

AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232**

Prepared by:
Matt Pietrusiewicz

Department: Yakima County Roads

Requested Agenda Date: 02/16/2021

Presenting: _____

Document Title: _____

<small>Board of County Commissioners Record Assigned</small> BOCC Agreement
030 - 2021
Yakima County, WA

APPROVED FOR AGENDA:	
<input type="checkbox"/> Consent	<input type="checkbox"/> Regular
<small>Board of County Commissioners Determined</small>	

Memorandum of Agreement between Yakama Nation and Yakima County

Action Requested: *Check Applicable Box*

<input type="checkbox"/> PASS RESOLUTION	<input checked="" type="checkbox"/> EXECUTE or AMEND AGREEMENT CONTRACT or GRANT
<input type="checkbox"/> ISSUE PROCLAMATION	<input type="checkbox"/> PASS ORDINANCE <input type="checkbox"/> OTHER _____

Describe Fiscal Impact:

N/A

Background Information:


The MEMORANDUM OF AGREEMENT is between the Yakama Nation and Yakima County to establish specific locations for enhanced traffic signs. All work will be done in accordance with Yakima County and applicable regulations. Yakima County will perform the services contemplated by this agreement and the Yakama Nation will reimburse the County for actual costs incurred for services, labor, equipment and overhead to establish and install all enhanced traffic signs.

Summary & Recommendation:

Execution of agreement between Yakama Nation and Yakima County

Motion:

Department Head/ Elected Official



Signature

AGREEMENT Attached Is Approved as to Form
Corporate Counsel Initial



Late Agenda Requests Require BOCC Chairman Signature:

MEMORANDUM OF AGREEMENT

BETWEEN

BOCC Agreement

YAKAMA NATION

030 - 2021

AND

Yakima County, WA

YAKIMA COUNTY

THIS MEMORANDUM OF AGREEMENT is made and entered into by and between the Confederated Tribes and Bands of the Yakama Nation, hereinafter referred to as the "Nation", and Yakima County, hereinafter referred to as "County", for the purpose of implementing intersection safety improvements.

I. BACKGROUND

Washington State Department of Transportation's ("WSDOT") Strategic Highway Safety Plan "Target Zero" identifies Native Americans and Alaskan Natives ("NA/AN") as the ethnic group with the highest rate of fatalities and serious injuries in the state. The Nation recognizes this issue and authorized the formation of the Tribal Traffic Safety Committee in 2017 to address contributing factors and develop countermeasure to eliminate traffic fatalities and serious injuries on the Yakama Reservation.

On August 9, 2019 Tribal Council approved the Nation's Transportation Safety Management Plan ("SMP"). The Nation utilized 2001 to 2013 collision data from the WSDOT Collision Data and Analysis Branch to develop the SMP. In the SMP intersection related collisions is the number 3 priority for treating traffic fatalities and serious injuries, where 'intersection' was the most cited factor in collision reports on the reservation.

The Tribal Council Chairman proposed taking measures to improve traffic safety at intersections with fatalities and serious injuries. The intersections were analyzed and prioritized by the number of fatalities, serious injuries and contributing factors. A total of 13 intersections were found to have fatalities. Two other intersections without fatalities were also analyzed, due to the high number of overall injuries and contributing factors. All priority intersections involve County roads, where 4 include state routes.

A Reciprocal Maintenance Agreement JE 5438 Amendment #1 exists between the Nation and Washington State Department of Transportation, hereinafter referred to as the "State", where said Agreement will be utilized to work cooperatively to make safety improvements on the State route intersections identified in Exhibit A "Statement of Work ("SOW").

II. PURPOSE

The purpose of this Agreement is to establish a reimbursement agreement between the County and the Nation. The Nation will provide Tribal Transportation Program ("TTP") funding and the County will perform the installation of traffic signs with flashing lights, solar panels, radar detectors and other appurtenances to make intersections safer through increased conspicuity. See Exhibit A SOW for detailed description of work.

