement:

*Charlie Strom
Cle Elum Supplementation Facility
PO Box 836
Cle Elum, WA 98922*

19. Theft, Embezzlement or Fraud

By federal law, any officer, director, agent, employee or other person connected in any capacity with this agreement thereunder who embezzles, willfully misapplies, steals or obtains by fraud any of the money, funds, assets or property provided through this agreement shall be subject to fines and/or imprisonment as provided in 18 U.S.C. 1153.

20. Entire Agreement

This agreement incorporates all agreements, covenants and understandings between the parties. No agreement or understanding, verbal or otherwise, shall be valid or enforceable unless contained in this agreement.

21. Dispute Resolution

In the event a dispute arises during the contractual period of this agreement relating to performance or interpretation of

this agreement, the aggrieved party shall submit the matter in writing to the Chairman of the Yakama Tribal Council or a designated member of the Yakama Tribal council Executive Board within ten days. The Chairman shall convene a meeting of the parties, which shall be held in the Yakama Tribal Council chambers, Toppenish, Washington, to resolve the matter. The decision of the Chairman designated official shall be final and binding upon both parties.

Nothing herein shall operate to prohibit the Yakama Nation from enforcing its rights under any other paragraph of this agreement.

22. 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 and all applicable federal laws and regulations, and shall become effective on the first day written above.

23. Additional Services

IN WITNESS WHEREOF, we have signed below.



Harry Smiskin, Chairman
Yakama Tribal Council



Date

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 by the Yakama Nation.

24. Special Provisions

In addition to the foregoing, the following special requirements are agreed to and shall apply to this contract:

Contractor shall meet all applicable requirements set forth in the contract documents from DOE/BPA for Project Number 1997-013-25. This contract is subject to the provision of federal funding and work pursuant to this agreement shall not commence until such funding has been obtained by the Yakama Nation. Failure to obtain such funding within the contract term shall void this contract and contractor shall have no cause of action to enforce the terms of this agreement.

25. Modification

This contract may not be modified or amended except in writing signed by both parties and sufficient justification is provided with request.

Kittitas County Department
Of Public Works

Date

EXHIBIT 'A'
WORK DESCRIPTION

Kittitas County Public Works

Purpose: For winter recreation snow removal program for Cle Elum Hatchery. Perform maintenance by plowing snow, grading and leveling and installing appropriate highway signs. Parking areas will become secondary in priority to clearing county roads from Northfork Teanaway, location of Lick Creek to the end of County Road.

EXHIBIT 'B'
BUDGET

I. Consultant Fees

Yearly Fee Snow Removal

\$2,000.00

Total Contract Amount: \$2,000.00