



REQUEST FOR PROPOSALS

Planning, Feasibility Assessment, and Design of Wetland/Natural Storage Restoration in the lower South Fork Nooksack River Watershed

May 13, 2026

Introduction

The Nooksack Indian Tribe Natural Resources Department is hereby advertising this Request for Proposals (RFP) for a consultant to provide technical support to advance planning, feasibility assessment, and design of wetland and natural water storage restoration projects in the lower South Fork Nooksack River (SFNR) valley downstream of Skookum Creek (Fig. 1). The South Fork Nooksack River provides critical migration, holding, spawning and rearing habitat for South Fork Nooksack Early Chinook and other salmon populations, but low stream flows during summer limit habitat and contributed to degraded water quality, especially high temperatures.

The successful respondent will: (1) review and synthesize available data and technical information, assess hydrologic restoration potential, and develop a wetland/natural water storage restoration plan; (2) assess feasibility of wetland/natural water storage restoration at specific sites; (3) develop designs for wetland/natural water storage restoration projects; and (4) conduct wetland delineations as needed to support environmental permitting of restoration projects.

Background

The Nooksack Tribe has inhabited and stewarded the lands and waters of the Nooksack River watershed since time immemorial. Protection of treaty natural resources is a primary goal of the Tribe, and recovery of salmon, especially threatened Nooksack spring Chinook salmon, is a high priority. Salmon hold great cultural, spiritual, subsistence, and economic importance to the Nooksack Tribe. Historically, the Nooksack River, Forks, and tributaries teemed with salmon, but abundances have declined sharply in recent decades, leading to dramatic curtailment of treaty and non-treaty fisheries. Salmon today face the challenges of degraded habitat, high temperatures, and insufficient stream flow, and climate change will exacerbate these challenges. Conditions in the South Fork Nooksack River are of particular concern.

The South Fork Nooksack River originates on the east side of the snow-dominated Twin Sisters Mountain Range and drains about 164 square miles before joining the North Fork Nooksack River near Deming, WA. ranges from approximately 7,000 ft on the Twin Sisters Range to approximately 236 feet

at the confluence of the NFNR and SFNR rivers. There are no longer active glaciers on the Sisters Range; however, vestigial ice, or glacierets, with a total area of 0.42 square miles remains. The river has an average annual flow of 970 cubic feet per second measured at the USGS South Fork Nooksack River at Saxon Road Bridge streamgage (<https://streamstats.usgs.gov/ss/?gage=12210000&tab=info>). The lower South Fork Nooksack valley (below river mile 13) is a wide, glacially carved, flat glacial outwash valley with steep walls with historically extensive floodplain wetlands. Current land use is a mix of dairy farming operations, berry fields, Christmas tree plantations, rural development, and small areas of more dense development in Acme and Van Zandt.

South Fork Nooksack Early Chinook Salmon is an independent population of the Puget Sound Chinook Salmon Evolutionarily Significant Unit, listed as threatened under the Endangered Species Act. The population is considered essential for recovery of Puget Sound Chinook, but geometric mean escapement from 2019-2023 is 195 natural-origin spawners, far below the recovery goal of at least 9900 adults. Habitat degradation is considered to be the leading cause of the decline in the population, and restoration that addresses the main limiting factors – high temperatures, low stream flows, and the lack of deep, complex pools – has been a top priority since the development of the 2005 *WRIA 1 Salmonid Recovery Plan*. The urgency of restoration has been underscored by recent increases in the number of Chinook pre-spawn mortalities. In summer 2021, over 2400 Chinook salmon died in the South Fork Nooksack River before they could spawn, including 43 natural-origin Chinook salmon, 31% of the natural-origin Chinook salmon returning to the South Fork that year. Lower, but still substantial numbers of pre-spawn Chinook mortalities have been observed in subsequent years.

There has been significant restoration in the South Fork Nooksack River since 2001. Projects have largely focused on the construction of engineered log jams within the active river channel, floodplain reconnection (removal and/or setback of bank hardening) where possible, and riparian restoration. A total of 29 river restoration projects, involving construction of 271 engineered log jams and 76 other structures, have been completed in the South Fork Nooksack River to date by Nooksack Tribe, Lummi Nation, Whatcom County, and the Whatcom Conservation District. The Nooksack Tribe Natural Resources Department has been working to expand our restoration program to encompass hydrologic restoration. Initial work to date has focused on securing funding, and several grants have been awarded or are in the process of being awarded to support this work. In addition, in 2023, Whatcom County initiated the WRIA 1 Multi-Purpose Water Storage project, which involved screening of numerous preliminary storage concepts, selection of concepts for more detailed evaluation, and scoring and ranking of selected concepts (Anchor QEA 2024). Along with specific storage projects, the project evaluated a program of natural water storage restoration that included hydrologic reconnection of floodplains and wetlands and in-channel stream restoration projects that spread water over larger areas to improve storage and infiltration. “Natural Storage in the South Fork Drainage” was ranked 1st (In-Channel Restoration component) and 3rd (Floodplain Wetland Restoration component) of 11 concepts evaluated in detail.

Several studies have been undertaken that can support restoration planning for wetland and natural storage restoration in the South Fork Nooksack Watershed. Studies are briefly summarized below (see *References* section for hyperlinks where available):