III. OBJECTIVES AND PERFORMANCES

The objectives of this Agreement is for the Nation and the County to establish specific locations for enhanced traffic signs. All work will be done in accordance with Yakima County and applicable regulations. Yakima County will perform the services contemplated by this Agreement, which are set forth in the attached SOW, Exhibit A.

IV. IMPLEMENTING ACTIONS

The parties agree as follows:

a. The County will:

- (1) Complete establishment of each enhanced sign location, pavement markings, while ensuring sight distances and need for obstruction removal.
- (2) Complete time-line schedule to install all enhanced signs and cost estimate for labor, equipment and overhead to install all enhanced traffic signs.

b. The Nation will:

- (1) Seek a Tribal Transportation Program Safety Fund ("TTPSF") grant, or use existing TTP allocation to purchase all enhanced traffic sign materials and hardware for intersection safety improvement.
- (2) Reimburse County for actual costs incurred for services, labor, equipment and overhead to establish and install all enhanced traffic signs (see Exhibits B "Budget" and C "Compensation" for full details).
- (3) Prepare for approval a Categorical Exclusion under the National Environmental Policy Act (NEPA) for this project.
- (4) Will pay fees and permits associated with this project, such as Nation's Water Code Permit.

V. COMPENSATION

The Nation agrees to provide the County payment for costs to be incurred in preparing and implementing this project. County's estimated cost for this project is \$516,824.00; this will be paid on a monthly basis for the intersections completed as shown on "Exhibit B Budget". Payment will be made within 30 working days of receipt an invoice.

VI. REPORTING AND RETENTION OF AUDITABLE RECORDS

Background reports showing billable costs and materials will be provided in the normal County format.

The County will maintain and retain auditable records during the term of this Agreement and for a period of at least three (3) years following the expiration or termination of this Agreement. Subject to applicable law, the County agrees that the Yakama Nation, or any duly authorized representative of the Yakama Nation or the United States, shall have access to any books, documents, papers, and records of the County, which are directly pertinent to the subject matter of this Agreement and the performance obligations contained herein, for the purposes of making audit, examination, excerpts, and transcriptions.

VII. PERIOD OF PERFORMANCE, TERMINATION, AND MODIFICATION

This Agreement shall become effective on the date of last signature hereto and depending on the receipt of Tribal Transportation Safety Fund (TTSF) specifically allocated (grant) for this project. When the TTFS funds are drawn down into the Nation's account, the County will be notified and activities for this project will begin. From this time the County will have 6 (six) months to complete the work.

Either party may terminate this Agreement by giving to the other party at least thirty (30) days prior notice. The notice must specify the effective date of termination. Either party may immediately terminate this Agreement by written notice following a material breach by the other party.

Any party may formally request modification of the Agreement, but any modification must be approved in writing by both parties.

VIII. DESIGNATED CONTACTS AND NOTICE

Each party to this Agreement shall have a contact representative. Unless otherwise designated, the representatives for this Agreement are:

For Yakima County: Matt Pietrusiewicz, PE
County Engineer
Yakima County
128 North 2nd Street, 4th Floor
Yakima, WA 98901
Telephone (509)574-2300
Fax (509)574-2301
Email: Matt.Pietrusiewicz@co.yakima.wa.us

For Yakama Nation: Richard Dills, PE
Yakama Nation DNR Engineering P.O. Box 151
401 Fort Road
Toppenish, WA 98948
Telephone: (509)865-5121
Cellular: (509)945-3819
Email: Richard_Dills@yakama.com

IX. DISPUTE RESOLUTION

If the parties disagree about the performance, interpretation, or enforcement of this Agreement, they shall first attempt to resolve their disagreement informally through (a) dialogue between their project managers, and then (b) face-to-face negotiations between their leaders, which must be held in Toppenish, WA. If the parties cannot resolve their disagreement after taking these steps, it will be deemed a 'dispute'.

