

CONTRACT PROVISIONS

Icicle Creek Streambank Restoration – RM 1.0

February, 2022



Chelan County Natural Resources Department
411 Washington St., Suite 201
Wenatchee, WA 98801

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Chelan County Natural Resources Department

Icicle Creek Streambank Restoration – RM 1.0

Bid Opening: Monday, March 14th, 2022 at 11:00 AM PDT

Notice to All Plan Holders:

The office responsible for answering all questions regarding these bid documents and to show the project to prospective bidders is:

Contracting Officer

Hannah Pygott
Chelan County Natural Resources Department
411 Washington St., Suite 201
Wenatchee, WA 98801

Phone: 509-670-9306

Email: hannah.pygott@co.chelan.wa.us

Project Manager/Contact:

Erin McKay
Chelan County Natural Resources Department
411 Washington St., Suite 201
Wenatchee, WA 98801

Phone: 509-630-5303

Email: erin.mckay@co.chelan.wa.us

Project Engineer:

Steve Seville
Phone: 1 (707)-471-8597

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TABLE OF CONTENTS

<u>SECTION TITLE:</u>	<u>PAGE NUMBER:</u>
BID SUBMITTAL PACKAGE	
BIDDING CHECKLIST	9
BIDDING INSTRUCTIONS	11
INVITATION TO BID	13
BID PROPOSAL FORM	18
BID DECLARATION.....	21
BID PROPOSAL BOND	23
BIDDER INFORMATION	25
NON-COLLUSION DECLARATION	27
SUBCONTRACTORS LIST.....	29
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS	31
CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES	33
CERTIFICATION OF COMPLIANCE WITH PREVAILING WAGE TRAINING	35
BONDING AND CLAIMS	37
CONSTRUCTION CONTRACT PACKAGE	
AGREEMENT	41
PERFORMANCE AND PAYMENT BOND	43
NOTICE OF AWARD	45
NOTICE TO PROCEED	47
CERTIFICATE OF SUBSTANTIAL COMPLETION	51
CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBT AND CLAIMS	54
CONTRACTOR'S AFFIDAVIT OF RELEASE OF LIENS	56
CONSENT OF SURETY TO FINAL PAYMENT.....	58
SPECIAL PROVISIONS	
DIVISION 1 GENERAL REQUIREMENTS	63
DIVISION 2 EARTHWORK.....	95
DIVISION 6 STRUCTURES.....	99
DIVISION 7 DRAINAGE STRUCTURES/ ISOLATION AND EROSION CONTROL.....	103
DIVISION 8 MISCELLANEOUS CONSTRUCTION	107
APPENDICES	
APPENDIX A: PREVAILING WAGE RATES	
APPENDIX B: PROJECT PERMITS	
APPENDIX C: PROJECT DRAWINGS	

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BID SUBMITTAL PACKAGE

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BIDDING CHECKLIST

Bidders must bid on all bid items contained in the Proposal. The omission or deletion of any bid item will be considered non-responsive and shall be cause for rejection of the bid.

Please check to make sure you have accomplished the following:

- ☐ Has bid bond or certified check been enclosed with your bid?
- ☐ Is the amount of the bid guaranty at least five (5) percent of the total amount of the bid?
- ☐ Has the proposal been properly signed?
- ☐ Have you bid on ALL ITEMS and ALL SCHEDULES?
- ☐ Have you completed the Bidder's Information Sheet?
- ☐ Have you included the Non-Collusion Declaration?
- ☐ Have you completed the Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions?
- ☐ Have you completed the Certification of Compliance with Wage Payment Statutes?
- ☐ Have you completed the Certification of Compliance with Prevailing Wage Training?
- ☐ Have you completed the form regarding Bonding and Claims?
- ☐ Have you certified receipt of addenda?

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BIDDING INSTRUCTIONS

A. BID OPENING

The Chelan County Board of County Commissioners will open sealed bids and publicly read them aloud on Monday, March 14th, 2022 at 11:00 AM PDT or as soon thereafter as the matter may be heard, at the Board of Commissioners Office, Chelan County Administration Building, 400 Douglas Street Suite 201, Wenatchee, Washington, for the implementation of Chelan County Natural Resources Department Project Icicle Creek Streambank Restoration – River Mile 1.0 in Chelan County. Sealed bids must be received by the Clerk of the Board of County Commissioners in a sealed envelope clearly marked “**Bid for Icicle Creek Streambank Restoration – RM 1.0**”.

Sealed bids may not be submitted by facsimile or other electronic or data transmission.

B. BID CONTENTS

The sealed bid must contain all bidding documents, fully completed and signed. Bidders not fully meeting specifications must identify and list exceptions. All exceptions are subject to review, inspection, testing and approval by Chelan County.

The sealed bid must also contain the following information and materials, completed and signed:

1. Bid Proposal (Prices must be shown on every unit item and the total. Quantities, where not listed shall be estimated by the bidder and shown);
2. Bid Proposal Form (Executed by Principal or Authorized Officer.);
3. Bid Declaration;
4. Bid Proposal Bond (in lieu of cashier's check, or certified check, a Bid Proposal bond must be executed by the Bidder and the Bidder's Surety.);
5. Bidder Information Sheet;
6. Non-Collusion Declaration;
7. Subcontractors List;
8. Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions;
9. Certification of Compliance with Wage Payment Statutes;
10. Certification of Compliance with Prevailing Wage Training; and
11. Bonding and Claims Information.

Bid proposal forms are not transferable. Any alteration not initialed by the Bidder will be cause for deeming the bid proposal irregular and rejecting the bid.

In submitting a Bid Proposal, Bidder shall comply with provisions as contained in the Special Provisions, 1-02.6, regarding “Preparation of the Proposal”, unless otherwise required herein.

C. CLARIFICATION OF BID

NO CHANGES ARE ALLOWED EXCEPT BY SUBMITTING AN AMENDED SEALED BID PROPOSAL PRIOR TO THE DATE AND TIME SET FOR BID OPENING. Any unsealed clarification information received by the Clerk which discloses price will not be considered by the Board of County Commissioners and shall result in rejection of the entire bid.

D. BID BOND

In accordance with Section 1-02.7 of the Special Provisions and the WSDOT Standard Specifications, all bid proposals shall be accompanied by a bid bond, certified check, cashier's check, made out to Chelan County, or cash in the amount of five percent (5%) of the total bid, conditioned upon the Bidder's full and complete performance of the terms and conditions of a bid award. The bid bond or equivalent shall be held by Chelan County until acceptable performance and payment bonds and certificate of insurance are provided to Chelan County, and the contract is subsequently fully executed. If the successful bidder abandons the bid award, fails to provide satisfactory performance bond and a certificate of insurance to Chelan County or fails to fully execute the contract, then the bid bond or equivalent shall, in the sole discretion of Chelan County, be forfeited and retained.

E. BID REVIEW AND EVALUATION

The Board of County Commissioners reserves the right to reject any or all bids, waive informalities, and to contract as the best interests of Chelan County may require. When evaluating bids, the following criteria, in addition to price, will be considered:

1. The bidder's qualifications and eligibility to contract under applicable laws and regulations;
2. The bidder's compliance with the terms and conditions of this request for bids;
3. Any additional evaluation criteria contained in the plans, specifications and addenda; and
4. Not currently be debarred, suspended or under other sanctions pursuant to Executive Order 12549. Disbarment and Suspension 13 CFR Part 145 of the U. S. Small Business Administration. Bidder is required to complete "Certification regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions"
5. The bidder's experience, technical qualifications and skill;
6. The guaranteed availability of materials needed for construction;
7. The bidder's ability and capacity to fully perform within the time required, taking into account the bidder's existing performance commitments and past performance;
8. Any other information as may have a bearing on the bid.

F. CONTRACT DOCUMENTS FOLLOWING AWARD

Each Bidder's attention is especially called to the following documents that must be fully completed, executed and submitted to Chelan County if successful Bidder:

1. Notice of Award - To be executed by the successful Bidder upon receipt of issuance by the Chelan County Board of Commissioners.
2. Agreement - To be executed by the successful Bidder.
3. Payment and Performance Bond - To be executed by the successful Bidder and the Bidder's Surety Company.
4. Certificate of Insurance - To be executed by the successful Bidder's Insurance Company.
5. Notice to Proceed - To be executed by the successful Bidder upon receipt of issuance by the Chelan County Board of Commissioners.

G. CANCELLATION BY COUNTY

In its sole discretion, Chelan County may cancel any bid award upon written notification to the successful bidder within 30 (thirty) days after the date of the bid award, without any cost, expense, penalty or damages payable to the successful bidder.

INVITATION TO BID

Icicle Creek Streambank Restoration – RM 1.0

Sealed bids will be received by Chelan County at the Board of County Commissioners Chambers, Chelan County Administration Building, 400 Douglas Street, Wenatchee, Washington until **Monday, March 14th, 2022 at 11:00 AM PDT** for the Chelan County Natural Resources Project, **“Icicle Creek Streambank Restoration – RM 1.0”**.

Chelan County Natural Resources Project: Icicle Creek Streambank Restoration – RM 1.0, Chelan County. This contract provides for the improvement of Icicle Creek near River Mile 1.0. The work includes, but is not limited to: temporary traffic control along East Leavenworth Road; permanent and temporary improvements of access routes and gates on private property; clearing and salvage of trees and shrubs for use in Habitat Structure construction; floodplain excavation, soil placement, compaction, haul and disposal; in-water site isolation, control of in-water turbidity, construction of Large Woody Material (LWM) Habitat Structures, seeding, and other work, all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications.

All work below ordinary-high water mark (OHWM) must be complete during the in-water-work window occurring from July 1st to August 12th, 2022. This Project shall be Substantially Complete by October 31st, 2022. The estimated range of probable cost is \$250,000 to \$298,000 excluding WSST.

An optional Pre-Bid conference with representatives from the CONTRACTING AGENCY will be held onsite Friday, March 4th, 2022 at 09:30 AM. Attendees should meet at the East Leavenworth Boat Ramp (9556 East Leavenworth Road, Leavenworth, WA, 98826) and proceed to the Project Area. A minimum of one representative from each Prime Contractor that intends to submit a bid is encouraged to attend.

A bid bond, certified check, or cashier's check in the amount of 5% of the bid shall accompany all bids.

The County of Chelan in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

All bids shall be marked **“ICICLE CREEK STREAMBANK RESTORATION – RM 1.0”** on the outside of the envelope. The Board of County Commissioners reserves the right to reject any or all bids for cause. Dated this 22nd day of February, 2022.

BOARD OF CHELAN COUNTY COMMISSIONERS

KEVIN OVERBAY, CHAIRMAN

ATTEST:

TIFFANY GHERING, COMMISSIONER

CARLEY BAITY, CLERK OF THE BOARD

BOB BUGERT, COMMISSIONER

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NOTE: The following forms are to be submitted with the Bid

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BID PROPOSAL

Icicle Creek Streambank Restoration – RM 1.0

TO: Board of Chelan County Commissioners, Wenatchee, Washington

The Undersigned certify that they have examined the location of the project and read and thoroughly understand the plans, specifications and contract governing the work embraced in this improvement or as much thereof as can be completed with the money available, in accordance with the said plans, specifications, and contract, and the following schedule of rates and prices:

BASE BID						
Item No.	Spec #	Description	Unit	Qty	Unit Price	Total Price
1	1-09.7	MOBILIZATION & DEMOBILIZATION	L.S.	1.00		
2	8-05	TEMPORARY ACCESS AND STAGING	L.S.	1.00		
3	1-05	SURVEYING	L.S.	1.00		
4	8-19	SALVAGE AND EXTEND SPLIT RAIL FENCE	L.F.	1296.00		
5	7-06	SITE ISOLATION AND EROSION CONTROL	L.S.	1.00		
6	2-05	FLOODPLAIN GRADING	C.Y.	308.00		
7	6-05 & 8-26	BANK ENHANCEMENT LWM STRUCTURE - TYPE 1	EACH	3.00		
8	6-05 & 8-26	BANK ENHANCEMENT LWM STRUCTURE - TYPE 2	EACH	1.00		
9	6-05 & 8-26	BANK ENHANCEMENT LWM STRUCTURE - TYPE 3	EACH	2.00		
10	8-02	FABRIC ENCAPSULATED SOIL LAYER (FESL)	L.F.	64.00		
11	8-02	SEEDING	ACRE	2.20		
12	9-14.5(1)	STRAW MULCH	TON	25.00		
13	8-26	WOOD PROCUREMENT	L.S.	1		
14	2-08	BOULDER CLUSTER	EACH	12.00		
15	1-09.6	MINOR CHANGE	DOLLAR	1.00	\$25,000	\$25,000
BASE BID – TOTAL						

The aforementioned sum is hereby designated the Total Bid. The Total Bid shall not include Washington State sales tax. Sales tax will be added to the Total Base Bid prior to Contract execution to determine the Contract Sum and sales tax shall be paid by the CONTRACTING AGENCY with each progress payment.

PRINT BIDDER NAME

DATE

SIGNATURE OF PRINCIPAL OR OFFICER

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BID PROPOSAL DECLARATION

To the Chelan County Board of County Commissioners:

The undersigned Bidder hereby certifies that the Bidder has examined the sites upon which the Work is to be performed and has read and thoroughly understands the plans, specifications, addenda and contract governing the work, the manner by which payment will be made for such work and time in which to attain Substantial Completion for the Icicle Creek Streambank Restoration – RM 1.0.

The Bidder hereby acknowledges receipt of Addendum No. 1__, No. 2__, No. 3__, No. 4__, No. 5__, No. 6__, No. 7__, No. 8__, No. 9__, and No. 10__.

The Bidder hereby acknowledges that by execution of this Bid Proposal Form the Bidder has agreed to all bidding requirements, has fully executed all required bidding documents, and has agreed to fully and completely perform all work required under the plans, specifications, addenda and Contract within the time period as specified. The Bidder has agreed to pay prevailing wage rates of Federal or State of Washington which are in effect at the time of the execution of the contract and whichever are the higher, in accordance with the requirements of the special provisions.

The undersigned hereby agrees to the indemnification requirements of Section 1-07.28 of the Special Provisions – Division 1. Submission of this Bid Proposal and entering into a Contract for this Work constitutes acknowledgement by the Contractor that said indemnification requirements are specifically and expressly a part of the Bid process and Contract Negotiations, including Contract waiver of immunity under Industrial Insurance, Title 51 RCW.

A bid proposal security of five percent (5%) of the total bid is attached hereto in the following form and in the amount of \$_____.

Bid Proposal Bond ____ Cashier's Check ____ Certified Check ____
Checks must be payable to the Treasurer of Chelan County, Washington.

PRINT BIDDER NAME	SIGNATURE OF PRINCIPAL OR OFFICER
-------------------	-----------------------------------

MAILING ADDRESS	CITY	STATE	ZIP
-----------------	------	-------	-----

PRINT NAME OF SIGNATORY	TITLE
-------------------------	-------

TELEPHONE	FAX
-----------	-----

STATE REGISTRATION NUMBER	STATE UBI NUMBER
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BID PROPOSAL BOND

KNOW ALL PERSONS BY THESE PRESENTS:

That we of _____ as Principal, and the _____ a corporation duly organized under the laws of the State of _____, and authorized to do business in the State of Washington, as surety, are held and firmly bound unto the Chelan County Commissioners in the full and penal sum of five (5) percent of the total amount of the Bid Proposal of said Principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of this bond is such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following construction to wit:

Icicle Creek Streambank Restoration – RM 1.0, Chelan County. This contract provides for the improvement of Icicle Creek near River Mile 1.0. The work includes, but is not limited to: temporary traffic control along East Leavenworth Road; permanent and temporary improvements of access routes and gates on private property; clearing and salvage of trees and shrubs for use in Habitat Structure construction; floodplain excavation, soil placement, compaction, haul and disposal; in-water site isolation, control of in-water turbidity, construction of Large Woody Material (LWM) Habitat Structures, seeding, and other work. Logs, slash and racking material in quantities sufficient to construct LWM habitat structures will be provided by the Contractor. All work shall be in accordance with the Contract Documents and the 2022 Standard Specifications for Road, Bridge and Municipal Construction, State of Washington, Department of Transportation, and addenda thereto.

NOW, THEREFORE, if the said Bid Proposal by said Principal be accepted, and the Contract be awarded to said Principal, and if said Principal shall duly make and enter into and execute said Contract and shall furnish bond as required by the Chelan County Commissioners within a period of fourteen (14) days from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, the Principal and surety have caused these presents to be signed and sealed this _____ day of _____, 20____.

NOTE: Failure to provide a Bid Proposal Bond renders a bid non-responsive. Acceptable Bid Bond language shall comply with Standard Specifications.

WITNESS our hands this _____ day of _____, 20____.

PRINT PRINCIPAL'S NAME

PRINT SURETY'S NAME

SIGNATURE: AUTHORIZED PRINCIPAL/OFFICER

SIGNATURE: SURETY/AUTHORIZED
AGENT

ATTORNEY-IN-FACT, SURETY

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BIDDER INFORMATION

PROJECT: Icicle Creek Streambank Restoration – RM 1.0

Contractor registration, bonding and insurance information will be confirmed through Department of Labor and Industries at 1.800.647.0982 and 1.360.902.5230.

CONTRACTOR:

NAME (Exactly as Registered)

TELEPHONE NO.

ADDRESS

CITY

STATE

ZIP

REGISTRATION NO.

EXPIRATION
DATE

FEDERAL TAX ID

UBI NO.

SOLE PROPRIETORSHIP

____ PARTNERSHIP

____ CORPORATION

JOINT VENTURE

____ LLC

PRINCIPALS:

LIST OF SIMILAR PROJECTS COMPLETED BY CONTRACTOR (USE ADDITIONAL SHEET IF NECESSARY)

Project Name	Contracting Agency	Project Contract	Completion Date

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NON-COLLUSION DECLARATION

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint for free competitive bidding in connection with the project for which this proposal is submitted.
2. That by signed the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

FAILURE TO RETURN THIS DECLARATION AS PART OF THE BID SUBMITTAL PACKAGE WILL MAKE THE BID NONRESPONSIVE AND INELIGIBLE FOR AWARD.

Business Name _____

Date _____

By _____
(Authorized Signature)

(Name and Title)

NOTICE TO ALL BIDDERS

To report bid rigging activities call: 1.800.424.9071

The U.S. Department of Transportation (USDOT) operates the above tollfree "hotline" Monday through Friday, 8:00 AM to 5:00 PM, Eastern Standard Time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direct of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

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SUBCONTRACTOR LIST

Prepared in compliance with RCW 39.30.060 as amended

Chelan County requires the bidder to submit the names of all subcontractors whose subcontract amount exceeds 10 percent of the contract price for all contracts exceeding \$100,000. Bidders shall complete Section A below, as appropriate, with the bid proposal or within 1 hour of the bid time.

Bidders may attach additional sheets as necessary to identify additional subcontractors. If information is delivered within 1 hour of the bid time, it may be delivered in person, by fax, courier or email to the CONTRACTING AGENCY'S representative.

SECTION A. OWNER REQUIRED SUBCONTRACTOR LIST

The following subcontractor(s) subcontract amount(s) exceed 10 percent of the contract price and the contract exceeds \$100,000 (list subcontractor and bid item).

Bidder certifies that there are no subcontractors at this time who meet the above requirements.

Name _____
Title. _____
Signature _____

OR There are subcontractors that meet the above requirements.

Subcontractor Name _____
Bid Item No. _____
Address. _____
Phone No. _____ State Contractor's Lic. No. _____

Subcontractor Name _____
Bid Item No. _____
Address. _____
Phone No. _____ State Contractor's Lic. No. _____

Subcontractor Name _____
Bid Item No. _____
Address. _____
Phone No. _____ State Contractor's Lic. No. _____

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CERTIFICATION REGARDING DEBARMENT

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations are available from local offices of the U.S. Small Business Administration.

BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE

- 1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
 - a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
- 2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Business Name _____

Date _____

By _____
(Authorized Signature)

(Name and Title)

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Non-Procurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date Monday, September 16, 2019, the bidder is not a “willful” violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

BIDDER’S BUSINESS NAME

SIGNATURE OF AUTHORIZED OFFICIAL*

PRINTED NAME

TITLE

DATE

CITY

STATE

Check One:

Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☐

State of Incorporation, or if not a corporation, State where business entity was formed:

If a co-partnership, give firm name under which business is transacted:

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

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CERTIFICATION OF COMPLIANCE WITH PREVAILING WAGE TRAINING

The bidder hereby certifies that is Responsible within criteria set forth in RCW 39.04.350 and RCW 39.06.020, specifically in regards to ESSHB 1673 which requires all businesses to have prevailing wage training before bidding and/or performing work on public works projects. Online Contractor training is available at <https://www.lni.wa.gov/TradesLicensing/PrevWage/Contractors/Training.asp>.

Alternatively, Contractors with an active Unified Business Identifier (UBI) for 3 or more years **AND** have performed on 3 or more public works projects are exempt from this training requirement. Please provide business information below and either completed training date OR 3 completed public works as reference.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

BUSINESS NAME

UNIFIED BUSINESS IDENTIFIER (UBI)

SIGNATURE OF AUTHORIZED OFFICIAL*

PRINTED NAME

**Check one option below and provide details*

Option A ☐ Labor and Industries Prevailing Wage Training Completion

L&I Prevailing Wages Training Completion Date

Option B ☐ Exemption from Training Requirement

1. Project Name, Contracting Agency, Completion Date of Public Works Project

2. Project Name, Contracting Agency, Completion Date of Public Works Project

3. Project Name, Contracting Agency, Completion Date of Public Works Project

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BONDING AND CLAIMS

BONDING COMPANY NAME (Exactly as Registered)

ADDRESS

CITY

STATE

ZIP

REGISTRATION BOND NO.

\$

AMOUNT

EXPIRATION DATE

Are there claims pending against your bond? ☐ Yes ☐ No

If yes, what are each claimant's name, reasons for the claim, amount claimed, date, and place of filing?

Have there been tax liens or judgments against you filed by the Internal Review Service, Department of Revenue, Employment Security Department or Department of Labor & Industries within the last three (3) years resulting from non-payment of employee taxes? ☐ Yes ☐ No

If yes, what date and in which County did each filing occur?

Are there any lawsuits or unsatisfied judgments pending against you?

☐ Yes ☐ No

If yes, what date and in which County is each lawsuit pending or judgment entered?

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CONSTRUCTION CONTRACT PACKAGE

NOTE: The following forms are to be executed by the successful bidder, after the Contract Award, and are included here for Bidder's information only.

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, _____, by and between Chelan County hereinafter called "CONTRACTING AGENCY" and _____ doing business as (an individual) or (a partnership) or (a corporation) hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The CONTRACTOR will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the demolition of **Icicle Creek Streambank Restoration – RM 1.0** in accordance with the CONTRACT DOCUMENTS.
2. The CONTRACTOR will commence the work required by this contract on a date to be specified in the NOTICE TO PROCEED.
3. The CONTRACTOR shall complete all in-water work indicated on the Drawings between the dates of July 1st and August 12th, 2022.
4. The CONTRACTOR shall attain Substantial Completion of all work by October 31st, 2022.
5. Substantial Completion of all work for each consecutive calendar day thereafter.
6. The CONTRACTOR agrees to perform all of the WORK described in the CONTRACT DOCUMENTS and comply with the terms therein for the sum of \$ _____ or as shown in the BID schedule (*Not including Washington State Sales Tax*). Washington State Sales Tax will be paid by the CONTRACTING AGENCY on Progress Payment Base amounts at the time of "Contractor's Application for Payment".
7. The CONTRACTOR shall submit applications for payment in accordance with the 2022 Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction (Standard Specifications). Applications for payment shall be submitted to the CONTRACTING AGENCY.
8. The term "CONTRACT DOCUMENTS" means and includes the following:

- (A) BIDDING INSTRUCTIONS
- (B) INVITATION TO BID
- (C) BID PROPOSAL
- (D) BID PROPOSAL DECLARATION
- (E) BID PROPOSAL BOND
- (F) BIDDER INFORMATION
- (G) NON-COLLUSION DECLARATION
- (H) SUBCONTRACTORS LIST
- (I) CERTIFICATION REGARDING DEBARMENT
- (J) BONDING AND CLAIMS
- (K) CERTIFICATE OF COMPLIANCE WITH WAGE PAYMENT STATUTES
- (L) CERTIFICATE OF COMPLIANCE WITH PREVAILING WAGE TRAINING
- (M) PERFORMANCE AND PAYMENT BOND
- (N) NOTICE OF AWARD
- (O) NOTICE TO PROCEED
- (P) CHANGE ORDER(s)
- (Q) ADDENDA:
 - No. _____ Dated _____, 2022
 - No. _____ Dated _____, 2022
 - No. _____ Dated _____, 2022

9. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized official, this Contract in triplicate. The Contract will be effective on _____ (insert date).

CONTRACTING AGENCY**CONTRACTOR**_____
SIGNATURE_____
SIGNATURE_____
PRINT NAME_____
PRINT NAME_____
TITLE (SEAL)ATTEST:
Clerk of the Board_____
ADDRESS_____
TITLE (SEAL)_____
SIGNATUREEMPLOYER ID
NUMBER: __________
PRINT NAME

ATTEST:

TITLE_____
SIGNATURE_____
PRINT NAME_____
TITLE

PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that whereas Chelan County, Wenatchee, Washington a municipal corporation has awarded to:

CONTRACTOR NAME

hereinafter designated as the "CONTRACTOR" a contract for work items, which contract consists of the Proposal/Agreement, together with the Contract Documents, Specifications, Addenda and Plans, all as hereto attached and made a part hereof, and more particularly described as:

Icicle Creek Streambank Restoration – RM 1.0

and whereas said CONTRACTOR is required under the terms of said contract to furnish a bond for the faithful performance of said contract:

NOW, THEREFORE, we the CONTRACTOR and

_____, a corporation, organized and existing under and by virtue of the laws of the State of Washington, and duly authorized to do business in the State of Washington as surety, are firmly bound unto Chelan County in the sum of _____ dollars (\$ _____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bonded CONTRACTOR, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in said contract, and shall faithfully perform all the provisions of such contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said contract that may hereafter be made, at the time and in the manner therein specified; and shall pay all laborers, mechanics, subcontractors and materialmen, and all persons who shall supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work on his or their parts; and shall indemnify and save harmless the CONTRACTING AGENCY, its officers and agents, from any loss or damage occasioned to any person or property by reason of any carelessness or negligence on the part of said principal, or any subcontractor, in the performance of said contract or any modifications thereof; and shall further indemnify and save harmless Chelan County, its officers and agents, from any damage or expense by reason of failure of performance as required by said contract, or any modifications thereof, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

And the said surety, for value received, hereby further stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alternations or additions to the terms of the contract or the work or to the specifications. This Bond is provided pursuant to and shall be construed in accordance with Ch. 39.08 RCW.

IN WITNESS THEREOF, the said CONTRACTOR and the said surety caused this bond and three (3) counterparts thereof to be signed and sealed by their duly authorized officers, this _____ day of _____, 20__.

PRINCIPAL

BY _____

TITLE _____

ATTEST (If Corporation)

WITNESSES (If Individual or Partnership)

CORPORATE SEAL

BY _____

TITLE _____

APPROVED AS TO FORM

SURETY _____

BY _____

BY _____

(Attorney for _____)

Address of local office and agent of Surety Company is:

NOTICE OF AWARD**DATED** _____**TO** _____**ADDRESS** _____**PROJECT** Icicle Creek Streambank Restoration – RM 1.0

The CONTRACTING AGENCY has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated Tuesday February 22nd, 2022, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$_____ (not including Washington State Sales Tax).

You are required by the Bidding Instructions to execute the Agreement and furnish the required CONTRACTOR'S Performance BOND, Payment BOND and certificates of insurance within ten (10) calendar days from the date of the original Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within ten (10) calendar days from the date of this Notice, said CONTRACTING AGENCY will be entitled to consider all your rights arising out of the CONTRACTING AGENCY'S acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The CONTRACTING AGENCY will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the CONTRACTING AGENCY. Dated this _____ day of _____, 2022.

CONTRACTING OFFICER_____
SIGNATURE_____
TITLE**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged by

_____ this _____ day of _____, 2022.

SIGNATURE_____
TITLE

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NOTICE TO PROCEED**DATED** _____**TO** _____**PROJECT** Icicle Creek Streambank Restoration – RM 1.0

You are hereby notified to commence WORK in accordance with the Agreement dated _____, _____, on or before _____, _____, and you are to attain Substantial Completion, as determined by the Contracting Agency, on or before October 31st, 2022.