- Gersib (1997) mapped and assessed restoration potential of wetland sites in the Nooksack River Basin.
- Collins & Sheikh (2004) characterized historic river and floodplain conditions of the Nooksack River and unconfined sections of the North, Middle, and South Forks using archival materials, including maps and field notes from the General Land Office (GLO) cadastral survey from 1859 to 1893, US Coast & Geodetic Survey (USC&GS) charts from 1887 and 1888, topographic and land cover maps from 1906 to 1918, and aerial photographs from 1938 and 1944. See page 57 of the report for a map of conditions in the South Fork from around 1880.
- Cox et al. (2005) characterized ground water/surface water interactions at various locations throughout the lowland Nooksack River. See page 13 of the report for map showing generalized surficial geology and zones of groundwater discharge for the South Fork.
- Soicher et al. (2006) assessed historic and current habitat conditions and habitat-forming processes and identified and prioritized restoration strategies for the lower 8.5 miles of the South Fork Nooksack River, downstream of Acme, and its floodplain. Wetland conditions are characterized in section 5.9, and wetland restoration recommendations presented in pages 141-142.
- Gendaszek (2014) describes additional work conducted to support groundwater-flow modeling for the South Fork, including hydrogeologic framework development and hydrologic data compilation and collection. See plate 2 of the report for map of hydrogeologic units.
- The *South Fork Nooksack River Watershed Conservation Plan* (Nooksack Tribe Natural Resources 2017) summarizes watershed characteristics, legacy impacts, and projected climate change impacts and presents recommendations for actions to address water quality and water quantity in the watershed. Relevant sections include: (1) *Wetland Restoration* (Section 3.2.1.3, p. 115), which describes ten focus wetlands in the lower South Fork Nooksack that were evaluated (Fig. 2); and (2) *Beaver Management* (Section 3.2.1.4, p. 121), which presents recommendations for beaver restoration. For the latter, beaver habitat intrinsic potential was modeled and results indicate high beaver potential throughout the study area (Fig 3.).
- *Reach-Scale Plan: South Fork Nooksack River* (Nooksack Tribe Natural Resources 2017) summarizes the Watershed Conservation Plan above, identifies and prioritizes restoration actions, and presents specific project opportunities, including for wetland restoration (Section 7.2, p. 78).
- The *South Fork Nooksack River Alluvial Water Modeling* report (Dickerson-Lange and Stratten 2022) describes a desktop analysis of alluvial water storage potential for the South Fork Nooksack River watershed. Results indicate high potential in the lower South Fork valley (Fig. 4).

Project Scope

The selected consultant should anticipate working closely and frequently engaging with the Tribe's project manager and the Project Team, which will be comprised of staff from Nooksack Tribe Natural Resources Department and Whatcom County Public Works Department Natural Resources Division. Project scope involves the following activities:

Task 1. Natural Storage Restoration Planning

Activities:

- Review and synthesize relevant studies informing natural water storage restoration in floodplains in general and in the South Fork Nooksack watershed in particular, including those identified above.
- Work with Tribe to develop methodology for assessing hydrologic restoration potential, identifying natural storage restoration strategies, and developing geographic priorities.
- Assess hydrologic restoration potential in the lower South Fork Nooksack River floodplain, specifically opportunities to increase natural water storage and restore stream flows in the South Fork Nooksack River.
- Develop natural storage restoration plan for the lower South Fork Nooksack River watershed that identifies natural storage restoration strategies, develops geographic priorities for implementation, and presents recommendations for baseline data collection to support project design and effectiveness monitoring.

Expected Deliverables:

- Lower South Fork Nooksack River Watershed Natural Storage Restoration Plan that synthesizes relevant studies, hydrologic restoration potential, and restoration strategies and priorities.
- Associated geospatial data layers.

Deadline: June 30, 2027

Task 2. Natural Storage Restoration Project Design

Activities:

- Develop final design for a priority natural storage restoration project.

Expected Deliverables:

- Final design planset
- Basis of design report including construction quantities, technical specifications, and cost estimate

Deadline: June 30, 2027 (or later if grant extended)

Task 3. Natural Storage Restoration Feasibility Assessment

Note: Funding for this task has not been secured; proceeding on this task is contingent upon funding.

Activities:

- Develop feasibility assessment methodology.
- Use Restoration Plan to prioritize parcels within specified “feasibility areas” of the South Fork Nooksack valley (Fig. 1) for landowner outreach. Tribe will coordinate landowner outreach efforts and meet with landowners to identify opportunities and constraints.
- Assess feasibility of natural storage restoration on as many selected parcels that have willing landowners as possible. Feasibility assessment is expected to include: (1) site assessment; (2) conceptual design; (3) assessment of relative lift, cost, lifespan/need for maintenance, interested parties, local support, connections to existing projects, and uncertainties; and (5) implementation and permitting barriers.
 - Note: This subtask may need to be scaled based on available budget.

Expected Deliverable:

- Feasibility report that includes summary of findings, maps, figures, and conceptual design site plans.

Deadline: November 30, 2028

Task 4. Wetland Delineations

Activities:

- Conduct wetland delineations as needed to support environmental permitting of restoration projects throughout the lower South Fork Nooksack River valley.
 - Note: We request that proposals specify a unit cost (i.e. area, time) for wetland delineation. Specific locations will be determined at a later date. We shall allocate specific budget amount to this task in the contract with the selected consultant and manage this task on a time-and-materials basis.

Expected deliverable(s):

- Wetland delineation report(s) that includes classification, descriptions, and mapping of wetlands delineated.
- Associated geospatial data.

Contingency

The purpose of this task is to allow for some flexibility to provide additional technical support (as needed) on existing or newly scoped tasks throughout the project without amending the contract. This task would be contingent on funding, and accessing any funds would require pre-authorization from the Tribe. Expectations for this task are as follows:

- Cost will be based on actual hours and billable rates of individuals doing the work.
- Consultant will submit request for contingency funding that includes description of need and a detailed cost estimate.
- Work under this Task may proceed only when a written notice to proceed has been authorized by the Tribal Representative (General Manager or Natural Resources Director).

Submittal of Proposals

Proposals must be submitted by close of business (5 pm) on June 5, 2026, and should be uploaded to a file storage site or emailed to the address below:

Treva Coe, Assistance Natural Resources Director/Habitat Program Manager • tcoe@nooksack-nsn.gov • (360) 592-5140 Ext. 3144

We anticipate notification of probable award, pending approval by Tribal Administration, by June 30, 2026.

Submittal Requirements

Proposals should be as concise as possible while including the following:

1. An organizational flow chart identifying all project personnel and describing their anticipated roles in the project.

2. Description of relevant expertise/experience by project personnel, and a list of clients who can be contacted as references for past work. See *Experience/Qualifications* under *Evaluation Criteria* for relevant expertise and experience.
3. Proposed approach for completing the work described in *Project Scope*.
4. Proposed Scope of Work for producing the required deliverables, detailed by task, with cost estimates and timeline for each task. Note: Scope of work does not need to include contingency – that amount will be determined during contracting.
5. Summary budget and timeline.

