

PROPOSED BY: PUBLIC WORKS
INTRODUCED: JULY 9, 2019

RESOLUTION NO. _____

**AUTHORIZATION FOR APPLICATION TO THE BRIAN ABBOTT FISH BARRIER
REMOVAL BOARD - FISH BARRIER REMOVAL DESIGN FOR KENNEY CREEK AT
NORTH FORK ROAD**

(RCO Project No. 19-1565 Plan)

WHEREAS, the Whatcom County Council seeks funding to pay for site assessment, alternatives analysis, design of a preferred alternative, and preparation of bid ready construction plans, bid documents, construction cost estimates, and permits to remove the high priority barrier to salmon passage on Kenney Creek at North Fork Road in Whatcom County, Washington; and

WHEREAS, this resolution authorizes submitting an application for grant funding assistance for a fish barrier removal project to the Brian Abbott Fish Barrier Removal Board, which is established under RCW 77.95.160 and managed through the Recreation and Conservation Office (Office); and

WHEREAS, state grant assistance is requested to aid in financing the cost of the planning and design project referenced above; and

WHEREAS, the Whatcom County Council considers it in the best public interest to complete the project described in the application.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that:

1. Our organization intends to apply for funding assistance managed by the Office for the above Fish Barrier Removal Design for Kenney Creek at North Fork Road project.
2. Jack Louws, Whatcom County Executive, is authorized to act as a representative/agent for our organization with full authority to bind the organization regarding all matters related to the Project(s), including but not

limited to, full authority to: (1) approve submittal of a grant application to the Office, (2) enter into a project agreement(s) on behalf of our organization, (3) sign any amendments thereto on behalf of our organization, (4) make any decisions and submissions required with respect to the Project(s), and (5) designate a project contact(s) to implement the day-to-day management of the grant(s).

3. Jon Hutchings, Public Works Director, is designated the authority to make formal grant application to the Office and to oversee and delegate implementation of the day-to-day management of the grant.
4. Our organization has reviewed the sample project agreement on the Recreation and Conservation Office's Website at:
<https://rco.wa.gov/documents/manuals&forms/SampleProjAgreement.pdf>. We understand and acknowledge that if offered a project agreement to sign in the future, it will contain an indemnification and legal venue stipulation (applicable to any sponsor) and a waiver of sovereign immunity (applicable to Tribes) and other terms and conditions substantially in the form contained in the sample project agreement and that such terms and conditions of any signed project agreement shall be legally binding on the sponsor if our representative/agent enters into a project agreement on our behalf. The Office reserves the right to revise the project agreement prior to execution and shall communicate any such revisions with the above authorized representative/agent before execution.
5. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative/agent has full legal authority to enter into a project agreement(s) on its behalf, that includes indemnification, waiver of sovereign immunity (as may apply to Tribes), and stipulated legal venue for lawsuits and other terms substantially in the form contained in the sample project agreement or as may be revised prior to execution.
6. Grant assistance is contingent on a signed project agreement. Entering into any project agreement with the Office is purely voluntary on our part.
7. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of

funding in the project agreement, the characteristics of the project, and the characteristics of our organization.

8. Our organization further understands that *prior to* our authorized representative/agent executing the project agreement(s), the RCO may make revisions to its sample project agreement and that such revisions could include the indemnification, the waiver of sovereign immunity, and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the project agreement(s), confer with our authorized representative/agent as to any revisions to the project agreement from that of the sample project agreement. We also acknowledge and accept that if our authorized representative/agent executes the project agreement(s) with any such revisions, all terms and conditions of the executed project agreement (including but not limited to the indemnification, the waiver of sovereign immunity, and the legal venue stipulation) shall be conclusively deemed to be executed with our authorization.
9. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
10. Our organization acknowledges and warrants, after conferring with its legal counsel, that no additional legal authorization beyond this authorization is required to make the indemnification, the waiver of sovereign immunity (as may apply to Tribes), and the legal venue stipulation substantially in form shown on the sample project agreement or as may be revised prior to execution legally binding on our organization upon execution by our representative/agent.
11. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until the Project is complete.
12. This resolution/authorization is deemed to be part of the formal grant application to the Office.

13. Our organization warrants and certifies, after conferring with its legal counsel, that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

APPROVED this _____ day of _____, 2019

ATTEST:

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Dana Brown Davis, Clerk of the Council

Rud Browne, Chairman
Whatcom County Council

APPROVED AS TO FORM:



Christopher Quinn, Senior Civil Deputy Prosecuting Attorney

Washington State Attorney General's Office

Approved as to form



1/19/18

Assistant Attorney General

Date