

PTOI GOVERNMENTAL CONTRACT-2014 INTERGOVERNMENTAL AGREEMENT

concerning the
Phase I Replacement of the Puyallup Avenue Bridge Construction Project
between the
Puyallup Tribe of Indians and the
City of Tacoma

I. INTRODUCTION

This Intergovernmental Agreement (“Agreement”) is entered into between the City of Tacoma (“COT”) and the Puyallup Tribe of Indians (“Tribe”), (collectively “Parties”). The Parties agree that they will consider applicable to the phased replacement of the Puyallup Avenue Bridge (“Project”) the terms, conditions, restrictions, authorizations, processes and other provisions described in this document. This Agreement, once executed, shall be binding on and enforceable against each Party.

The Project is defined as the activities proposed by COT on the Puyallup Indian Reservation related to the phased construction of the Puyallup Avenue Bridge and ingress/egress points thereto as described in the State Environmental Policy NEPA documentation completed on 23 January 2012; a Shoreline Substantial Development Permit including a SEPA Checklist and a JARPA was completed on 2 February 2012, including any terms or conditions imposed upon the activities by federal, state or local permits and other authorizations for the Project.

This Agreement applies to the Project. The Parties agree to bi-furcate approvals into two phases: the on-shore development (“Phase 1”) and the subsequent over-water development (“Phase 2”). COT has secured \$ 38,800,000.00 in funding for Phase I of the Project from the Bridge Replacement Advisory Committee (federal bridge funds); Freight Mobility Strategic Investment Board (state funds); Surface Transportation Program (federal highway funds); Washington State Department of Commerce (state legislature); the Port of Tacoma and the COT. COT estimates the cost of Phase 2 between \$ 120,000,000 and 175,000,000; no funding for Phase 2 has been obtained. The Parties acknowledge their intent to diligently pursue and obtain Phase 2 funding.

The Parties agree that nothing in this Agreement shall be interpreted as waiving any requirement or limitation imposed by the Puyallup Tribal Land Claims Settlement Agreement dated August 28, 1988, ratified by Congress in P.L. 101-41.

II. PURPOSE

The purpose of this Agreement is to delineate the commitments by all Parties related to avoiding, minimizing and mitigating the potential impacts of the Project on Tribal Treaty

rights, cultural resources and property interests, and facilitating the successful completion of the Project.

III. BACKGROUND

- A. COT plans to construct the Project wholly in the City of Tacoma in Pierce County, Washington. COT and federal and state authorities, and the Port of Tacoma have analyzed the Project pursuant to the National Environmental Policy Act (NEPA), the State Environmental Policy Act (SEPA), and other applicable laws and authorities.
- B. COT recognizes that the Project is to be conducted within the boundaries of the Puyallup Indian Reservation as defined within the 1873 survey on real property owned by both the COT and the Tribe (or in trust therefor).
- C. COT recognizes that the Puyallup Tribe owns the beds and banks of the Puyallup River within the Project's geographic boundaries. Phase 1 of the COT Project is programmed for on-land activities on and adjacent to Tribal lands including, but not limited to, the Ceremonial Grounds (PC Parcel No. 4715023640). COT recognizes that the Tribe has established and administers Planning and Land Use Services Permitting whilst the Department of Natural Resources has established and administers water quality standards and Clean Water Act (CWA) Section 401 Certification of water Quality Compliance authority for the Puyallup River within the Project limits.
- D. The Parties recognize that building the Project is subject to the availability of funds and the timely receipt of necessary Federal, Tribal, state and local regulatory approvals. COT has completed environmental documentation which addressed anticipated impacts associated with the Project.
- E. The Tribe has adjudicated Treaty fishing and gathering rights, including the right to take fish at its usual and accustomed fishing grounds and stations, which include the Puyallup River and parcels adjacent thereto. The parties expect that construction activities programmed for Phase 2 of the Project will impact the exercise of those rights.
- F. The construction activities of the Project will impact traffic to the local Tribal governance and economic center as well as regional impacts to COT, the Port of Tacoma and the City of Fife.
- G. COT is seeking to obtain temporary and permanent easements on land that is, or will become, Tribal trust lands for construction activities, for maintenance and operation of the constructed facilities, and for associated infrastructure, to include city owned utilities.
- H. COT recognizes that the project's complexity has a major impact on Tribal staff time for review and comment on several elements of the Project, including potential impacts on water quality, and transportation, legal matters, land use issues, project design and cultural resources.