Evaluation Criteria

All qualified responses will be reviewed by a committee of Nooksack Tribe staff. Staff from Whatcom County may also be invited to participate. Qualified firms may be asked to provide a presentation of their proposals to the selection committee. All responses will be evaluated using the following criteria:

- Experience/Qualifications (60%):
 - Expertise in wetland science, hydrogeology, hydrology, and local, state, and federal environmental regulations governing wetland protection and restoration.
 - Experience and proven success with design and implementation of floodplain restoration, wetland restoration, and beaver and beaver-related restoration.
 - Experience with wetland delineation. Team should include at least one member with Professional Wetland Scientist certification.
 - Familiarity and experience in the South Fork Nooksack River watershed or geomorphically similar river systems.
 - Demonstrated ability/experience to accomplish proposed tasks
- Deliverables/Schedule (40%).
 - Completeness and sequencing of proposed approach
 - Timeline to produce deliverables

Scope of work may need to be scaled based on available funding, and contract award is contingent upon approval by the Nooksack Tribal Council. An example contract is provided for reference (Attachment 1). Please note that changes in costs between proposal received and the final scope of work should be limited to those associated with scope of work changes requested by the Nooksack Indian Tribe. Please contact the project manager listed above for questions or clarifications.

References

Anchor QEA. 2024. WRIA 1 Multi-Purpose Water Storage: Water Storage Alternatives Report. July 2024. Prepared for Whatcom County Public Works. https://drive.google.com/file/d/1wu-q_2Dq3KvWQ6OCmPAvI9mTOHYZMBRI/view

Collins, B.D. & A.J. Sheikh. 2004. Historical riverine dynamics and habitats of the Nooksack River. Final project report to Nooksack Indian Tribe, Natural Resources Dept. University of Washington Department of Earth & Space Sciences. Seattle, WA. 126 pp. https://riverhistory.ess.washington.edu/project_reports/screen_nooksack_081204.pdf

Cox, S.E., Simonds, F.W., Doremus, Llyn, Huffman, R.L., and Defawe, R.M., 2005, Ground water/surface water interactions and quality of discharging ground water in streams of the lower Nooksack River Basin, Whatcom County, Washington: U.S. Geological Survey Scientific Investigations Report 2005-5255, 46 p. <https://pubs.usgs.gov/sir/2005/5255/>

Dickerson-Lange, S., and D. Stratten. 2022. South Fork Nooksack River Alluvial Water Storage Modeling. June 2, 2022. Prepared for Nooksack Tribe Natural Resources Dept. Natural Systems Design. 15 pp.

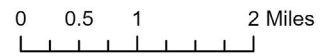
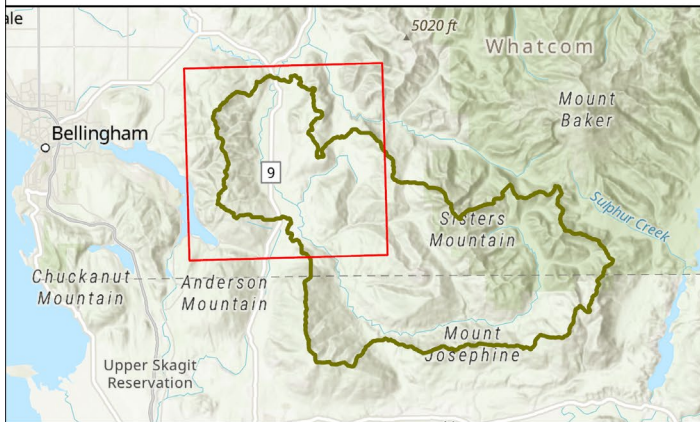
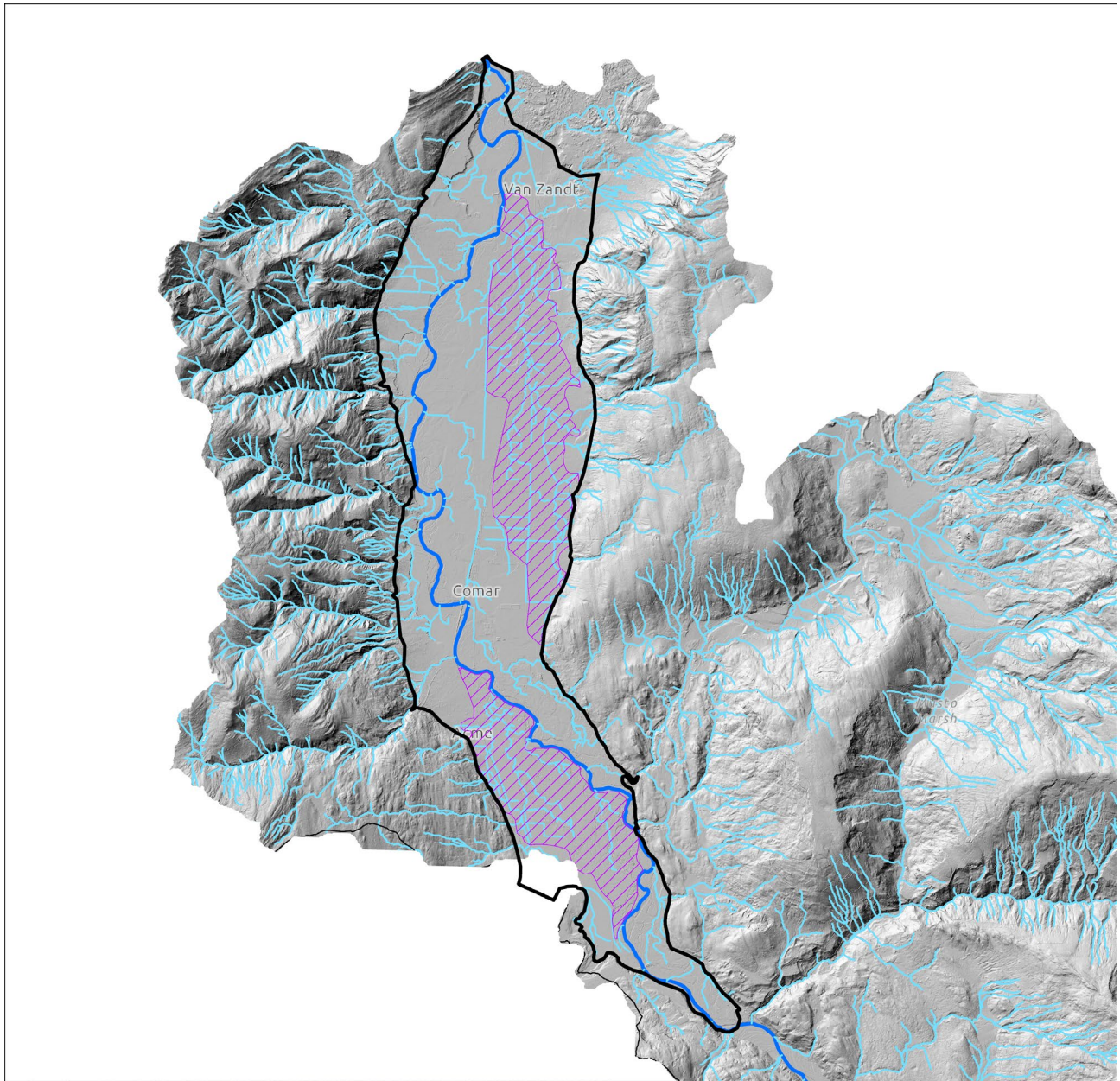
Gendaszek, Andrew, 2014, Hydrogeologic framework and groundwater/surface-water interactions of the South Fork Nooksack River Basin, northwestern Washington: U.S. Geological Survey Scientific Investigations Report 2014–5221, 36 p., <http://dx.doi.org/10.3133/sir20145221>.