CONTRACTING OFFICER_____
SIGNATURE_____
TITLE**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by

_____ this _____ day of _____, _____.

SIGNATURE_____
TITLE

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NOTE: The following forms are to be submitted by the Contractor upon substantial completion, and are included here for Bidder's Information only

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CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT: Icicle Creek Streambank Restoration –
RM 1.0

TO Chelan County
CONTRACTING Natural Resources Department
AGENCY: 411 Washington Street, Suite 201
Wenatchee, WA 98801

STATE OF: WASHINGTON **CONTRACT FOR:** Construction

COUNTY OF: CHELAN **CONTRACT DATED:** _____

DATE OF ISSUANCE: _____

Project or Designated Portion Shall Include:

Installation of LWM Habitat Structures, reinforced soil lift bank, boulder clusters, fencing, protection of landowner water lines and pump intake, protection of Eric's Log, removal of in-water work site isolation sandbags, restoration and seeding of access and staging areas.

The work performed under this CONTRACT has been reviewed and found to be substantially complete. The date of substantial completion of the project or portion thereof designated above is hereby established as of _____ 20__ which is also the date of commencement of applicable warranties as required by the Contract Documents, except as stated below.

Definition of Date of Substantial Completion

The Date of Substantial Completion of the Work or designated portion thereof is the date certified by the project administrator when construction is sufficiently complete in accordance with the Contract Documents, so the CONTRACTING AGENCY can occupy or utilize the work or designated portion thereof for the use for which it is intended, as expressed in the Contract Documents.

CONTRACTOR BY DATE

The CONTRACTING AGENCY accepts the Work or designated portion thereof a substantially complete and will assume full possession thereof at on _____.

CHELAN COUNTY COMMISSIONER BY DATE

The responsibilities of the CONTRACTING AGENCY and CONTRACTOR for security, maintenance, heat, utilities, damage to the work, and insurance shall be as follows:

--

NOTE: Contracting Agency's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage; Contractor shall secure consent of surety company, if any.

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CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBT AND CLAIMS

PROJECT:	Icicle Creek Streambank Restoration – RM 1.0	CONTRACTING AGENCY
TO	Chelan County	ENGINEER <input type="checkbox"/>
CONTRACTING	Natural Resources Department	CONTRACTOR <input type="checkbox"/>
AGENCY:	411 Washington Street, Suite 201	SURETY <input type="checkbox"/>
	Wenatchee, WA 98801	OTHER <input type="checkbox"/>
STATE OF:	WASHINGTON	CONTRACT FOR: _____
		CONTRACT
COUNTY OF:	CHELAN	DATED: _____

The undersigned hereby certifies that, except as listed below, payment has been paid in full and all obligations have otherwise been satisfied for all equipment and materials furnished, for all work, labor and services performed, and for all known indebtedness and claims against the CONTRACTOR for damages arising in any manner in connection with the performance of the CONTRACT referenced above for which the CONTRACTING AGENCY might in any way be held responsible for encumbered.

Exceptions are as follows:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Consent of Surety to Final Payment. Whenever surety is involved, Consent of Surety is required. Indicate attachment: (YES ☐) (NO ☐.

The following supporting documents should be attached hereto if required by the CONTRACTING AGENCY:

- a. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
- b. Separate Releases or Waivers of Liens from subcontractors and material and equipment suppliers to the extent required by the CONTRACTING AGENCY, accompanied by a list thereof.
- c. Contractor's Affidavit of Release of Liens.

CONTRACTOR: _____

ADDRESS: _____

Subscribed and sworn to before me
this __day of _____ 20__.

SIGNATURE OF AUTHORIZED
REPRESENTATIVE

SIGNATURE OF NOTARY PUBLIC

PRINTED NAME

PRINTED NAME OF NOTARY PUBLIC

PRINTED TITLE

COMMISSION EXPIRATION DATE

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CONTRACTOR'S AFFIDAVIT OF RELEASE OF LIENS

PROJECT:	Icicle Creek Streambank Restoration – RM 1.0	CONTRACTING AGENCY	<input type="checkbox"/>
TO	Chelan County	ENGINEER	<input type="checkbox"/>
CONTRACTING	Natural Resources Department	CONTRACTOR	<input type="checkbox"/>
AGENCY:	411 Washington Street, Suite 201	SURETY	<input type="checkbox"/>
	Wenatchee, WA 98801	OTHER	<input type="checkbox"/>

STATE OF:	WASHINGTON	CONTRACT FOR:	
COUNTY OF:	CHELAN	CONTRACT	
		DATED:	

The undersigned hereby certifies that to the best of their knowledge, information and beliefs, except as listed below, the Releases or Waivers of Lien attached hereto include the CONTRACTOR, all subcontractors, all suppliers of equipment and materials, and all performers of work, labor and/or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the CONTRACTING AGENCY arising in any manner out of the performance of the CONTRACT referenced above.

Exceptions are as follows:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waivers of Liens, condition upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and equipment and material suppliers, to the extent required by the CONTRACTING AGENCY, accompanied by a list thereof.

CONTRACTOR: _____
ADDRESS: _____

Subscribed and sworn to before me
 this ____ day of _____ 20__.

 SIGNATURE OF AUTHORIZED
 REPRESENTATIVE

 SIGNATURE OF NOTARY PUBLIC

 PRINTED NAME

 PRINTED NAME OF NOTARY PUBLIC

 PRINTED TITLE

 COMMISSION EXPIRATION DATE

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CONSENT OF SURETY TO FINAL PAYMENT

PROJECT:	Icicle Creek Streambank Restoration – RM 1.0	CONTRACTING AGENCY	<input type="checkbox"/>
		ENGINEER	<input type="checkbox"/>
TO	Chelan County	CONTRACTOR	<input type="checkbox"/>
CONTRACTING	Natural Resources Department	SURETY	<input type="checkbox"/>
AGENCY:	411 Washington Street, Suite 201	OTHER	<input type="checkbox"/>
	Wenatchee, WA 98801		
STATE OF:	WASHINGTON	CONTRACT FOR:	
		CONTRACT	
COUNTY OF:	CHELAN	DATED:	

In accordance with the provisions of the CONTRACT between the CONTRACTING AGENCY and the CONTRACTOR as indicated above, the *(insert name and address of Surety Company)*

_____, SURETY COMPANY,

on bond of *(insert name and address of Contractor)*

_____, CONTRACTOR, _____

hereby approved of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to *(insert name and address of CONTRACTING AGENCY)*

_____,

CONTRACTING AGENCY, _____

as set forth in the said Surety Company's bond.

IN WITNESS WHEREOF, the Surety Company has hereunto set its hand this ____ day of _____, 20____.

SURETY COMPANY NAME

Attest:

SIGNATURE OF AUTHORIZED REPRESENTATIVE

(SEAL)

PRINTED NAME AND TITLE

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SPECIAL PROVISIONS

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INTRODUCTION TO THE SPECIAL PROVISIONS

(*****)

The work on this project shall be accomplished in accordance with the *Standard Specifications for Road, Bridge and Municipal Construction*, 2022 edition (hereafter “Standard Specifications”), as issued by the Washington State Department of Transportation (WSDOT) and the American Public Works Association (APWA), Washington State Chapter. The Standard Specifications, as modified or supplemented by the Amendments to the Standard Specifications and these Special Provisions, all of which are made a part of the Contract Documents, shall govern all of the Work.

These Special Provisions are made up of both General Special Provisions (GSPs) and project-specific Special Provisions. Each Provision included here either supplements, modifies, or replaces the comparable Standard Specification, or is a new Provision. The deletion, amendment, alteration, or addition to any subsection or portion of the Standard Specifications is meant to pertain only to that particular portion of the section, and in no way should it be interpreted that the balance of the Standard Specifications section does not apply.

The project-specific Special Provisions are labeled with a series of six asterisks under the header. The GSPs are labeled under the headers of each GSP, with the effective date of the GSP and its source. For example:

<i>(March 14, 2011 APWA GSP)</i>	=	Identifies APWA GSP and date created
<i>(April 1, 2013 WSDOT GSP)</i>	=	Identifies WSDOT GSP and date created
<i>(*****)</i>	=	Identifies project specific Special Provision

Also incorporated into the Contract Documents by reference are:

- *Manual on Uniform Traffic Control Devices for Streets and Highways*, currently adopted edition, with Washington State modifications, if any
- *Standard Plans for Road, Bridge and Municipal Construction*, WSDOT/APWA, current edition

The Contractor shall obtain copies of these publications, at the Contractor’s own expense.

Portions of these Special Provisions are taken from the APWA GSP web page found at www.wsdot.wa.gov/partners/apwa/Division_1_page.htm .

DIVISION 1 GENERAL REQUIREMENTS

1-01 DEFINITIONS AND TERMS

Description of Work

(March 13, 1995 WSDOT GSP)

This contract provides for the improvement of Icicle Creek near River Mile 1.0. The work includes, but is not limited to: temporary traffic control along East Leavenworth Road; permanent and temporary improvements of access routes and gates on private property; clearing and salvage of trees and shrubs for use in Habitat Structure construction; floodplain excavation, soil placement, compaction, haul and disposal; in-water site isolation, control of in-water turbidity, construction of Large Woody Material (LWM) Habitat Structures, seeding, and other work, all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications.

1-01.3 Definitions

The heading Completion Dates in Section 1-01.3 and the three paragraphs that follow it are deleted and replaced with the following:

(January 4, 2016 APWA GSP)

1-01.3 Definitions

Bid Opening Date

The date on which the Contracting Agency publicly opens and reads the Bids.

Award Date

The date of the formal decision of the Contracting Agency to accept the lowest responsible and responsive Bidder for the Work.

Contract Execution Date

The date the Contracting Agency officially binds the Agency to the Contract.

Notice to Proceed Date

The date stated in the Notice to Proceed on which the Contract time begins.

Substantial Completion Date

The day the Engineer determines the Contracting Agency has full and unrestricted use and benefit of the facilities, both from the operational and safety standpoint, any remaining traffic disruptions will be rare and brief, and only minor incidental work, replacement of temporary substitute facilities, plant establishment periods, or correction or repair remains for the Physical Completion of the total Contract.

Physical Completion Date

The day all of the Work is physically completed on the project. All documentation required by the Contract and required by law does not necessarily need to be furnished by the Contractor by this date.

Completion Date

The day all the Work specified in the Contract is completed and all the obligations of the Contractor under the contract are fulfilled by the Contractor. All documentation required by the Contract and required by law must be furnished by the Contractor before establishment of this date.

Final Acceptance Date

The date on which the Contracting Agency accepts the Work as complete.

Section 1-01.3 is supplemented with the following:

(*****)

All references in the Standard Specifications, Amendments, or WSDOT General Special Provisions, to the terms “Department of Transportation”, “Washington State Transportation Commission”, “Commission”, “Secretary of Transportation”, “Secretary”, “Headquarters”, and “State Treasurer” shall be revised to read “Contracting Agency”.

All references to Engineer and Contracting Officer are equivalent.

All references to the terms “State” or “state” shall be revised to read “Contracting Agency” unless the reference is to an administrative agency of the State of Washington, a State statute or regulation, or the context reasonably indicates otherwise.

All references to “State Materials Laboratory” shall be revised to read “Contracting Agency designated location”.

All references to “final contract voucher certification” shall be interpreted to mean the Contracting Agency form(s) by which final payment is authorized, and final completion and acceptance granted.

Additive

A supplemental unit of work or group of bid items, identified separately in the Bid Proposal, which may, at the discretion of the Contracting Agency, be awarded in addition to the base bid.

Alternate

One of two or more units of work or groups of bid items, identified separately in the Bid Proposal, from which the Contracting Agency may make a choice between different methods or material of construction for performing the same work.

Business Day

A business day is any day from Monday through Friday except holidays as listed in Section 1-08.5.

Contract Bond

The definition in the Standard Specifications for “Contract Bond” applies to whatever bond form(s) are required by the Contract Documents, which may be a combination of a Payment Bond and a Performance Bond.

Contract Documents

See definition for “Contract”.

Contract Time

The period of time established by the terms and conditions of the Contract within which the Work must be physically completed.

LWM Structure

The terms “LWM Structure”, “LWM Habitat Structure”, “Habitat Structure”, “ELJ”, “LWD Structure”, and “LWD Structure” shall be synonymous, and all refer to the LWM Structures included in the Contract Plans which are to be constructed by the Contractor as part of this Contract.

Notice of Award

The written notice from the Contracting Agency to the successful Bidder signifying the Contracting Agency’s acceptance of the Bid Proposal.

Notice to Proceed

The written notice from the Contracting Agency or Engineer to the Contractor authorizing and directing the Contractor to proceed with the Work and establishing the date on which the Contract time begins.

Traffic

Both vehicular and non-vehicular traffic, such as pedestrians, bicyclists, wheelchairs, and equestrian traffic.

(*****) All references to Engineer and Contracting Officer are equivalent. “Design Engineer” refers to the firm and Engineer of Record responsible for preparation of the Plans and these Special Provisions.

1-02 BID PROCEDURES AND CONDITIONS

1-02.1 Prequalification of Bidders

Section 1-02.1 is deleted and replaced with the following

(January 24, 2011 APWA GSP)

1-02.1 Qualifications of Bidder

Before award of a public works contract, a bidder must meet at least the minimum qualifications of RCW 39.04.350(1) to be considered a responsible bidder and qualified to be awarded a public works project.

To be considered, a bidder is encouraged to complete the statement of qualifications that provides examples and references for stream restoration projects completed in the last five years which demonstrate the ability to work within permit guidelines for “in water work” which includes diversions, pumping and cofferdams, and/or examples and references for projects completed which involved post pile installation and the placement of large woody debris directly in the stream channel.

1-02.2 Plans and Specifications

Section 1-02.2 is replaced with the following:

(June 27, 2011 APWA GSP)

Information as to where Bid Documents can be obtained or reviewed can be found in the Call for Bids (Advertisement for Bids) for the work. After award of the contract, plans and specifications will be issued to the Contractor at no cost as detailed below:

To Prime Contractor	No. of Sets	Basis of Distribution
Reduced plans (11" x 17") and Contract Provisions	2	Furnished automatically upon award
Contract Provisions	2	Furnished automatically upon award

Additional plans and Contract Provisions may be obtained by the Contractor from the source stated in the Call for Bids, at the Contractor's own expense.

1-02.4 Examination of Plans, Specifications, and Site of Work

Section 1.02.4 is supplemented with the following:

*(*****)*

An optional Pre-Bid conference with representatives from the CONTRACTING AGENCY will be held onsite Friday, March 4th, 2022 at 09:30 AM. Attendees should meet at the East Leavenworth Boat Ramp (9556 East Leavenworth Road, Leavenworth, WA, 98826) and proceed to the Project Area. A minimum of one representative from each Prime Contractor that intends to submit a bid is encouraged to attend.

1-02.4(1)General

The first sentence of the last paragraph of Section 1-02.4(1) is revised to the following:

(August 15, 2016 APWA GSP Option B)

Any prospective Bidder desiring an explanation or interpretation of the Bid Documents, shall request the explanation or interpretation in writing by close of business three (3) business days preceding the bid opening to allow a written reply to reach all prospective Bidders before the submission of their Bids.

1-02.5 Proposal Forms

(July 31, 2017 APWA GSP)

Delete this section and replace it with the following:

The Proposal Form will identify the project and its location and describe the work. It will also list estimated quantities, units of measurement, the items of work, and the materials to be furnished at the unit bid prices. The bidder shall complete spaces on the proposal form that call for, but are not limited to, unit prices; extensions; summations; the total bid amount; signatures; date; and, where applicable,

retail sales taxes and acknowledgment of addenda; the bidder's name, address, telephone number, and signature; the bidder's UDBE/DBE/M/WBE commitment, if applicable; a State of Washington Contractor's Registration Number; and a Business License Number, if applicable. Bids shall be completed by typing or shall be printed in ink by hand, preferably in black ink. The required certifications are included as part of the Proposal Form.

1-02.7 Bid Deposit

Section 1-02.7 is supplemented with the following:

(*****)

A certified check or bid bond made payable to the Chelan County for an amount equal to at least five (5%) percent of the total amount of the bid, must accompany each bid as evidence of good faith, and as a guarantee that, if awarded the contract, the bidder will execute the contract and give bond, as required. Should the successful bidder fail to enter into such a contract and furnish satisfactory performance bond within the time stated in the specifications, the bid proposal deposit may be forfeited to Chelan County.

Bid bonds shall contain the following:

1. Contracting Agency-assigned number for the project;
2. Name of the project;
3. The Contracting Agency named as obligee;
4. The amount of the bid bond stated either as a dollar figure or as a percentage which represents five percent of the maximum bid amount that could be awarded;
5. Signature of the bidder's officer empowered to sign official statements. The signature of the person authorized to submit the bid should agree with the signature on the bond, and the title of the person must accompany the said signature;
6. The signature of the surety's officer empowered to sign the bond and the power of attorney.

If so stated in the Contract Provisions, bidder must use the bond form included in the Contract Provisions.

If so stated in the Contract Provisions, cash will not be accepted for a bid deposit.

(*****)

The Bidder shall make no stipulation on the Bid Form, nor qualify the bid in any manner.

A bid by a corporation shall be executed in the corporate name, by the president or a vice president (or other corporate officer accompanied by evidence of authority to sign).

A bid by a partnership shall be executed in the partnership name and signed by a partner.

A bid by a joint venture shall be executed in the joint venture name and signed by a member of the joint venture.

1-02.9 Delivery of Proposal

(December 19, 2019 APWA GSP, Option A)

Delete this section and replace it with the following:

Each Proposal shall be submitted in a sealed envelope, with the Project Name and Project Number as stated in the Call for Bids clearly marked on the outside of the envelope, or as otherwise required in the Bid Documents, to ensure proper handling and delivery.

To be considered responsive on a FHWA-funded project, the Bidder may be required to submit the following items, as required by Section 1-02.6:

- UDBE Written Confirmation Document from each UDBE firm listed on the Bidder's completed UDBE Utilization Certification (WSDOT 272-056U)
- Good Faith Effort (GFE) Documentation
- UDBE Bid Item Breakdown (WSDOT 272-054)
- UDBE Trucking Credit Form (WSDOT 272-058)

These documents, if applicable, shall be received either with the Bid Proposal or as a supplement to the Bid. These documents shall be received **no later than 48 hours** (not including Saturdays, Sundays and Holidays) after the time for delivery of the Bid Proposal.

If submitted after the Bid Proposal is due, the document(s) must be submitted in a sealed envelope labeled the same as for the Proposal, with "Supplemental Information" added. All other information required to be submitted with the Bid Proposal must be submitted with the Bid Proposal itself, at the time stated in the Call for Bids.

Board of Chelan County Commissioners
Chelan County Administration Building
400 Douglas St
Wenatchee, WA 98801

Proposals that are received as required will be publicly opened and read as specified in Section 1-02.12. The Contracting Agency will not open or consider any Bid Proposal that is received after the time specified in the Call for Bids for receipt of Bid Proposals or received in a location other than that specified in the Call for Bids. The Contracting Agency will not open or consider any "Supplemental Information" (UDBE confirmations, or GFE documentation) that is received after the time specified above or received in a location other than that specified in the Call for Bids.

If an emergency or unanticipated event interrupts normal work processes of the Contracting Agency so that Proposals cannot be received at the office designated for receipt of bids as specified in Section 1-02.12, the time specified for receipt of the Proposal will be deemed to be extended to the same time of day specified in the solicitation on the first workday on which the normal work processes of the Contracting Agency resume.

1-02.10 Withdrawing, Revising, or Supplementing Proposal

Section 1-02.10 is replaced with the following:

(July 23, 2015 APWA GSP)

After submitting a physical Bid Proposal to the Contracting Agency, the Bidder may withdraw, revise, or supplement it if:

1. The Bidder submits a written request signed by an authorized person and physically delivers it to the place designated for receipt of Bid Proposals, and
2. The Contracting Agency receives the request before the time set for receipt of Bid Proposals, and
3. The revised or supplemented Bid Proposal (if any) is received by the Contracting Agency before the time set for receipt of Bid Proposals.

If the Bidder's request to withdraw, revise, or supplement its Bid Proposal is received before the time set for receipt of Bid Proposals, the Contracting Agency will return the unopened Proposal package to the Bidder. The Bidder must then submit the revised or supplemented package in its entirety. If the Bidder does not submit a revised or supplemented package, then its bid shall be considered withdrawn.

Late revised or supplemented Bid Proposals or late withdrawal requests will be date recorded by the Contracting Agency and returned unopened. Mailed, emailed, or faxed requests to withdraw, revise, or supplement a Bid Proposal are not acceptable.

1-02.12 Public Opening of Proposal

Section 1-02.12 is supplemented with the following:

(*****)

Date of Opening Bids

Sealed bids are to be received at the following location prior to the time specified:

Board of Chelan County Commissioners
Chelan County Administration Building
401 Douglas St.
Wenatchee, Washington 98801

The bid opening date for this project is scheduled for Monday, March 14th, 2022. The bids received will be publicly opened and read on this date at 11:00 AM, or as soon as possible thereafter.

1-02.13 Irregular Proposals

Section 1-02.13 is replaced with the following:

(*****)

1. A Proposal will be considered irregular and will be rejected if:
 - a. The Bidder is not prequalified when so required;
 - b. The authorized Proposal form furnished by the Contracting Agency is not used or is altered;
 - c. The completed Proposal form contains any unauthorized additions, deletions, alternate Bids, or conditions;
 - d. The Bidder adds provisions reserving the right to reject or accept the award, or enter into the Contract;
 - e. A price per unit cannot be determined from the Bid Proposal;
 - f. The Proposal form is not properly executed;

- g. The Bidder fails to submit or properly complete a Subcontractor list, if applicable, as required in Section 1-02.6;
 - h. The Bidder fails to submit or properly complete an Underutilized Disadvantaged Business Enterprise Certification, if applicable, as required in Section 1-02.6;
 - i. The Bidder fails to submit written confirmation from each UDBE firm listed on the Bidder's completed UDBE Utilization Certification that they are in agreement with the bidder's UDBE participation commitment, if applicable, as required in Section 1-02.6, or if the written confirmation that is submitted fails to meet the requirements of the Special Provisions;
 - j. The Bidder fails to submit UDBE Good Faith Effort documentation, if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to demonstrate that a Good Faith Effort to meet the Condition of Award was made;
 - k. The Bidder fails to submit a UDBE Bid Item Breakdown form, if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to meet the requirements of the Special Provisions;
 - l. The Bidder fails to submit UDBE Trucking Credit Forms, if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to meet the requirements of the Special Provisions;
 - m. The Bid Proposal does not constitute a definite and unqualified offer to meet the material terms of the Bid invitation; or
 - n. More than one Proposal is submitted for the same project from a Bidder under the same or different names.
2. A Proposal may be considered irregular and may be rejected if:
- a. The Proposal does not include a unit price for every Bid item;
 - b. Any of the unit prices are excessively unbalanced (either above or below the amount of a reasonable Bid) to the potential detriment of the Contracting Agency;
 - c. Receipt of Addenda is not acknowledged;
 - d. A member of a joint venture or partnership and the joint venture or partnership submit Proposals for the same project (in such an instance, both Bids may be rejected); or
 - e. If Proposal form entries are not made in ink.

1-02.14 Disqualification of Bidders

Section 1-02.14 is replaced with the following:

(*****)

A Bidder will be deemed not responsible if the Bidder does not meet the mandatory bidder responsibility criteria in RCW 39.04.350(1), as amended.

As evidence that the Bidder meets the mandatory bidder responsibility criteria, the Contracting Agency may require the apparent low Bidder to submit to the Contracting Agency within 48 hours of request, documentation demonstrating compliance with all responsibility criteria. Documentation can be submitted either as scanned files submitted through e-mail to the Contracting Agency, or printed files submitted through traditional mail or in person. The Contracting Agency reserves the right to request such documentation from other Bidders as well, and to request further documentation as needed to assess bidder responsibility. The Contracting Agency also reserves the right to obtain information from third parties concerning a Bidder's compliance with the mandatory bidder responsibility criteria.

If the Contracting Agency determines the Bidder does not meet the mandatory bidder responsibility criteria in RCW 39.04.350(1) and is therefore not a responsible Bidder, the Contracting Agency shall notify the Bidder in writing, with the reasons for its determination. If the Bidder disagrees with this determination, it may appeal the determination within 2 business days of the Contracting Agency's determination by presenting its appeal and any additional information to the Contracting Agency. The Contracting Agency will consider the appeal and any additional information before issuing its final determination. If the final determination affirms that the Bidder is not responsible, the Contracting Agency will not execute a contract with any other Bidder until at least 2 business days after the Bidder determined to be not responsible has received the Contracting Agency's final determination.

1-02.15 Pre-Award Information

(August 14, 2013 APWA GSP)

Revise this section to read:

Before awarding any contract, the Contracting Agency may require one or more of these items or actions of the apparent lowest responsible bidder:

1. A complete statement of the origin, composition, and manufacture of any or all materials to be used,
2. Samples of these materials for quality and fitness tests,
3. A progress schedule (in a form the Contracting Agency requires) showing the order of and time required for the various phases of the work,
4. A breakdown of costs assigned to any bid item,
5. Attendance at a conference with the Engineer or representatives of the Engineer,
6. Obtain, and furnish a copy of, a business license to do business in the city or county where the work is located.
7. Any other information or action taken that is deemed necessary to ensure that the bidder is the lowest responsible bidder.

1-03 AWARD AND EXECUTION OF CONTRACT

1-03.1 Consideration of Bids

(January 23, 2006 APWA GSP)

Revise the first paragraph to read:

After opening and reading proposals, the Contracting Agency will check them for correctness of extensions of the prices per unit and the total price. If a discrepancy exists between the price per unit and the extended amount of any bid item, the price per unit will control. If a minimum bid amount has been established for any item and the bidder's unit or lump sum price is less than the minimum specified amount, the Contracting Agency will unilaterally revise the unit or lump sum price, to the minimum specified amount and recalculate the extension. The total of extensions, corrected where necessary, including sales taxes where applicable will be used by the Contracting Agency for award purposes and to fix the Awarded Contract Price amount and the amount of the contract bond.

1-03.3 Execution of Contract

(October 1, 2005 APWA GSP)

Revise this section to read:

Copies of the Contract Provisions, including the unsigned Form of Contract, will be available for signature by the successful bidder on the first business day following award. The number of copies to be executed by the Contractor will be determined by the Contracting Agency.

Within ***10 (ten)*** calendar days after the award date, the successful bidder shall return the signed Contracting Agency-prepared contract, an insurance certification as required by Section 1-07.18, and a satisfactory bond as required by law and Section 1-03.4. Before execution of the contract by the Contracting Agency, the successful bidder shall provide any pre-award information the Contracting Agency may require under Section 1-02.15.

Until the Contracting Agency executes a contract, no proposal shall bind the Contracting Agency nor shall any work begin within the project limits or within Contracting Agency-furnished sites. The Contractor shall bear all risks for any work begun outside such areas and for any materials ordered before the contract is executed by the Contracting Agency.

If the bidder experiences circumstances beyond their control that prevents return of the contract documents within the calendar days after the award date stated above, the Contracting Agency may grant up to a maximum of ***10 (ten)*** additional calendar days for return of the documents, provided the Contracting Agency deems the circumstances warrant it.

1-03.4 Contract Bond

(July 23, 2015 APWA GSP)

Delete the first paragraph and replace it with the following:

The successful bidder shall provide executed payment and performance bond(s) for the full contract amount. The bond may be a combined payment and performance bond; or be separate payment and performance bonds. In the case of separate payment and performance bonds, each shall be for the full contract amount. The bond(s) shall:

1. Be on Contracting Agency-furnished form(s);
2. Be signed by an approved surety (or sureties) that:
 - a. Is registered with the Washington State Insurance Commissioner, and
 - b. Appears on the current Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner,
3. Guarantee that the Contractor will perform and comply with all obligations, duties, and conditions under the Contract, including but not limited to the duty and obligation to indemnify, defend, and protect the Contracting Agency against all losses and claims related directly or indirectly from any failure:
 - a. Of the Contractor (or any of the employees, subcontractors, or lower tier subcontractors of the Contractor) to faithfully perform and comply with all contract obligations, conditions, and duties, or
 - b. Of the Contractor (or the subcontractors or lower tier subcontractors of the Contractor) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material person, or any other person who provides supplies or provisions for carrying out the work;
4. Be conditioned upon the payment of taxes, increases, and penalties incurred on the project under titles 50, 51, and 82 RCW; and
5. Be accompanied by a power of attorney for the Surety's officer empowered to sign the bond; and

6. Be signed by an officer of the Contractor empowered to sign official statements (sole proprietor or partner). If the Contractor is a corporation, the bond(s) must be signed by the president or vice president, unless accompanied by written proof of the authority of the individual signing the bond(s) to bind the corporation (i.e., corporate resolution, power of attorney, or a letter to such effect signed by the president or vice president).

1-03.7 Judicial Review

Section 1-03.7 is replaced with the following:

(November 30, 2018 APWA GSP)

Any decision made by the Contracting Agency regarding the Award and execution of the Contract or Bid rejection shall be conclusive subject to the scope of judicial review permitted under Washington Law. Such review, if any, shall be timely filed in the Superior Court of the county where the Contracting Agency headquarters is located, provided that where an action is asserted against a county, RCW 36.01.050 shall control venue and jurisdiction.

