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Fish Barrier Culvert Remediation Project

Implementation Plan Memorandum of Agreement

Between

Lummi Nation, Nooksack Indian Tribe, City of Bellingham

and the Washington Department of Fish and Wildlife

Preamble:

The City of Bellingham has the legal right and legal obligation, to design, to construct, and to maintain a road network, including culverts and other passageways over streams, for its residents. The Nooksack Indian Tribe and the Lummi Nation have Treaty-reserved rights to fish and co-manage fisheries and are guaranteed 50% of the harvestable catch of salmon in their Usual and Accustomed grounds. The Nooksack Tribe and Lummi Nation further assert that they have federal reserved water rights in the Nooksack River basin, including the right to instream flows for fisheries purposes. This voluntary Memorandum of Agreement is intended solely to address remediation of fish passage that may be blocked or partially blocked by culverts and other infrastructure owned by the City of Bellingham. This Agreement supersedes that certain Fish Barrier Culvert Remediation Project Memorandum of Agreement dated October 5, 2022 by and among the Nooksack Indian Tribe, the Lummi Nation, the City of Bellingham, and the Washington State Department of Fish and Wildlife (the 2022 MOA) to prioritize and create a schedule for remediating culverts owned by the City of Bellingham that block or partially block anadromous and resident fish passage. This MOA governs the substance and priority of remediation efforts.

For the purposes of the MOA, the term "culvert" is used to mean any structure, including dams, weirs, tidegates and floodgates, other than a full-span bridge, that is constructed to convey water beneath a roadway, footpath or railway, and shall also include associated fishways.

Parties to the Agreement:

The parties to this MOA are the Lummi Nation, Nooksack Indian Tribe, the City of Bellingham, and the Washington Department of Fish and Wildlife (collectively, the Parties).

Objectives:

The objectives of this MOA are:

1. Adopt the culvert inventory and prioritization as documented in the City of Bellingham Fish Passage Culvert Remediation Fish Passage Prioritization, by Environmental Science Associates dated October 2025, as it may be amended from time to time with concurrence by the Parties (Fish Passage Prioritization).

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2. Adopt the City of Bellingham Fish Barrier Culvert Remediation Implementation Plan, by Environmental Science Associates, dated October 2025, as it may be amended from time to time with concurrence by the Parties (the Implementation Plan). The Implementation Plan shall:
    a. use the culvert prioritization to identify sites and track upstream habitat gain toward the program goal;
    b. document project milestones for each 6-year planning cycle; and
    c. Provide longer-term (30-year and 60-year) projections to estimate progress toward meeting the program goal. The projections will help meet the overarching goal by forecasting the implementation pace in upstream habitat gain for the projection period.

Roles and Responsibilities:

The Parties commit, to the best of their abilities, to:

1. Provide support as needed to evaluate tiering of fish passage barriers and adaptively manage the 6-year milestones;
2. Provide support for Program-level Coordination (as defined in the Implementation Plan) and reporting as described in the Implementation Plan;
3. Provide support for Project-level Coordination (as defined in the Implementation Plan) including design review and regulatory permissions for remediation efforts at fish passage barriers as described in the Implementation Plan.
4. Provide support as needed and as available to obtain necessary funding for remediation efforts identified in the Implementation Plan.

Decision Making:

This decision making process supersedes the decision making process contained in the 2022 MOA.

1. Decisions on changes to the Fish Passage Prioritization, Implementation Plan, or this MOA shall be made based on the best available information;
2. Decisions on changes to the Fish Passage Prioritization, Implementation Plan, or this MOA shall be made by consensus of the Parties;
3. Disputes shall be resolved through informal staff communications, if possible. If informal communication does not achieve resolution, formal disputes will be initiated in writing to the Parties stating the disputed issues with any supporting documentation and desired outcomes.

Termination:

Any party to this MOA may terminate its participation with 30 days written notice of intent to terminate to all other parties to this MOA.

No amendment or alteration of this MOA shall arise by implication, course of conduct, or change in state law, tribal or federal law. This MOA may be altered only by a subsequent

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written agreement signed by the Parties, expressly stating the Parties' intention to amend this MOA.

Liabilities/ Rights:

Nothing in this MOA shall be interpreted in any manner to create any rights or liabilities for or against any party hereto. This MOA is entered into by the parties in a good faith effort to work collaboratively to improve and to maintain fish passage through culverts owned by the City of Bellingham and is not entered into in order to create any legal rights of liabilities.

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CITY OF BELLINGHAM SIGNATURE PAGE FOR
FISH BARRIER CULVERT REMEDIATION PROJECT
IMPLEMENTATION PLAN MEMORANDUM OF AGREEMENT

EXECUTED this 11th day of May, 2026 for the **CITY OF BELLINGHAM** by:

Mayor

Departmental Approval:

Public Works Director

Attest:

Finance Director

Approved as to Form:

Office of the City Attorney

Brendan Brokes
Regional Director, Region 4
Washington Department of Fish and Wildlife

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Signed by:
Ross Cline, Sr.
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Roswell Cline, SR.

Tribal Council Chair

Nooksack Indian Tribe

LUMMI NATION NATURAL RESOURCES

Merle Jefferson

Director, Lummi Nation Natural Resources Department
Lummi Nation

EXECUTED this 19 day of October, 2026.