Gersib, R. 1997. Restoring wetlands at a river basin scale, a guide for Washington's Puget Sound Operational Draft. Washington State Department of Ecology Publication No. 97-99. 168 pp. <https://apps.ecology.wa.gov/publications/documents/97099.pdf>

Nooksack Natural Resources. 2017a. South Fork Nooksack River Watershed Conservation Plan. <https://www.sfnooksack.com/files/SFNR%20Watershed%20Conservation%20Plan%20Updated%20Jan%202018%20FINAL!.pdf>

Nooksack Natural Resources. 2017b. Reach-Scale Plan: South Fork Nooksack River. June 2017. <https://www.sfnooksack.com/files/FINAL%20SFNR%20reach%20scale%20Plan%206-21-17.pdf>

Soicher, A., T. Coe, and N. Currence. 2006. South Fork Nooksack River Acme-Confluence Reach Restoration Planning: Analysis of Existing Information and Preliminary Restoration Strategies. IAC #02-1500N Final Report, May 1, 2006. Nooksack Indian Tribe, Natural Resources Dept. Deming, WA. 175 pp. https://salmonwria1.org/sites/default/files/2019-09/SouthFork%20Acme-Confluence%20Restoration_0.pdf







-  Feasibility Areas
-  South Fork Nooksack River
-  Other Streams
-  Study Area

Figure 1. Map of study area: Lower South Fork Nooksack River Valley.