1-04 Scope of Work

1-04.1(2) Bid Items Not Included in the Proposal

This section is revised to read:

When the contract specifies work that has no bid item, and the work is not specified as being included with or incidental to other bid items, that work shall be considered incidental to the contract or other Bid items included in the proposal form.

1-04.2 Coordination of Contract Documents, Plans, Special Provisions, Specifications, and Addenda

(March 13, 2012 APWA GSP)

Revise the second paragraph to read:

Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Addenda,
2. Proposal Form,
3. Special Provisions,
4. Contract Plans,
5. Amendments to the Standard Specifications,
6. Standard Specifications,
7. Contracting Agency's Standard Plans or Details (if any), and
8. WSDOT Standard Plans for Road, Bridge, and Municipal Construction.

1-04.11 Final Cleanup

Supplement this section with the following:

(*****)

The Contractor shall repair, at no additional cost to the Contracting Agency, any damage to existing access routes, fences, gates, utilities, structures, and driveways that occurred as a result of activities conducted by the Contractor. All costs associated with performing the final cleanup shall be made incidental to other bid items in the Contract.

1-05 CONTROL OF WORK

1-05.4 Conformity with and Deviations from Plans and Stakes

Add the following new subsection:

1-05.4(1) Contractor Surveying

Survey control data will be provided to the Contractor prior to beginning construction. Survey data will be made available electronically in AutoCAD Civil 3D files. Electronic files of survey control reside with the Contracting Agency and will be provided to the Contractor upon request.

Surveying shall include all labor, equipment, materials, and supervision necessary to perform the work specified, including any checking, correction of errors, replacement of missing or damaged stakes, and coordination efforts.

The Contractor shall be responsible for establishing and staking alignments, slopes, limits of excavation and key points of structures as shown on the Contract Plans and as necessary for the construction of the project. Except for the survey control data to be furnished by the Contracting Agency, all other survey work required for accurate construction of the project shall be the Contractor's responsibility.

Survey records shall be maintained throughout the duration of construction activities. The records shall be adequate to allow the survey to be reproduced.

The meaning of words and terms used in this provision shall be as listed in "Definitions of Surveying and Associated Terms" current edition, published by the American Congress on Surveying and Mapping and the American Society of Civil Engineers.

The survey work by the Contractor shall include but not be limited to the following:

1. Verify the primary horizontal and vertical control furnished by the Contracting Agency and expand into secondary control by adding stakes and hubs as well as additional survey control needed for the project. Provide descriptions of secondary control to the Contracting Agency. The description shall include coordinates and elevations of all secondary control points.
2. Establish clearing limits, placing stakes flagging at all angle points and at intermediate points not more than 50 feet apart. The clearing limits shall be as shown in the Contract Plans.
3. Establish limits of excavation.
4. Establish LWM structure location as shown on Contract Plans

The Contractor shall provide the Contracting Agency copies of any calculations and staking data when requested by the Engineer.

The Contractor shall ensure a surveying accuracy within the following tolerances:

	Vertical	Horizontal
Finished grade of channel	±0.10 feet	±0.25 feet
Piles	±0.5 feet	±01.0 feet

The Contracting Agency may spot-check the Contractor's surveying. These spot-checks will not change the requirements for normal checking by the Contractor.

Contract work to be performed using contractor-provided stakes shall not begin until the stakes are approved by the Contracting Agency. Such approval shall not relieve the Contractor of responsibility for the accuracy of the stakes.

Stakes shall be marked in accordance with Standard Plan A10.10. When stakes are needed that are not described in the Contract Plans, then those stakes shall be marked, at no additional cost to the Contracting Agency as ordered by the Engineer.

1-05.4(2) Measurement

No independent unit of measurement shall apply for the lump sum bid item "Surveying".

The lump sum contract price for "Surveying" shall be full pay for all labor, equipment, materials, and supervision utilized to perform the work specified, including any resurveying, checking, correction of errors, replacement of missing or damaged stakes, and coordination efforts.

1-05.4(3) Payment

Payment will be made for the work done that is described in the previous sections *Contractor Surveying* with the following bid item:

"Surveying", lump sum.

The lump sum contract price for "Surveying" shall be full pay for all labor, equipment, materials, and supervision utilized to perform the work specified, including any resurveying, checking, correction of errors, replacement of missing or damaged stakes, and coordination efforts.

1-05.7 Removal of Defective and Unauthorized Work

(October 1, 2005 APWA GSP)

Supplement this section with the following:

If the Contractor fails to remedy defective or unauthorized work within the time specified in a written notice from the Engineer or fails to perform any part of the work required by the Contract Documents, the Engineer may correct and remedy such work as may be identified in the written notice, with Contracting Agency forces or by such other means as the Contracting Agency may deem necessary.

If the Contractor fails to comply with a written order to remedy what the Engineer determines to be an emergency situation, the Engineer may have the defective and unauthorized work corrected

immediately, have the rejected work removed and replaced, or have work the Contractor refuses to perform completed by using Contracting Agency or other forces. An emergency situation is any situation when, in the opinion of the Engineer, a delay in its remedy could be potentially unsafe, or might cause serious risk of loss or damage to the public.

Direct or indirect costs incurred by the Contracting Agency attributable to correcting and remedying defective or unauthorized work, or work the Contractor failed or refused to perform, shall be paid by the Contractor. Payment will be deducted by the Engineer from monies due, or to become due, the Contractor. Such direct and indirect costs shall include in particular, but without limitation, compensation for additional professional services required, and costs for repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of the Contractor's unauthorized work.

No adjustment in contract time or compensation will be allowed because of the delay in the performance of the work attributable to the exercise of the Contracting Agency's rights provided by this Section.

The rights exercised under the provisions of this section shall not diminish the Contracting Agency's right to pursue any other avenue for additional remedy or damages with respect to the Contractor's failure to perform the work as required.

1-05.8 Vacant

Section 1-05.8 is replaced with the following:

(*****)

1-05.8 Required Submittals

The following is a list of required submittals to the Contracting Agency as detailed in the respective section of the Standard Specifications and these Special Provisions.

1-07.1 COVID-19 Health & Safety Plan (CHSP)

1-07.15 Spill Prevention, Control, and Countermeasure (SPCC) Plan

1-08.3 Type A Project Schedule

1-08.0(1) Preliminary Schedule of Working Drawings

1-05.4 Survey Staking Plan

1-10.2(2) Traffic Control Plan

7-06.3(2) In-Water-Work Area Site Isolation Plan

8-01.3(1) A Temporary Erosion and Sediment Control (TESC) Plan

8-01.3(1) C6 Hydraulic Fluid Catalog Cut

8-19.3(1) Temporary Staging Area Plan and Working Drawings

8-19.3(1) Access Road Improvement Plan and Working Drawings

1-05.12 Final Acceptance

Section 1-05.12 is revised to the following:

(*****)

The Contractor agrees that neither completion nor final acceptance shall relieve the Contractor of the responsibility to indemnify, defend, and protect the Contracting Agency against any claim or loss resulting from the failure of the Contractor (or the subcontractors or lower tier subcontractors) to pay all laborers, mechanics, subcontractors, material persons, or any other person who provides labor, supplies, or provisions for carrying out the Work or for any payments required for unemployment compensation under Title 50 RCW or for industrial insurance and medical aid required under Title 51 RCW.

1-05.13 Superintendents, Labor and Equipment of Contractor

(August 14, 2013 APWA GSP)

Delete the sixth and seventh paragraphs of this section.

1-05.15 Method of Serving Notices

(March 25, 2009 APWA GSP)

Revise the second paragraph to read:

All correspondence from the Contractor shall be directed to the Project Engineer. All correspondence from the Contractor constituting any notification, notice of protest, notice of dispute, or other correspondence constituting notification required to be furnished under the Contract, must be in paper format, hand delivered or sent via mail delivery service to the Project Engineer's office. Electronic copies such as e-mails or electronically delivered copies of correspondence will not constitute such notice and will not comply with the requirements of the Contract.

1-07 Legal Relations and Responsibilities to The Public

1-07.1 Laws to be Observed

(October 1, 2005 APWA GSP)

Supplement this section with the following:

In cases of conflict between different safety regulations, the more stringent regulation shall apply.

The Washington State Department of Labor and Industries shall be the sole and paramount administrative agency responsible for the administration of the provisions of the Washington Industrial Safety and Health Act of 1973 (WISHA).

The Contractor shall maintain at the project site office, or other well-known place at the project site, all articles necessary for providing first aid to the injured. The Contractor shall establish, publish, and make known to all employees, procedures for ensuring immediate removal to a hospital, or doctor's care, persons, including employees, who may have been injured on the project site. Employees should not be permitted to work on the project site before the Contractor has established and made known procedures for removal of injured persons to a hospital or a doctor's care.

The Contractor shall have sole responsibility for the safety, efficiency, and adequacy of the Contractor's plant, appliances, and methods, and for any damage or injury resulting from their failure, or improper maintenance, use, or operation. The Contractor shall be solely and completely responsible for the conditions of the project site, including safety for all persons and property in the performance of the work. This requirement shall apply continuously, and not be limited to normal working hours. The required or implied duty of the Engineer to conduct construction review of the Contractor's performance does not, and shall not, be intended to include review and adequacy of the Contractor's safety measures in, on, or near the project site.

(April 6, 2020)

In response to COVID-19, the Contractor shall prepare a project specific COVID-19 health and safety plan (CHSP) in conformance with Section 1-07.4(2) as supplemented in these specifications, **COVID-19 Health and Safety Plan (CHSP)**. A copy of the CHSP developed by the Contractor shall be submitted to the Engineer as a Type 2 Working Drawing.

1-07.2 State Taxes

Delete this section, including its sub-sections, in its entirety and replace it with the following:

1-07.2 State Sales Tax

(June 27, 2011 APWA GSP)

The Washington State Department of Revenue has issued special rules on the State sales tax. Section 1-07.2(3) is meant to clarify those rules. The Contractor should contact the Washington State Department of Revenue for answers to questions in this area. The Contracting Agency will not adjust its payment if the Contractor bases a bid on a misunderstood tax liability.

The Contractor shall include all Contractor-paid taxes in the unit bid prices or other contract amounts. In some cases, however, state retail sales tax will not be included. Section 1-07.2(2) describes this exception.

The Contracting Agency will pay the retained percentage (or release the Contract Bond if a FHWA-funded Project) only if the Contractor has obtained from the Washington State Department of Revenue a certificate showing that all contract-related taxes have been paid (RCW 60.28.051). The Contracting Agency may deduct from its payments to the Contractor any amount the Contractor may owe the Washington State Department of Revenue, whether the amount owed relates to this contract or not. Any amount so deducted will be paid into the proper State fund.

1-07.2(1) State Sales Tax — Rule 171

(*****)

Section 1-07.2(1) is deleted:

1-07.2(2) State Sales Tax — Rule 170

Section 1-07.2(2) is replaced with the following:

(June 27, 2011 APWA GSP)

WAC 458-20-170, and its related rules, apply to the constructing and repairing of new or existing buildings, or other structures, upon real property. This includes, but is not limited to, the construction of streets, roads, highways, etc., owned by the state of Washington; water mains and their appurtenances; sanitary sewers and sewage disposal systems unless such sewers and disposal systems are within, and a part of, a street or road drainage system; telephone, telegraph, electrical power distribution lines, or other conduits or lines in or above streets or roads, unless such power lines become a part of a street or road lighting system; and installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation.

For work performed in such cases, the Contractor shall collect from the Contracting Agency, retail sales tax on the full contract price. The Contracting Agency will automatically add this sales tax to each payment to the Contractor. For this reason, the Contractor shall not include the retail sales tax in the unit bid item prices, or in any other contract amount subject to Rule 170, with the following exception.

Exception: The Contracting Agency will not add in sales tax for a payment the Contractor or a subcontractor makes on the purchase or rental of tools, machinery, equipment, or consumable supplies not integrated into the project. Such sales taxes shall be included in the unit bid item prices or in any other contract amount.

1-07.2(3) Services

Section 1-07.2(3) is replaced with the following:

(June 27, 2011 APWA GSP)

The Contractor shall not collect retail sales tax from the Contracting Agency on any contract wholly for professional or other services (as defined in Washington State Department of Revenue Rules 138 and 244).

1-07.3(1) Fire Prevention Control and Countermeasures Plan

Section 1-07.3(1) is supplemented with the following:

(*****)

The project area is in Fire Shutdown Zone 675. *Partial hoot owl, Partial shutdowns, and General Shutdowns may come into effect during the operating period of this contract. For a summary of USFS Industrial Fire Precaution Levels, visit:

<https://www.dnr.wa.gov/ifpl>

1-07.5 Environmental Regulations

Section 1-07.5 is supplemented with the following:

Environmental Commitments

The following Provisions summarize the requirements, in addition to those required elsewhere in the Contract, imposed upon the Contracting Agency by the various documents referenced in the Special Provisions **Permits and Licenses**. Throughout the work, the Contractor shall comply with the following requirements:

(April 1, 2019)

Section 1-07.5 is supplemented with the following:

The Contractor shall notify the Engineer a minimum of *** 5 *** calendar days prior to commencing any work in sensitive areas, mitigation areas, and wetland buffers. Installation of construction fencing is excluded from this notice requirement.

(August 3, 2009)

Section 1-07.5 is supplemented with the following:

Payment

All costs to comply with this special provision for the environmental commitments and requirements are incidental to the contract and are the responsibility of the Contractor. The Contractor shall include all related costs in the associated bid prices of the contract.

1-07.5(1) General

Section 1-07.5(1) is supplemented with the following:

(*****)

Contact with regulatory agencies concerning the permits listed herein, shall be made through the Contracting Agency. However, when the Construction Stormwater General Permit coverage is secured, the Contractor is allowed direct communications with the Department of Ecology. The Contractor shall be responsible for obtaining Ecology's approval for any Work requiring additional approvals (e.g. Request for Chemical Treatment Form). The Contractor shall obtain additional permits as necessary. All costs to obtain and comply with additional permits shall be included in the applicable Bid Items for the Work involved.

1-07.5(2) State Department of Fish and Wildlife

Section 1-07.5(2) is supplemented with the following:

(*****)

The Contractor may begin Work below the Ordinary High-Water Mark (OHWM) on *** July 1st, 2022 *** and must complete all the Work below OHWM by *** August 12th, 2022 ***.

The Contracting Agency has secured a Hydraulic Project Approval (HPA) for this project (Permit #2021-2-37+02) from the Washington Department of Fish and Wildlife. A copy of the HPA is included in Appendix B Permits. All contacts with the Department of Fish and Wildlife concerning this approval shall be through the Contracting Officer. The Contractor shall, at no expense to the Contracting Agency, comply with all provisions included in the HPA for this project.

When work described in the Contract is to be performed within the actively flowing channel of Icicle Creek or any ponded areas directly connected by surface water to Icicle Creek, that work shall be performed during the dates identified in the HPA.

(April 2, 2018)

All costs to comply with this special provision are incidental to the Contract and are the responsibility of the Contractor. The Contractor shall include all related costs in the associated bid prices of the Contract.

1-07.5(3) State Department of Ecology

Section 1-07.5(3) is revised with the following:

(*****)

In doing the Work, the Contractor shall

1. Comply with Washington State Water Quality Standards.
2. Perform Work in such a manner that all materials and substances not specifically identified in the Contract documents to be placed in the water do not enter waters of the State, including wetlands. These include, but are not limited to, petroleum products, hydraulic fluid, fresh concrete, concrete wastewater, process wastewater, slurry materials and waste from shaft drilling, sediments, sediment-laden water, chemicals, paint, solvents, or other toxic or deleterious materials.
3. Use equipment that is free of external petroleum-based products.
4. Remove accumulations of soils and debris from drive mechanisms (wheels, tracks, tires) and undercarriage of equipment prior to using equipment below the ordinary high-water line.
5. Clean loose dirt and debris from all materials placed below the ordinary high-water line. No materials shall be placed below the ordinary high-water line without the Engineer's concurrence.
6. When a violation of the Construction Stormwater General Permit (CSWGP) occurs, immediately notify the Engineer and fill out WSDOT Form 422-011, Contractor ECAP Report, and submit the form to the Engineer within 48 hours of the violation.
7. Once Physical Completion has been given, prepare a Notice of Termination (Ecology Form ECY 020-87) and submit the Notice of Termination electronically to the Engineer in a PDF format a minimum of 7 calendar days prior to submitting the Notice of Termination to Ecology.

8. Transfer the CSWGP coverage to the Contracting Agency when Physical Completion has been given and the Engineer has determined that the project site is not vulnerable to erosion.
- a. Submit copies of all correspondence with Ecology electronically to the Engineer in a PDF format within four calendar days.

1-07.6 Permits and Licenses

(January 2, 2018)

Section 1-07.6 is supplemented with the following:

The Contracting Agency has obtained the below-listed permit(s) for this project. A copy of the permit(s) is attached as an appendix for informational purposes. Copies of these permits, including a copy of the Transfer of Coverage form, when applicable, are required to be onsite at all times. Contact with the permitting agencies, concerning the below-listed permit(s), shall be made through the Engineer, or contracting agency, with the exception of when the Construction Stormwater General Permit coverage is transferred to the Contractor, direct communication with the Department of Ecology is allowed. The Contractor shall be responsible for obtaining Ecology's approval for any Work requiring additional approvals (e.g. Request for 12 Chemical Treatment Form). The Contractor shall obtain additional permits as necessary. All costs to obtain and comply with additional permits shall be included in the applicable Bid items for the Work involved.

NAME OF DOCUMENT	PERMITTING AGENCY	PERMIT REFERENCE NO.
Department of the Army Section 404 Nationwide 27	Corps of Engineers Seattle District	NWS-2021-122
Hydraulic Project Approval	Department of Fish & Wildlife	2021-2-37+02
Section 401 WQ Certification	WA Department of Ecology	NWS-2021-122
DNR Aquatic Use Authorization	WA Department of Natural Resources, Aquatic Lands Division	23-101902
Chelan County Floodplain Development Permit	Chelan County Community Development	FDP 21-0007

Washington Department of Ecology

The Contracting Agency has secured a Water Quality Certification permit for Individual Section 401 Clean Water Act permit from Washington State Department of Ecology (Order No. 15778). The Contractor shall comply with all provisions of the order at no expense to the Contracting Agency. A copy the order is provided in Appendix C.

All contacts with Washington State Department of Ecology concerning this project shall be through the Contracting Officer, with the exception of the CSGP. The Contractor is allowed direct contact with the Department of Ecology regarding the CSGP.

(April 2, 2018)

All costs to comply with this special provision are incidental to the Contract and are the responsibility of the Contractor. The Contractor shall include all related costs in the associated bid prices of the Contract.

1-07.9 Wages

1-07.9(1) General

(January 6, 2020)

Section 1-07.9(1) is supplemented with the following:

This project is subject to both WA State and Federal hourly minimum rates for wages and fringe benefits.

The Federal wage rates incorporated in this contract have been established by the Secretary of Labor under United States Department of Labor. The contractor shall use the wage determinations which are in effect under the Davis-Bacon Act for Public Works Contracts for Heavy Construction within Chelan County at the time of the bid opening date. Federal Wage Determinations are updated and posted at <https://beta.sam.gov/search?index=wd>.

The State Prevailing Wage rates incorporated in this contract are applicable to all construction activities associated with this contract and in effect for Chelan County at the time of Bid Opening. Wage Determinations, prevailing wage rates, and benefit key codes established by the State of Washington's Department of Labor and Industries are posted and updated at <https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>.

1-07.13 Contractors' Responsibility for Work

(August 6, 2001)

Section 1-07.13(4) is revised to read

The Contractor shall promptly repair all damage to either temporary or permanent work as directed by the Engineer. For damage qualifying for relief under Sections 1-07.13(1), 1-07.13(2) or 1-07.13(3), payment will be made in accordance with Section 1-04.4. Payment will be limited to repair of damaged work only. No payment will be made for delay or disruption of work.

1-07.15(1) Temporary Water Pollution/Erosion Control

Spill Prevention, Control and Countermeasures Plan

Section 1-07.15(1) is supplemented with the following:

*(*****)*

The Contractor shall address the following items in the SPCC Plan in addition to the other requirements of Section 1-07.15(1):

Mixing, Transfers, & Storage

1. All oil, fuel or chemical storage tanks or containers shall be diked and located on impervious surfaces so as to prevent spill from escaping.
2. All liquid products shall be stored and mixed on impervious surfaces in a secure water tight environment and provide containment to handle the maximum volume of liquid products on site at any given time.
3. Proper security shall be maintained to prevent vandalism.
4. Drip pans or other protective devices shall be required for all transfer operations.

Spills

Paint and solvent spills shall be treated as oil spills and shall be prevented from reaching storm drains or other discharges. No cleaning solvents or chemicals used for tool or equipment cleaning may be discharged to the ground or water.

Maintenance of Equipment

Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc, shall be checked regularly for drips or leaks and shall be maintained and stored properly to prevent spills into State waters.

Disposal

Spilled waste, chemicals or petroleum products shall be transported off site for disposal at a facility approved by the Department of Ecology. The materials shall not be discharged to any sanitary sewer without approval of the local sewer authority.

Reporting and Cleanup

The Contractor's designated person for managing and implementing the SPCC Plan shall report hazardous material spills as follows:

Spills into State Water (including ponds, ditches, seasonally dry streams, and wetlands) shall be reported immediately, call all of the following:

National Response Center (800) 424-8802

WA State Div. of Emergency Management (800) 258-5990

Ecology, Central Regional Office (509) 575-2490

Spill to Soil (Including encounters of pre-existing contamination) shall be reported immediately to the following if threatening to health or environment (i.e., explosive, flammable, toxic vapors, shallow groundwater, nearby creek), otherwise within 90 days :

WA State Dept of Ecology, Central Regional Office (509) 575-2490

1-07.17 Utilities and Similar Facilities

Section 1-07.17 is supplemented with the following:

(*****)

Locations and types of existing utilities are not shown on the Contract Plans. The Contractor is responsible for locating all utilities within the project site prior to construction and to protect those utilities during

construction. The Contractor shall be held financially responsible to repair any utilities damaged during construction. The cost of repair shall be paid in full by the Contractor to the owner of the utility in question.

The following addresses and telephone numbers of utility companies and utility related contacts are supplied for the Contractor's use:

Call Before You Dig
Northwest Utility Notification Center
1-800-424-5555 (or 811)

PUD No. 1 of Chelan County
P.O. Box 1231
Wenatchee, WA
Jeff Mitchell
(509) 661-4160
(509) 663-8121

There are three landowner utilities or features that the Contractor shall protect in place. These are 1. the irrigation line, 2. the river intake and pump, and 3. Eric's Log. The irrigation line location is shown approximately on the Contract Plans, and can be partially located in the field by the above ground risers. The river intake and pump location are shown on the Contract Plans, and may be temporarily relocated if needed while not in use. The Contractor must request approval from the Contracting officer 5 days in advance of needing to move the pump or intake, and approval will be contingent on Landowner irrigation operations and approval. Eric's log shall be protected in place, and no attempt shall be made to move the log due to its fragile nature.

1-07.18 Public Liability and Property Damage Insurance

Section 1-07.18 is replaced with the following:

(January 4, 2016 APWA GSP)

1-07.18 Insurance *(January 4, 2016 APWA GSP)*

1-07.18(1) General Requirements

- A. The Contractor shall procure and maintain the insurance described in all subsections of section 1-07.18 of these Special Provisions, from insurers with a current A. M. Best rating of not less than A-: VII and licensed to do business in the State of Washington. The Contracting Agency reserves the right to approve or reject the insurance provided, based on the insurer's financial condition.
- B. The Contractor shall keep this insurance in force without interruption from the commencement of the Contractor's Work through the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated below.
- C. If any insurance policy is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or

economically prohibitive, the Contractor shall purchase an extended reporting period (“tail”) or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

- D. The Contractor’s Automobile Liability, Commercial General Liability and Excess or Umbrella Liability insurance policies shall be primary and non-contributory insurance as respects the Contracting Agency’s insurance, self-insurance, or self-insured pool coverage. Any insurance, self-insurance, or self-insured pool coverage maintained by the Contracting Agency shall be excess of the Contractor’s insurance and shall not contribute with it.
- E. The Contractor shall provide the Contracting Agency and all additional insureds with written notice of any policy cancellation, within two business days of their receipt of such notice.
- F. The Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by the Contracting Agency.
- G. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Contracting Agency may, after giving five business days’ notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Contracting Agency on demand, or at the sole discretion of the Contracting Agency, offset against funds due the Contractor from the Contracting Agency.
- H. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the Contract and no additional payment will be made.

1-07.18(2) Additional Insured

All insurance policies, with the exception of Workers Compensation, and of Professional Liability and Builder’s Risk (if required by this Contract) shall name the following listed entities as additional insured(s) using the forms or endorsements required herein:

- the Contracting Agency and its officers, elected officials, employees, agents, and volunteers
- Engineer- Parametrix Engineering, Planning and Environmental Sciences

The above-listed entities shall be additional insured(s) for the full available limits of liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract, and irrespective of whether the Certificate of Insurance provided by the Contractor pursuant to 1-07.18(4) describes limits lower than those maintained by the Contractor.

For Commercial General Liability insurance coverage, the required additional insured endorsements shall be at least as broad as ISO forms CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

1-07.18(3) Subcontractors

The Contractor shall cause each Subcontractor of every tier to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors.

The Contractor shall ensure that all Subcontractors of every tier add all entities listed in 1-07.18(2) as additional insureds, and provide proof of such on the policies as required by that section as detailed in 1-07.18(2) using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency evidence of insurance and copies of the additional insured endorsements of each Subcontractor of every tier as required in 1-07.18(4) Verification of Coverage.

1-07.18(4) Verification of Coverage

The Contractor shall deliver to the Contracting Agency a Certificate(s) of Insurance and endorsements for each policy of insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the work. Failure of Contracting Agency to demand such verification of coverage with these insurance requirements or failure of Contracting Agency to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the Contracting Agency to be equivalent.
2. Copies of all endorsements naming Contracting Agency and all other entities listed in 1-07.18(2) as additional insured(s), showing the policy number. The Contractor may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.
3. Any other amendatory endorsements to show the coverage required herein.
4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.

Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency a full and certified copy of the insurance policy(s). If Builders Risk insurance is required on this Project, a full and certified copy of that policy is required when the Contractor delivers the signed Contract for the work.

1-07.18(5) Coverages and Limits

The insurance shall provide the minimum coverages and limits set forth below. Contractor's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Contracting Agency's recourse to any remedy available at law or in equity.

All deductibles and self-insured retentions must be disclosed and are subject to approval by the Contracting Agency. The cost of any claim payments falling within the deductible or self-insured retention shall be the responsibility of the Contractor. In the event an additional insured incurs a liability subject to any policy's deductibles or self-insured retention, said deductibles or self-insured retention shall be the responsibility of the Contractor.

1-07.18(5)A Commercial General Liability

Commercial General Liability insurance shall be written on coverage forms at least as broad as ISO occurrence form CG 00 01, including but not limited to liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage.

The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement.

Contractor shall maintain Commercial General Liability Insurance arising out of the Contractor's completed operations for at least three years following Substantial Completion of the Work.

Such policy must provide the following minimum limits:

\$1,000,000	Each Occurrence
\$2,000,000	General Aggregate
\$2,000,000	Products & Completed Operations Aggregate
\$1,000,000	Personal & Advertising Injury each offence
\$1,000,000	Stop Gap / Employers' Liability each accident

1-07.18(5)B Automobile Liability

Automobile Liability shall cover owned, non-owned, hired, and leased vehicles; and shall be written on a coverage form at least as broad as ISO form CA 00 01. If the work involves the transport of pollutants, the automobile liability policy shall include MCS 90 and CA 99 48 endorsements.

Such policy must provide the following minimum limit:

\$1,000,000	Combined single limit each accident
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1-07.18(5)C Workers' Compensation

The Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(January 4, 2016 APWA GSP)

1-08 PROSECUTION AND PROGRESS

Section 1-08 is supplemented with the following:

(May 25, 2006 APWA GSP)

1-08.0 Preliminary Matters

(October 10, 2008 APWA GSP)

1-08.0(1) Preconstruction Conference

Prior to the Contractor beginning the work, a preconstruction conference will be held between the Contractor, the Engineer and such other interested parties as may be invited. The purpose of the preconstruction conference will be:

1. To review the initial progress schedule;
2. To establish a working understanding among the various parties associated or affected by the work;
3. To establish and review procedures for progress payment, notifications, approvals, submittals, etc.
4. To establish normal working hours for the work;
5. To review safety standards and traffic control; and

6. To discuss such other related items as may be pertinent to the work.

The Contractor shall prepare and submit at the preconstruction meeting the following:

1. A breakdown of all lump sum items;
2. A preliminary schedule of working drawing submittals; and
3. A list of material sources for approval if applicable.