- I. The City and the Tribe have met on a government-to-government basis to explore opportunities to modify the Project in order to avoid or minimize its potential impacts on the Tribe's rights and interests and have met to discuss how to mitigate for unavoidable impacts from the Project on those rights.

This Agreement is the result of the government-to-government consultation and reflects mutual commitments and undertakings of the Parties pertaining to the Project.

- J. The City and the Tribe agree to negotiate in good faith in order to resolve any real property/right-of-way use issues identified for Phase 2 of the Project.
- K. Pursuant to the Washington Inter-local Cooperation Act, Chapter 39.34 RCW, COT has the authority to enter into this agreement with the Tribe.

IV. PUYALLUP RIVER USAGE

- A. **Goal.** COT recognizes and acknowledges that the Puyallup River is at the center of the Tribe's Treaty-protected fishing rights and that the Project impacts on those rights, and on the fishery resource and habitat, in the River and the contiguous Ceremonial Grounds. The Parties' goal is to permit work on the Project to go forward but only in a manner that avoids permanent interference, and holds to a minimum any temporary interference, with those rights and the resource and habitat. In order to achieve that goal, COT will manage work on the Project according to the following standards: the Parties recognize the need for careful management of construction facilities and activities such as temporary work trestles; construction of new fixed bridge structures and removal of old fixed bridge structures. (For purposes of this Section IV of the Agreement, references to "COT" shall include COT's contractors and subcontractors performing work on the Project.)

V. COORDINATION WITH TRIBAL DEVELOPMENT

The Parties have attached Exhibit 1 hereto as the Project's current configuration. By entering into this Agreement, the Tribe acknowledges its acceptance of the Exhibit 1 design. Any changes to the Project design will be made by mutual agreement and amended to this Agreement as an amendment or replacement of Exhibit 1. Approval of design changes will not be unreasonably withheld conditioned or delayed.

- A. COT will:
- Perform all preconstruction activities for the realigned Puyallup Avenue Bridge and adjacent roadside features, including design, permitting, cultural resource investigation, and similar activities.
 - Alter and/or relocate affected city owned utilities prior to, during, and after construction activities.
 - Construct the realigned shore-side bridge infrastructure and any adjacent roadside features.

- Convey Parcel J (PC Parcel No. 471502-3640) and the other real property depicted in Exhibit 2 (the “Property”) to the Tribe prior to the construction of Phase 1, except for Parcel No. 471501-3112, that will be conveyed at some future point to the Tribe when the Casino expansion plans are approved and the roadway alignment has been established and constructed. The City is required to pay Just Compensation for the additional right of way needed to construct the project. Just Compensation has been set at \$225,500.00. The City will provide a written offer letter to the Tribe via separate writing. In lieu of accepting the cash payment for the ROW needs, the parties have agreed to transfer the properties identified within Exhibit 2, herein as Just Compensation.. Conveyance of the Property shall be via a QCD in substantially the same form as depicted in Exhibit 2, and subject to the easement reservations and deed restrictions noted thereon.
- Communicate plans and identify any potential property issues for Phase 2 to the tribe prior to developing final design.

B. The Tribe will:

- After acceptance of the QCD for Parcel J and the Property, the Tribe shall immediately convey to COT the property rights needed to construct Phase 1 via a dual closing, which includes: ground easement(s), utility easement(s), aerial easement(s) and temporary construction easement(s).
- Coordinate any necessary review and approval activities with COT in accordance with the Project schedule.
- Communicate any issues with the Project as they relate to Tribal operations.