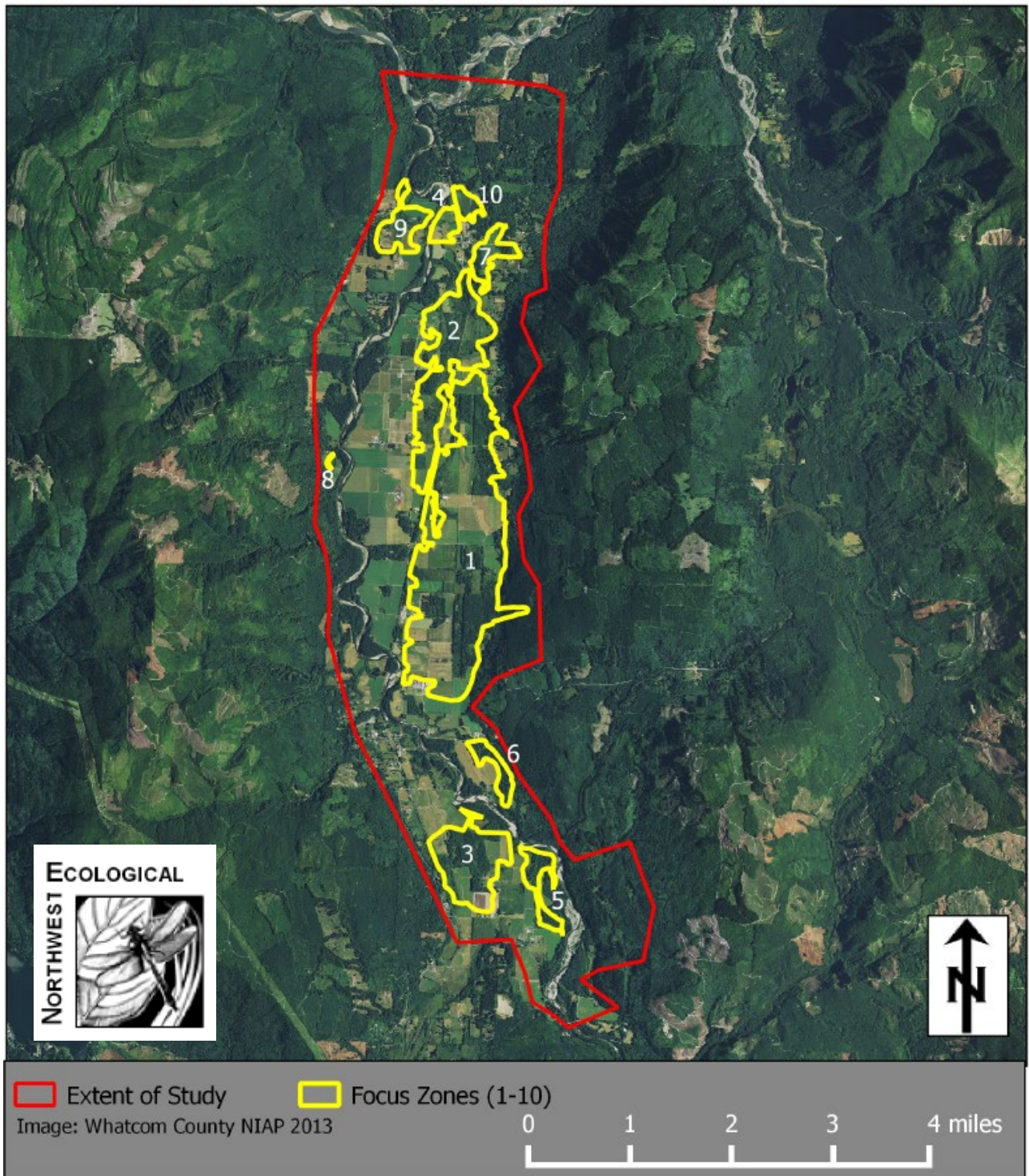
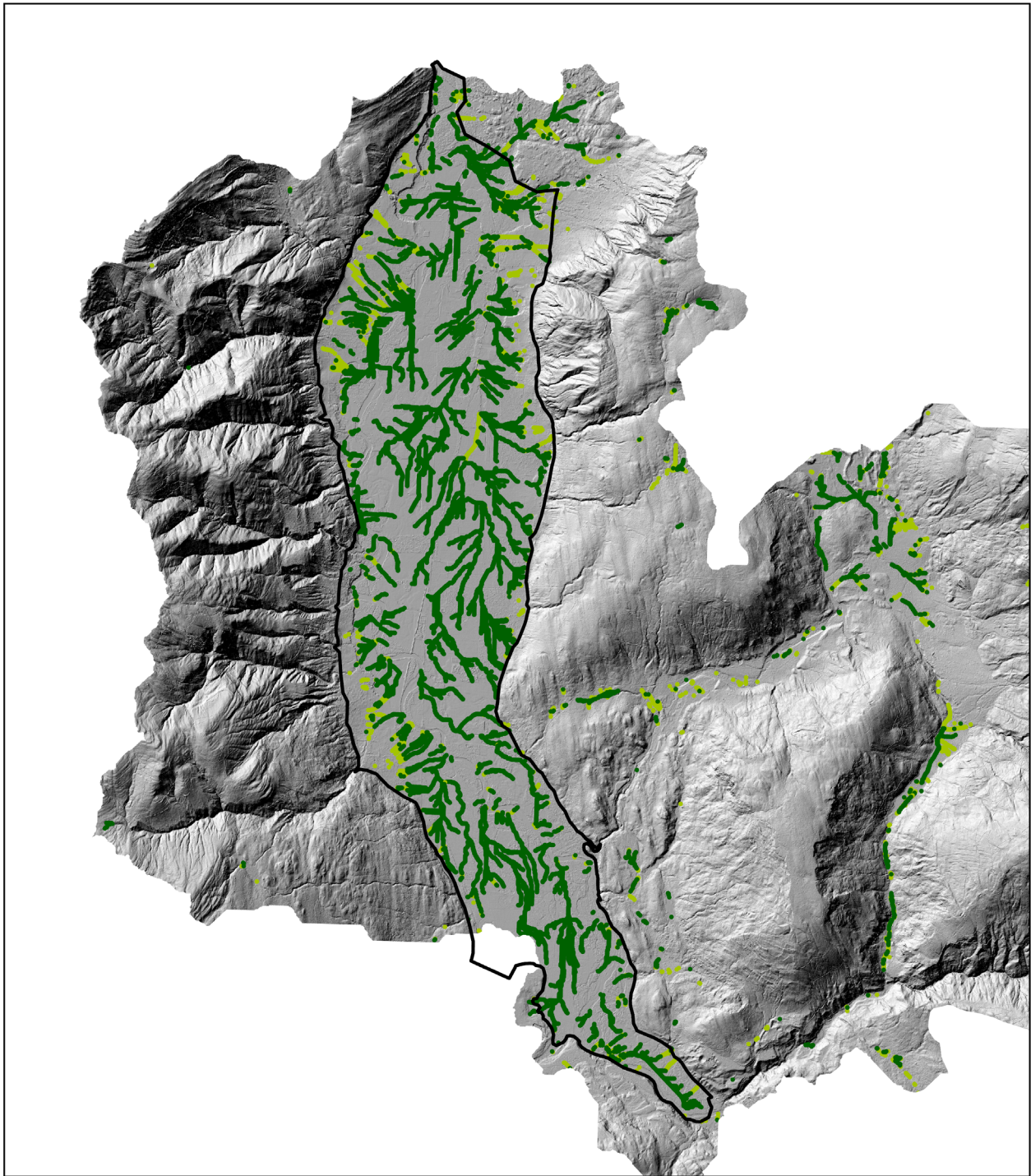


Figure 2. Focus zones evaluated for wetland restoration by Northwest Ecological Services for the *South Fork Nooksack Watershed Conservation Plan* and *Reach-Scale Plan: South Fork Nooksack*.



Beaver Habitat
Intrinsic Potential

- 11
- 12

0 0.5 1 2 Miles



Figure 3. Beaver Habitat Intrinsic Potential Score for Stream Segments with high BHIP score.