Add the following new section:

1-08.0(2) Hours of Work

Except in the case of emergency or unless otherwise approved by the Engineer, the normal working hours for the Contract shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday. If the Contractor desires different than the normal working hours stated above, the request must be submitted in writing prior to the preconstruction conference, subject to the provisions below. The working hours for the Contract shall be established at or prior to the preconstruction conference.

All working hours and days are also subject to local permit and ordinance conditions (such as noise ordinances).

If the Contractor wishes to deviate from the established working hours, the Contractor shall submit a written request to the Engineer for consideration. This request shall state what hours are being requested, and why. Requests shall be submitted for review no later than 3 (three) working days prior to the day(s) the Contractor is requesting to change the hours.

Permission to work holidays, or other than the agreed upon normal straight time working hours may be given subject to certain other conditions set forth by the Contracting Officer. These conditions may include but are not limited to:

1. The Contracting Officer may require designated representatives to be present during the work. Representatives who may be deemed necessary by the Contracting Officer include, but are not limited to: survey crews; personnel from the Contracting Agency's material testing lab; inspectors; and other Contracting Agency employees when in the opinion of the Contracting Officer, such work necessitates their presence.
2. On non-Federal aid projects, requiring the Contractor to reimburse the Contracting Agency for the costs in excess of straight-time costs for Contracting Agency representatives who worked during such times.
3. Considering the work performed on Saturdays, Sundays, and holidays as working days with regard to the contract time.
4. Considering multiple work shifts as multiple working days with respect to contract time, even though the multiple shifts occur in a single 24-hour period.

1-08.1 Subcontracting

(May 30, 2019 APWA GSP, Option B)

Delete the ninth paragraph, beginning with “On all projects, the Contractor shall certify...”.

1-08.4 Prosecution of Work

Section 108.4 is replaced with the following:

(*****)

1-08.4 Notice to Proceed and Prosecution of Work

Notice to Proceed will be given after the contract has been executed and the contract bond and evidence of insurance have been approved and filed by the Contracting Agency. The Contractor shall not commence with the work until the Notice to Proceed has been given by the Engineer. The Contractor shall diligently pursue the work to the physical completion date within the time specified in the contract. Voluntary shutdown or slowing of operations by the Contractor shall not relieve the Contractor of the responsibility to complete the work within the time(s) specified in the contract.

When shown in the Contract Plans, the first order of work shall be the installation of high visibility fencing to delineate all areas for protection or restoration, as described in the Contract. Installation of high visibility fencing adjacent to the roadway shall occur after the placement of all necessary signs and traffic control devices in accordance with 1-10.1(2). Upon construction of the fencing, the Contractor shall request the Engineer to inspect the fence. No other work shall be performed on the site until the Contracting Agency has accepted the installation of high visibility fencing, as described in the Contract.

1-08.5 Time for Completion

Section 1-08.5 is supplemented with the following:

This project shall be substantially complete by October 31st, 2022; additionally, all in-water work shall not commence prior to the opening of the Fish Window (July 1, 2022) and shall be completed no later than the last day of the in-water work window for this project (August 12th, 2022). Project start date shall be determined by the issuance of the Notice to Proceed, which shall be delivered to the contractor upon acceptance of all Contractual and Plan submittals.

The project area is located in Fire Shutdown Zone 675. Partial hoot owl, Partial shutdown, and General Shutdown may come into effect during the performance period of this contract. For a summary of Industrial Fire Precaution Levels visit: <https://www.dnr.wa.gov/ifpl>

No payment shall be made for standby time or delays resulting from natural disasters, including Industrial Fire Precaution Level work restrictions. Overall Performance Period may be extended to reflect delays from natural disasters.

Revise the sixth paragraph to read:

The Engineer will give the Contractor written notice of the completion date of the contract after all the Contractor's obligations under the contract have been performed by the Contractor. The following events must occur before the Completion Date can be established:

1. The physical work on the project must be complete; and
2. The Contractor must furnish all documentation required by the contract and required by law, to allow the Contracting Agency to process final acceptance of the contract. The following documents must be received by the Project Engineer prior to establishing a completion date:
 - a. Certified Payrolls (per Section 1-07.9(5)).
 - b. Material Acceptance Certification Documents
 - c. Monthly Reports of Amounts Credited as DBE Participation, as required by the Contract Provisions.
 - d. Final Contract Voucher Certification
 - e. Copies of the approved "Affidavit of Prevailing Wages Paid" for the Contractor and all Subcontractors
 - f. A copy of the Notice of Termination sent to the Washington State Department of Ecology (Ecology); the elapse of 30 calendar days from the date of receipt of the Notice of Termination by Ecology; and no rejection of the Notice of Termination by Ecology. This requirement will not apply if the Construction Stormwater General Permit is transferred back to the Contracting Agency in accordance with Section 8-01.3(16).
 - g. Property owner releases per Section 1-07.24

1-09 MEASUREMENT AND PAYMENT

1-09.6 Minor Change

Section 1-09.6 is supplemented with the following:

(October 10, 2008 APWA GSP)

The Contracting Agency has estimated and included in the Proposal, dollar amounts for all items to be paid per minor change, only to provide a common proposal for Bidders. All such dollar amounts are to become a part of Contractor's total bid. However, the Contracting Agency does not warrant expressly or by implication that the actual amount of work will correspond with those estimates. Payment will be made on the basis of the amount of work actually authorized by Contracting Officer.

1-09.9 Payments

Delete the first four paragraphs and replace them with the following:

The basis of payment will be the actual quantities of Work performed according to the Contract and as specified for payment.

The Contractor shall submit a breakdown of the cost of lump sum bid items at the Preconstruction Conference, to enable the Project Engineer to determine the Work performed on a monthly basis. A breakdown is not required for lump sum items that include a basis for incremental payments as part of the respective Specification. Absent a lump sum breakdown, the Project Engineer will make a

determination based on information available. The Project Engineer's determination of the cost of work shall be final.

Progress payments for completed work and material on hand will be based upon progress estimates prepared by the Engineer. A progress estimate cutoff date will be established at the preconstruction conference.

The initial progress estimate will be made not later than 30 days after the Contractor commences the work, and successive progress estimates will be made every month thereafter until the Completion Date. Progress estimates made during progress of the work are tentative, and made only for the purpose of determining progress payments. The progress estimates are subject to change at any time prior to the calculation of the final payment.

The value of the progress estimate will be the sum of the following:

1. Unit Price Items in the Bid Form — the approximate quantity of acceptable units of work completed multiplied by the unit price.
2. Lump Sum Items in the Bid Form — based on the approved Contractor's lump sum breakdown for that item, or absent such a breakdown, based on the Engineer's determination.
3. Materials on Hand — 100 percent of invoiced cost of material delivered to Job site or other storage area approved by the Engineer.
4. Change Orders — entitlement for approved extra cost or completed extra work as determined by the Engineer.

Progress payments will be made in accordance with the progress estimate less:

1. Retainage per Section 1-09.9(1), on non FHWA-funded projects;
2. The amount of progress payments previously made; and
3. Funds withheld by the Contracting Agency for disbursement in accordance with the Contract Documents.

Progress payments for work performed shall not be evidence of acceptable performance or an admission by the Contracting Agency that any work has been satisfactorily completed. The determination of payments under the contract will be final in accordance with Section 1-05.1.

1-09.11 Disputes and Claims

1-09.11(3) Time Limitation and Jurisdiction

(November 30, 2018 APWA GSP)

Revise this section to read:

For the convenience of the parties to the Contract it is mutually agreed by the parties that any claims or causes of action which the Contractor has against the Contracting Agency arising from the Contract shall be brought within 180 calendar days from the date of final acceptance (Section 1-05.12) of the Contract by the Contracting Agency; and it is further agreed that any such claims or causes of action shall be brought only in the Superior Court of the county where the Contracting Agency headquarters is located, provided that where an action is asserted against a county, RCW 36.01.050 shall control venue and jurisdiction. The parties understand and agree that the Contractor's failure to bring suit within the time period

provided, shall be a complete bar to any such claims or causes of action. It is further mutually agreed by the parties that when any claims or causes of action which the Contractor asserts against the Contracting Agency arising from the Contract are filed with the Contracting Agency or initiated in court, the Contractor shall permit the Contracting Agency to have timely access to any records deemed necessary by the Contracting Agency to assist in evaluating the claims or action.

1-09.13 Claims Resolution

1-09.13(3) Claims \$250,000 or Less

(October 1, 2005 APWA GSP)

Delete this section and replace it with the following:

The Contractor and the Contracting Agency mutually agree that those claims that total \$250,000 or less, submitted in accordance with Section 1-09.11 and not resolved by nonbinding ADR processes, shall be resolved through litigation unless the parties mutually agree in writing to resolve the claim through binding arbitration.

1-09.13(3)A Administration of Arbitration

(November 30, 2018 APWA GSP)

The Contracting Agency and the Contractor mutually agree to be bound by the decision of the arbitrator, and judgment upon the award rendered by the arbitrator may be entered in the Superior Court of the county in which the Contracting Agency's headquarters is located, provided that where claims subject to arbitration are asserted against a county, RCW 36.01.050 shall control venue and jurisdiction of the Superior Court. The decision of the arbitrator and the specific basis for the decision shall be in writing. The arbitrator shall use the Contract as a basis for decisions.

1-10 TEMPORARY TRAFFIC CONTROL

1-10.1(1) General

Section 1-10.1(1) is supplemented with the following:

*(*****)*

The determination of when to use temporary traffic control and how to accomplish temporary traffic control shall be the responsibility of the Contractor's. The Contractor shall be responsible to implement temporary traffic control as necessary to meet permit requirements and provide safe working conditions and driving conditions, as described in this section of the Standard Specifications.

In addition to the requirements assigned by the previous paragraph, the Contractor shall use a Single Lane Closure or a Short-Term Traffic Stop whenever materials or equipment are delivered.

1-10.4 Measurement

Section 1-10.4 is deleted in its entirety and replaced with the following:

*(*****)*

Temporary Traffic Control is incidental to the project and no separate measurement will be made.

1-10.5 Payment

Section 1-10.5 is deleted in its entirety and replaced with the following:

(*****)

Temporary Traffic Control is incidental to the project and no separate payment will be made.

DIVISION 2 EARTHWORK

2-01 CLEARING, GRUBBING, AND ROADSIDE CLEANUP

2-01.1 Description

Section 2-01.1 is revised as follows:

(*****)

The Contractor shall clear within the locations identified on the Contract Plans. Vegetation will be cleared as close to the groundline as practical but no grubbing shall occur. This Work includes protecting from harm all trees, bushes, shrubs, or other objects selected to remain outside of identified clearing areas and earthwork areas.

“Clearing” means removing and disposing of all unwanted material from the surface, such as trees, brush, down timber, or other natural material.

“Grubbing” means removing and disposing of all unwanted vegetative matter from underground, such as sod, stumps, roots, buried logs, or other debris.

“Debris” means all unusable natural material produced by clearing and grubbing.

2-01.2 Disposal of Usable Material and Debris

Section 2-01.2 is revised to read:

(*****)

The Contractor shall meet all requirements of state, county, and municipal regulations regarding health, safety, and public welfare in the disposal of all debris. The Contractor shall stockpile cleared branches, stumps, limbs and other vegetative material cleared during the project on-site for future use as slash or wood chips as described in the Contract Plans or disposed of as erosion control BMPs described below. Material equal to or less than 6-inches in diameter shall be stockpiled on-site in an identified staging area or on the excavated floodplain until erosion control measures are implemented.

Removing trees greater than 6-inches in diameter from any portion of the project site requires approval of the Contracting Officer. Disposal of trees greater than 6-inches in diameter shall be as directed by the Contracting Officer. All material shall remain on-site and largely intact. The Contracting Officer may direct the Contractor to lop and scatter portions of trees larger than 6-inches in diameter but the main portion of the trunk will remain intact and be positioned on-site as directed by the Contracting Officer.

Following completion of all earthwork and LWM Habitat Structure construction, stockpiled material shall be disposed of on-site. The cost of transporting material for stockpiling (once or several times if stockpile needs relocating), transporting stockpiled material to a location for disposal, and disposal using one of the two methods identified below shall be made incidental to other bid items. All material removed during clearing shall be disposed of on-site at a location to be identified by the Contracting Agency and/or Engineer. Disposal of cleared material shall take place prior to the application of seed and straw mulch.

2-01.3 Construction Requirements

2-01.3(1) Clearing

Section 2-01.3(1) is revised to read:

(*****)

The Contractor shall:

1. Fell trees only within areas marked on the Contract Plans for clearing or where directed by the Contracting Officer.
2. Close-cut parallel to the slope of the ground all stumps to be left in the cleared areas.
3. Leave standing any trees or native growth indicated by the Contracting Officer
4. Thin clumps of native growth where directed to by the Contracting Officer.
5. Except for areas marked on the Contract Plans or by the Contracting Officer for clearing, protect all trees and shrubs from damage caused by construction operations.

2-01.4 Measurement

This section is supplemented with the following:

(*****)

No measurement shall be made for “clearing” or “grubbing”. Any clearing and grubbing are incidental to other bid items.

2-01.5 Payment

This section is supplemented with the following:

(*****)

” Clearing” and “Grubbing” are considered incidental to other bid items. No payment will be made in accordance with Section 1-04.1

2-05 VACANT

Division 2-05 Vacant is replaced with the following:

(*****)

2-05 FLOODPLAIN EXCAVATION AND GRADING

2-05.1 Description

Section 2-03.1 is revised as follows:

(*****)

The Contractor shall grade within the locations identified on the Contract Plans as Floodplain Grading.

“Floodplain Grading” means excavating and shaping the slope of the stream bank to meet the elevations as shown on the Contract Plans.

2-05.4 Measurement

Section 2-03.4 is revised to the following:

(*****)

Floodplain Grading will be measured by the cubic yard of soil removed, hauled, and spoiled from the streambank to create the contours as shown on the Contract Plans. If the Contractor agrees the volume listed on the Bid Proposal Form is an accurate value for Floodplain Grading, then no physical measurement will be made and the value on the Bid Proposal Form will be adopted as the measured value. If the Contractor wishes to dispute the volume of material moved, they may choose to complete a topographic survey of the streambank after all floodplain grading has been complete in order to confirm cubic yards. This survey shall be done at no additional cost to the Contracting Agency.

2-05.5 Payment

Section 2-03.5 is supplemented as follows:

(*****)

“Floodplain Grading”, will be measured and paid per cubic yard.

The unit Contract price per acre “Floodplain Grading” shall be full pay for all Work described in this Section.

2-08 VACANT

Division 2-08 Vacant is replaced with the following:

(*****)

2-08 BOULDER CLUSTERS

2-08.1 Description

This work consists of salvaging and replacing boulders and riprap located in the active channel of Icicle Creek as shown on the Contract Plans. In some cases, the material may occur inside site isolation areas, and this material shall be prioritized for use before salvaging material from the active channel.

All water quality permit requirements shall be met by the Contractor during this work.

2-08.2 Materials

The Contractor shall salvage all materials from existing in-stream boulder and riprap as necessary to construct boulder clusters as shown on the Contract Plans.

2-08.3 Construction Requirements

Salvaged material shall be mechanically lifted from the active channel, one rock at a time to minimize streambed disturbance and reduce turbidity. Each salvage rock shall be placed in groups of 4 to 8 in the locations as shown on the Contract Plans. Each rock shall be placed and pressed into the streambed to ensure it is stable and in contact with a minimum of 3 other rocks of the individual boulder cluster. Boulder clusters shall not be more than 2 layers in thickness.

2-08.4 Measurement

Unit of measure shall be per each for each Boulder Cluster installed that meets the requirements of this section.

2-08.5 Payment

Payment will be made in accordance with Section 1-04.1. The unit Contract price per each for “Boulder Cluster” shall be full pay for all Work described in this Section.

DIVISION 6 STRUCTURES

6-05 PILING

6-05.2 Materials

Section 6-05.2 is deleted in its entirety and replaced with the following:

(*****)

See Section 9-18.2.

6-05.3 Construction Requirements

6-05.3(9)B Pile Driving Equipment Minimum Requirements

Replace the 6th paragraph of section 6-05.3(9)B with the following:

(*****)

Piles shall be driven with an excavator-mounted vibratory hammer with side grip capabilities, the hammer shall have a minimum centrifugal force of 80 tons. The excavator to which the driver is mounted shall exceed the pile driver manufacturer minimum requirements for operating class, engine power, hydraulic oil reservoir size and flow rate. Mounting the driver on an undersized excavator is not acceptable and will not be allowed. It is recommended that the excavator be modified to maximize performance of the driver by generally improving the flow and performance of hydraulic fluid; in general, this can be accomplished through manufacturer recommended modifications including:

1. Increasing the size of the hydraulic reservoir
2. Increasing size of hydraulic lines
3. Combining hydraulic systems of the driver and excavator
4. Other modifications recommended by the driver manufacturer

The Contractor is encouraged to contact the pile driver manufacturer to discuss possible modifications for the specific excavator which the driver will be mounted to. The excavator and driver shall be in good working condition, free of obvious mechanical impairments and leaks with all external grease and oils removed to the maximum extent practicable; all hoses and connections shall be checked for tightness and leaks prior to initiation of driving.

Experience has shown that use of the pile driving cap, or thimble, can aid in achievement of target embedment depth when driving while utilizing only the side grip becomes difficult. The pile driver shall be capable of being fitted with a pile driving cap on the underside of the main driving body. The pile driving cap shall be capable of being held in line with the main body of the driver to maximize transfer of energy from the driver to the pile. The pile driving cap shall include a tubular section of steel with a minimum internal diameter of 18 inches (20 inches is recommended). The purpose of the pile driving cap is to fit over the pile butt while driving, with the tubular section of steel helping to keep the pile and driver in proper alignment. Installation by hammer pile driver, or vibratory plate shall not be allowed.

6-05.3(11) Driving Piles**6-05.3(11)A Tolerances**

Delete Section 6-05.3(11)A in its entirety and replace with the following:

(*****)

The Contractor is responsible for centralization methods of all piling. The horizontal tolerance for each timber pile after driving through native alluvium shall be within one foot of the Plan location. Piles driven outside of one foot of the Plan location shall be marked and the engineer shall be notified immediately to assess function and determined if remaining piles within the structure require adjustment to allow placement of logs. Misaligned piles may be pushed or pulled laterally as directed by the Contracting officer and/or Engineer to achieve the specified alignment. Piles shall be plumb, unless designated as batter piles, to within 2 percent of the length based on the total length of the pile unless approved by engineer. The vertical tolerance for each timber pile after driving shall be within 6 inches of the minimum tip elevation specified on the Contract Plans as determined from markings on the driven pile.

6-05.3(11)C Preparation for Driving

Delete Section 6-05.3(11)C in its entirety and replace with the following:

(*****)

Timber piles shall be cut square on the butt end on site prior to driving. If the pile butt is larger than internal diameter of the pile driving cap, side grip, or steel driving cap, the pile top shall be trimmed or chamfered to fit. Prior to driving, the Contractor shall clearly mark the target embedded depth as measured from the tip end of the pile; marking shall occur after any trimming of the pile has occurred. Shortening of piles shall be minimized; piles shall be shortened a maximum of one foot during squaring, trimming, and/or chamfering. As needed, timber piles shall be fitted with two steel bands fitted around the butt end to prevent splitting, crushing or brooming while driving as described in Section 9-10.1.

6-05.3(11)D Achieving Minimum Tip Elevation and Bearing

Section 6-05.3(11)D is deleted in its entirety and replaced with the following:

(*****)

Piles shall be driven with the tip (narrow end of pile) end down. Each pile shall be driven continuously until meeting the required embedment depths indicated on the Contract Plans. Driving with vibratory hammers works best when the pile driver head is aligned with the longitudinal axis of the pile during driving to ensure maximum transfer of energy from the pile driver to the pile; a spotter may be necessary to ensure alignment of the driver and the pile. Pauses during pile driving, except for mechanical breakdown, overheating, utilization of a pile driving cap, or other unforeseen events, shall not be allowed. An ultimate load-bearing capacity for the timber piles is not required for this work and driving of the timber piles is only complete once the embedment depth specified on the Contract Plans is achieved. Bearing resistance shall not be criteria for driving.

The Contractor is encouraged to closely monitor the status of the driver throughout driving activities. Driving timber piles through alluvial material can be difficult and time-consuming. The driver shall be monitored closely during all pile driving activities. The temperature of the pile driver shall be monitored and the Contractor is encouraged to adhere to manufacturer recommendations for maximum operating temperature; regular pauses during pile driving activity are expected and should be anticipated by the Contractor. Cooling via direct immersion in surface waters connected to Icicle Creek or adjacent wetlands is not allowed; air cooling, hosing down in an area where runoff does not enter surface waters, or construction of a groundwater sump are recommended, provided all applicable permit conditions are being met. Regular maintenance of the pile driver during driving activities is also encouraged; regular inspection of fittings, couplers, hoses, bolts, and other mechanical connections with corrective action implemented immediately upon discovery of an issue can reduce down time and mechanical issues. The Contractor shall anticipate the need for routine maintenance and shall provide appropriate resources in terms of staff, tools, replacement parts, and any other resources required to service the pile driver.

For pile installation, the Contractor shall use all “normal means” necessary at no cost to the Contracting Agency to ensure the specified embedment is achieved so long as the timber pile is not damaged. “Normal means” refer to methods such as casing, pre-boring or spudding. Blasting, mudding or jetting are not considered “normal means” and shall not be used. Pre-bored holes and pile spuds shall have a diameter no larger than the least outside diameter dimension of the timber pile. After the timber pile is driven, the Contractor shall fill all open spaces between the pile and the soil caused by the pre-boring or spudding with native alluvium, as approved by the Engineer.

Augering, wet-rotary drilling, or other methods of pre-boring with casing to achieve penetration shall be used only when approved by the Engineer. When permitted, such procedures shall be carried out in a manner that will not impair the capacity or alignment of piles already in place. Contractor shall be required to ensure turbid waters from augering or wet-rotary drilling are treated or contained on site, or discharged in a manner that does not violate state water quality standards. All work related to water quality management during pile driving shall be considered incidental to pile installation.

If the Engineer determines that pre-boring has disturbed the alignment and stability of previously installed piles, those piles that have been disturbed shall be restored to conditions meeting the requirements of this specification by redriving or by other methods acceptable to the Engineer. Redriving or other remedial measures shall be completed after the pre-boring operations have ceased. The Contractor shall be responsible for the costs of any necessary remedial measures, unless pre-boring with casing was properly executed by the Contractor.

Piles are anticipated to be installed through saturated granular deposits with gravels, cobbles, and boulders. Contractor shall obtain Engineer’s approval prior to shifting pile locations. Predrilling of granular soils may result in the development of significant voids in the underlying soils. Therefore, it is necessary to temporarily case or pre-excavate through alluvium.

If, following implementation of all “normal means,” a pile is not driven to the depths and tolerances as specified, the Engineer will determine if the actual embedment depth achieved is satisfactory given field conditions. If the Engineer determines that pile driving using all normal means has failed to achieve adequate embedment the Contractor shall drive additional pile(s) at location(s) specified by the Engineer.

6-05.3(11)F Pile Damage

The first paragraph of Section 6-05.3(11)F is replaced with the following:

(*****)

The Contractor shall remove and replace any pile which is damaged or broken due to Contractor actions at no additional cost to the Owner. The method used in installation and driving piles shall not subject the piles to excessive or undue abuse that results in brooming, splitting, or splintering of wood. Any pile damaged during installation and driving by reason of improper driving, or driven out of its proper location, or driven below the designated top elevation, shall be corrected by the Contractor, without compensation, by a method approved by the Contracting officer and/or Engineer.

6-05.3(13) Treatment of Timber Pile Heads

Section 6-05.3(13) is deleted in its entirety and replaced with the following:

(*****)

No preservatives shall be applied to piles heads.

6-05.4 Measurement

Section 6-05.4 is deleted in its entirety and replaced with the following:

(*****)

No independent measurement shall apply to pile driving and the work described in this section. This is considered incidental to the installation of each Bank Enhancement LWM Habitat Structure requiring timber piles.

6-05.5 Payment

Section 6-05.5 is deleted in its entirety and replaced with the following:

(*****)

All work associated with the installation of timber piles as shown on the plans is considered incidental to the per unit pricing for installation of each Bank Enhancement LWM Habitat Structure requiring timber piles. All costs in connection with trimming and field fitting, pre-boring, spudding, installing steel tips, bands and shoes, all costs for any maintenance, labor, and installation of timber piles, as well as any water quality management necessary to install the piles is considered incidental to installation of the Bank Enhancement LWM Habitat Structure.

Work performed to install additional piles following exhaustion of all normal means of pile driving shall be paid for in accordance with Section 1-04.4.

DIVISION 7
DRAINAGE STRUCTURES, STORM SEWERS, SANITARY SEWERS, WATER
MAINS, AND CONDUITS

7-06 VACANT

Division 7-06 Vacant is replaced with the following:

(*****)

7-06 SITE ISOLATION AND EROSION CONTROL

7-06.1 Description

This work consists of isolating construction activities from surface waters of Icicle Creek, bypassing flow around the work areas, pumping water out of the isolated work areas, and other work as necessary to allow for completion and inspection of the work while maintaining water quality standards. Dewatering of the work site is required only to the extent necessary for the Contractor to be able to excavate and grade to the lines and grades shown on the Contract Plans, place and compact foundation material, place logs as shown on the Contract Plans, and for the Contracting Officer to inspect the work and verify it has been done correctly. Note that at some locations excavation for this project is expected to extend below the groundwater elevation during the time of construction. The Contracting Agency offers no estimate of the extent to which groundwater will be encountered.

Except as authorized by project permits, anytime work occurs within the wetted channel, or soil enters the actively flowing channel of Icicle Creek, an isolated in-water work area shall be created. Isolated in-water work areas consist of a cofferdam or other acceptable method that keeps surface flow in Icicle Creek separated from turbid water in the active work area and maintains State Water Quality Standards. The method shown in the Contract Plans for isolating a work area through installation of gravel filled bags and plastic sheeting that form a cofferdam is form of an acceptable method for isolating a work zone. Other methods that provide equal or better isolation and include equal or fewer potential environmental impacts can be requested by the Contractor and will be considered by the Contracting Officer. Alternative methods can be used if approved by the Contracting Officer; however, if an approved alternative method fails to meet the performance requirements of this section, the Contractor shall remove it and replace it in a manner consistent with those described in this section at no additional cost to the Contracting Agency.

Fish isolation nets will be provided by the Contracting agency and installed by the contractor both upstream and downstream of the project area. Nets shall be inspected 3-times per day during working hours to ensure fish impingement is not occurring. Once the work area is isolated, the contracting agency will coordinate and/or perform fish salvage within the project area until they have successfully made two complete passes without capture.

The work area may be locally dewatered at rate to allow relatively dry construction and to control turbidity but shall be clearly described in the Contractor submittals and approved by the Contracting Agency. Any dewatering shall occur at a rate slow enough to allow the Contracting Agency to safely capture and relocate all fish species and other aquatic organisms to avoid stranding, as determined by the Contracting Officer. The Contractor shall also prepare and stage any necessary additional materials required to increase the cofferdam height an additional foot if flow increases dictate an increase in diversion height. Any sediment laden water shall be pumped upland for infiltration; turbid waters shall not be discharged into any portion of Icicle Creek.

7-06.2 Materials

The Contractor shall provide all materials necessary to construct in-water work area isolations that meet the requirements of this section and applicable permits.

The Contracting Agency will provide fish block nets, which may be used by the Contractor, if so requested, to assist in site isolation. Use of Contract Agency fish block nets will not release the Contractor from maintaining Water Quality Standards and fish isolation and removal provisions set forth within the contract. All other materials shall be as detailed in the approved Contractor's Site Isolation Plan. If pumps are used to dewater any portion of the project site, pumps shall have a fish screen with 0.087" max opening in the narrow direction.

Plastic Sheeting

Plastic sheeting used in construction of cofferdams or other work-area isolation measures shall have a minimum thickness of 10-mil and shall be wide enough to allow secure anchoring to the channel bed on the upstream and downstream sides of the cofferdam. When "bulk bags" or "sand bags" are used to construct cofferdams they shall meet the following requirements:

Bulk Bags and Sand Bags

The cofferdam detail shown in the Contract Plans use "bulk bags" and "sand bags". Bulk bags shall be cube-shaped polypropylene woven fabrics with fully open tops, flat bottoms, four loops for lifting, minimum weight capacity of 2 tons, and 5:1 minimum safety factor. Sand bags shall be made from a woven synthetic material (polypropylene, polyethylene, polyamide, or other approved by the Contracting Officer) that is resistant to tearing.