C. The Parties agree that COT’s construction activities will be planned and carried out in a manner that will maintain access to the Tribal governance, Ceremonial and fishing areas during construction.

D. COT acknowledges that construction of the Project will impact traffic to the Tribal governance, cultural and economic centers. COT will coordinate with the Tribe for any road closures or road restrictions required for the purpose of construction safety and will seek, to the maximum extent commercially feasible, to minimize all impacts to the Tribal Governance facilities, Cultural Grounds and Tribal economic enterprises.

VI. STREET VACATIONS

The parties acknowledge that, related to the Project and the terms and conditions of this Agreement, the Tribe is seeking the vacation of two different City right-of-way areas:

- That portion of Cleveland Way lying southerly of the Puyallup River Bridge and northerly of Young Street, and
- The alleyway lying between East R Street and East T Street between East 29th and East 30th Streets,

The parties agree to work together within the framework of applicable Washington State and local laws to accomplish these right-of-way vacations. The Tribe understands and acknowledges that conditions may attach to the vacations, for example, the requirement to preserve access to affected properties.

VII. CULTURAL RESOURCES

Tribal properties that will be affected by the Project have religious and cultural significance to the Tribe and its members. COT has consulted with the Tribe and has signed a Memorandum of Agreement dated 11-30-2011 (the "MOA" attached hereto as Exhibit 3) that will control all religious and cultural issues that arise as a result of the Project. COT will provide cultural resources monitoring during construction in accordance with the approved monitoring plan required in the MOA.

VIII. WATER QUALITY

In order to protect the fishery resource and habitat as well as human health and the environment, COT will ensure that all work on the Project complies with Project permits together with Tribal water quality standards.

IX. CONSIDERATION

The Parties agree that, as consideration for the Tribe's participation in the Project, COT will transfer the Property to the Tribe, as described in Section V. A above prior to construction of Phase 1. Per Uniform Act requirements, COT hereby informs the Tribe of just compensation due the Tribe for the additional right of way needs for Phase 1. The determination of value has been established at \$39,500.00, by a yellow book appraisal. The Tribe hereby agrees that monetary payment of the foregoing amount is satisfied by the conveyance of the Property. The estimated value of the Property is \$248,680. COT agrees to obtain all necessary approvals for this conveyance prior to the commencement of Phase 1 construction activities. COT further agrees to pay fair market value for any additional property rights that may be needed to complete Phase 2 of the Project.

X. SERVICES DURING CONSTRUCTION

Task Orders for Tribal staff and Consultant Services

COT will reimburse the Tribe for services performed by its staff throughout Project construction. The scope and budget for these services will be documented in Task Orders prior to the commencement of work.

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- A.** The services provided by the Tribe pursuant to this Agreement shall continue through the life of the Project including:
1. Within the Project boundaries, observe monitoring for archaeological and cultural resources during ground-disturbing activities for the Project.
 2. Within the Project boundaries perform routine inspections and participate in Project meetings.
 3. Perform water quality monitoring, sampling and testing
- B.** In preparing each Task Order, the COT shall furnish the Tribe concurrence Task Authorization Form (Exhibit 4). The Tribe shall provide COT with an estimate of the cost and time, including all labor and direct costs, required to complete the services based on the Fee Schedule (Exhibit 5). This estimate will be provided on the Task Authorization Form. After review and approval, which shall not be unreasonably withheld, the COT shall include the approved cost and date of completion in its Task Order. A Task Order will become effective when all signatures by both Parties have been obtained on the final Task Order. In urgent or emergency situations where schedule does not allow for a written Task Order to be processed, the COT may verbally authorize the Tribe to allow the Tribe's staff to begin work on a specific task. The COT shall provide written confirmation to the Tribe within one day of verbal authorization, and then follow the procedures outlined above for issuing a written Task Order as soon as practical.
- C.** Should any Task Order be terminated by either Party, this Agreement and all remaining Task Orders shall remain in effect. If this Agreement is terminated, all open Task Orders shall automatically terminate on the same date as this Agreement.
- D.** Section XXI of this Agreement addresses the resolution of disputes which may arise from the negotiation or execution of the contracted services.