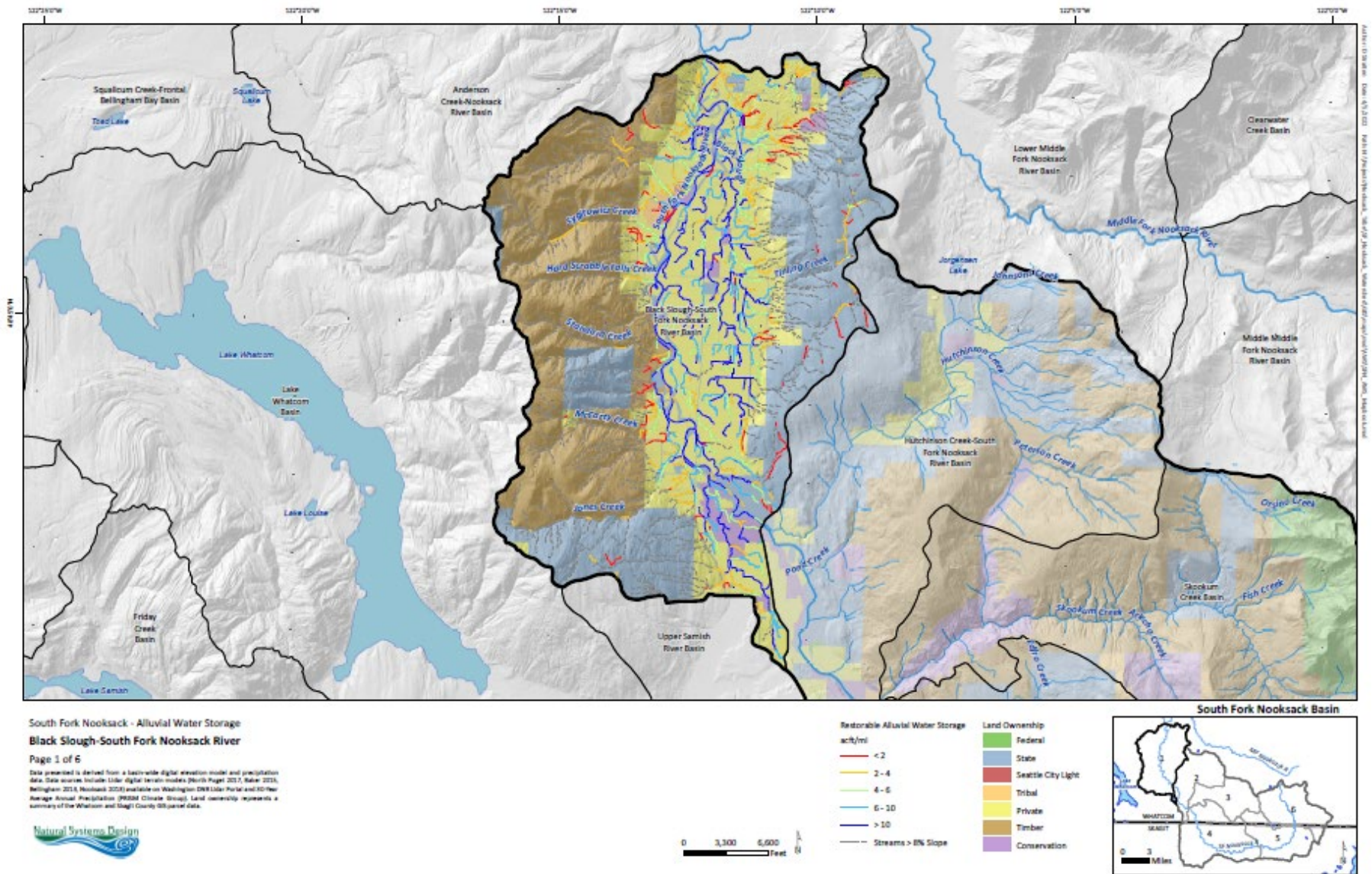


Figure 4. Alluvial water storage potential in the lower South Fork Nooksack River watershed (Dickerson-Lange and Stratton 2022).

ATTACHMENT 1:

**CONTRACT
TEMPLATE**

**Independent Contractor Agreement Between
and the Nooksack Indian Tribe**

This Agreement, made [Click here to enter a date.](#), between _____ hereinafter called “Contractor”, and The Nooksack Indian Tribe, hereinafter called “Tribe”, witnesseth:

I. EFFECTIVE DATE AND SCOPE OF WORK

- 1. Effective Dates.** This Agreement shall become effective as of the date of execution by Tribe, and shall continue until [Click here to enter a date.](#), unless terminated in accordance with the provisions in Section 18 of this agreement. Time is of the essence.

- 2. Project Covered.** Tribe hereby engages Contractor to provide the following services, hereinafter called the “Project”:

[Click here to enter text.](#)

Scope of Work Attached

- 3. Method of Performing Services.** Contractor will determine the method, details and means of performing the above-described services in compliance with the terms of this Agreement. Contractor shall provide all services in accordance with applicable local, tribal, state, federal laws, and the terms and conditions of this Agreement.

- 4. No Training or Instructions.** Tribe enters into this Agreement based on Contractor's demonstrated ability to perform the type of services that it believes, and that Contractor has represented, are needed to accomplish the Project. Consequently, Tribe does not contemplate providing Contractor with any training or instructions with respect to the Project.

- 5. Employment of Assistants.** Contractor may, at Contractor’s own expense, employ such assistants, as Contractor deems necessary to perform the services required of Contractor by this Agreement. Tribe may not control, direct, or supervise Contractor's assistants or employees in the performance of those services. Contractor assumes full and sole responsibility for the payment of all compensation and expenses of unemployment insurance, Social Security, disability insurance and other applicable withholdings pursuant to applicable tribal, federal, or state law. Contractor agrees to provide proof of workers' compensation insurance for assistants he or she engages. Contractor is responsible for acts or omissions of employees, sub-contractors and other persons performing portions of work under the contract for the Contractor. Contractor agrees to hold Tribe harmless against any and all liabilities attributable to the obligations imposed on Contractor under this Section. Contractor shall employ no employee of the Nooksack Indian Tribe.

- 6. Representations.** Contractor represents and warrants that:
 - a. Contractor has no obligations, legal or otherwise, inconsistent with the terms of this Agreement or with Contractor’s undertaking this relationship with Tribe;

- b. The performance of the services called for by this Agreement do not and will not violate any applicable law, rule or regulation, or any proprietary or other right of any third party; and,
 - c. Contractor has not entered into or will not enter into any agreement (whether oral or written) in conflict with this Agreement.
7. **Labor, Tools and Equipment.** Contractor shall furnish all labor, equipment, supervision, transportation, supplies, and incidentals required to perform services under this Agreement. Contractor is not required to purchase or rent any tools, equipment, or services from Tribe.

II. INSURANCE AND INDEMNIFICATION

8. **Insurance.** Contractor, prior to commencing work, shall provide at his/her own cost the following:

- a. Industrial Insurance and Workers Compensation. Contractor shall maintain Industrial Insurance or a Workers Compensation Policy in compliance with the laws of the State of Washington or the Nooksack Indian Tribe. Contractor shall provide the Tribe's Risk Manager with a Certificate of Insurance or other proof of coverage.

Copy attached.

Proof of current insurance coverage can be verified at <https://secure.lni.wa.gov/verify/>.

- b. Commercial General Liability. Contractor shall maintain a Commercial General Liability policy with a minimum limit of liability of \$1,000,000 per occurrence and in the aggregate for bodily injury and property damage. The Tribe shall be named as an additional insured and provide a waiver of subrogation. This insurance shall indicate on the Certificate of Insurance the following coverage: (1) Premises – Operations; (2) Independent Contractor and Sub-contractors; (3) Products and Completed Operations; and (4) Broad Form Contractual.

Copy attached.