Bulk bags and sand bags shall be filled with Cofferdam Gravel. Bulk bags can be filled to their maximum capacity. Sand bags shall be filled to no more than 2/3 of total capacity. Once filled, sand bags shall be securely tied. Bulk bags do not require secure closure if they securely hold the material with which they have been filled without being tied shut.

Cofferdam Gravel

Cofferdam Gravel shall be imported streambed sediment per Section 9-03.11(1).

7-06.3 Construction Requirements

7-06.3 (1) General

The Work shall include compliance with Washington State Water Quality Standards in WAC 173-201A, project permits, environmental commitments and these Provisions. The Contractor shall closely coordinate all diversion and site isolation related Work with the Contracting Agency. Prior to beginning work in an actively flowing channel, cofferdams shall be installed at or near locations shown on the Contract Plans to isolate the work area from surface flow in the creek. After isolating a particular work area and prior to beginning work, fish must be removed from the isolated area. All work related to removing fish will be performed by the Contracting Agency at no cost to the Contractor. The Contractor shall notify the Contracting Officer a minimum of five (5) working days prior to needing the fish removal services. The elevation of the top of the cofferdams shall be a minimum of 1-foot higher than the water surface in the river outside of the cofferdams. The water surface in the river varies depending on the time of year and varies from year to year depending on hydrologic conditions of the preceding winter and spring.

Bulk bags or sandbags used to construct cofferdams shall be removed from Icicle Creek upon completion of work in the isolated work area. The bulk bags and sand bags will remain property of the Contractor and shall be removed from the site as part of the work for this bid item. When the cofferdam material is no longer needed, a portion of the streambed sediment material may be used to complete the fill around the logs of each bank enhancement structure as shown in the Contract Plans.

Isolated work areas shall prevent turbid water created by construction activities from entering Icicle Creek. During in-water work, turbidity will be monitored in Icicle Creek in accordance with environmental permits obtained by the Contracting Agency.

If turbid water is exiting the isolated work area to the extent that it increases turbidity in Icicle Creek to exceed maximum allowable values listed in the environmental permits, in-water work shall cease until the issue has been corrected. Any extra work required to adjust or remove faulty cofferdams or other in-water work area isolations and replace them with materials and methods that accomplish permit conditions shall be done at no additional cost to the Contracting Agency.

7-06.3 (2) Site Isolation Plan Requirements

The Contractor shall submit an In-Water Work Area Isolation Plan to the Contracting Officer and the plan must be approved by the Contracting Officer prior to beginning any in-water work. The plan shall identify the methods and materials used to isolate in-water work area(s). The In-Water Work Area Isolation Plan shall be submitted by the Contractor for approval by the Contracting Agency a minimum of ten (10) working days prior to the beginning of any in-water work. If the Contracting Officer does not approve the submitted plan, the Contracting Officer will provide written documentation explaining the cause for the not approving the plan. The Contractor shall respond to the Contracting Officer's review documentation and resubmit the plan with revisions as necessary. The Contracting Agency reserves the right to postpone commencement of the work, at no cost to itself, due to failure by the Contractor to supply an acceptable In-Water Work Area Isolation Plan.

The Site Isolation Plan shall provide the following information in the following order:

1. Description and Location of the stream diversion and site isolation measures
 - a. Identify the name of the water body where the stream diversion will be placed. Provide a description of the temporary stream diversion
 - b. Provide drawings showing the location of the stream diversion, including proposed access routes and equipment to be used to construct the diversion.
2. Schedule and Sequence
 - a. Provide a sequence of Work, dates, and durations for when the following will occur, in accordance with the in-water work window in the Special Provisions:
 - i. Site Isolation Plan Implementation Meeting.
 - ii. Stream diversion installation.
 - iii. Fish exclusion (fish removal performed by the Contracting Agency).
 - iv. Restoration and stabilization of the temporary stream diversion Work area to prevent erosion.
 - v. Any relocations of the temporary stream diversion to accommodate the Work sequence (if needed).
 - vi. Removal of the stream diversion and isolation components.
 - vii. Include other Work that needs to be coordinated with the stream diversion (e.g., temporary erosion control).
3. Calculations and Materials

- a. Detail all elements of the temporary stream diversion; including but not limited to pipes, pumps, and other equipment.
 - b. Specifications for all materials and equipment to be used as part of the diversion including pump capacities and hose sizes. For example, provide the type, profile, and size of pipe.
 - c. Provide the size of fish screens (mesh size and surface area) to be used. Provide details on the type of energy dissipation device(s) to be used at proposed dewatering discharge location(s).
4. Stream Flow Blocking and Dewatering
 - a. Provide the method(s), including locations and details (narrative and drawings) for blocking both the upstream and downstream (if necessary)
 - b. Identify in detail the manner in which flow management will stay within Water Quality Standards for turbidity.
 - c. Describe the means by which the height of the upstream diversion can be increased an additional foot within 4 hours in the event that flow increases require an increase in diversion height, including the location and preparation of any standby materials necessary for increasing the diversion height.
5. Inspection and Maintenance
 - a. Provide the schedule and frequency for inspection of the nets and stream diversion.
 - b. Describe how maintenance will be conducted when inspections identify deficiencies in the stream diversion. These include, but are not limited to, removal and disposal of trapped sediment and debris and repairing leaks. The Contractor shall keep a record of all inspections and maintenance of the diversion.
6. Rewatering the Project Area
 - a. Detail how the channel will be rewatered to comply with water quality requirements.
7. Removal of the Diversion
 - a. Describe the sequence that will be used for removing the stream diversion and methods to prevent water quality impacts.
 - b. Describe how disturbed soil will be permanently stabilized

7-06.4 Measurement

No independent unit of measurement shall apply for the lump sum bid item for “Site Isolation and Erosion Control” This Work shall include all materials, equipment, labor, and other costs associated with installing, maintaining, and removing all water and erosion control features as per the plans.

7-06.5 Payment

Payment will be made for “In-Water-Work Site Isolation and Erosion Control” as per the bid list. The lump sum payment shall be full compensation for all installing, monitoring, maintaining and removing all water and erosion control features as per the plans.

DIVISION 8 MISCELLANEOUS CONSTRUCTION

8-02 ROADSIDE RESTORATION

8-02.3 Construction Requirements

8-02.3(9) Seeding, Fertilizing, and Mulching

8-02.3(9)B Seeding and Fertilizing

Section 8-02.3(9)B is supplemented with the following:

(*****)

Seeding shall be done only after finish grading of surfaces have been completed and ground within areas designated to be seeded is no longer being disturbed. Any seeding areas that have become compacted prior to seeding must be scarified to a depth of (2) inches by acceptable means prior to seeding.

Seed mix will be supplied by Contracting Agency and will be brought to the site sealed and with seed labels attached. Seed shall be placed at the rate, mix and analysis specified in the Contract Plans. All seed listed in the seed mix on the Contract Plans shall have been collected from plants native to and growing in Idaho, Oregon or Washington. Seeds shall not contain weed seeds listed as secondary noxious by Washington State Seed Law single or collective in excess of the labeling tolerance specified by the Washington State Seed Law. The seeding surface shall be raked or chained to ensure a friable surface free of soil clumps larger than 2" in diameter. No fertilizer shall be included in the seed mixes or mulch.

Seeding shall not be done during windy weather or when the ground is frozen, excessively wet, or otherwise untillable. Seed may be sown by one of the following methods:

1. A hydro seeder that utilizes water as the carrying agent and maintains continuous agitation through paddle blades. It shall have an operating capacity sufficient to agitate, suspend, and mix into a homogenous slurry the specified amount of seed and water or other material. Distribution and discharge lines shall be large enough to prevent stoppage and shall be equipped with a set of hydraulic discharge spray nozzles that will provide a uniform distribution of the slurry.
2. Blower equipment with an adjustable disseminating device capable of maintaining a constant, measured rate of material discharge that will ensure an even distribution of seed at the rates specified.
3. Areas in which the above methods are impractical may be seeded by hand methods. When seeding by hand, the seed shall be incorporated into the top ¼ of soil by hand raking or other method that is approved by the Contracting Officer.

Seed applied using a hydroseeder shall have a tracer added to visibly aid uniform application. This tracer shall not be harmful to plant, aquatic, or animal life. If Short-Term Mulch is used as a tracer, the application rate shall not exceed 250 pounds per acre.

The Contractor shall be responsible for the watering, weeding, reseeding, and other necessary operations of seeding areas until final site stabilization. Seed beds must show vigorous growth with a uniform in appearance, free of weeds and/or other undesirable plant species as accepted by the Contracting Officer.

The Contractor shall apply water as required. Control rate of water applications to provide adequate moisture without causing run-off.

Composition, proportion, and quantity shown on the Contract Plans shall be applied at all areas above the ordinary high-water level that were disturbed by construction activities.

Materials shall meet the requirements of the following sections:

Seed 9-14.3

8-02.3(11)A Mulch for Seeding Areas

Section 8-02.3(11)A is replaced with the following:

(*****)

After seed is applied and incorporated in the soil, straw mulch shall be applied at a rate of 2,000 pounds per acre, spread evenly through seeding areas at a minimum of 2 inches thick. Straw mulch shall be air-dried and free from undesirable weed seed and coarse material. In windy areas straw must be held in place by using a tackifier or nets.

Materials shall meet the requirements of the following sections:

Certified Weed Free Straw 9-14.5(1)

8-02.3(15) Bioengineering

Section 8-02.3(15) is deleted in its entirety and replaced with the following:

(*****)

Fabric Encapsulated Soil Lifts (FESL) shall be installed as shown on the Contract Plans and as approved by the Contracting Officer. The soil lifts shall consist of existing native soil salvaged from adjacent grading operations. The thickness of the soil lifts are 12-15 inches. The number of lifts may vary to achieve the desired height from the toe of slope to the top of bank, creating a reinforced soil slope as shown on the Contract Plans. The biodegradable geotextile fabric shall meet the requirements of Section 9-14.6(2)A Biodegradable Erosion Control Blanket for Slopes Steeper than 3:1 (H:V). Willow plugs shall be placed between every other FESL layer at a spacing of 1 foot, as shown in plans. Willow plugs will be provided by Contracting Agency.

For each soil lift, the Contractor shall place a continuous section of biodegradable geotextile fabric along the length of bank for each soil lift. The fabric shall be wide enough to allow a continuous wrap of fabric that creates 4 feet of embedment in the finished slope along the bottom of each soil lift, 12 to 15 inches in height at the nose, and an additional 4 feet of embedment in the finished slope along the top of each soil lift, plus 2 feet of wrap back distance to create a double layer thickness along the rear edge to be pinned with driven wooden stakes at 2 feet on center. The Contractor shall avoid seams in any soil lift fabric wrap, and each lift shall be installed with a single length of fabric. The length of each soil lift wrap shall include 4 feet on each end that shall be wrapped inward on the ends to encapsulate the soil.

The installation steps are as follows:

Unroll a single continuous section of biodegradable geotextile fabric, such as coir matting, along the distance to be installed. Wooden stakes may be installed, and left in place, to help hold the fabric in place during installation. Verify the bottom layer will have a minimum of 4 feet of embedment in the slope after placement of the soil, and there is adequate width to create a 12-15-inch nose, and there is at a minimum of 7 feet to create the top layer and the wrap back after the soil is placed. Also verify there is a minimum of 4 feet of length on each end to create the end wrap sections. Place soil in an even lift, 12 to 15 inches in thickness, after tamped with an excavator bucket, and a single pass of a jumping jack. Wrap each of the 4-foot end sections inward to enclose the upstream and downstream end of the soil lift. Wrap the remaining width of fabric toward the slope, applying even tension to create a smooth and compact nose without tearing the fabric. Wrap back the remaining 2-foot section and secure with wooden stakes. Place willow plugs at 1-foot intervals along the top of the completed layer prior to starting the next layer, so the plugs are sandwiched between every other FESL layer. Avoid walking on the nose of the newly installed soil lift and repeat the process, lining up the next section of biodegradable geotextile fabric so it will have a minimum of 4 feet of embedment in the finished slope and the face of the nose from the lower soil lift to the nose of the next soil lift will be separated by 12 inches (face to face), with allowable variability on the ends to create a smooth transition to the slopes not receiving the FESL treatment. The Contractor shall apply water to each completed soil layer to saturate the newly placed soil, without dislodging the soil or fabric. The intent is to increase the moisture content to support the newly installed willow plugs.

The Contracting Officer shall observe the installation of each soil layer to review the placement of fabric, placement and tamping of soil, wrapping of fabric end sections, wrapping of top layer, top layer staking, and placement of willow plugs between layers as shown on the Contract Plans.

8-02.4 Measurement

Section 8-02.4 is supplemented with the following:

(*****)

“Seeding” will be measured per acre seeded in conjunction with the plans.

“Straw mulch” will be measured per ton delivered and applied to the site.

Measurement for fabric encapsulated soil lifts (FESL) will be measured per linear foot of FESL treatment along the slope line of Icicle Creek. This includes all necessary lifts along the same linear foot distance. Individual lifts will not be added to determine a cumulative length.

8-02.5 Payment

Section 8-02.5 is supplemented with the following:

(*****)

Payment for “seeding” will be made per acre of area seeded in conjunction with the plans and shall include all materials, labor and equipment necessary to do so.

Payment for “Straw mulch” will be made per ton delivered and spread in conjunction with the plans and shall include all materials, labor and equipment necessary to do so.

Payment fabric encapsulated soil lifts (FESL) will be measured per linear foot of FESL treatment along the slope line of Icicle Creek in conjunction with the plans and shall include all materials, labor and equipment necessary to do so.

8-05 VACANT

Section 8-05 is replaced with the following:

(*****)

8-05 TEMPORARY ACCESS AND STAGING

8-05.1 Description

This work encompasses utilizing temporary staging locations and creating temporary access points to all locations where project elements are to be constructed as well as their decommissioning and restoration post construction. This shall include any necessary grading, decompaction, maintenance, and other work as necessary to establish, maintain, utilize, and restore the temporary access routes and staging areas shown on the plans. Access routes are to follow those shown in the plans or as otherwise approved by the contracting officer. Temporary access routes will be decommissioned and the soil de-compacted at completion of the project.

8-05.2 Construction Requirements

Temporary access routes are to be following the Temporary Access Route detail in the Contract Plans. After temporary access routes are no longer needed, the soil along the temporary access routes shall be de-compacted by ripping to a depth of 6 inches, spreading seed by hand, and covering with straw mulch.

8-05.2(1) Temporary Access Routes

The contractor shall clearly stake the proposed centerline of all portions of temporary cleared access routes. No clearing or trimming of any vegetation is allowed until the staking of the temporary cleared access routes has been approved. The contractor shall regularly monitor all access routes for rutting, erosion, and any other damage. Rutting shall be addressed through placement of bark or wood chip mulch. Any import of bark or wood mulch is incidental to this bid item. It is the sole responsibility of the contractor to ensure that the existing irrigation infrastructure, fences and any other personal structures of the landowner are avoided and/or protected. Any damages to personal structures on the property as a result of construction will be the responsibility of the Contractor to repair.

8-05.2(2) Temporary Staging Areas

One primary temporary staging area is shown on the plans and is available for use to store equipment, vehicles, materials, and other supplies during the course of the work; vehicles and equipment may only be staged at the primary staging area shown on the plans. All refueling, washing, inspection, and other general maintenance for construction equipment and vehicles shall occur within the limits of the primary staging area and abide by the provisions of the HPA. If, during construction, a portion or portions of the staging areas begin to rut, the contractor shall import bark or wood chip mulch to stabilize the rutted area.

8-05.3 Measurement

The work described in this section is incidental to the lump sum bid item “temporary access and staging,” no independent unit of measurement shall apply

8.05-4 Payment

Payment for “temporary access and staging” shall be full compensation for all staking, field fit modification, maintenance, and decommissioning of all temporary cleared access routes and staging areas, fence removal and fence reinstallation necessary to perform the work included in the bid schedule. Progress payments will be made as follows:

1. Fifty percent of the bid amount will be paid following the staking, review and modification if necessary, and establishment of temporary access routes and staging areas required for those items included in the base bid.
2. An additional fifty percent of the bid will be paid following decommissioning of all temporary access routes and staging areas established to complete work and final approval of work from the contracting agency and engineer.

8-19 VACANT

Section 8-19 is replaced with the following:

(*****)

8-19 SPLIT RAIL FENCING

8-19.1 Description

Work under this item shall consist of furnishing all labor, tools, equipment and material necessary to salvage, re-install salvaged, and install new fencing to replace existing fencing as shown on the Contract Plans. New/salvaged fencing shall be placed outside the limit of the future riparian planting as shown on plans.

8-19.2 Materials

Materials will be sized to match existing fencing and of similar style and species.

8-19.3 Construction Requirements

The landowner split rail fence shall be salvaged, to the extent possible, and extended with similar materials and construction to install the total length of split rail fence as shown in the Contract Plans. If a material cannot be determined by visual inspection, the Contractor shall present a plan for material acquisition for approval by the Contracting Officer. The plan shall be submitted 14 days prior to purchase of materials to allow for adequate review with the landowner. Salvaged fence material shall be disassembled by hand, and posts pulled vertically with an excavator and strap wrapped around the post for sufficient purchase. If posts cannot be easily pulled, excavation of each post is allowed as an alternate method. At the Contractor's option, posts may be left in place and cut flush with the ground surface, and new fencing may be installed throughout as shown on the Contract Plans. If the Contractor opts to use new fencing throughout, this will be at no additional cost to the Contracting Agency.

8-19.4 Measurement

Split rail fencing will be measured by the linear foot of completed fence, along the ground line, including gates, openings, bracing, and end posts.

8-19.5 Payment

Payment will be made for Split Rail Fencing per linear foot.

8-21 PERMANENT SIGNING

Section 8-21 Permanent Signing is supplemented with the following

(*****)

8-21.1 Description

Permanent hazard signs shall be provided to the contractor by others, and installed by the Contractor as shown on the Contract Plans.

8-21.4 Measurement

Section 8-21.4 is deleted in its entirety and replaced with the following:

(*****)

No independent unit of measurement shall apply for the installation of ‘permanent signing’ as described in this section. This work is considered incidental to the installation of each LWM Habitat Structure.

8-21.5 Payment

Section 8-21.5 is deleted in its entirety and replaced with the following:

(*****)

No independent payment shall be made for the installation of permanent signing. This work is considered incidental to the installation of each LWM Habitat Structure.

8-26 VACANT

Section 8-26 Vacant is replaced with the following:

(*****)

8-26 BANK ENAHNCEMENT LWM HABITAT STRUCTURES

8-26.1 Description

Work under this item shall consist of furnishing all labor, tools, equipment and material necessary to install LWM Habitat Structures in accordance with the Contract Plans, Standard Specifications, and these

Special Provisions. LWM Habitat Structures shall be placed as staked by the Contractor prior to installation; however, final placement shall be verified and may be adjusted by the Contracting Officer. Logs shall be arranged, placed, and/or buried as indicated in the Contract Plans. The Contractor shall anticipate that because of the irregularities of natural logs, adjustments to structure and individual log placements will be needed. These adjustments and modifications are expected, and additional payment will not be made. The Contractor shall not decommission any Temporary Access Routes for a particular location until the structure installed has been approved by the Contracting Officer. Costs associated with re-commissioning access to a particular structure location determined not to meet design specifications by the Contracting Officer are not covered under this contract and are the sole responsibility of the Contractor.

8-26.2 Materials

The Contractor is solely responsible for furnishing habitat logs, natural log piles, racking material, and slash material required to construct the Bank Enhancement LWM Habitat Structures shown on the Contract Plans. Any materials which are determined by the Contracting Officer to not meet these requirements through either natural causes or through the Contractor's actions shall be replaced at no additional cost to the Contracting Agency.

8-26.2 (1) Woody Material for Bank Enhancement LWM Structure

Bank Enhancement LWM Structure logs and Rootwad logs shall be all one species or any combination of Douglas Fir, Ponderosa Pine, or Western Red Cedar. Logs with rootwads shall have a diameter as shown on the Plans, measured at diameter-at-breast height (DBH), and defined as 4.5 feet above ground when the tree was standing. Logs without rootwads shall have a diameter as shown on the Plans and measured at the diameter of the largest cut end. Diameter measurements shall not include bark. All wood material shall be free of disease, insect infestation, and rot. Each log shall have been harvested within 12 months of the contract construction window, unseasoned, and free from disease, decay, and rot. Logs required to have rootwads shall have complex root structure intact. Certification of log grades will not be required but may be done if poor quality logs are encountered. Split trunks are not allowed. Waterlogged logs will not be accepted. All logs shall generally be straight and free of obvious bends, i.e. sweeps or curves; logs may have a maximum curvature of up to 0.2 feet per ten feet of length measured as the departure from the prevailing longitudinal axis of bole to the actual centerline of the bole. All structure logs delivered to the construction site shall be labeled by the Contractor to indicate the diameter, length, and intended installation location and be sorted in the staging area for inspection and verification by the Contracting Officer. Any log determined to not meet the required size specification, showing signs of structural damage from harvest or delivery, or showing signs of disease, decay, or rot will be rejected by the Contracting Officer. Rejected logs shall be off-hauled, and replaced by the Contractor at no additional expense to the Contracting Agency.

Racking logs shall be of the same species as structure and rootwad log, and be generally of smaller diameter and length so they may be incorporated between structure and rootwad logs during assembly of each Bank Enhancement LWM Structure that requires racking logs as shown on the Contract Plans. The minimum diameter for a racking log is 6-8 in DBH.

Slash shall consist of dense vegetative debris including, but not limited to, small trees, blasted or pushed-out stumps, chunks, broken tops, limbs, branches, brush, or saplings and come from non-

invasive species. Slash material shall be less than 6-in diameter and include limbs and branch material with needle vegetation still attached. Slash shall be compacted during installation to ensure that voids are limited within the compacted slash layer. A compacted cubic yard of slash should weigh approximately 570 lbs per CY.

A summary of wood material to be procured, including log types, characteristics and quantities is included in the tables below.

LWD Bank Enhancement-Type 1 Structures Materials			
Items	Per Structure Quan.	Total Quantity (for 3 Structures)	Size and Length
P-Pile Logs	5 pieces	15 pieces	12"-15" dbh; 25' long
R-Rootwad Logs	4 pieces	12 pieces	18" dbh; 40' long
Racking	8 pieces	24 pieces	Min 6" dbh, length varies
Slash	5 cubic yards	15 cubic yards	Max 6" diam., length varies

LWD Bank Enhancement-Type 2 Structures Materials			
Items	Per Structure Quan.	Total Quantity (for 1 structure)	Size and Length
Pile Logs	5	5	12"-15" dbh; 25' long
R-Rootwad Logs	12	12	18" dbh; 40' long
L-Non-RW Logs	6	6	18" dbh; 40' long
Racking	20 pieces	20 pieces	Min 6" dbh, length varies
Slash	15 cubic yards	15 cubic yards	Max 6" diam. length varies

LWD Bank Enhancement-Type 3 Structures Materials			
Items	Per Structure Quan.	Total Quantity (for 2 structures)	Size and Length
R-Rootwad Logs	1	2	18" dbh; 40' long

8-26.2 (2) Pile Logs

Pile logs shall be Douglas Fir, Ponderosa Pine, or Western Red Cedar, at a minimum of the lengths and sizes shown on the Contract Plans. They shall be of natural tree stock, generally straight, and free of loose bark. The Contracting Officer will inspect and approve each pile prior to installation by the Contractor.

8-26.3 Construction Requirements

8-26.3 (1) Bank Enhancement LWM Structures

Woody material will be staged as close to Bank Enhancement LWM structure location(s) as possible, but may require additional handling and transportation. Handling of LWM materials

shall be done with care to ensure no damage to woody material occurs. All logs with rootwads shall be handled by grasping the bole of the log; transporting or lifting logs with rootwads by grabbing the rootwad with an excavator bucket or similar equipment can damage rootwads and will not be allowed. No full trees or logs with branches are required, but are acceptable if length and diameter meet the size requirements. If used, full trees, tree tops, and logs with branches shall be handled in a manner that minimizes damage to branches. The Contractor shall take care identifying proper locations for grasping woody material with branches, using tow straps or chains secured to an excavator bucket when necessary to avoid damaging branches. When required to be transported via truck, woody material with branches shall not be overloaded or compressed which may increase the total number of trips required to transport woody material with branches. The Contractor shall plan on these additional measures and shall make all costs associated with these measures incidental to other bid items; no extra compensation will be provided for steps taken to prevent damage to woody material. No limbing of delivered logs is allowed unless approved by the Contracting Officer.

The Contractor shall place specified materials in accordance with design specifications for each LMW Structure. Placing woody material as shown on the Contract Plans requires careful manipulation of material. While possible to construct LWM structures using tracked excavators, specialized equipment and/or adaptors such as log loaders, grapples, or articulating buckets and heads can ease constructability. The Contractor is encouraged to carefully examine the Contract Plans and utilize equipment best-suited for construction of LWM structures. Difficult construction conditions shall not be grounds for additional compensation as part of this Contract.

A portion of the racking material and slash shall be incorporated into the upstream face of the main body of each LWM structure during construction. Placing all racking material and slash following placement of after the last layer of logs for a particular structure have been placed is not desirable and will not be allowed. The Contractor shall anticipate field adjustments and shall coordinate closely with the Contracting Officer during placement of racking material and slash to ensure placement serves the intended purpose. Placing racking material is best accomplished through placing small numbers of pieces (1-3) at a time, rather than placement of several (3-5 or more) pieces at a time. Strategically placing racking material such that pieces interlock and are “woven” together and into the upstream face of the main body of the LWM structure provides the best result. Placement of racking material such that pieces are predominantly parallel with one another will not be allowed and shall be corrected by the Contractor at no additional cost to the Contracting Agency.

Certain logs are required to be placed horizontally and may require minor excavation to create a trench for the horizontal log(s) to sit in. All costs associated with minor excavation to create a trench and for placing logs below existing ground surface shall become incidental other bid items included in this Contract.

Racking material shall be relatively consistent in terms of diameter and length. As part of this work, the Contractor shall break up to 30% of the racking material for each LWM structure into variable length pieces as directed by the Contracting Officer. When required, racking material shall be shortened using an excavator bucket or similar; sawcutting using a chainsaw will not be allowed.

The Contractor shall make every effort to minimize vegetation disturbance and any material cleared as part of construction process shall be placed in front or within the LWM habitat structure as racking material. If LWM structures are within the wetted channel, the work area shall be isolated and sufficiently de-fished prior to any work within the wetted channel occurring; the Contracting Agency will provide labor for fish removal efforts. The Contractor shall coordinate with the Contracting Agency regarding anticipated scheduling of LWM structure construction and the need for fish removal to occur. Contractor shall provide the Contracting Agency a notice of anticipated fish removal needs a minimum of four working days prior to the time of anticipated construction to allow the Contracting Agency time to implement fish removal efforts. Any work within the actively flowing channel of Icicle Creek shall be completed during the approved in-water work window identified in the project permits.

To achieve the final streambank grades and secure individual logs identified as partially buried in each structure, the Contractor shall place streambed sediment as shown on the Contract Plans and as directed by the Contracting Officer. Streambed sediment shall be placed as needed following the placement of racking a slash material in each layer of each LWM structure, and the streambed material shall not bury more than 25% of the that material is any layer. The streambed sediment shall not fill the LWM structure and shall not extend further into the stream channel than it would if the bank were continuous and consistent in grade and slope absent the LWM structure. The Contractor shall utilize the streambed sediment when emptying cofferdam bulk bags and sand bags to finish the placement of the required material on each LWM structure to meet finish grade while maintaining required water quality requirements.

Following placement of all logs and racking material, pile tops shall be shortened using the example photo contained in the project plans as guidance.

8-26.4 Measurement

Measurement for “Bank Enhancement LWM Structure ____” will be per each structure installed as shown on the Contract Plans.

No individual unit of measurement shall apply to the lump sum bid item for Wood Procurement. This includes procurement, deliver, handling of all woody material necessary to complete each structure per the plans and these special provisions.

8-26.5 Payment

Payment for “Bank Enhancement LWM Structure ____” will be made per each installed and shall include full compensation for furnishing all labor, necessary materials, tools, equipment and incidentals for completing all work required for installation as described in the Contract Plans, the Standard Specifications, and these Special Provisions. This may include, but is not limited to: placement of logs and woody material; furnishing, hauling, and placement of any additional necessary materials as shown on the Contract Plans; excavation and backfill, compacting backfill, placement of logs, placement of racking material, final grading for a smooth transition, and other work that may be needed. No payment shall be made until the Contracting Officer reviews and approves a completed Bank Enhancement LWM Structure. Any deficiencies noted shall be the responsibility of the Contractor and payment will not be released until the noted deficiencies are addressed to the satisfaction of the either the Contracting Officer.