Payments for Tribal Staff and Consultant Services.

Pre-Construction and Project Services:

Pre-Construction Services –

Payments to the Tribe will be on a cost reimbursement basis for actual direct and related federally approved indirect costs incurred for each specific Task from the commencement date of Tribal Project review. Invoices detailing the charges and expenses incurred will be submitted by the Tribe for reimbursement with payment from COT to be made to the Tribe as Task Order 1. Expenses eligible for reimbursement are detailed below. Reimbursement will not be made for any costs not clearly supported by the Tribe's records.

Project Services -

Payments to the Tribe will be on a cost reimbursement basis for actual direct and related federally approved indirect costs incurred for each specific Task Order which is assigned, accepted and executed by the Parties. Invoices detailing the charges and expenses incurred may be submitted by the Tribe for reimbursement not more often than once a month. COT agrees to reimburse the Tribe within thirty (30) calendar days from receipt of a properly documented and approved invoice. Reimbursement will not be made for any costs not clearly supported by the Tribe's records.

Expenses eligible for reimbursement include:

1. Direct costs, including consultant services, which will be detailed in each Task Order, may be billed without additional markup.
2. Actual salaries and wages paid, based on the Tribe's current pay rates for Tribal personnel working directly on the provision of Task Order services.
3. Actual Tribal employee's benefits. At the time each Task Order is assigned, the Tribe will provide data detailing such costs to the COT Agreement Manager for each Tribe employee assigned to the Task.
4. Invoiced costs without markup for materials, equipment, and supplies used in performing the Task Order services.
5. Travel costs incurred for travel directly connected with the Task at current Tribal Government approved rates.
6. Reimbursement for the Tribe's overhead, including hourly accrual rates for paid leave, will be calculated by multiplying the Tribe's federally approved overhead rate times the Tribe's direct labor for Tribal employees only that performed work on the Task Order during the billing period and the Tribe's Project Manager to negotiate Task Orders.
7. Paid leave for Tribal employees will not be reimbursed directly. Reimbursement for paid leave is included via the accrual rate in the approved overhead portion of the hourly rates.
8. Cost, without markup, for Task Order services work performed by non-employee Tribal members. Such costs must be supported by invoices detailing hours worked and the documented rates charged by each non-employee Tribal member.

XI. POST CONSTRUCTION SERVICES

It is anticipated that the Tribe will provide services after construction of the Project is complete, including but not limited to, water quality monitoring for NPDES and 401 Water Quality Certification compliance.

XII. TECHNICAL APPENDICES

All technical plans included as Exhibits may be subject to modification with the written approval of all Parties without formally amending this Agreement.

XIII. AMENDMENT

This Agreement may be amended by written amendment. Such amendments and changes made under this Agreement shall be made in writing and signed by Lead Representatives of all the Parties, as noted in Section XXII, LEAD AND DESIGNATED REPRESENTATIVES. Any supplemental agreement shall be agreed upon in writing prior to undertaking any work or incurring any costs covered by such amendment.

Task orders and amendments to Task Orders may not change or alter the terms and conditions of this Inter-governmental Agreement.

XIV. NO OBJECTION TO PROJECT

As long as COT is in compliance with the provisions of this Agreement, the terms of any permits, and the provisions of all applicable laws, the Tribe agrees that it will not object to or otherwise oppose the Project in any federal, state, or local regulatory, administrative, or judicial proceedings associated with the permitting, financing, and construction of the Project, including any permit modifications or NEPA, SEPA, JARPA or Section 106 reevaluations for the Project that do not materially increase the impacts of the Project and on other interests of the Tribe identified in this Agreement beyond those described in the EA, so long as this Agreement remains in effect.

