

CONTRACT TO PERFORM GOVERNMENTAL ACTIVITIES
Between
THURSTON COUNTY
And
THE NISQUALLY INDIAN TRIBE

THIS CONTRACT is entered into in duplicate originals between THURSTON COUNTY, hereinafter "County," and The Nisqually Indian Tribe, hereinafter "Tribe."

WHEREAS, it is to the mutual advantage of the County and the Tribe to cooperate in road maintenance activities, as described herein, in order to make the most efficient use of their powers to provide services and facilities needed by the citizens residing within their respective jurisdictions; and

WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental activity that each public agency is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract;

NOW, THEREFORE, in consideration of the mutual promises and covenants recited herein, it is mutually agreed by the parties as follows:

I. PURPOSE

The purpose of this Contract is to perform road maintenance on tribal roads.

II. SERVICES

The work under this Contract shall consist of road maintenance activities including mowing, brushing, and grading on certain tribal roads as set forth in section IV. below.

III. DURATION

The terms and performance of this Contract shall commence after the approval by the governing body of each party and following the filing of this Contract as required by RCW 39.34.040. This Contract shall terminate upon completion of its purpose unless terminated sooner as provided herein.

IV. RESPONSIBILITY OF THE COUNTY

The County shall:

- 1.) Slope mow and brush Peter Kalama Road, clear sidewalks of vegetation on Peter Kalama Road and repair gravel portion of Billy Goat Hill Road by grading, watering and rolling.
- 2.) Provide all equipment, materials, and labor to perform the above described road maintenance.
- 3.) Keep accurate records of work performed and costs associated with the project.
- 4.) File this Contract in accordance with RCW 39.34.040.

V COMPENSATION

All costs for labor, equipment, and materials required to complete the work as set forth in Section IV shall be billed against the Tribe's available Rural Community Support Program funds. It is agreed that costs shall not exceed a total of \$11,000 without prior written approval of the Tribe.

VI. ADMINISTRATION

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Contract and for coordinating and monitoring performance under this Contract. In the event such representatives are changed, the party making the change shall notify the other party.

The County's representative shall be Lucy Mills, 9605 Tilley Road, Olympia, WA 98512, 360-709-3037, mills1@co.thurston.wa.us

The Tribe's representative shall be Jim Longley, 4820 She-Nah-Num Dr. SE, Olympia, WA 98513, 360-456-5221, x1178, longley.jim@nisqually-nsn.gov

Wherever written notice is required under this Contract, such notice shall be provided to the representatives designated above.

VII. RELATIONSHIP OF THE PARTIES

The employees or agents of each party who are engaged in the performance of this Contract shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party. This Contract is for the benefit of the parties, and no third party beneficiary relationship is intended.

VIII. INDEMNIFICATION AND HOLD HARMLESS

Each party agrees to indemnify and hold harmless the other party, its elected and appointed officers, employees, and agents from and against any and all claims, demands, and/or causes of action of any kind or nature, including but not limited to attorneys fees and costs, arising from the action and/or inactions of either party, its elected and appointed officers, employees, and agents in conjunction with this Contract. In the event of concurrent negligence of the parties, each party's obligations hereunder shall apply only to the extent of fault attributable to that party, its elected and appointed officers, employees, and agents. It is further provided that no liability shall attach to the County by reason of entering into this Contract except as expressly provided herein.

IX. TERMINATION

Either party may terminate this Contract upon thirty (30) days prior written notice to the other party. If this Contract is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Contract prior to the effective date of termination. The indemnification and hold harmless provisions of this Contract shall survive termination of the Contract.

X. CHANGES, MODIFICATIONS, AND AMENDMENTS

The Contract may be changed, modified, amended or waived only by written agreement executed by the parties hereto.

XI. GOVERNANCE

This Contract is entered into pursuant to and under the authority granted by the laws of the State of Washington and any applicable federal laws. The provisions of this Contract shall be construed to conform to those laws. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in a court of competent jurisdiction in Thurston County, Washington.

Pursuant to the above paragraph of this section, the Tribe expressly grants a limited waiver of sovereign immunity solely for the purposes of bringing suit in Thurston County for claims arising under or relating to this Contract.

XII. SEVERABILITY

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Contract, and to this end the provisions of this Contract are declared to be severable.

XIII. WAIVER

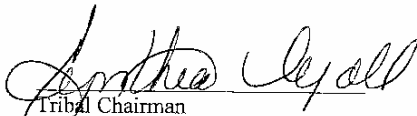
A failure by either party to exercise its rights under this Contract shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Contract unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Contract.

XIV. ENTIRE CONTRACT

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this Contract to be executed this 27 day of November, 2006.

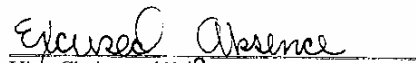
The Nisqually Indian Tribe

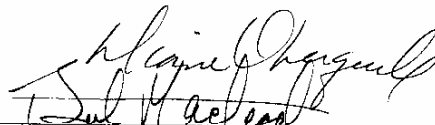

Tribal Chairman


Tribal Vice Chair

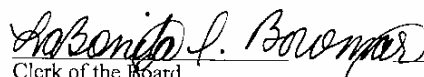
Board of County Commissioners
Thurston County


Chairman

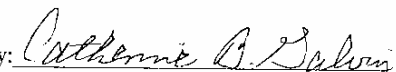

Vice-Chairman


Philip J. Chagnoli
Commissioner

ATTEST:


Deborah L. Brown
Clerk of the Board

Approved as to Form:
Edward G. Holm
Prosecuting Attorney

By: 
Catherine A. Baloni
Deputy Prosecuting Attorney