

Amendment to Project Agreement

02/17
1/22/13

Project Sponsor: Yakama Nation

Project Number: 09-1461 R

Project Title: Tepee Creek Restoration - Phase 2 Construction

Amendment Number: 1

Amendment Type:

Time Extension

Amendment Description:

Pursuant to a request from Yakama Nation the Project Agreement identified above is amended to extend the end date of this agreement.

The project period of 12/10/2009 to 03/31/2013 is extended to allow the contracting party until 03/01/2014 to complete the project.

Agreement Terms

In all other respects the Agreement, to which this is an Amendment, and attachments thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this Amendment.

State Of Washington
Recreation and Conservation Office

BY:


Kaleen Cottingham

TITLE: Director

DATE:

1/16/13

Pre-approved as to form:

By:

/S/
Assistant Attorney General

Amendment Special Conditions

Project Sponsor: Yakama Nation

Project Number: 09-1461 R

Project Title: Teepee Creek Restoration - Phase 2 Construction

Amendment Number: 1

Special Conditions

The following replaces the existing section 44 language in the standard terms and conditions.

SECTION 44. GOVERNING LAW/VENUE

This agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this agreement, venue shall be proper only in Thurston County Superior Court. The sponsor, by execution of this agreement, acknowledges the jurisdiction of the courts of the State of Washington.

In the cases where this agreement is between the funding board and a federally recognized Indian Tribe, the following governing law/venue applies:

- A. The State of Washington agrees that it shall initiate any lawsuit sounding in contract against a federally recognized Indian Tribe arising out of or relating to the performance, breach, or enforcement of this agreement in Federal Court. Interpretation shall be according to the law of the State of Washington. In the event that the Federal Court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the parties agree to venue in Thurston County Superior Court, but the parties agree that the matter shall not be pursued in superior court unless there is a Federal Court determination that it lacks subject matter jurisdiction.
- B. Any judicial award, determination, order, decree, or other relief, whether in law or equity or otherwise, resulting from such a lawsuit shall be binding and enforceable on the parties. C. The Tribe hereby waives its sovereign immunity to such a lawsuit as is necessary to give effect to this section and to the enforcement of any judgment. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

Amendment Milestone Report

Project Number: 09-1461 R **Amendment Number:** 1
Project Name: Tepee Creek Restoration - Phase 2 Construction
Sponsor: Yakama Nation
IAC Project Manager: David Caudill

X	!	Milestone	Target Date	Comments/Description
X		Project Start	12/10/2009	
X	!	Annual Project Billing	07/31/2010	
X	!	Cultural Resources Complete	12/10/2010	Already completed
X	!	Progress Report Submitted	12/30/2010	
X	!	Progress Report Submitted	06/30/2011	
	!	Annual Project Billing	07/31/2011	
		Construction Started	10/17/2011	originally 9/9/2010
X	!	Progress Report Submitted	12/31/2011	
X	!	Progress Report Submitted	06/30/2012	
	!	Annual Project Billing	07/31/2012	
	!	Progress Report Submitted	12/30/2012	
	!	Progress Report Submitted	05/31/2013	
	!	Annual Project Billing	07/31/2013	
	!	Progress Report Submitted	11/18/2013	
		Construction Complete	12/16/2013	
	!	Agreement End Date	03/01/2014	
		Final Docs/Billing to Mgmt Agy	05/01/2014	

X = Milestone Complete

! = Critical Milestone