XV. RECORDS RETENTION & AUDITS

During the term of this Agreement and for a period not less than six (6) years from the date of final payment by COT, the records and accounts pertaining to the work provided by the Tribe and accounting therefore are to be kept available for inspection and audit by COT and federal and State agencies providing Project funding and copies of all records, accounts, documents, or other data pertaining to the work provided by the Tribe will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until said litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the six (6) year retention period.

XVI. RELEASE

The Parties agree that the terms of this Agreement constitute a full and fair settlement regarding actual or potential interference with the TRIBE's Treaty fishing rights including, but not limited to, potential interference with Tribe fishing access resulting from the Project.

Except for those obligations which any federal agency, state agency and COT undertake in this Agreement, the Tribe, its successors or assigns, hereby release and forever discharge the COT, its officers, employees, agents and contractors from any and all claims, demands and causes of action of any nature whatsoever against the COT for damages or equitable or other non-monetary relief associated with the impact of the Project on its Treaty rights and cultural interests. This release does not pertain to claims or causes of action from the Project for other than anticipated potential impacts to the Tribe's Treaty rights and cultural interests including unanticipated impacts caused by any modifications through design changes.

XVII. INTEGRATION AND SEVERABILITY

This Agreement constitutes a single integrated contract that expresses the entire agreement of the Parties hereto. Any prior representations or agreements, whether oral or written, in regard to this Agreement or its subject matter are hereby superseded in their entirety by this Agreement. If any provision of this Agreement is held invalid, it shall be considered severable from the remainder, and the remaining provisions shall be given full force and effect, provided that such remainder conforms to the terms and requirements of applicable law and the intent of this Agreement.

XVIII. TERMINATION

In the event that the COT makes material modifications to the Project that may increase the adverse impact of the Project on the Tribe's access to its usual and accustomed Treaty fishing grounds and stations or on any other interests of the Tribe identified in this Agreement, then the Tribe may withdraw from this Agreement after providing at least thirty (30) calendar days written notice to the other Parties and after complying with the dispute resolution requirements of Section XXI of this Agreement. Any dispute about whether modifications to the Project are "material" or whether they result in increased adverse impacts to Tribe's access to its usual and accustomed Treaty fishing grounds and stations shall be resolved in accordance with the dispute resolution provisions of Section XXI. In the event that the Tribe withdraws from this Agreement pursuant to this Section, the Tribe agrees to enter into additional negotiations with COT regarding the extent of the modified Project's increased adverse impact to Tribe's access to its usual and accustomed Treaty fishing grounds and stations. In the event that the Parties enter into a subsequent agreement regarding the Project impact to the

Tribe's Treaty fishing access rights, any mitigation or compensation already provided to the Tribe by COT shall be included in any new agreement negotiated by the Parties.

XIX. AGREEMENT BINDING

The terms and conditions of this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns.

XX. AUTHORITY TO SIGN

The Tribe represents, warrants, and covenants that it has the authority to enter into this Agreement, and that its execution and delivery have been duly authorized by Tribal Resolution. As part of this Agreement, the Tribe will furnish a copy of the resolution of the Tribal Council granting authority of the undersigned to execute this Agreement on behalf of the Tribe no later than five (5) business days following execution of this Agreement.

The COT represents, warrants and covenants that it has the authority to enter into this Agreement, and that its execution and delivery have been duly authorized.

XXI. DISPUTE RESOLUTION PROCESS

The Parties shall make good faith efforts to quickly and collaboratively resolve any dispute arising under or in connection with this Agreement. The dispute resolution process outlined in this Section applies to disputes arising under or in connection with the terms of this Agreement.

A. Informal Resolution. The informal resolution process commences by the Parties' staff meeting and attempting to resolve disputes.

