

Agreement for Contractual Services

THIS INTERLOCAL AGREEMENT is entered into on this 1st day of Nov., 2011 between the Yakama Nation and Kittitas County, through the Kittitas County Department of Public Works ("Contractor"). Both entities may be referred to in this Agreement collectively as "Parties" or individually as "Party".

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 Agreement. Upon termination of this Agreement, payments made under this paragraph will 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 available under law and this Agreement.

4. Compensation

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

The reasonableness and allowability of travel expenses shall be determined in accordance with OMB Circular A-87, Cost Principles for State and Local Governments.

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 as "Exhibit C". 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 six(6) 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: OMB circular A-87, Cost Principles for State and Local Governments.

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 it 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.

9. Access to Program

Contractor must receive prior approval from the 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 Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of its elected officials, officers, agents, or employees that arise out of the performance of this Agreement and to the fullest extent required by law, and further agrees to save, indemnify, defend and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Contractor or the Yakama Nation by reason of entering into this Agreement except as expressly provided herein.

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.

Either party 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, either party 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 either party. 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 regarding the scope of work. No agreement or understanding, verbal or otherwise, shall be valid or enforceable unless contained in this agreement.

21. Dispute Resolution

The Yakama Nation and the Contractor agree to negotiate in good faith for a period of thirty (30) days from the date of notice of all disputes between them prior to exercising their rights under this Agreement or under law.

All contractual disputes between the Yakama Nation and the Contractor not resolved by negotiation between the parties may be arbitrated only by mutual agreement of the Yakama Nation and the Contractor. If not mutually agreed to resolve the claim by arbitration, the claim will be resolved by legal action. Arbitration of all claims will be in accordance with the Arbitration Rules of the American Arbitration Association.

Nothing herein shall operate to prohibit teither party from enforcing its rights under any other paragraph of this agreement.

22. Applicable Law and Venue

This Agreement, including all matters of interpretation, validity and performance shall be governed and enforced in accordance with the laws of Washington State, as applied to contracts executed and to be fully performed on Yakama Nation lands, and without reference to principles of conflicts of law.

The parties agree that any action taken relating to this Agreement shall be initiated in the Superior Court of the State of Washington, situated in Kittitas County.

23. Sovereign Immunity

Except as expressly provided in this section, nothing in this Agreement shall constitute or be construed as a waiver of the Yakama Nation's sovereign immunity. The Yakama Nation hereby consents to submission of disputes including claims and counterclaims by the Parties, concerning the making, formation, validity, obligations under or breach of this Agreement and issues related to the existence, interpretation, judgment and enforceability of the arbitration and/or legal action provisions. This limited waiver is applicable solely to claims by the Contractor and not by any other person, corporation, partnership or entity whatsoever. This limited waiver authorizes relief compelling the Yakama Nation to take action expressly required by this Agreement, and/or awarding money damages against the Yakama Nation for breach of this Agreement. The Yakama Nation does not waive, limit or modify its sovereign immunity from uncontested suit except as expressly provided in this section.

24. 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 as per Section 26 of this Agreement.

25. 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.

26. Modification

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

IN WITNESS WHEREOF, we have signed below.

ADOPTED THIS 18th DAY OF Nov., 2011

KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS


Paul Jewell, Chair


Alan Crankovich, Vice-Chair


Obie O'Brien, Commissioner

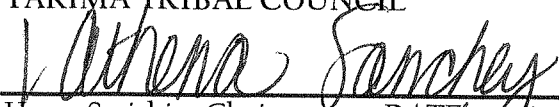

Julie Kjosvik, Clerk of the Board



APPROVED TO FORM ONLY:

Civil Deputy Prosecuting Attorney

YAKIMA TRIBAL COUNCIL


Harry Smiskin, Chairman
Yakama Tribal Council

DATE

9/28/2011

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