The lump sum bid item “Wood Procurement” shall be full pay for all labor, materials, equipment, and other incidentals required to furnish, deliver, safely handle and temporarily stage logs, racking, and slash materials required for completing LWM structures. The Contractor shall not be eligible for additional compensation if additional wood material is required to replace materials damaged due to Contractor actions. Contractor shall submit a lump sum breakdown with unit costs for each log type required as part of this bid item.

END OF SPECIAL PROVISIONS

APPENDICES

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APPENDIX A: PREVAILING WAGES

FEDERAL WAGE RATES

The Federal wage rates incorporated in this contract have been established by the Secretary of Labor under United States Department of Labor. The contractor shall use the wage determinations which are in effect under the Davis-Bacon Act for Public Works Contracts for Heavy Construction within Chelan County at the time of the bid opening date. Federal Wage Determinations are updated and posted at <https://beta.sam.gov/search?index=wd>.

WASHINGTON STATE WAGE RATES

The State Prevailing Wage rates incorporated in this contract are applicable to all construction activities associated with this contract and in effect for Chelan County at the time of Bid Opening. Wage Determinations, modifications, and benefit key codes are established by the State of Washington's Department of Labor and Industries are posted and updated at <https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wagerates/>.

APPENDIX B: PROJECT PERMITS

DEPARTMENT OF THE ARMY-SECTION 404 NATIONWIDE 27	NWS-2021-122
HYDRAULIC PROJECT APPROVAL; WDFW	2021-2-37+02
WADOE SECTION 401 WQ CERTIFICATION	NWS-2021-122
DNR AQUATIC USE AUTHORIZATION WA DEPARTMENT OF NATURAL RESOURCES, AQUATIC LANDS DIVISION	23-101902
CHELAN COUNTY FLOODPLAIN DEVELOPMENT PERMIT CHELAN COUNTY COMMUNITY DEVELOPMENT	FDP 21-0007



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, SEATTLE DISTRICT
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-3755

Regulatory Branch

August 11, 2021

Mr. Mike Kaputa
Chelan County Natural Resources Department
411 Washington Street, Suite 201
Wenatchee, Washington 98801

Reference: NWS-2021-122
Chelan County Natural
Resources Department
(Lower Icicle Creek)

Dear Mr. Kaputa:

We have reviewed your application to excavate up to 162 cubic yards of sediment, discharge up to 145 cubic yards of stream bed material, install six engineered large woody material structures and 800 linear feet of riparian plantings in Lower Icicle Creek near Leavenworth, Chelan County, Washington. Based on the information you provided to us, Nationwide Permit (NWP) 27, *Aquatic Habitat Restoration, Establishment, and Enhancement Activities* (Federal Register January 6, 2017, Vol. 82, No. 4), authorizes your proposal as depicted on the enclosed drawings received on January 21, 2021.

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed *NWP 27, Terms and Conditions* and the following special conditions:

a. In order to meet the requirements of the Endangered Species Act you may conduct the authorized activities from July 1 through August 15 in any year this permit is valid. You shall not conduct work authorized by this permit from August 16 through June 30 in any year this permit is valid.

b. In order to meet the requirements of the Endangered Species Act (ESA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA) programmatic consultation Fish Passage and Restoration Actions in Washington State (FPRP III) (National Marine Fisheries Service (NMFS) Reference Number WCRO-2014-00004), you must implement and abide by the ESA requirements and/or agreements set forth in the Biological Opinion (BO) dated June 21, 2017, and the *Project Information Form* dated February 19, 2021, in the enclosed

document *Appendix A: FPRP III Guidelines and Implementation Forms* (NMFS Reference Number WCRO-2014-00004-2390). The BO is available on the U.S. Army Corps of Engineers (Corps) website (Permit Guidebook, Endangered Species, Programmatic Consultations, Fish Passage and Restoration Programmatic Consultations). Within 45 days of completing the permitted work in waters of the U.S., you must provide the Corps the information requested in the FPRP Action Completion Reporting Form in the enclosed document Appendix A: FPRP III Guidelines and Implementation Forms. If fish salvage occurs as part of your project, you must also provide the Corps the information requested in the FPRP Fish Salvage Reporting Form in the enclosed document Appendix A: FPRP III Guidelines and Implementation Forms, within 45 days of completing the permitted work in waters of the U.S. All information must prominently display the reference number NWS-2021-122. Failure to comply with these requirements constitutes non-compliance with the ESA and your Corps permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of their BO and with the ESA. If you cannot comply with the terms and conditions of this programmatic consultation, you must, prior to commencing construction, contact the Corps, Seattle District, Regulatory Branch for an individual consultation in accordance with the requirements of the ESA and/or the MSA.

c. Incidents where any individuals of fish species, marine mammals and/or sea turtles listed by National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the U.S. or structures or work in navigable waters of the U.S. authorized by this Nationwide Permit verification shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Seattle District of the U.S. Army Corps of Engineers at (206) 764-3495. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible, take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed by discharge exposure or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries to collect specimens or take other measures to ensure that evidence intrinsic to the specimen is preserved.

d. In order to meet the requirements of the Endangered Species Act (ESA) 2008 Fish Passage and Restoration Programmatic Consultation (U.S. Fish and Wildlife Service (USFWS) Reference Number 1341-2008-FWS-#F-0209), you must comply with the conditions included in the *Specific Project Information Form*, dated January 15, 2021, and the enclosed electronic approval from USFWS dated March 24, 2021 (USFWS Reference Number 01EWF00-2021-TA-0691). If you cannot comply with the terms and conditions of this programmatic consultation, you must, prior to commencing construction, contact the U.S. Army Corps of Engineers, Seattle District, Regulatory Branch for an individual consultation in accordance with the requirements of the ESA.

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined this project complies with the requirements of these laws provided you comply with all of the permit general and special conditions. Please be reminded that Special Condition “b” of your permit requires that you implement and abide by the Endangered Species Act (ESA) requirements set forth in the programmatic Biological Opinion (BO) for this project.

Please note that National General Condition 21, *Discovery of Previously Unknown Remains and Artifacts*, found in the *Nationwide Permit Terms and Conditions* enclosure, details procedures that must be followed should an inadvertent discovery occur. You must ensure that you comply with this condition during the construction of your project.

The authorized work complies with the Washington State Department of Ecology’s (Ecology) Water Quality Certification (WQC) requirements for this NWP. No further coordination with Ecology for WQC is required.

You have not requested a jurisdictional determination for this proposed project. If you believe the U.S. Army Corps of Engineers does not have jurisdiction over all or portions of your project you may request a preliminary or approved jurisdictional determination (JD). If one is requested, please be aware that we may require the submittal of additional information to complete the JD and work authorized in this letter may not occur until the JD has been completed.

Our verification of this NWP authorization is valid until March 18, 2022, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date and you have commenced or are under contract to commence this activity before March 18, 2022, you will have until March 18, 2023, to complete the activity under the enclosed terms and conditions of this NWP. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act. You must also obtain all local, State, and other Federal permits that apply to this project.

You are cautioned that any change in project location or plans will require that you submit a copy of the revised plans to this office and obtain our approval before you begin work. Deviating from the approved plans could result in the assessment of criminal or civil penalties.

Upon completing the authorized work, you must fill out and return the enclosed *Certificate of Compliance with Department of the Army Permit*. Thank you for your cooperation during the permitting process. We are interested in your experience with our Regulatory Program and encourage you to complete a customer service survey. These documents and information about

our program are available on our website at www.nws.usace.army.mil, select "Regulatory Branch, Permit Information" and then "Contact Us." A copy of this letter with enclosures will be furnished to Ms. Erin McKay at erin.mckay@co.chelan.wa.us. If you have any questions, please contact me at jenae.churchill@usace.army.mil or (206) 764-5527.

Sincerely,

A handwritten signature in black ink that reads "Jenae Churchill". The signature is written in a cursive, flowing style.

Jenae Churchill, Project Manager
Regulatory Branch

Enclosures

cc:

Washington State Department of Ecology (ecyrefedpermits@ecy.wa.gov)



US Army Corps
of Engineers ®
Seattle District

NATIONWIDE PERMIT 27

Terms and Conditions

Effective Date: March 19, 2017



-
- A. Description of Authorized Activities
 - B. U.S. Army Corps of Engineers (Corps) National General Conditions for all NWP
 - C. Corps Seattle District Regional General Conditions
 - D. Corps Regional Specific Conditions for this NWP
 - E. Washington Department of Ecology (Ecology) Section 401 Water Quality Certification (401 Certification): General Conditions
 - F. Ecology 401 Certification: Specific Conditions for this NWP
 - G. Coastal Zone Management Consistency Response for this NWP
-

In addition to any special condition that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit (NWP) authorization to be valid in Washington State.

A. DESCRIPTION OF AUTHORIZED ACTIVITIES

27. Aquatic Habitat Restoration, Enhancement, and Establishment Activities. Activities in waters of the United States associated with the restoration, enhancement, and establishment of tidal and non-tidal wetlands and riparian areas, the restoration and enhancement of non-tidal streams and other non-tidal open waters, and the rehabilitation or enhancement of tidal streams, tidal wetlands, and tidal open waters, provided those activities result in net increases in aquatic resource functions and services.

To be authorized by this NWP, the aquatic habitat restoration, enhancement, or establishment activity must be planned, designed, and implemented so that it results in aquatic habitat that resembles an ecological reference. An ecological reference may be based on the characteristics of an intact aquatic habitat or riparian area of the same type that exists in the region. An ecological reference may be based on a conceptual model developed from regional ecological knowledge of the target aquatic habitat type or riparian area.

To the extent that a Corps permit is required, activities authorized by this NWP include, but are not limited to: the removal of accumulated sediments; the installation, removal, and maintenance of small water control structures, dikes, and berms, as well as discharges of dredged or fill material to restore appropriate stream channel configurations after small water control structures, dikes, and berms, are removed; the installation of current deflectors; the enhancement, rehabilitation, or re-establishment of riffle and pool stream structure; the placement of in-stream habitat structures; modifications of the stream bed and/or banks to enhance, rehabilitate, or re-establish stream meanders; the removal of stream barriers, such as undersized culverts, fords, and grade control structures; the backfilling of artificial channels; the removal of existing drainage structures, such as drain tiles, and the filling, blocking, or reshaping of drainage ditches to restore wetland hydrology; the installation of structures or fills necessary to restore or enhance wetland or stream hydrology; the construction of small nesting islands; the construction of open water areas; the construction of oyster habitat over unvegetated bottom in tidal waters; shellfish seeding; activities needed to reestablish vegetation, including plowing or disking for seed bed preparation and the planting of appropriate wetland species; re-establishment of submerged aquatic vegetation in areas where those plant communities previously existed; re-establishment of tidal wetlands in tidal waters where those wetlands previously existed; mechanized land clearing to remove non-native invasive, exotic, or nuisance vegetation; and other related activities. Only native plant species should be planted at the site.

This NWP authorizes the relocation of non-tidal waters, including non-tidal wetlands and streams, on the project site provided there are net increases in aquatic resource functions and services. Except for the relocation of non-tidal waters on the project site, this NWP does not authorize the conversion of a stream or natural wetlands to another aquatic habitat type (e.g., the conversion of a stream to wetland or vice versa) or uplands. Changes in wetland plant communities that occur when wetland hydrology is more fully restored during wetland rehabilitation activities are not considered a conversion to another aquatic habitat type. This NWP does not authorize stream channelization. This NWP does not authorize the relocation of tidal waters or the conversion of tidal waters, including tidal wetlands, to other aquatic uses, such as the conversion of tidal wetlands into open water impoundments. Compensatory mitigation is not required for activities authorized by this NWP since these activities must result in net increases in aquatic resource functions and services.

Reversion. For enhancement, restoration, and establishment activities conducted: (1) In accordance with the terms and conditions of a binding stream or wetland enhancement or restoration agreement, or a wetland establishment agreement, between the landowner and the U.S. Fish and Wildlife Service (FWS), the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), the National Marine Fisheries Service (NMFS), the National Ocean Service (NOS), U.S. Forest Service (USFS), or their designated state cooperating agencies; (2) as voluntary wetland restoration, enhancement, and establishment actions documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) on reclaimed surface coal mine lands, in accordance with a Surface Mining Control and Reclamation Act permit issued by the Office of Surface Mining Reclamation and Enforcement (OSMRE) or the applicable state agency, this NWP also authorizes any future discharge of dredged or fill material associated with the reversion of the area to its documented prior condition and use (i.e., prior to the restoration, enhancement, or establishment activities). The reversion must occur within five years after expiration of a limited term wetland restoration or establishment agreement or permit, and is authorized in these circumstances even if the discharge occurs after this NWP expires. The five-year reversion limit does not apply to agreements without time limits reached between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS, or an appropriate state cooperating agency. This NWP also authorizes discharges of dredged or fill material in waters of the United States for the reversion of wetlands that were restored, enhanced, or established on prior-converted cropland or on uplands, in accordance with a binding agreement between the landowner and NRCS, FSA, FWS, or their designated state cooperating agencies (even though the restoration, enhancement, or establishment activity did not require a section 404 permit). The prior condition will be documented in the original agreement or permit, and the determination of return to prior conditions will be made by the Federal agency or appropriate state agency executing the agreement or permit. Before conducting any reversion activity the permittee or the appropriate Federal or state agency must notify the district engineer and include the documentation of the prior condition. Once an area has reverted to its prior physical condition, it will be subject to whatever the Corps Regulatory requirements are applicable to that type of land at the time. The requirement that the activity results in a net increase in aquatic resource functions and services does not apply to reversion activities meeting the above conditions. Except for the activities described above, this NWP does not authorize any future discharge of dredged or fill material associated with the reversion of the area to its prior condition. In such cases a separate permit would be required for any reversion.

Reporting. For those activities that do not require pre-construction notification, the permittee must submit to the district engineer a copy of: (1) The binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement, or a project description, including project plans and location map; (2) the NRCS or USDA Technical Service Provider documentation for the voluntary stream enhancement or restoration action or wetland restoration, enhancement, or establishment action; or (3) the SMCRA permit issued by OSMRE or the applicable state agency. The report must also include information on baseline ecological conditions on the project site, such as a delineation of wetlands, streams, and/or other aquatic habitats. These documents must be submitted to the district

engineer at least 30 days prior to commencing activities in waters of the United States authorized by this NWP.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing any activity (see general condition 32), except for the following activities: (1) Activities conducted on non-Federal public lands and private lands, in accordance with the terms and conditions of a binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement between the landowner and the FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies; (2) Voluntary stream or wetland restoration or enhancement action, or wetland establishment action, documented by the NRCS or USDA Technical Service Provider pursuant to NRCS Field Office Technical Guide standards; or (3) The reclamation of surface coal mine lands, in accordance with an SMCRA permit issued by the OSMRE or the applicable state agency. However, the permittee must submit a copy of the appropriate documentation to the district engineer to fulfill the reporting requirement. (Authorities: Sections 10 and 404) Note: This NWP can be used to authorize compensatory mitigation projects, including mitigation banks and in-lieu fee projects. However, this NWP does not authorize the reversion of an area used for a compensatory mitigation project to its prior condition, since compensatory mitigation is generally intended to be permanent.

B. CORPS NATIONAL GENERAL CONDITIONS FOR ALL NWPs

To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.
13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible

inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. (b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status. (c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur. (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs. (e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take”

provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required. (g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out

appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. (d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment. (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. (b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district

engineer may authorize activities under these NWP's only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal. (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)). (e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses. (f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWP's, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation. (2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)). (3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation. (4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting

a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). (5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided. (6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs. (h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management. (i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: “When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include: (a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions; (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and (c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as

possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals. (d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal. (2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes. (3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or

other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

District Engineer's Decision: 1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2-acre. 2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method

may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns. 3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer. 4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

Further Information: 1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP. 2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law. 3. NWPs do not grant any property rights or exclusive privileges. 4. NWPs do not authorize any injury to the property or rights of others. 5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

C. CORPS SEATTLE DISTRICT REGIONAL GENERAL CONDITIONS: The following conditions apply to all NWPs for the Seattle District in Washington State, unless specified.

1. Project Drawings: Drawings must be submitted with pre-construction notification (PCN). Drawings must provide a clear understanding of the proposed project, and how waters of the U.S. will be affected. Drawings must be originals and not reduced copies of large-scale plans. Engineering drawings are not required. Existing and proposed site conditions (manmade and landscape features) must be drawn to scale.

2. Aquatic Resources Requiring Special Protection: Activities resulting in a loss of waters of the United States in mature forested wetlands, bogs and peatlands, aspen-dominated wetlands, alkali wetlands, vernal pools, camas prairie wetlands, estuarine wetlands, wetlands in coastal lagoons, and wetlands in dunal systems along the Washington coast cannot be authorized by a NWP, except by the following NWPs:

- NWP 3 – Maintenance
- NWP 20 – Response Operations for Oil and Hazardous Substances
- NWP 32 – Completed Enforcement Actions
- NWP 38 – Cleanup of Hazardous and Toxic Waste

In order to use one of the above-referenced NWPs in any of the aquatic resources requiring special protection, prospective permittees must submit a PCN to the Corps of Engineers (see NWP general condition 32) and obtain written authorization before commencing work.

3. New Bank Stabilization in Tidal Waters of Puget Sound: Activities involving new bank stabilization in tidal waters in Water Resource Inventory Areas (WRIAs) 8, 9, 10, 11 and 12 (within the areas identified on Figures 1a through 1e on Corps website) cannot be authorized by NWP.

4. Commencement Bay: The following NWPs may not be used to authorize activities located in the Commencement Bay Study Area (see Figure 2 on Corps website):

- NWP 12 – Utility Line Activities (substations)
- NWP 13 – Bank Stabilization
- NWP 14 – Linear Transportation Projects
- NWP 23 – Approved Categorical Exclusions
- NWP 29 – Residential Developments
- NWP 39 – Commercial and Institutional Developments
- NWP 40 – Agricultural Activities
- NWP 41 – Reshaping Existing Drainage Ditches
- NWP 42 – Recreational Facilities
- NWP 43 – Stormwater and Wastewater Management Facilities

5. Bank Stabilization: All projects including new or maintenance bank stabilization activities require PCN to the Corps of Engineers (see NWP general condition 32). For new bank stabilization projects only, the following must be submitted to the Corps of Engineers:

- a. The cause of the erosion and the distance of any existing structures from the area(s) being stabilized.
- b. The type and length of existing bank stabilization within 300 feet of the proposed project.
- c. A description of current conditions and expected post-project conditions in the waterbody.
- d. A statement describing how the project incorporates elements avoiding and minimizing adverse environmental effects to the aquatic environment and nearshore riparian area, including vegetation impacts in the waterbody.

In addition to a. through d., the results from any relevant geotechnical investigations can be submitted with the PCN if it describes current or expected conditions in the waterbody.

6. Crossings of Waters of the United States: Any project including installing, replacing, or modifying crossings of waters of the United States, such as culverts or bridges, requires submittal of a PCN to the

Corps of Engineers (see NWP general condition 32). If a culvert is proposed to cross waters of the U.S. where salmonid species are present or could be present, the project must apply the stream simulation design method from the Washington Department of Fish and Wildlife located in the *Water Crossing Design Guidelines* (2013), or a design method which provides passage at all life stages at all flows where the salmonid species would naturally seek passage. If the stream simulation design method is not applied for a culvert where salmonid species are present or could be present, the project proponent must provide a rationale in the PCN sufficient to establish one of the following:

- a. The existence of extraordinary site conditions.
- b. How the proposed design will provide equivalent or better fish passage and fisheries habitat benefits than the stream simulation design method.

If a culvert is proposed to cross waters of the U.S. where salmonid species are present or could be present, project proponents must provide a monitoring plan with the PCN that specifies how the proposed culvert will be assessed over a five-year period from the time of construction completion to ensure its effectiveness in providing passage at all life stages at all flows where the salmonid species would naturally seek passage. Culverts installed under emergency authorization that do not meet the above design criteria will be required to meet the above design criteria to receive an after-the-fact nationwide permit verification.

7. Stream Loss: A PCN is required for all activities that result in the loss of any linear feet of stream beds. No activity shall result in the loss of any linear feet of perennial stream beds or the loss of greater than 300 linear feet of intermittent and/or ephemeral stream beds. A stream may be rerouted if it is designed in a manner that maintains or restores hydrologic, ecologic, and geomorphic stream processes, provided there is not a reduction in the linear feet of stream bed. Streams include brooks, creeks, rivers, and historical waters of the U.S. that have been channelized into ditches. This condition does not apply to ditches constructed in uplands. Stream loss restrictions may be waived by the district engineer on a case-by-case basis provided the activities result in net increases of aquatic resource functions and services.

8. Mitigation: Pre-construction notification is required for any project that will result in permanent wetland losses that exceed 1,000 square feet. In addition to the requirements of General Condition 23 (Mitigation), compensatory mitigation at a minimum one-to-one ratio will be required for all permanent wetland losses that exceed 1,000 square feet. When a PCN is required for wetland losses less than 1,000 square feet, the Corps of Engineers may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation for impacts to marine waters, lakes, and streams will be determined on a case-by-case basis. If temporary impacts to waters of the U.S. exceed six months, the Corps of Engineers may require compensatory mitigation for temporal effects.

9. Magnuson-Stevens Fishery Conservation and Management Act – Essential Fish Habitat

Essential Fish Habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. If EFH may be adversely affected by a proposed activity, the prospective permittee must provide a written EFH assessment with an analysis of the effects of the proposed action on EFH. The assessment must identify the type(s) of essential fish habitat (i.e., Pacific salmon, groundfish, and/or coastal-pelagic species) that may be affected. If the Corps of Engineers determines the project will adversely affect EFH, consultation with NOAA Fisheries will be required. Federal agencies should follow their own procedures for complying with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. If PCN is required for the proposed activity, Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

10. Forage Fish: For projects in forage fish spawning habitat, in-water work must occur within designated forage fish work windows, or when forage fish are not spawning. If working outside of a designated work window, or if forage fish work windows are closed year round, work may occur if the

work window restriction is released for a period of time after a forage fish spawning survey has been conducted by a biologist approved by the Washington State Department of Fish and Wildlife (WDFW). Forage fish species with designated in-water work windows include Pacific sand lance (*Ammodytes hexapterus*), Pacific herring (*Clupea pallasii*), and surf smelt (*Hypomesus pretiosus*). This RGC does not apply to NWP 48, *Commercial Shellfish Aquaculture Activities*. Please see specific regional conditions for NWP 48.

11. Notification of Permit Requirements: The permittee must provide a copy of the nationwide permit authorization letter, conditions, and permit drawings to all contractors and any other parties performing the authorized work prior to the commencement of any work in waters of the U.S. The permittee must ensure all appropriate contractors and any other parties performing the authorized work at the project site have read and understand relevant NWP conditions as well as plans, approvals, and documents referenced in the NWP letter. A copy of these documents must be maintained onsite throughout the duration of construction.

12. Construction Boundaries: Permittees must clearly mark all construction area boundaries before beginning work on projects that involve grading or placement of fill. Boundary markers and/or construction fencing must be maintained and clearly visible for the duration of construction. Permittees should avoid and minimize removal of native vegetation (including submerged aquatic vegetation) to the maximum extent possible.

13. Temporary Impacts and Site Restoration

- a. Temporary impacts to waters of the U.S. must not exceed six months unless the prospective permittee requests and receives a waiver by the district engineer. Temporary impacts to waters of the U.S. must be identified in the PCN.
- b. No more than 1/2 acre of waters of the U.S. may be temporarily filled unless the prospective permittee requests and receives a waiver from the district engineer (temporary fills do not affect specified limits for loss of waters associated with specific nationwide permits).
- c. Native soils removed from waters of the U.S. for project construction should be stockpiled and used for site restoration. Restoration of temporarily disturbed areas must include returning the area to pre-project ground surface contours. If native soil is not available from the project site for restoration, suitable clean soil of the same textural class may be used. Other soils may be used only if identified in the PCN.
- d. The permittee must revegetate disturbed areas with native plant species sufficient in number, spacing, and diversity to restore affected functions. A maintenance and monitoring plan commensurate with the impacts, may be required. Revegetation must begin as soon as site conditions allow within the same growing season as the disturbance unless the schedule is approved by the Corps of Engineers. Native plants removed from waters of the U.S. for project construction should be stockpiled and used for revegetation when feasible. Temporary Erosion and Sediment Control measures must be removed as soon as the area has established vegetation sufficient to control erosion and sediment.
- e. If the Corps determines the project will result in temporary impacts of submerged aquatic vegetation (SAV) that are more than minimal, a monitoring plan must be submitted. If recovery is not achieved by the end of the monitoring period, contingencies must be implemented, and additional monitoring will be required.

This RGC does not apply to NWP 48, *Commercial Shellfish Aquaculture Activities*. Please see specific regional conditions for NWP 48.

D. CORPS REGIONAL SPECIFIC CONDITIONS FOR THIS NWP:

1. A pre-construction notification (PCN) must be submitted to the district engineer (see NWP general condition 32) for any proposed project located in a Department of the Army permit compensatory mitigation site, Comprehensive Environmental Response, Compensation and Liability Act (Superfund)

site, Resource Conservation and Recovery Act hazardous waste clean-up site, Washington State Department of Ecology compensatory mitigation site, or Washington State Model Toxics Control Act clean-up site.

2. For projects subject to PCN, if there is a loss of waters of the U.S., the project proponent must explain in the PCN why the loss is necessary and show how it would be fully offset by the beneficial elements of the project.
3. The PCN must contain a description of pre-project site conditions (including photographs), aquatic functions the site provides, and benefits anticipated from project construction.
4. The project proponent must include maintenance and monitoring plans with the PCN.
5. Restoration projects involving shellfish seeding must use shellfish native to the watershed.

E. ECOLOGY 401 CERTIFICATION: GENERAL CONDITIONS

In addition to all the Corps National and Seattle Districts' Regional permit conditions, the following State General Section 401 Water Quality Certification (Section 401) conditions apply to all Nationwide Permits whether **certified** or **partially certified** in the State of Washington.

1. **For in-water construction activities.** Ecology Section 401 review is required for projects or activities authorized under NWPs that will cause, or may be likely to cause or contribute to an exceedance of a State water quality standard (Chapter 173-201A WAC) or sediment management standard (Chapter 173-204 WAC). State water quality standards and sediment management standards are available on Ecology's website. Note: In-water activities include any activity within a wetland and/or activities below the ordinary high water mark (OHWM).
2. **Projects or Activities Discharging to Impaired Waters.** Ecology Section 401 review is required for projects or activities authorized under NWPs if the project or activity will occur in a 303(d) listed segment of a waterbody or upstream of a listed segment and may result in further exceedances of the specific listed parameter. To determine if your project or activity is in a 303(d) listed segment of a waterbody, visit Ecology's Water Quality Assessment webpage for maps and search tools.
3. **Application.** For projects or activities that will require Ecology Section 401 review, applicants must provide Ecology with a Joint Aquatic Resources Permit Application (JARPA) along with the documentation provided to the Corps, as described in National General Condition 32, Pre-Construction Notification, including, when applicable: (a) A description of the project, including site plans, project purpose, direct and indirect adverse environmental effects the project would cause, best management practices (BMPs), and any other Department of the Army or federal agency permits used or intended to be used to authorize any part of the proposed project or any related activity. (b) Drawings indicating the Ordinary High Water Mark (OHWM), delineation of special aquatic sites and other waters of the state. Wetland delineations must be prepared in accordance with the current method required by the Corps and shall include Ecology's Wetland Rating form. Wetland rating forms are subject to review and verification by Ecology staff. Guidance for determining the OHWM is available on Ecology's website. (c) A statement describing how the mitigation requirement will be satisfied. A conceptual or detailed mitigation or restoration plan may be submitted. See State General Condition 5 for details on mitigation requirements. (d) Other applicable requirements of Corps Nationwide Permit General Condition 32, Corps Regional Conditions, or notification conditions of the applicable NWP. (e) Within 180 calendar days from receipt of applicable documents noted above **and** a copy of the final authorization letter from the Corps providing coverage for a proposed project or activity under the NWP Program Ecology will provide the applicant notice of whether an individual Section 401 will be required for the project. If

Ecology fails to act within a year after receipt of **both** of these documents, Section 401 is presumed waived.

4. Aquatic resources requiring special protection. Certain aquatic resources are unique, difficult-to-replace components of the aquatic environment in Washington State. Activities that would affect these resources must be avoided to the greatest extent possible. Compensating for adverse impacts to high value aquatic resources is typically difficult, prohibitively expensive, and may not be possible in some landscape settings. Ecology Section 401 review is required for activities in or affecting the following aquatic resources (and not prohibited by Seattle District Regional General Condition): (a) Wetlands with special characteristics (as defined in the Washington State Wetland Rating Systems for western and eastern Washington, Ecology Publications #14-06-029 and #14-06-030):

- Estuarine wetlands.
- Wetlands of High Conservation Value.
- Bogs.
- Old-growth and mature forested wetlands.
- Wetlands in coastal lagoons.
- Interdunal wetlands.
- Vernal pools.
- Alkali wetlands.