B. In the event that the Parties are unable to resolve the dispute, the Parties shall submit the matter to non-binding mediation facilitated by a mutually agreed upon, mediator. The Parties shall share equally in the cost of the mediator.

C. Each Party agrees to compromise to the fullest extent possible in resolving the dispute in order to avoid delays or additional incurred cost to the Project.

D. Any claim not resolved by mediation may be submitted by either party to binding arbitration, to which each Party hereby agrees to be bound; provided, however, that either party may submit to a Bureau of Indian Affairs administrative proceeding or to federal district court any dispute whose subject matter is within the jurisdiction of that entity. Arbitration when held shall be conducted by a neutral arbitrator selected by agreement of the parties and shall follow the commercial arbitration rules of the American Arbitration Association. Fees and costs of the arbitrators shall be divided

equally by the parties. Enforcement of an arbitration order may be had in the Tribal Court or Pierce County Superior Court.

XXII. LEAD, DESIGNATED AND PROJECT REPRESENTATIVES

Lead Representatives

- a. Puyallup Tribe of Indians
Chairperson
Puyallup Tribe of Indians
E. 3009 Portland Avenue
Tacoma, WA 98404
253-573-7800
- b. City of Tacoma
City Manager
747 Market Street, 12th Floor
Tacoma, WA 98402
253-591-5135

Designated Representatives

- a. Puyallup Tribe of Indians
Tribal Project Manager, Andrew Strobel
The Puyallup Tribe of Indians
E. 3009 Portland Avenue
Tacoma, WA 98404
253-573-7800
- b. City of Tacoma
Director of Public Works
747 Market Street, 4th Floor
Tacoma, WA 98402
253-591-5269

Project Representatives

The parties shall provide contact information for project representatives noted in this Agreement. The contact information shall include contact name, mailing address, phone number and e-mail address. The information shall be updated as needed.

XXIII. RESERVATION OF RIGHTS, NO WAIVER OF CLAIMS

Except as provided in the Waiver of Sovereign Immunity (Section XXV), by entering into this Agreement, the Tribe does not waive any rights to exercise its Treaty rights, and any and all such rights are hereby expressly reserved. Nothing in this Agreement is intended to or shall be construed to constitute an admission by any Party that the geographic areas referenced in this Agreement corresponds to, defines or otherwise represents an accurate final legal description of the Tribe's usual and accustomed fishing areas.

XXIV. INDEMNIFICATION

To the maximum extent authorized by law, each Party shall indemnify and hold harmless the other Party and its employees and/or officers from and shall process and defend at the indemnifying Party's expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages (both to persons and/or property), or costs, of whatsoever kind or nature, brought against the other Party arising out of, in connection with, or incident to the indemnifying Party's negligent performance or failure to perform any aspect of this Agreement, including the work done by each party on the project covered by this Agreement.

The provisions of this Section shall survive the termination of this Agreement.

XXV. WAIVER OF SOVEREIGN IMMUNITY AND VENUE

- A.** The Tribe voluntarily enters into a limited waiver of its sovereign immunity on the following terms and conditions: The Tribe consents to binding arbitration of disputes involving the enforcement of the terms of this Agreement and, if necessary, to judicial enforcement of arbitration decisions in Pierce County Superior Court or the Puyallup Tribal Court. The Tribe consents only to arbitration of claims made by COT under the provisions of this Section XXV. The Tribe agrees that it will not raise sovereign immunity as a defense in any such arbitration or action for judicial enforcement of an arbitration decision. This limited waiver shall expire upon the expiration or termination of this Agreement, or when the Tribe has fulfilled all of its obligations to COT under this Agreement, whichever occurs later.
- B.** Upon the demand of either party, any dispute that cannot be resolved by discussion or mediation shall be resolved by binding arbitration following the procedure spelled out in this section. Arbitration proceedings shall be administered by the American Arbitration Association ("AAA") or such other

administrator as the parties shall mutually agree upon in accordance with the AAA Commercial Arbitration Rules. All disputes submitted to arbitration shall be resolved in accordance with the Federal Arbitration Act (Title 9 of the United States Code). The arbitration shall be conducted at a location in Tacoma. If there is any inconsistency between the terms of this Agreement and any such rules, the terms and procedures set forth herein shall control. All statutes of limitation applicable to any dispute shall apply to any arbitration proceeding. All discovery activities shall be expressly limited to the dispute being arbitrated.