- c. Automobile Liability Insurance. Contractor shall maintain an Automobile Liability Insurance policy with a minimum limit of liability of \$1,000,000 per occurrence for bodily injury and property damage. This insurance shall include for bodily injury and property damage the following coverage: (1) owned vehicles/equipment; (2) hired/rented/leased vehicles/equipment; and (3) non-owned vehicles/equipment. Each policy shall specify the Tribe and all officers and employees of the Tribe as Additional Insured. This coverage may be any combination of primary, umbrella, or excess liability coverage.

Copy attached.

A copy of all insurance certificates must accompany contract. Contractor, prior to commencing work, shall provide a Certificate of Insurance naming the Nooksack Indian Tribe as the additional insured as respects the contract and/or project. Each certificate or policy shall require that, thirty (30) days prior to cancellation or material change in the policy, notice thereof shall be given to the Risk Manager of the Nooksack Indian Tribe. All such notices shall name Contractor and identify the contract number and/or Project name.

9. **Indemnification Agreement.** Contractor agrees to protect, defend, indemnify and hold harmless the Nooksack Indian Tribe, Tribal Council, and its officers, employees and agents free from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses

or liability of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceeding or causes of action of every kind and character in connection with, or arising directly or indirectly out of this Agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright (or application for any therefore) or of any other tangible or intangible statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. Contractor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related hereto, even if it (claims, etc.) is groundless, false or fraudulent.

III. PAYMENT AND REPORTING

10. Amount of payment. Unless different payment terms are agreed upon, all payments are made net 30 days of date of invoice per Nooksack Indian Tribe Accounting Policies. Upon satisfactory completion of the Project and in consideration for the services to be performed by Contractor, Tribe agrees to pay Contractor:



11. Taxpayer Identification Number. Prior to commencing the Project, Contractor must provide Tribe with a valid Employer Identification Number (EIN) from the IRS or in the absence of an EIN, a social security number. Contractor must complete and submit a duly executed Form W-9 or Form W-8BEN, if applicable. **A copy of the completed W-9 or W-8BEN must accompany contract.**

Copy attached.

12. Business License Requirement. Prior to commencing the Project, and prior to any payment being made hereunder, Contractor must obtain a Business License from the Nooksack Indian Tribe unless otherwise exempt. An application form can be obtained from the Nooksack Indian Tribe Administration Building located at 5016 Deming Rd., Deming, WA 98244 or at www.nooksacktribe.org. **A copy of the business license must accompany contract.**

Copy attached.

In the event the Contractor does not have a business license at the time the Tribe processes the first payment pursuant to this Agreement, Contractor acknowledges and agrees to be bound by the terms of Title 54 and the terms and conditions of any business license issued thereunder. Further, Contractor specifically authorizes and agrees that the Tribe may withhold the first one hundred dollars (\$100.00) due hereunder for payment of the full annual licensing fee.

13. Tax Reporting and Filing. Contractor acknowledges and agrees that he or she shall be responsible (as a self-employed individual) for filing all tax returns, tax declarations, and tax schedules, and for the payment of all taxes required, when due, with respect to any and all compensation earned by Contractor under this Agreement. Tribe will not withhold any employment taxes from compensation it pays Contractor. Rather, Tribe will report the amount it pays Contractor on IRS Form 1099, to the extent required to do so under applicable Internal Revenue Code provisions and state or local law. Contractor is not Tribe's employee, and Contractor is responsible for paying all required state, local and federal taxes.

14. Expenses. Contractor shall be responsible for all costs and expenses incidental to the performance of

services to Tribe, including but not limited to; all costs of equipment provided by Contractor, all fees, fines, licenses, bonds or taxes required of or imposed against Contractor and all other of Contractor's costs of doing business. Tribe shall not be responsible for expenses incurred by Contractor in performing services for Tribe unless otherwise agreed upon in advance in writing by the Parties.

IV. INDEPENDENT CONTRACTOR STATUS

- 15. Independent Contractor.** It is the express intent of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of Tribe. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Tribe and Contractor or any employee or agent of Contractor. All work product developed by Contractor shall be deemed owned and assigned to Tribe. This Agreement is not authority for Contractor to act for Tribe as its agent or make commitments for Tribe. Contractor retains the discretion in performing the tasks assigned within the scope of work specified. Both parties acknowledge that Contractor is not an employee of the Tribe for state or federal tax purposes. Contractor shall retain the right to perform services for others during the term of this Agreement so long as the performance of these services does not interfere with the completion of the Project.
- 16. No Benefits.** None of the benefits, if any, that are provided by Tribe to its employees shall be available to Contractor (or his employees, if any, which for purposes of this section shall be included in the term "Contractor"). Contractor's exclusion from benefit programs maintained by Tribe is a material term of the terms of compensation negotiated by the Parties, and is not premised on Contractor's status as a non-employee with respect to Tribe. To the extent that Contractor may become eligible for any benefit programs maintained by Tribe (regardless of the timing of or reason for eligibility), Contractor hereby waives the right to participate in these programs. Contractor's waiver is not conditioned on any representation or assumption concerning Contractor's status under the common law test. Contractor agrees that, consistent with an independent contractor status, Contractor will not apply for any government-sponsored benefits that are intended to apply to employees, including, but not limited to, unemployment benefits.
- 17. Contractor's Business Activities.**
- a. Contractor is an independent contractor and may engage in other business activities at the same time service is provided to Tribe.
 - b. Contractor shall not during the term of this Agreement solicit Tribe's employees or accounts on behalf of Contractor or another entity.
 - c. Contractor shall devote such time, attention, and energy to the business and affairs of Tribe as requested by Tribe, and in any event no less that the amount of time required to do a satisfactory completion of the required Project.

V. TERMINATION AND NOTICE

- 18. Termination of Agreement.** This Agreement may be terminated prior to the date listed in Section 1 for any of the following reasons.
- a. Default or Material Breach. Either party may terminate this Agreement immediately upon a default or Material Breach by the other party of any term or condition, if such breach continues uncured for thirty (30) days following written notification from the non-breaching party. For the purposes of this Section, a Material Breach of this Agreement shall include, but not be limited to the following: failure to provide services as specified in Section 2, failure to maintain required insurance coverage as

specified in Section 8, or failure to complete project within the time specified in Section 1.