The Parties may mutually agree to resolve any dispute through mediation. Such mediation must be held at a mutually agreeable location in Yakima, Washington. Any demand for mediation must be made in writing and delivered to the other party in accordance with the contacts listed in Section VIII (above). The Yakama Nation will assume the cost of choosing and/or hiring one representative to mediate, and Yakima County will assume the cost of choosing and/or hiring a second representative to mediate. These two mediators will then choose a third impartial mediator. The Parties shall share equally the cost(s) of hiring the third mediator and securing a suitable location for the mediation proceedings. The three mediators shall then hear the dispute and make their decision, this decision shall be final.

X. GENERAL PROVISIONS

A. Nothing herein shall be construed to obligate either party to expend funds or involve their respective agencies in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for the purposes and projects contemplated hereunder.

B. The County shall not hire a subcontractor to perform any portion of the Work for this Agreement, except as expressly authorized in writing by the Yakama Nation. Where the Yakama Nation has authorized the County's hiring of a subcontractor, the County shall require the subcontractor to comply with all relevant terms and conditions of this Agreement in performing

their portion of the Work. Any unauthorized attempt by the County to subcontract the Work must be null and void, and the County shall be responsible for all expenses, fees, and costs associated with the unauthorized subcontract(s).

C. In performing the work under this Agreement, the County agrees to comply with all Federal statutes relating to nondiscrimination, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, religion, sex, or national origin; Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex; the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, which prohibit discrimination on the basis of disability; the Age Discrimination in Employment Act of 1967, as amended, which prohibits discrimination based on age against those who are at least 40 years of age; and the Equal Pay Act of 1963.

D. In performing the work under this Agreement, the County agrees to comply with all applicable codes and jurisdictions governing public works. This shall include but not be limited to; American Association of State & Highway Transportation Officials (AASHTO), Federal Highway Administrations, Manual of Uniform Traffic Control Devices (MUTCD), and coordinate with all utilities.

E. Compensation under this contract is dependent upon the availability of funds to the Yakama Nation through the TTPSF grant. The TTPSF is authorized within the Tribal Transportation Program under the Fixing America's Surface Transportation ("FAST") Act. The FHWA will distribute these funds as described in its notice on a competitive basis in a manner consistent with the selection criteria.

F. The County acknowledges that federal grant funds utilized to compensate the County may be subject to certain requirements and restrictions. Upon receipt of a TTPSF grant, the Yakama Nation will provide the County with a copy of the relevant requirements and restrictions that the County must comply.

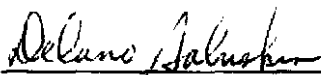
G. The parties acknowledge that in entering into this Agreement, the Nation is not waiving, altering, or otherwise diminishing its sovereign rights or immunities, or its rights, privileges, remedies, or services guaranteed by the U.S. Treaty with the Yakamas of June 9, 1855 (12 Stat. 951).

XI. SIGNATURES

**BOARD OF YAKIMA COUNTY
COMMISSIONERS**

YAKAMA NATION

Ron Anderson, Chairman



Delano Saluskin, Chairman
Yakama Tribal Council

FEB 16 2021

LaDon Linde, Commissioner

Date

FEB 16 2021

Amanda McKinney, Commissioner

Date

*Constituting the Board of County Commissioners
For Yakima County, Washington*

ATTEST:

Approved as to Form:

Clerk of the Board


Deputy Prosecuting Attorney

Attachments: Exhibit A "Statement of Work"
Exhibit B "Budget"
Exhibit C "Compensation"
Exhibit D "Intersection Safety Improvement Project"

EXHIBIT A “STATEMENT OF WORK”