XXVI. INSURANCE

A. General Requirements

During the term of the Agreement, the COT shall maintain in full force and at its own expense each insurance coverage or policy noted below, from insurance companies that are authorized to transact insurance and issue coverage in the State of Washington and are acceptable to the Tribe, or alternatively shall maintain functionally equivalent coverage through the COT's program of self-insurance/self-retention with excess coverage. The COT shall pay for all applicable deductibles.

B. Commercial General Liability

The COT shall obtain, at its expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that is satisfactory to the Tribe. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Agreement, and is made on an occurrence basis. Combined single limit per occurrence shall not be less than \$1,000,000. Each annual aggregate limit shall not be less than \$1,000,000.

C. Bonding

The COT shall obtain either on its own or through its contractor for the Project, at its (or its contractor's) expense, and keep in effect during the term of this Agreement, a Performance & Payment Bond with Guaranty. COT is undertaking the work primarily in areas under the ownership or control of the Tribe as right of way or construction easement. As a result of the foregoing, the work guaranteed by this bond is guaranteed both as to the COT and to the Tribe and this Bond may be drawn upon in the event of non-performance by the Contractor.

D. Automobile Liability Insurance: Automobile Liability

The COT shall obtain, at its expense, and keep in effect during the term of this Agreement, Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial

General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000.

E. Additional Insured – Waiver of Reliance on Sovereign Immunity Defenses

(1) The liability insurance coverage required for performance of the Agreement shall include the Tribe as Additional Insured with respect to the COT's activities to be performed under this Agreement. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

(2) The insurer may not invoke immunity up to the limits of the policy in any proceeding authorized by this Agreement.

(3) The COT's insurance policies required by this Agreement must have an endorsement providing that neither the insurer nor the COT may invoke immunity up to the limits of the policy in any proceeding authorized by this Agreement.

F. Certificate(s) of Insurance

Within ten (10) days of execution of this Agreement the COT shall furnish evidence of the insurance coverage required by this Agreement.

XXVII. GOVERNING LAW

The Parties agree that this Agreement and all questions concerning the performance of this Agreement shall be interpreted, construed and enforced in all respects in accordance with contract law of the State of Washington, without reference to rules relating to the choice of law, and any federal law applicable to that interpretation. Further the parties recognize and agree that they will follow all applicable federal, state and Tribal laws in the conduct of their activities under this Agreement.

XXVIII. TERM

The term of this Agreement shall begin at the date of final execution by the Parties and shall continue until completion of the Project, unless otherwise noted herein.

IN WITNESS WHEREOF, the Parties hereto agree to the terms and conditions of this Agreement as of the day and year last written below.

<p>PUYALLUP TRIBE OF INDIANS</p> <p>Date: _____</p> <p>By: _____</p> <p>Chairman, Puyallup Tribe of Indians</p> <p>APPROVED AS TO FORM</p> <p>By: _____</p> <p>John Howard Bell, Attorney</p> <p>Date: _____</p> <p>By: _____</p>	<p>CITY OF TACOMA</p> <p>Date: _____</p> <p>By: _____</p> <p>T.C. Broadnax, City Manager</p> <p>_____ Kurtis D. Kingsolver, P.E., Director, Public Works</p> <p>_____ Andy Cherullo, Finance Director</p> <p>_____ Risk Management</p> <p>APPROVED AS TO FORM</p> <p>By: _____</p> <p>Deputy City Attorney</p>
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