(b) Fens, aspen-dominated wetlands, camas prairie wetlands. (c) Marine water with eelgrass (*Zostera marina*) beds (except for NWP 48). (d) Category I wetlands. (e) Category II wetlands with a habitat score ≥ 8 points. This State General Condition does not apply to the following Nationwide Permits: NWP 20 – *Response Operations for Oil and Hazardous Substances*, NWP 32 – *Completed Enforcement Actions*

5. Mitigation. Applicants are required to show that they have followed the mitigation sequence and have first avoided and minimized impacts to aquatic resources wherever practicable. For projects requiring Ecology Section 401 review with unavoidable impacts to aquatic resources, adequate compensatory mitigation must be provided.

(a) Wetland mitigation plans submitted for Ecology review and approval shall be based on the most current guidance provided in Wetland Mitigation in Washington State, Parts 1 and 2 (available on Ecology's website) and shall, at a minimum, include the following:

- i. A description of the measures taken to avoid and minimize impacts to wetlands and other waters of the U.S.
- ii. The nature of the proposed impacts (i.e., acreage of wetlands and functions lost or degraded).
- iii. The rationale for the mitigation site that was selected.
- iv. The goals and objectives of the compensatory mitigation project.
- v. How the mitigation project will be accomplished, including construction sequencing, best management practices to protect water quality, proposed performance standards for measuring success and the proposed buffer widths.
- vi. How it will be maintained and monitored to assess progress towards goals and objectives. Monitoring will generally be required for a minimum of five years. For forested and scrub-shrub wetlands, 10 years of monitoring will often be necessary.
- vii. How the compensatory mitigation site will be legally protected for the long term.

Refer to Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Ecology Publication #06-06-011b) and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publications #09-06-032 (Western Washington) and #10-06-007 (Eastern Washington)) for guidance on selecting suitable mitigation sites and developing mitigation plans. Ecology encourages the use of alternative mitigation approaches, including credit/debit methodology, advance mitigation, and other programmatic approach such as mitigation banks and in-lieu fee programs. If you are interested in proposing use of an alternative mitigation approach, consult with the appropriate Ecology regional staff person. Information on alternative mitigation approaches is available on Ecology's website.

(b) Mitigation for other aquatic resource impacts will be determined on a case-by-case basis.

6. Temporary Fills. Ecology Section 401 review is required for any project or activity with temporary fill in wetlands or other waters of the state for more than 90 days, unless the applicant has received written approval from Ecology. Note: This State General Condition does not apply to projects or activities authorized under NWP 33, *Temporary Construction, Access, and Dewatering*

7. Stormwater pollution prevention: All projects that involve land disturbance or impervious surfaces must implement stormwater pollution prevention or control measures to avoid discharge of pollutants in stormwater runoff to waters of the State.

(a) For land disturbances during construction, the applicant must obtain and implement permits (e.g., Construction Stormwater General Permit) where required and follow Ecology's current stormwater manual.

(b) Following construction, prevention or treatment of on-going stormwater runoff from impervious surfaces shall be provided. Ecology's Stormwater Management and Design Manuals and stormwater permit information are available on Ecology's website.

8. State Section 401 Review for PCNs not receiving 45-day response from the Seattle District. In the event the Seattle District Corps does not issue a NWP authorization letter within 45 calendar days of receipt of a **complete** pre-construction notification, the applicant must contact Ecology for Section 401 review prior to commencing work.

F. ECOLOGY 401 CERTIFICATION: SPECIFIC CONDITIONS FOR THIS NWP:

Certified subject to conditions. Ecology Section 401 review is required for projects or activities authorized under this NWP if:

1. The project or activity involves fill in tidal waters.
2. The project or activity affects ½ acre or more of wetlands.
3. The project or activity is a mitigation bank or an advanced mitigation site.

The project or activity is in or adjoining a known contaminated or cleanup site.

G. COASTAL ZONE MANAGEMENT CONSISTENCY RESPONSE FOR THIS NWP:

(Note: This only applies in the following counties: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum and Whatcom)

Response: Ecology concurs that this NWP is consistent with the CZMP, subject to the following condition: An individual Coastal Zone Management Consistency Determination is required for project or activities under this NWP if State Section 401 review is required.

General Conditions: For Non-Federal Permittees

1. Necessary Data and Information. A Coastal Zone Management Program "Certification of Consistency" form is required for projects located within a coastal county. "Certification of Consistency" forms are available on Ecology's website. The form shall include a description of the proposed project or activity and evidence of compliance with the applicable enforceable policies of the Washington Coastal Zone Management Program (CZMP). Also, a map of the site location is required.

2. Timing. Within 6 months from receipt of the necessary data and information, Ecology will provide a federal consistency determination for the proposed project or activity. If Ecology fails to act within the 6 month period, concurrence with the CZMP is presumed.

General Conditions: For Federal Permittees (Agencies)

1. Necessary Data and Information. Federal agencies shall submit the determination, information, and analysis required by 15 CFR 930.39 to obtain a federal consistency determination.

2. Timing. Within 60 days from receipt of the necessary data and information, Ecology will provide a federal consistency determination for the proposed project or activity. If Ecology fails to act within the 60 day period, concurrence with the CZMP is presumed.



HYDRAULIC PROJECT APPROVAL

Washington Department of
Fish & Wildlife
PO Box 43234
Olympia, WA 98504-3234
(360) 902-2200

Issued Date: August 04, 2021
Project End Date: March 28, 2026

Permit Number: 2021-2-37+02
FPA/Public Notice Number: N/A
Application ID: 24570

PERMITTEE	AUTHORIZED AGENT OR CONTRACTOR
Chelan County Natural Resource Department ATTENTION: Mike Kaputa 411 Washington St., Suite 201 Wenatchee, WA 98801	Chelan County Natural Resource Department ATTENTION: Erin McKay 411 Washington St., Suite 201 Wenatchee, WA 98801

Project Name: Lower Icicle Bioengineered Bank Stabilization and Riparian Planting Project

Project Description: The project consists of planting a minimum 75' riparian buffer along ~800' of denuded stream bank, and selective grading of the over-steepened stream bank to allow overtopping of the bank at 5 yr and higher flows instead of undercutting and rapidly eroding the bank. Placement of engineered log jams (ELJs) will deflect erosive hydraulic forces from the toe and planted areas during 1-5 year flows. 6 structures in 3 different configurations will be placed in the central project area with excavators working in isolated and dewatered conditions. The lower half of the project area will be heavily planted with native riparian species. Rip rap boulders that currently exist in the middle of the Icicle channel will be repositioned and integrated into boulder clusters around the wood structures to provide additional toe protection and encourage deeper thalweg formation in the main channel. A planting matrix will be installed within the wood structures and in soil lifts between structures.
For mitigation to impacts on river recreation on the Lower Icicle, a series of 10-12 old vertical wood pilings located just upstream of the East Leavenworth boat ramp in the Wenatchee River, about 1.2 miles downstream from the project area, will be removed using a vibratory attachment on an excavator.

PROVISIONS

TIMING - PLANS - INVASIVE SPECIES CONTROL

- 1. TIMING LIMITATION:** You may begin the project immediately and you must complete the project by March 28, 2026; provided in-stream work only occurs during July 1 - August 12 in Icicle Creek and in-stream work may occur July 15-September 30 in the Wenatchee River.
- 2. APPROVED PLANS:** You must accomplish the work per plans and specifications submitted with the application and approved by the Washington Department of Fish and Wildlife, entitled FROMM_60%.11x17.pdf, dated 12/14/2020, except as modified by this Hydraulic Project Approval. You must have a copy of these plans available on site during all phases of the project construction.
- 3. INVASIVE SPECIES CONTROL:** Follow Method 1 for low risk locations (i.e. clean/drain/dry). Thoroughly remove visible dirt and debris from all equipment and gear (including drive mechanisms, wheels, tires, tracks, buckets, and undercarriage) before arriving and leaving the job site to prevent the transport and introduction of invasive species. For contaminated or high risk sites please refer to the Method 2 Decontamination protocol. Properly dispose of any water and chemicals used to clean gear and equipment. You can find this and additional information in the Washington Department of Fish and Wildlife's "Invasive Species Management Protocols", available online at <https://wdfw.wa.gov/species-habitats/invasive/prevention>.

NOTIFICATION REQUIREMENTS



HYDRAULIC PROJECT APPROVAL

Washington Department of
Fish & Wildlife
PO Box 43234
Olympia, WA 98504-3234
(360) 902-2200

Issued Date: August 04, 2021
Project End Date: March 28, 2026

Permit Number: 2021-2-37+02
FPA/Public Notice Number: N/A
Application ID: 24570

4. **PRE-CONSTRUCTION CONTRACTOR MEETING:** You, your agent, or contractor must contact the Washington Department of Fish and Wildlife by e-mail at HPAapplications@dfw.wa.gov; mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least fourteen business days before starting work to arrange a pre-construction contractor meeting onsite. The notification must include the permittee's name, project location, starting date, and the Hydraulic Project Approval permit number.

5. **PRE- AND POST-CONSTRUCTION NOTIFICATION:** You, your agent, or contractor must contact the Washington Department of Fish and Wildlife by e-mail at HPAapplications@dfw.wa.gov; mail to Post Office Box 43234, Olympia, Washington 98504-3234; or fax to (360) 902-2946 at least three business days before starting work, and again within seven days after completing the work. The notification must include the permittee's name, project location, starting date for work or date the work was completed, and the permit number. The Washington Department of Fish and Wildlife may conduct inspections during and after construction; however, the Washington Department of Fish and Wildlife will notify you or your agent before conducting the inspection.

6. **PHOTOGRAPHS:** You, your agent, or contractor must take photographs of the job site before the work begins and after the work is completed. You must upload the photographs to the post-permit requirement page in the Aquatic Protection Permitting System (APPS) or mail them to Washington Department of Fish and Wildlife at Post Office Box 43234, Olympia, Washington 98504-3234 within 30-days after the work is completed.

7. **FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION:** If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the Washington Department of Fish and Wildlife of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington Military Department Emergency Management Division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the Washington Department of Fish and Wildlife gives approval. The Washington Department of Fish and Wildlife may require additional measures to mitigate impacts.

STAGING, JOB SITE ACCESS, AND EQUIPMENT

8. Establish staging areas (used for equipment storage, vehicle storage, fueling, servicing, and hazardous material storage) in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

9. Use existing roadways or travel paths.

10. This Hydraulic Project Approval authorizes the construction of no more than one new temporary access road.

11. Design and locate new temporary access roads to prevent erosion and sediment delivery to waters of the state.

12. Clearly mark boundaries to establish the limit of work associated with site access and construction.

13. Limit the removal of native bankline vegetation to the minimum amount needed to construct the project.

14. Retain all natural habitat features on the bed or banks including large woody material and boulders. You may move these natural habitat features during construction but you must place them near the preproject location before leaving the job site.

15. Confine the use of equipment to the specific access and work corridor shown in the approved plans.

16. Remove soil or debris from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to operating the equipment waterward of the ordinary high water line.

17. If wet or muddy conditions exist, in or near a riparian zone or wetland area, use equipment that reduces ground pressure.

18. Check equipment daily for leaks and complete any required repairs in an upland location before using the equipment in or near the water.

19. Use environmentally acceptable lubricants composed of biodegradable base oils such as vegetable oils, synthetic esters, and polyalkylene glycols in equipment operated in or near the water. For the piling removal portion of the project



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in the Wenatchee River only, WDFW waives this requirement for this small project that has minimal use of equipment in or near the water since the duration of the project is forty-eight hours or less.

20. This Hydraulic Project Approval does not authorize equipment crossings of the stream.

CONSTRUCTION-RELATED SEDIMENT, EROSION AND POLLUTION CONTAINMENT

21. Work in the dry watercourse (when no natural flow is occurring in the channel, or when flow is diverted around the job site).

22. Protect all disturbed areas from erosion. Maintain erosion and sediment control until all work and cleanup of the job site is complete.

23. All erosion control materials that will remain onsite must be composed of 100% biodegradable materials.

24. Straw used for erosion and sediment control, must be certified free of noxious weeds and their seeds.

25. Stop all hydraulic project activities except those needed to control erosion and siltation, if flow conditions arise that will result in erosion or siltation of waters of the state.

26. Prevent project contaminants, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.

27. Route construction water (wastewater) from the project to an upland area above the limits of anticipated floodwater. Remove fine sediment and other contaminants before discharging the construction water to waters of the state.

28. Deposit waste material from the project, such as construction debris, silt, excess dirt, or overburden, in an upland area above the limits of anticipated floodwater unless the material is approved by the Washington Department of Fish and Wildlife for reuse in the project.

29. Deposit all trash from the project at an appropriate upland disposal location.

CONSTRUCTION MATERIALS

30. Store all construction and deconstruction material in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

31. Do not stockpile construction material waterward of the ordinary high water line.

32. Use only clean, suitable material as fill material (no trash, debris, car bodies, tires, asphalt, concrete, etc.).

33. Do not use wood treated with oil-type preservatives (creosote, pentachlorophenol) in any hydraulic project. You may use wood treated with waterborne preservatives (ACZA, ACQ) provided the wood is approved by the Western Wood Preservers Institute for use in the aquatic environment. Any use of treated wood in the aquatic environment must follow guidelines and best management practices available at www.wwpinstitute.org.

IN-WATER WORK AREA ISOLATION USING A COFFERDAM STRUCTURE (Icicle Creek Bioengineered Bank Protection)

34. Use a cofferdam, dike, or similar structure to exclude water from the work area.

35. Maintain water quality when installing and removing the cofferdam, dike or similar structure.

36. Install the cofferdam, dike or similar structure and remove fish prior to the start of other work in the wetted perimeter.

37. Route the construction water (wastewater) from the project to an upland area above the limits of anticipated floodwater. Remove fine sediment and other contaminants before discharging the construction water to waters of the state.

38. Sequence the work to minimize the duration of dewatering.

IN-WATER WORK WITHOUT A BYPASS OR COFFERDAM (For Wenatchee River Piling Removal Only)



HYDRAULIC PROJECT APPROVAL

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Permit Number: 2021-2-37+02
FPA/Public Notice Number: N/A
Application ID: 24570

39. This Hydraulic Project Approval does not require the use of a cofferdam, bypass, or similar structure to separate the work area from waters of the state.

40. A temporary bypass is not required when the following circumstances exist, provided you can comply with the Hydraulic Project Approval provisions:

- a) When installing a coffer dam, bypass or similar structure would cause greater impacts to fish life than it would prevent;
- b) When the work area is in deep or swiftly flowing water;
- c) When turbidity is not a concern (i.e. the stream is dry, very slow flow);
- d) When fish can be excluded by nets or screens; or
- e) When fish are not present.

FISH LIFE REMOVAL

41. All persons participating in capture and removal must have training, knowledge, and skills in the safe handling of fish life.

42. If electrofishing is conducted, a person with electrofishing training must be on-site to conduct or direct all electrofishing activities.

43. If personnel are available, the Washington Department of Fish and Wildlife and affected tribes may help capture and move fish life from the job site.

44. Capture and safely move fish life from the work area to the nearest suitable free-flowing water.

STREAM BANK PROTECTION

45. Establish the waterward distance of the structure from a permanent benchmark(s) (fixed objects) shown on the approved plans. Locate and mark the benchmark(s) in the field prior to the start of work. Protect the benchmark to serve as a post-project reference for ten years.

46. Place large wood or other materials consistent with natural stream processes waterward of the ordinary high water line as shown in the approved plans.

47. Install the toe to protect the integrity of bank protection material.

48. Use fir, cedar, or other coniferous species to construct the log or rootwad fish habitat structure(s).

49. Do not release overburden material into the waters of the state when resloping the bank.

50. Do not use bed gravel for exterior armor or backfill unless approved by the Washington Department of Fish and Wildlife.

51. Place bank protection or shoreline stabilization material and biodegradable filter blanket material from the bank or a barge. Dumping material onto the bank face may occur only if the toe is established and the material can be confined to the bank face.

52. Avoid damaging existing vegetation when placing bank protection material.

PILING REMOVAL

53. Remove the 10-12 existing creosote pilings and dispose of them in an approved upland location.

54. Piling removal:

- a. Vibratory or direct pull extraction is the preferred method of pile removal.
- b. Place the piling on a construction barge or other dry storage site after the piling is removed. The piling must not be shaken, hosed off, left hanging to dry or any other action intended to clean or remove adhering material from the piling near waters of the state.
- c. If a treated wood piling breaks during extraction, remove the stump from the water column by fully extracting. If the stump cannot be fully extracted, remove the remainder of the stump with a clamshell bucket, chain, or similar means,



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or cut it off three feet below the mudline. Cap all buried cut stumps and fill holes left by piling extraction with clean sediment that matches the native material.

d. When removing creosote piling, containment booms and absorbent booms (or other oil absorbent fabric) must be placed around the perimeter of the work area to capture wood debris, oil, and other materials released into the Wenatchee River as a result of construction activities to remove creosote pilings. All debris on the bed and accumulated in containments structures must be collected and disposed upland at an approved disposal site.

e. Submit post-project surveys (e.g., underwater video, photos during low-flow conditions) along transects within the project area to Washington Department of Fish and Wildlife within two weeks of pile removal to verify debris removal.

DEMOBILIZATION AND CLEANUP

55. Before the end of the in-water work period specified in the "timing limitations" provision, abandon temporary roads in wet or flood-prone areas.

56. Upon completion of the project, restore the disturbed bed, banks, and riparian zone to preproject condition to the extent possible.

57. Restore bed and bank elevations and contours to preproject condition.

58. To prevent fish from stranding, backfill trenches, depressions, and holes in the bed that may entrain fish during high water or wave action.

59. Seed areas disturbed by construction activities with a native seed mix suitable for the site that has at least one quick-establishing plant species.

60. Replace native riparian zone and aquatic vegetation, and wetland vascular plants (except noxious weeds) damaged or destroyed by construction using a proven methodology.

61. Replant the job site with the plant species composition and planting densities approved by the Washington Department of Fish and Wildlife.

62. Complete replanting of riparian vegetation during the first dormant season (late fall through late winter) after project completion per the approved plan. Maintain plantings for at least three years to ensure at least eighty percent of the plantings survive. Failure to achieve the eighty percent survival in year three will require you to submit a plan with follow-up measures to achieve requirements or reasons to modify requirements.

63. Install fencing or other structures to prevent livestock, wildlife, or unauthorized persons from accessing the replanted riparian and wetland sites until the plantings are well established.

64. Remove temporary erosion and sediment control methods after job site is stabilized or within three months of project completion, whichever is sooner.

LOCATION #1:	Site Name: Fromm Property Unassigned, East Leavenworth Road, Leavenworth, WA 98826					
WORK START:	March 31, 2021			WORK END:	March 28, 2026	
<u>WRIA</u>		<u>Waterbody:</u>			<u>Tributary to:</u>	
45 - Wenatchee		Icicle Creek (rb)			Wenatchee River	
<u>1/4 SEC:</u>	<u>Section:</u>	<u>Township:</u>	<u>Range:</u>	<u>Latitude:</u>	<u>Longitude:</u>	<u>County:</u>
SW 1/4	13	24 N	17 E	47.580181	-120.663506	Chelan
<u>Location #1 Driving Directions</u>						



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Application ID: 24570

From the intersection of Hwy 97 and Hwy 2, head west to Leavenworth. Turn left onto East Leavenworth Road in Leavenworth. Drive approximately 1.5 miles, passing a large open field on the right. Turn right into the driveway just past the open field and drive past the house to a gate. Park and walk around the gate toward the river. Walk downstream about 200 yards to the project area.

LOCATION #2:	Site Name: East Leavenworth Boat Ramp 9556 East Leavenworth Road, Leavenworth, WA 98826					
WORK START:	March 31, 2021			WORK END:	March 28, 2026	
WRIA	Waterbody:			Tributary to:		
45 - Wenatchee	Wenatchee River (rb)			Columbia River		
1/4 SEC:	Section:	Township:	Range:	Latitude:	Longitude:	County:
Center	12	24 N	17 E	47.573933	-120.661036	Chelan
Location #2 Driving Directions						

From Hwy 2 head west into the town of Leavenworth. Turn left onto East Leavenworth Road. Drive approximately .5 miles, look for sign for river access on right. Turn right into the parking area for the boat ramp.

APPLY TO ALL HYDRAULIC PROJECT APPROVALS

This Hydraulic Project Approval pertains only to those requirements of the Washington State Hydraulic Code, specifically Chapter 77.55 RCW. Additional authorization from other public agencies may be necessary for this project. The person(s) to whom this Hydraulic Project Approval is issued is responsible for applying for and obtaining any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

This Hydraulic Project Approval shall be available on the job site at all times and all its provisions followed by the person (s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work.

This Hydraulic Project Approval does not authorize trespass.

The person(s) to whom this Hydraulic Project Approval is issued and operator(s) performing the work may be held liable for any loss or damage to fish life or fish habitat that results from failure to comply with the provisions of this Hydraulic Project Approval.

Failure to comply with the provisions of this Hydraulic Project Approval could result in civil action against you, including, but not limited to, a stop work order or notice to comply, and/or a gross misdemeanor criminal charge, possibly punishable by fine and/or imprisonment.

All Hydraulic Project Approvals issued under RCW 77.55.021 are subject to additional restrictions, conditions, or revocation if the Department of Fish and Wildlife determines that changed conditions require such action. The person(s) to whom this Hydraulic Project Approval is issued has the right to appeal those decisions. Procedures for filing appeals are listed below.



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MINOR MODIFICATIONS TO THIS HPA: You may request approval of minor modifications to the required work timing or to the plans and specifications approved in this HPA unless this is a General HPA. If this is a General HPA you must use the Major Modification process described below. Any approved minor modification will require issuance of a letter documenting the approval. A minor modification to the required work timing means any change to the work start or end dates of the current work season to enable project or work phase completion. Minor modifications will be approved only if spawning or incubating fish are not present within the vicinity of the project. You may request subsequent minor modifications to the required work timing. A minor modification of the plans and specifications means any changes in the materials, characteristics or construction of your project that does not alter the project's impact to fish life or habitat and does not require a change in the provisions of the HPA to mitigate the impacts of the modification. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a minor modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you did not use APPS you must submit a written request that clearly indicates you are seeking a minor modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234, or by email to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

MAJOR MODIFICATIONS TO THIS HPA: You may request approval of major modifications to any aspect of your HPA. Any approved change other than a minor modification to your HPA will require issuance of a new HPA. If you originally applied for your HPA through the online Aquatic Protection Permitting System (APPS), you may request a major modification through APPS. A link to APPS is at <http://wdfw.wa.gov/licensing/hpa/>. If you did not use APPS you must submit a written request that clearly indicates you are requesting a major modification to an existing HPA. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the APP ID number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA, the reason for the requested change, the date of the request, and the requestor's signature. Send your written request by mail to: Washington Department of Fish and Wildlife, PO Box 43234, Olympia, Washington 98504-3234. You may email your request for a major modification to HPAapplications@dfw.wa.gov. You should allow up to 45 days for the department to process your request.

APPEALS INFORMATION

If you wish to appeal the issuance, denial, conditioning, or modification of a Hydraulic Project Approval (HPA), Washington Department of Fish and Wildlife (WDFW) recommends that you first contact the department employee who issued or denied the HPA to discuss your concerns. Such a discussion may resolve your concerns without the need for further appeal action. If you proceed with an appeal, you may request an informal or formal appeal. WDFW encourages you to take advantage of the informal appeal process before initiating a formal appeal. The informal appeal process includes a review by department management of the HPA or denial and often resolves issues faster and with less legal complexity than the formal appeal process. If the informal appeal process does not resolve your concerns, you may advance your appeal to the formal process. You may contact the HPA Appeals Coordinator at (360) 902-2534 for more information.

A. INFORMAL APPEALS: WAC 220-660-460 is the rule describing how to request an informal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete informal appeal procedures. The following information summarizes that rule.



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Permit Number: 2021-2-37+02
FPA/Public Notice Number: N/A
Application ID: 24570

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request an informal appeal of that action. You must send your request to WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. WDFW must receive your request within 30 days from the date you receive notice of the decision. If you agree, and you applied for the HPA, resolution of the appeal may be facilitated through an informal conference with the WDFW employee responsible for the decision and a supervisor. If a resolution is not reached through the informal conference, or you are not the person who applied for the HPA, the HPA Appeals Coordinator or designee may conduct an informal hearing or review and recommend a decision to the Director or designee. If you are not satisfied with the results of the informal appeal, you may file a request for a formal appeal.

B. FORMAL APPEALS: WAC 220-660-470 is the rule describing how to request a formal appeal of WDFW actions taken under Chapter 77.55 RCW. Please refer to that rule for complete formal appeal procedures. The following information summarizes that rule.

A person who is aggrieved by the issuance, denial, conditioning, or modification of an HPA may request a formal appeal of that action. You must send your request for a formal appeal to the clerk of the Pollution Control Hearings Boards and serve a copy on WDFW within 30 days from the date you receive notice of the decision. You may serve WDFW by mail to the HPA Appeals Coordinator, Department of Fish and Wildlife, Habitat Program, PO Box 43234, Olympia, Washington 98504-3234; e-mail to HPAapplications@dfw.wa.gov; fax to (360) 902-2946; or hand-delivery to the Natural Resources Building, 1111 Washington St SE, Habitat Program, Fifth floor. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, you may request a formal appeal within 30 days from the date you receive the Director's or designee's written decision in response to the informal appeal.

C. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS: If there is no timely request for an appeal, the WDFW action shall be final and unappealable.

Habitat Biologist
Amanda Barg
Amanda.Barg@dfw.wa.gov
509-429-9285

Amanda R Barg for Director
WDFW



AQUATIC LANDS CONSERVATION LICENSE

License No. 23-101902

THIS AGREEMENT is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources (“State”), and Chelan County Natural Resources Department, a Washington Municipality (“Licensee”).

THE Parties agree as follows:

SECTION 1 GRANT OF PERMISSION

1.1 Permission. Subject to the terms and conditions set forth below, State grants Licensee a revocable, nonexclusive license to enter upon the real property described in Exhibit A (the “Property”). In this agreement, the term “License” means this agreement and the rights granted.

1.2 Other Interests and Rights. This License is subject to all valid interests of third parties noted in the records of Chelan County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington. Licensee is responsible for obtaining approvals from other persons, if any, who have an interest in the Property. This License is subject to the rights of the public under the Public Trust Doctrine or federal navigation servitude and treaty rights of Indian Tribes.

SECTION 2 USE

2.1 Authorized Activities.

(a) Licensee shall enter the Property only for the purpose of:

conducting the conservation activities described in Exhibit B (the “Activities”)

and for no other purpose. Licensee shall not conduct any other activities on the Property without the prior written permission of State.

- (b) **Warranties on Activities.**
 - (1) Licensee warrants that no permit, law, or regulatory authority obligates Licensee to conduct the Activities.
 - (2) Licensee warrants that Licensee will not receive or gain compensatory mitigation or natural resource damage credits because of the Activities.
- (c) Licensee's breach of any warranty under Paragraph 2.1(b) is cause for Termination resulting from breach under Paragraph 9.3.
- (d) **Restoration of Property Required Under Certain Conditions.**
 - (1) If during the term of this License, the Activities cause unintended or unanticipated consequences that are deleterious to the Property or natural resources on the Property, or result in conditions that pose a threat to human health or safety, Licensee shall notify DNR immediately and make all necessary repairs or corrections to the natural resources and Property.
 - (2) If Licensee fails to take action in a timely manner, State may restore the natural resources or Property and charge Licensee restoration costs and/or charge Licensee for damages. On demand by State, Licensee shall pay all costs and/or damages.

2.2 Restrictions on Activities. The following limitations apply to the Property and adjacent state-owned aquatic land. Licensee shall not cause or permit:

- (a) Damage to natural resources,
- (b) Waste, or
- (c) Deposit of material, unless approved by State in writing. This prohibition includes deposit of fill, rock, earth, ballast, wood waste, refuse, garbage, waste matter, pollutants of any type, or other matter.

2.3 Conformance with Laws. Licensee shall keep current and comply with all conditions and terms of any permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding its activities on the Property.

2.4 Interference with Other Uses.

- (a) Licensee shall exercise Licensee's right of entry under this License in a manner that minimizes or avoids interference with the rights of State, the public or others with valid right to use or occupy the Property or surrounding lands and water.
- (b) Licensee and its agents, contractors, and subcontractors shall provide State with at least two (2) weeks notice before commencing any Activities. Licensee shall promptly notify State of any modifications in the schedule.

SECTION 3 TERM

3.1 Term Defined. This License commences on the 1st day of February, 2022 ("Commencement Date"), and terminates on the 31st day of January, 2027 ("Termination Date"), unless terminated sooner under the terms of this License.