A. PROJECT SUMMARY AND NEED:

The Yakama Nation (Nation) pursuant to the Memorandum of Agreement (MOA) with Yakima County (County) approved (date) agrees to have the County perform Intersection Safety Improvement Project by implementing the FHWA's Proven Safety Countermeasure (FHWA-SA-17-056): A Systemic Approach to Low-Cost Improvements at Stop-Controlled Intersections. In Nation's Intersection Safety Improvement Report 10 intersections are identified for making safety improvements

The proposed project is for the installation of dual (2) advance stop ahead warning signs and dual (2) stop signs with solar powered flashing lights and radar activation in each direction (for a total of eight (8) signs per intersection). These signs sets will be placed on both the left and right sides of the road to improve conspicuity for approaching traffic (see attached diagram of typical installation).

The project includes locating placement for each sign, review of sight triangles, upgrading pavement markings and installing sign sets according to current AASHTO standards. A work plan will be coordinated between the Nation and County.

The Nation will use Tribal Transportation Program (TTP) Safety Funds to purchase sign sets for this project. The sign set purchase will be agreed upon by all parties involved. With the use of TTP funds, the Nation will provide the environmental documentation (NEPA) and permitting, in cooperation with county and state as necessary.

An Intersection Safety Improvement Report was prepared by the Nation that analyzed and prioritized intersections with highest fatalities, serious injuries and overall injuries. This report is attached as Exhibit D. In this report the following intersections are listed in order of priority and are by this reference the project intersections for safety improvements on Yakima County roads.

- 1) S Wapato/McDonald Roads
- 2) Lateral A/Branch Roads
- 3) Lateral A/Lateral 1 Roads
- 4) Lateral A/Progressive Roads
- 5) Lateral A/Fort Roads
- 6) W Wapato/Lateral B Roads
- 7) Fort/Becker Roads
- 8) Lateral A/McDonald Roads
- 9) Lateral A/Kays Roads
- 10) N Meyers/Fraleay Road.

B. PROJECT PHASES:

This project has two phases for the completion of the Intersection Safety Improvement Project. The initial phase is the coordination of the Nation, County and State to develop sign locations as needed for each of the selected intersections.

Prior to beginning any work, a preliminary meeting between the Nation, County and State will be conducted to assure all parties understand their responsibilities associated with this Statement of Work and the applicable regulations and standards.

1. Preliminary Phase- This work includes performing any surveys to accurately locate sign placement and determine post length, locate existing utilities and verify sight distances or obstructions to solar generation.
2. Implementation Phase- Installation of signs, solar panels, radar detectors, hardware accessories and pavement markings.

C. PROJECT MANAGEMENT:

Project management will be the responsibility of the County. Specific project management activities include:

Conduct progress meetings and site visits.

Provide final project files in hard copies and electronic format. Any electronic drawings or material standards shall be in Adobe Acrobat format. Final cost estimates and quantities shall be submitted in MicroSoft Excel format.

Use quality control procedures throughout this project to ensure that all project deliverables adequately installed and conform to accepted American Association of State Highway Transportation Officials ("AASHTO"), WSDOT, and Federal Highway Administration ("FHWA") design standards.

D. PROJECT DESIGN STANDARDS:

Manual on Uniform Traffic Control Devices, 2009 edition and amendments.

Standard Highway Signs, 2004 Edition and amendments.

Washington State Department of Transportation Standard Plan Manual, 201x

Washington State Department of Transportation Standard Specifications, 201x

E. PROJECT WORK TASKS

1. Preliminary Review

Conduct research necessary to identify existing utilities or obstructions impairing sight distances or solar power generation.

Conduct meeting with all project disciplines and stakeholders to discuss the project process and progress.

Assure all product materials certifications and specifications are acceptable and on file.

Obtain signed copy of National Environmental Policy Act (“NEPA”) document prepared by Nation and approved by Bureau of Indian Affairs (“BIA”) for the project file.

2. **Intermediate Phase**

If necessary, perform survey for staking sign locations and determining post lengths.

Prepare detailed quantity estimate and project pay item listing, and engineer’s estimate for all project pay items.