- b. Failure to Make Agreed-Upon Payments. In the event the Tribe fails to pay Contractor all or any part of the compensation set forth in Section 10 of this Agreement, Contractor may terminate this Agreement if such failure is not remedied by Tribe within thirty (30) days of receipt of written notice from Contractor of the breach.
- c. For Convenience. The Tribe, by written notice, may terminate this Agreement in whole or in part, when it is in Tribe's best interest. If this Agreement is terminated, Tribe shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- d. Funding Contingency. Funding for this contract is contingent on the availability of funds and continued authorization for program activities. The Contract is subject to amendment or termination due to lack of funds, reduction of funds and/or change in program requirements, upon thirty (30) days written notice, in the sole discretion of the Nooksack Indian Tribe.

19. Notices. Any notice provided for, or concerning this Agreement, shall be in writing and be deemed sufficiently given when sent by certified or registered mail to the respective address as set forth in this section:

If to Contractor:

If to Tribe: Nooksack Indian Tribe
 Attn:
 5016 Deming Road
 P. O. Box 157
 Deming, WA 98244
 Phone: (360) 592-5176

And to: Office of Tribal Attorney
 P.O. Box 63
 Deming, WA 98264
 Phone: (360) 592-4158
 Fax: (360) 592-2227

VI. GENERAL

20. Confidential Information. Contractor agrees that all confidential documents, work product and information (including but not limited to this Agreement and any information or documents related to this Agreement or the performance of services hereunder) received or otherwise obtained from the Tribe pursuant to this Agreement will be received in strict confidence and will be used only for the purposes of performing under this Agreement. Except with respect to a request with a regulatory agency, Contractor will not disclose any such information to any third party without obtaining the prior written consent of the Tribe, and Contractor will disclose such information only to such of its officers, employees, and agents that have a need to know such information for the purposes contemplated by this Agreement. Further, Contractor shall not publish, advertise or otherwise use for any promotional purpose, any image of the Project or associated with the Project obtained while fulfilling the terms of this Agreement, without the prior written consent of the Tribe.

- 21. Assignment.** The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.
- 22. No Third Party Beneficiaries.** This Agreement is made solely and specifically for the benefit of the parties hereto and their permitted successors and assigns. No other person shall have any rights, interests, claims, or benefits hereunder.
- 23. Cooperation of Tribe.** Tribe agrees to comply with all reasonable requests of Contractor (and provide access to all documents) reasonably necessary to the performance of Contractor's duties under this Agreement.
- 24. Drug and Alcohol Policy.** Contractor and his or her employees are expected to be free from the effects of drug or alcohol use or abuse while performing services required pursuant to this Agreement or otherwise conducting business for or in the name of Tribe or a Tribal entity.
- 25. Certification Regarding Debarment.** The Contractor certifies, by execution of this Agreement, that neither he or she, nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. The Contractor further certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by the Washington State Labor and Industries.
- SAM LIST (debarment) VERIFICATION ATTACHED**
Verification can be obtained at www.sam.gov.
- L&I VERIFICATION ATTACHED**
Verification can be obtained at <https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx>.
- 26. Sovereign Immunity Not Waived.** Nothing in this Agreement shall be deemed or construed to be a waiver of the sovereign immunity of the Nooksack Indian Tribe, its officials, its entities, or employees acting within their official or individual capacities.
- 27. Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Nooksack Indian Tribe. The parties hereto agree that all actions and proceedings relating directly or indirectly hereto shall be brought in the Tribal Court of the Nooksack Indian Tribe, and the Contractor expressly consents to the jurisdiction of the Tribal Court of the Nooksack Indian Tribe and to venue therein and consent to service of process in any such action or proceeding by certified registered mail of the summons and complaint therein directed to the parties at their respective addresses set forth in this Agreement. By agreeing to this venue, the Tribe does not waive its sovereign immunity, or its right to raise sovereign immunity as a defense
- 28. Waivers.** The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and condition, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.
- 29. Captions, Construction, Drafting Ambiguities.** The titles to the sections of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

30. Independent Counsel. Contractor acknowledges that they have had the opportunity to consult legal counsel in regard to this Agreement. Contractor has read and understands this Agreement and is fully aware of its legal effect and that Contractor has entered into it freely and voluntarily and based on Contractor's own judgment, and not on any representations or promises other than those contained in this Agreement.

31. Coordination of Agreement Documents, Plans, Special Provisions, Specifications, and Addenda. The complete Agreement includes the following parts:

- Agreement
- Choose a Document
- Choose a Document
- Choose a Document
- Choose a Document
- Other (list)
- Other (list)

These parts complement each other in describing a complete work. Any requirement in one part binds as if stated in all parts. The Contractor shall provide any work or materials clearly implied in the Agreement even if the Agreement does not mention it specifically.

Any inconsistency in the parts of the Agreement shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 3, 4, 5, 6 and 7; 2 presiding over 3, 4, 5, 6 and 7; and so forth):

On the Contract Plans, Working Drawings, and Standard Plans, figured dimensions shall take precedence over scaled dimensions. This order of precedence shall not apply when work is required by one part of the Agreement but omitted from another part or parts of the Agreement. The work is required in one part must be furnished even if not mentioned in other parts of the Agreement. If any part of the Agreement requires work that does not include a description for how the work is to be performed, the work shall be performed in accordance with standard trade practice(s). For purposes of the Agreement, a standard trade practice is one having such regularity of observance in the trade as to justify an expectation that it will be observed by the Contractor in doing the work.

32. Entire Agreement of the Parties. This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Contractor for Tribe, and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein.

33. Further Assurances. Contractor, at the request of the Tribe, shall execute all documents and take all other actions necessary to carry out the provisions and purposes of this Agreement. This shall specifically include execution of any amendment, addenda, or further assurances necessary to comply with federal law or regulation.

34. Amendment. This Agreement may not be amended, modified, rescinded, or assigned without the prior written consent of both parties.

35. Severability. If any provision of this Agreement is unenforceable for any reason, it shall be stricken from this Agreement but shall not affect the intention of the parties or any other section of this Agreement.

36. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document. Facsimile or electronic counterparts of this Agreement shall suffice as originals for all purposes.

The Parties have duly executed this Agreement as of the date first written above.

<u>CONTRACTOR</u>	<u>NOOKSACK INDIAN TRIBE</u>
By:	By: Rosemary LaClair
Signature: _____	Signature: _____
Title:	Title: Chairwoman
SSI# or EIN#:	
Date:	