3.2 End of Term. Upon termination of this License and except as otherwise provided in Exhibit B, Licensee shall restore the Property to a condition substantially like its natural state before Licensee's Activities, except for alterations necessary under the Activities or otherwise authorized by State.

SECTION 4 CONSIDERATION

The consideration is a fee in the amount of Nine Hundred Dollars (\$900.00), which is due and payable on or before the Commencement Date.

SECTION 5 IMPROVEMENTS

5.1 Improvements Defined.

- (a) "Improvements," consistent with RCW 79.105 through 79.145, are additions within, upon, or attached to the land. This includes, but is not limited to, fill, structures, and fixtures.
- (b) "Personal Property" means items that can be removed from the Property without
 - (1) injury to the Property, adjacent state-owned lands or Improvements or
 - (2) diminishing the value or utility of the Property, adjacent state-owned lands or Improvements.
- (c) "Improvements Owned by Others" are Improvements made by Others with a right to occupy or use the Property or adjacent state-owned lands.

5.2 Existing Improvements. On the Commencement Date, no Improvements are located on the Property.

5.3 Construction, Major Repair, Modification, and Demolition.

- (a) Licensee shall construct no Improvements and make no modification of the Property ("Work") except as described in Exhibit B.
- (b) Licensee shall preserve and protect Improvements Owned by Others, if any.
- (c) Before completing Work, Licensee shall remove all debris and restore the Property, as nearly as possible, to a substantially natural state, except for alterations necessary under the Activities or otherwise authorized by State.
- (d) Upon completing Work, Licensee shall promptly provide State with as-built plans and specifications.

5.4 Standards for Work.

- (a) Licensee shall not use or install treated wood at any location above or below water.
- (b) Licensee shall not use or install tires at any location above or below water.
- (c) Licensee shall install only floatation material encapsulated in a shell resistant to ultraviolet radiation and abrasion. The shell must be capable of preventing breakup and loss of flotation material into the water.

5.5 Improvements at End of Term. Improvements installed by Licensee merge with the Property upon termination of the License, unless the Parties agree otherwise. Ownership of Improvements does not alter Licensee's obligations under Paragraph 2.1(d).

5.6 Disposition of Personal Property. Licensee shall remove Personal Property from the Property before termination of the License.

SECTION 6 ENVIRONMENTAL LIABILITY

6.1 Definitions.

- (a) "Hazardous Substance" means any substance that now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination, pollution, or cleanup.
- (b) "Release or threatened release of Hazardous Substance" means a release or threatened release as defined under any law described in Paragraph 6.1(a).
- (c) "Utmost care" means such a degree of care as would be exercised by a very careful, prudent, and competent person under the same or similar circumstances; the standard of care applicable under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105 RCW, as amended.
- (d) "Licensee and affiliates" when used in this Section 6 means Licensee or Licensee's subcontractors, agents, employees, guests, invitees, or any person on the Property with the Licensee's permission.

6.2 General Conditions. Licensee shall exercise the utmost care with respect to Hazardous Substances.

6.3 Use of Hazardous Substances.

- (a) Licensee and affiliates shall not use, store, generate, process, transport, handle, release, or dispose of Hazardous Substances, except in accordance with all applicable laws.
- (b) Licensee shall not undertake, or allow others to undertake by Licensee's permission, acquiescence, or failure to act, activities that result in a release or threatened release of Hazardous Substances.

6.4 In the Event of a Release or Threatened Release.

- (a) Licensee shall immediately notify State if the Licensees become aware of any release or threatened release of Hazardous Substance on the Property.
- (b) If a Licensee's act or omission results in a release of Hazardous Substances, Licensee, at its sole expense, shall promptly take all actions necessary or advisable to clean up, contain, and remove the Hazardous Substances in accordance with applicable laws.

SECTION 7 ASSIGNMENT

Licensee shall not assign this License.

SECTION 8 INDEMNITY AND INSURANCE

8.1 Indemnity.

- (a) Licensee shall indemnify, defend, and hold State, its employees, officers, and agents harmless from any Claims arising out of the Activities or related activities by Licensee, its contractors, agents, invitees, guests, employees or affiliates to the fullest extent permitted by law and subject to the limitations provided below.
- (b) "Claim" as used in this Subsection 8.1 means any financial loss, claim, suit, action, damages, expenses, costs, fees (including attorneys' fees), fines, penalties, or judgments attributable to bodily injury, sickness, disease, death, and damages to tangible property, including, but not limited to, land, aquatic life, and other natural resources. "Damages to tangible property" includes, but is not limited to, physical injury to the Property, including damage resulting from Hazardous Substances, diminution of value, and/or damages resulting from loss of use of the Property.
- (c) State shall not require Licensee to indemnify, defend, and hold State harmless for claims caused solely by or resulting solely from the negligence or willful act of the State or State's elected officials, employees, or agents.
- (d) Licensee specifically and expressly waives any immunity that may be granted under the Washington State Industrial Insurance Act, Title 51 RCW in connection with its obligation to indemnify, defend, and/or hold State and its agencies, officials, agents, or employees harmless. Further, the indemnification obligation under this License shall not be limited in any way by any limitation on amount or type of damages, compensation, or benefits payable to or for any third party under the worker's compensation acts.
- (e) Only to the extent RCW 4.24.115 applies and requires such a limitation, if a claim, suit, or action for injuries or damage is caused by or results from the concurrent negligence of (a) the State or State's agents or employees and (b) the Licensee or Licensee's agents or employees, these indemnity provisions shall be valid and enforceable only to the extent of the negligence of the Licensee and those acting on its behalf.

8.2 Insurance Terms.

- (a) Insurance Required.
 - (1) At its own expense, Licensee shall procure and maintain during the Term of this License, the insurance coverages and limits described in this Subsection 8.2 and in Subsection 8.3, Insurance Types and Limits. State may terminate this License under Paragraph 8.3 if Licensee fails to maintain required insurance.
 - (2) Unless State agrees to an exception, Licensee shall provide insurance issued by an insurance company or companies admitted to do business in the State of Washington and have a rating of A- or better by the most

recently published edition of Best's Reports. Licensee may submit a request to the risk manager for the Department of Natural Resources to approve an exception to this requirement. If an insurer is not admitted, the insurance policies and procedures for issuing the insurance policies shall comply with Chapter 48.15 RCW and 284-15 WAC.

- (3) All insurance policies must name the State of Washington, the Department of Natural Resources, its elected and appointed officials, agents, and employees as an additional insured.
- (4) All insurance provided in compliance with this License must be primary as to any other insurance or self-insurance programs afforded to or maintained by State.
- (b) Waiver.
 - (1) Licensee waives all rights against State for recovery of damages to the extent insurance maintained pursuant to this License covers these damages.
 - (2) Except as prohibited by law, Licensee waives all rights of subrogation against State for recovery of damages to the extent that they are covered by insurance maintained pursuant to this License.
- (c) Proof of Insurance.
 - (1) Licensee shall provide State with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with insurance requirements specified in this License and, if requested, copies of policies to State.
 - (2) The certificate(s) of insurance must reference additional insureds and the License number.
 - (3) Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies.
- (d) State must receive written notice before cancellation or non-renewal of any insurance required by this License, as follows:
 - (1) Insurers subject to RCW 48.18 (admitted and regulated by the Insurance Commissioner): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State forty-five (45) days' advance notice of cancellation or non-renewal.
 - (2) Insurers subject to RCW 48.15 (surplus lines): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State thirty (30) days' advance notice of cancellation or non-renewal.
- (e) Adjustments in Insurance Coverage.
 - (1) State may impose changes in the limits of liability for all types of insurance as State deems necessary.
 - (2) Licensee shall secure new or modified insurance coverage within thirty (30) days after State requires changes in the limits of liability.
- (f) General Terms.
 - (1) State does not represent that coverage and limits required under this License are adequate to protect Licensee.

- (2) Coverage and limits do not limit Licensee's liability for indemnification and reimbursements granted to State under this License.
- (3) The Parties shall use any insurance proceeds payable by reason of damage or destruction to property first to restore the real property covered by this License, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Licensee.

8.3 Insurance Types and Limits.

- (a) General Liability Insurance.
 - (1) Licensee shall maintain commercial general liability insurance (CGL) or marine general liability (MGL) covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of Licensee's use, occupation, or control of the Property and, if necessary, commercial umbrella insurance with a limit of not less than One Million Dollars (\$1,000,000) per each occurrence. If such CGL or MGL insurance contains aggregate limits, the general aggregate limit must be at least twice the "each occurrence" limit. CGL or MGL insurance must have products-completed operations aggregate limit of at least two times the "each occurrence" limit.
 - (2) CGL insurance must be written on Insurance Services Office (ISO) Occurrence Form CG 00 01 (or a substitute form providing equivalent coverage). All insurance must cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract) and contain separation of insured (cross-liability) condition.
 - (3) MGL insurance must have no exclusions for non-owned watercraft.
- (b) Workers' Compensation.
 - (1) State of Washington Workers' Compensation.
 - (i) Licensee shall comply with all State of Washington workers' compensation statutes and regulations. Licensee shall provide workers' compensation coverage for all employees of Licensee. Coverage must include bodily injury (including death) by accident or disease, which arises out of or in connection with Licensee's use, occupation, and control of the Property.
 - (ii) If Licensee fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Licensee shall indemnify State. Indemnity shall include all fines; payment of benefits to Licensee, employees, or their heirs or legal representatives; and the cost of effecting coverage on behalf of such employees.
 - (2) Longshore and Harbor Worker's Act. The Longshore and Harbor Worker's Compensation Act (33 U.S.C. Section 901 *et seq.*) may require Licensee to provide insurance coverage for longshore and harbor workers

other than seaman. Licensee shall ascertain if such insurance is required and, if required, shall maintain insurance in compliance with this Act. Licensee is responsible for all civil and criminal liability arising from failure to maintain such coverage.

- (3) Jones Act. The Jones Act (46 U.S.C. Section 688) may require Licensee to provide insurance coverage for seamen injured during employment resulting from negligence of the owner, master, or fellow crew members. Licensee shall ascertain if such insurance is required and, if required, shall maintain insurance in compliance with this Act. Licensee is responsible for all civil and criminal liability arising from failure to maintain such coverage.
- (c) Employer's Liability Insurance. Licensee shall procure employer's liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury by accident or One Million Dollars (\$1,000,000) each employee for bodily injury by disease.
- (d) Auto Policy Insurance. If Licensee operates, maintains, loads, or unloads vehicles as part of the Activities, Licensee shall maintain auto liability insurance and, if necessary, commercial umbrella liability insurance with a limit not less than One Million Dollars (\$1,000,000) per accident. Such insurance must cover liability arising out of "Any Auto".

SECTION 9 TERMINATION

9.1 Termination by Revocation. State may terminate this License at any time upon thirty (30) days notice to the Licensee.

9.2 Termination by Completion of Activities. If Licensee completes Activities prior to the Termination Date, this License terminates upon Licensee's completion of all Activities, including restoration of the Property under Subsection 3.2.

9.3 Termination Resulting from Breach. If Licensee breaches any terms of this License, State may terminate this License immediately upon notice to Licensee. If the breach arises from Licensee's failure to comply with restrictions on use under Paragraph 2.2 or results in damage to natural resources or the Property, State may restore the natural resources or Property and charge Licensee restoration costs and/or charge Licensee for damages. On demand by State, Licensee shall pay all costs and/or damages.

SECTION 10 NOTICE

Following are the locations for delivery of notice and the Contact Person. Any Party may change the location of notice and/or the Contact Person upon reasonable notice to the other.

State: DEPARTMENT OF NATURAL RESOURCES
Aquatic Resources Division, Rivers District
Cindy Preston, Land Manager
PO Box 280 | 601 Bond Rd.
Castle Rock, WA 98611
(509) 607-9724
cindy.preston@dnr.wa.gov

Licensee: CHELAN COUNTY NATURAL RESOURCES DEPARTMENT
Erin McKay
Senior Natural Resource and Recreation Specialist
411 Washington St.,
Suite 201
Wenatchee, WA 98801
(509) 630-5303
erin.mckay@co.chelan.wa.us

SECTION 11 MISCELLANEOUS

11.1 Headings. The headings used in this License are for convenience only and in no way define, limit, or extend the scope of this License or the intent of any provision.

11.2 Invalidity. The invalidity, voidness, or illegality of any provision of this License does not affect, impair, or invalidate any other provision of this License.

11.3 Applicable Law and Venue. This License is to be interpreted and construed in accordance with the laws of the State of Washington. Any reference to a statute means that statute as presently enacted or hereafter amended or superseded. Venue for any action arising out of or in connection with this License is in the Superior Court for Thurston County, Washington.

11.4 Modification. No modification of this License is effective unless in writing and signed by the Parties. Oral representations or statements do not bind either Party.

11.5 Survival. Any obligations of Licensee not fully performed upon termination of this License do not cease, but continue as obligations of the Licensee until fully performed.

11.6 Exhibits. All referenced exhibits and attachments are incorporated in this License unless expressly identified as unincorporated.

THIS AGREEMENT requires the signature of all Parties and is effective on the date of the last signature below.

Dated: 1/25/2022, 20__

CHELAN COUNTY NATURAL RESOURCES
DEPARTMENT

DocuSigned by:


E1E92A2FD3F943D...
MIKE KAPUTA
Director
411 Washington St.,
Suite 201
Wenatchee, WA 98801
(509) 670-6935 (cell)

Dated: 1/25/2022, 20__

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

DocuSigned by:


3EA9FF4A44BD429...
THOMAS GORMAN
Interim Aquatic Resources Division Manager
1111 Washington St., SE
MS 47027
Olympia, WA 98504

Approved as to form this
22nd day of December 2016
Jennifer Clements, Assistant Attorney General

EXHIBIT A PROPERTY DESCRIPTION

Agreement Number 23-101902

- 1. PROPERTY DESCRIPTION:** This aquatic lands right of entry agreement is for a portion of shorelands and bedlands of navigable waters of the Icicle River located in a portion of the Northwest1/4 Northwest1/4 and Northwest1/4 Northeast1/4 of Section 13, Township 24 North, Range 17 East, W.M., Chelan County, Washington. The approximate lateral sideline boundaries of the Property are listed below. The “Site Location” on the Exhibit A Map below shows the general location of the Property.

- 2. COORDINATES OF THE RIGHT OF ENTRY:**
NW corner Latitude 47.58055N, Longitude -120.66496W
SW corner Latitude 47.58051N, Longitude -120.66495W
NE corner Latitude 47.57939N, Longitude -120.66248W
SE corner Latitude 47.57937N, Longitude -120.66252W

- 3. APPROXIMATE SQUARE FOOTAGE OF RIGHT OF ENTRY:**
Total square feet: 16,978 (.39 acres)

EXHIBIT A MAP



EXHIBIT B PLAN OF OPERATIONS

1. DESCRIPTION OF ACTIVITIES

- A. Existing Conditions.** At this location of Icicle River in Chelan County the existing improvements are an irrigation pump located near the upstream end of the project area which will need to be protected during construction.
- B. Proposed Conditions.** The project consists of planting a minimum 75 ft riparian buffer along ~700 ft of denuded stream bank. With additional elective grading of the over-steepened stream bank to allow overtopping of the bank at 5 year and higher flows instead of undercutting and rapidly eroding the bank. The proposed bank structures, layback of bank angle, and riparian plantings will add complexity to the channel, help a thalweg develop and allow establishment of a riparian buffer that will provide shading and future wood inputs. The proposed project would place around ten (10) bio-engineered log jam structures to create in water habitat complexity and low inset bench elevations along the bank. The logs incorporated in each structure would be partially backfilled with suitable streambed gravels and topsoil mix to support the re-establishment of riparian species that can provide sustainable bank stability, riparian buffer, and streambank habitat. Proposed structures would be designed to minimize recreational risk by limiting how far structures project into the creek channel and aligning logs at the face of the structure with stream flow mimicking naturally recruited woody material patterns. Structures and plantings will be situated to reinforce remaining stream bank vegetation reducing hydraulic forces along the streambank that are currently accelerating bank erosion rates. State grants its consent to this Work, except that Licensee shall conform all Work to all other requirements of Section 5 of this License.
- C. Permits.** Licensee has secured the following permits for the Activities:
- SEPA Exemption Letter, issued by Chelan County Natural Resources Dept, dated January 14, 2021
 - Floodplain Development Permit - #FDP 21-0007, issued by Chelan County Dept of Community Development, dated July 8, 2021
 - HPA - Permit #2021-2-37+01, issued by WDFW, dated March 3, 2021 to March 28, 2026
 - NWP - #NWS2021-122, issued by USACE, dated August 11, 2021

2. ADDITIONAL OBLIGATIONS

- A.** Licensee shall only conduct in-water activities during time periods authorized for such activities under WAC 220-660-110, Authorized Work Times in Freshwater Areas, or as otherwise directed by the Washington Department of Fish and

Wildlife (WDFW), United States Fish and Wildlife Service (USFWS), or National Marine Fisheries Service (NMFS).

- B.** Licensee shall monitor as described in the Monitoring and Adaptive Management Plan and submit reports to State as specified in Attachment 1 to this Exhibit B.
- C.** Licensee shall post visible signage to provide notice of project locations and potential hazards for recreational users at least 500 feet upstream of the project location and at least 500 feet downstream of the project location.

ATTACHMENT 1 to EXHIBIT B

MONITORING AND ADAPTIVE MANAGEMENT PLAN

LOWER ICICLE BIOENGINEERED BANK STABILIZATION AND RIPARIAN RESTORATION PROJECT

**ICICLE CREEK, CHELAN COUNTY,
WRA 45RM .9**



Site Information:

Legal Description T 24N R17E S 13
Latitude 47.580181, Longitude -
120.663506 W Parcel Number (APN):
241713240000

Contact:

Erin McKay, Senior Natural Resource
Specialist Chelan County Natural
Resources Department 411 Washington
Street, Suite 201
erin.mckay@co.chelan.wa.us

PROJECT GOALS AND OBJECTIVES

Project Goals:

The Fromm property at RM .9 on Lower Icicle Creek has been subject to multiple historic actions that have led to its current denuded and eroding state. While the project area is located on an outside meander bend where natural channel migration would be expected, this process is accelerated due to anthropogenic influences and has no chance to naturally recover via wood accumulations or stability from plant roots. This project will restore riparian buffer conditions that would have naturally occurred here and add stability to the channel margin to help plant establishment and reduce the sediment inputs that are contributing to degraded conditions in the reach. Using bioengineered techniques, this project will directly address the 303(d) listings in the Lower Icicle (temperature, pH, dissolved oxygen) through increased shading, encouragement of a defined thalweg and scour pools, and reduction of sediment into the system. The project will also improve rearing habitat for juvenile salmonids by encouraging pool formation and adding cover from wood structures and overhanging riparian vegetation.

The Lower Icicle Bioengineered Bank Stabilization and Riparian Planting project consists of planting a minimum 75' riparian buffer along ~800' of denuded stream bank, and selective grading of the over- steepened stream bank to allow overtopping of the bank at 5 yr and higher flows instead of undercutting and rapidly eroding the bank. Placement of engineered log jams (ELJs) will deflect erosive hydraulic forces from the toe and planted areas during 1-5 year flows. 6 structures in 3 different configurations will be placed in the central project area with excavators working in isolated and dewatered conditions. The upper and lower portions of the project area will be heavily planted with native riparian species. Rip rap boulders that currently exist in the middle of the Icicle channel will be pulled back and integrated into boulder clusters around the wood structures to provide additional toe protection and encourage deeper channel formation.

Project Objectives:

The following specific objectives will be accomplished through this project:

- a. Install 6 engineered log jam (ELJ) structures along the river right bank margin within the project area to reduce scour and undercutting on bank and promote channel forming processes, scour pool formation, and complex margin habitat.
- b. Reposition riprap that currently sits in the middle of the channel to allow deeper thalweg formation and provide additional toe protection and channel roughness near ELJs.
- c. Reinforce eroding banks in key locations between wood structures by reducing bank angle and installing soil lifts with native plants interlaced.

- d. Plant a robust native plant riparian matrix within the wood structures and along the riparian and upland bank to a buffer width of 75' to promote bank stability, stream shading, cover, and nutrients.

I. MONITORING GOALS AND OBJECTIVES

The project site will be monitored to demonstrate that the intended project goals and objectives are established. Performance measures and performance standards describe specific on-site characteristics that indicate a function is being provided. Performance measures are used to guide site monitoring and adaptive management. Performance standards are used to evaluate compliance with regulatory permits in the final year of monitoring. Contingency plans describe what actions can be taken to correct site deficiencies.

CCNRD will use an adaptive management process to guide stewardship actions. Adaptive management involves learning from monitoring and implementing management activities, such as implementing parts of the site management or contingency plans. Information from monitoring is used to direct subsequent site management activities. As part of the adaptive management process, CCNRD will work with permitting agencies, funders, and other stakeholders to ensure project goals and objectives are being met and will respond on an as needed basis to ensure these goals will be maintained beyond the life of the project.

Monitoring Goals:

The primary goal of monitoring is to: a) verify that project objectives are being met and b) quantify the proposed ecological lift and habitat self-mitigation targets that are actualized by the project actions.

The intent of monitoring is to ensure that any unavoidable temporary impacts are outweighed by measurable habitat benefits, and that these benefits are trending into the future with no foreseeable failure of any component of the project or threat to public safety.

Monitoring Objectives:

Monitoring objectives specific to this project will track project objectives and verify the proposed ecological lift associated with the project. The project will benefit the local project site and downstream waters in the following ways:

- a. Establishment of a riparian buffer where little to no buffer previously existed
- b. Reduction of sediment loads entering the waterway and traveling downstream to potential salmon spawning locations and increasing turbidity
- c. Addition of roughness and complexity to channel margin that was previously a vertical featureless bank with little to no habitat value

- d. Promotion of channel-forming processes that will benefit habitat quality and stream temperature

The ecological lift associated with the project will be estimated using the baseline of virtually no habitat value or ecological value of riparian vegetation compared with the results of project element installation.

In order to verify that project objectives and the ecological lift associated with the project are being met, the following monitoring objectives will be utilized:

- *As-built engineering plan sets*
- *Post-project vegetation survival/cover monitoring*
- *Pre- and post-project hydrologic/ photo point monitoring*

II. MONITORING METHODOLOGY AND PERFORMANCE STANDARDS

Post-construction performance monitoring is planned for 3 years following project installation. Monitoring reports to summarize project results will be prepared in years 1, 2, and 3 following construction. Monitoring reports will be available to Department of Ecology and US Army Corps of Engineers in hard copy and electronic format. The following methods will be used to evaluate the hydrologic, vegetative, and preservation standards of success.

The performance standards described within each section provide benchmarks for measuring achievement of the project goals and objectives. The project is intended to meet these performance standards within the specified time frame. These performance standards measure structural attributes that provide a reasonable indication of project element function. Methods to monitor each performance standard are described in general terms.

As-built Methods:

Within 60 days post-project the engineer will conduct an as-built survey to detail the constructed project and any modifications made from the planned design features and the built features. This will be captured via a ground-based survey of the project site and constructed features. The as-built survey will verify the footprint of disturbance, structure location, and material quantities. The survey will also include written explanation for modifications made from planned design features and built features and expected impacts of these variations.

Vegetation Monitoring Methods:

During years 1 and 2 post construction, stem counts within the planted area will be conducted in order to evaluate percent survival of installed material. This stem count will be conducted in 3 plots (20' x 20') and 2 transects (3' x 50') to estimate overall survival rates. Locations of plots and transects will be established during planting. Installed shrubs and trees will be assessed to determine if the target 80% survival rate has been achieved. If native shrubs or trees volunteer into the planted areas, then those individuals can be counted towards stem density rates. Photo points will be established with a defined azimuth to document annual vegetation growth conditions. Locations of photo points will be determined during planting.

If identified on site, all Class A, B, and C listed species on the Chelan County Noxious Weed list will be eradicated. Percent cover for any Class A, B, and C species listed on the Chelan County noxious weedlist shall not exceed 20% in planted areas on site.

Hydrology/Photo Point Methods:

A minimum of 3 photo points will be established prior to project implementation and documented to capture pre-project conditions at low flows and high flows. These photo points will then be documented at low flow and high flow for 3 years following project implementation. The purpose of the photo points is to document hydrologic impacts of the installed project elements and to monitor the stability of the structures over the course of the annual hydrograph. The performance standards monitored through the photo points are a) the actual functioning of the project elements compared to the pre-project modeling of the project elements and b) stability of the structures evidenced by amount of movement or rotation detected in photo point comparisons. Photo points will also capture evidence of bank erosion following project implementation. CCNRD will communicate regularly with the family that owns the property to gather anecdotal evidence of project success or failure, and will respond to this information with more detailed investigation if a problem is reported that is not captured under the monitoring methods described here.

III. ADAPTIVE MANAGEMENT

Adaptive management is initiated when problems are observed during monitoring that indicates that one of the performance standards may not be met. Adaptive management plans should anticipate problems and outline actions to address those problems. Typical problems include unintentional hydrologic processes, failed plantings, and erosion of unconsolidated features. CCNRD anticipates that the project goals will be accomplished with the project construction and planting design as shown on the grading and planting plans. Adaptive management, however, may be needed to correct unforeseen problems.

As necessary, adaptive management measures (site management or revisions to performance criteria with permitting agency agreement) will be implemented to meet performance measures and performance standards. The following describes potential situations that may occur and the potential contingencies that might be implemented to correct the problem. Because not all site conditions can be anticipated, the contingencies discussed below do not represent an exhaustive list of potential problems or remedies.

Hydrology Adaptive Management:

Hydrologic problems are not anticipated but the above stated performance measures may not be met for one or more reasons. Long-term problems can be the result of altered surface water flows, channel migration and loss of bank stabilization measures, or movement of installed structures.

Hydrologic adaptive management measures will be implemented based on observed conditions, monitoring data, or in response to reports from landowners, agencies, or other river users. Steps to address insufficient or excessive hydrology are the following:

- Clearly identify the source of the problem.
- Consult with the project design team, including CCNRD staff, project engineer, and local regulatory agencies.
- Discuss unanticipated hydrologic conditions with regulatory staff to identify changes in performance standards and/or adaptive management scenarios to alter site conditions.
- Physical measures to stabilize or remove installed features that may pose a risk to the project area or locations downstream.

Vegetation Adaptive Management:

Problems related to vegetation include plant mortality, and poor growth resulting in low plant cover. These problems could be the result of ongoing climate change, insufficient site management, particularly watering in the first few growing seasons, animal browse, competition from invasive species, incorrect plant selection, altered site conditions, and vandalism. Adaptive management for plant mortality and poor plant cover may include the following:

- Plant replacement – Additional planting may be required to meet plant survival and plant cover requirements. Plant species will be evaluated in relation to site conditions to determine if plant substitutions will be required on an as needed basis.
- Weed control – Control of non-native invasive species may be required to meet survival and plant cover requirements. Weed control methods could include mechanical or hand control, mulching, or herbicide application on an as needed basis.
- Herbivore control – If plant survival or vegetation cover standards are not met because of animal browse, the wildlife responsible will be identified and appropriate control measures will be attempted. This could include plant protection, additional fence installation, or the use of repellents on an as needed basis.
- Vandalism – To prevent vegetation disturbance from vandalism, fence installation and sensitive area signage may be installed, on an as needed basis.



Chelan County
Department of Community Development
316 WASHINGTON ST. SUITE 301
Wenatchee, WA 98801
(509) 667-6225

PERMIT

FDP 21-0007

Floodplain Development Permit

PROJECT NAME: LOWER ICICLE CREEK STREAMBANK & RIPARIAN RESTORATION

ISSUED: 07/08/2021

SITE ADDRESS: ADDRESS UNKNOWN, UNKNOWN

EXPIRES:

PROJECT DESCRIPTION: STREAMBANK AND RIPARIAN RESTORATION

PARCEL NUMBER: 241713240000

LEGAL DESCRIPTION: T 24N R 17EWM S 13 LOT D BLA 2017-385 SENW 67.6700 ACRES

APPLICANT: FROMM LAND CO LLC
1511 ANTON PL
WENATCHEE, WA 98801
509-548-2362

OWNER: FROMM LAND CO LLC
1511 ANTON PL
WENATCHEE, WA 98801
509-548-2362

PERMIT CONDITIONS OF APPROVAL

1. Enter text here.
2. Must conform to adopted city and county codes. The site plan for this building permit is approved as submitted. Any variations subsequently changed by the applicant/agent/contractor are not authorized until approval has been granted by the Chelan County Department of Community Development.
3. The Administrator may suspend/revoke or deny any permit issued by the department per Chapter 16.14, Title 16, Enforcements and Violations, Chelan County Code.

Owner/Applicant: _____

Date: 7/9/21

Permit Issued By: Chris Young

Date: 7/8/21

APPENDIX C: CONTRACT DRAWINGS