Prepare supplemental specifications of anticipated environmental work windows, work shutdowns, and impacts to public traffic.

3. **Final Phase**

Install enhanced sign sets with flashing lights, solar panels, radar detectors and hardware accessories.

Conduct a final review meeting with the project stakeholders to review final work.

F. PROJECT DELIVERABLES:

1. **General Submittal Format**

a. Preliminary Review

Meeting minutes and sign-in sheet of preliminary review meeting.

b. Intermediate Phase

Written statement scheduling installation and completion of enhanced sign sets.

c. Final Phase

Final cost estimate for all works on 8-½x11 paper or electronic format.

Minutes from final review meeting and attendance sign-in sheet.

EXHIBIT B BUDGET

Intersection Safety Improvement Pilot Project Yakama Nation & Yakima County

Item No.	Description (Yakima County)	Quantity	Unit	Unit \$	Total Item Amount
	Yakima County				
1	Mobilization	1	L.S.	\$20,000.00	\$20,000.00
2	Removal of Structures and Obstructions	1	L.S.	\$5,000.00	\$5,000.00
3	Plastic Traffic Letters	180	Ea.	\$128.00	\$23,040.00
4	Installation of Blinkersign R1-1 Stop Sign with 12V Sun saver Controller, 30-Watt Solar, 35 AH Battery	40	Ea.	\$4,750.00	\$190,000.00
5	Installation of Blinkersign W3-1 Advance Stop Ahead Sign with 12V Sun saver Controller, 30-Watt Solar, 35 AH Battery	40	Ea.	\$4,750.00	\$190,000.00
6	Other Temporary Traffic Control	1	L.S.	\$12,000.00	\$12,000.00
7	Flaggers and Spotters	320	Hr.	\$65.00	\$20,800.00
8	Traffic Control Supervisor	1	L.S.	\$8,000.00	\$8,000.00
9	SPCC Plan	1	L.S.	\$1,000.00	\$1,000.00
	Subtotal				\$469,840.00
10	Miscellaneous Cost	10.00%	F.A.	\$46,984.00	\$46,984.00
	Yakima County Total Budget				\$516,824.00
	Yakama Nation Budget				
1	Purchase of Blinkersign R1-1 Stop Sign with 12V Sun saver Controller, 30-Watt Solar, 35 AH Battery	80	Ea.	\$2,500.00	\$200,000.00
	Project Subtotal				\$669,840.00
2	Indirect Cost	21.00%	L.S.	\$140,666.40	\$140,666.40
	Grand Total				\$810,506.40



Yakima County Roads

Matt Pietrusiewicz P.E. - County Engineer

128 North Second Street • Fourth Floor Courthouse • Yakima, Washington 98901
(509) 574-2300 • 1-800-572-7354 • FAX (509) 574-2301 • www.co.yakima.wa.us

August 14, 2020

Mr. Richard Dills, S.E.
Yakama Nation Engineering
P.O. Box 151
Toppenish, WA 98948

RE: Intersection Safety Improvement Pilot Project

Dear Mr. Dills:

Per our ongoing communications, Yakima County and Yakama Nation have verbally agreed in principal to cooperate and install FHWA recommended county measures at ten (10) intersections on County roads within the limits of the Yakama Nation. This letter serves as support for the FY20 Tribal Transportation Program Safety Fund grant application.

It has been a pleasure working with you on this project. I look forward to the successful implementation of our intersection improvement plan.

Sincerely,

Matt Pietrusiewicz, P.E.
Yakima County Engineer

Yakima County ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin, or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding Yakima County's Title VI Program, you may contact the Title VI Coordinator at 509-574-2300.

If this letter pertains to a meeting and you need special accommodations, please call us at 509-574-2300 by 10:00 a.m. three days prior to the meeting. For TDD users, please use the State's toll free relay service 1-800-833-6388 and ask the operator to dial 509-574-2300.