

**NISQUALLY JAIL SERVICE AGREEMENT**  
**BY AND BETWEEN**  
**THE NISQUALLY INDIAN RESERVATION AND**  
**THE CITY OF TACOMA**

THIS AGREEMENT ("Agreement") is made and entered into on the date set forth below, by and between the Nisqually Indian Tribe, a Federally Recognized Indian Tribe, hereinafter referred to as "Nisqually" and the City of Tacoma, a municipal corporation operating as a first class charter city under the laws of the state of Washington, hereinafter referred to as "Tacoma." This Agreement is for the transportation of Tacoma prisoners and housing of inmates of Tacoma in the Nisqually Detention and Corrections Center hereinafter referred to as "Jail" pursuant to Chapters 39.34 and 70.48 RCW.

THE PARTIES HEREBY AGREE as follows:

1. SERVICE. Commencing July 1, 2015, Nisqually shall care for Tacoma Prisoners (as defined below) placed in the custody of officers of the Nisqually Jail (hereinafter "Inmate"). The term "Prisoner" shall include any person arrested, sentenced by the court or held under authority of any law or ordinance of Tacoma; provided, that the Nisqually Police Chief or the Nisqually Corrections Director shall have the right to refuse to accept custody of a Tacoma Prisoner if in his/her opinion that would result in overcrowding of the Jail, or health, safety or security risks. The parties agree that the expected average daily inmate count for Tacoma Inmates will be 75 - 90 Inmates and Nisqually shall provide Jail capacity to support the estimated Inmate count subject to fluctuations in population. This Agreement is non-exclusive and Tacoma retains the right to enter into agreements with other entities to provide the same or similar services in its sole and exclusive discretion.

In addition to routine care Nisqually shall, commencing July 1, 2015, provide transports for booking and court appearances, and coordination of hearings, appearances, release dates and other administrative functions for all Tacoma Prisoners and Inmates. Nisqually shall work cooperatively with other service providers as determined by Tacoma as necessary to coordinate service for Tacoma Prisoners and Inmates, and shall provide transport, booking and other administrative services as needed by Tacoma at remote locations, including but not limited to, the Tacoma Police Department, a booking facility of Tacoma's choice and/or Tacoma Municipal Court.

2. CARE. "Care" shall mean room and board. Inmates housed pursuant to this Agreement shall be subject to the same rules and regulations required of other inmates housed in the Nisqually Jail, which meet or exceed the minimum standards necessary to meet tribal, federal and state constitutional requirements relating to health, safety, and welfare of inmates and specific tribal, state and federal statutory requirements, including by way of example and not limitation, the requirements set forth at RCW Ch. 70.48 applicable to city

jails. Nisqually shall provide the City with a copy the foregoing rules and regulations and any amendments thereto as may be adopted from time to time.

The City shall have the right, but not the duty, at all reasonable times to inspect the Jail in which Tacoma Inmates are confined in order to determine if Nisqually maintains standards of confinement that meet the standard of care as set forth in this Agreement; provided that, the City shall provide reasonable advance notice of such inspections.

**3. DURATION OF CONTRACT.** The initial term of this Agreement shall be for two (2) years with three, one-year automatic renewals unless either party provides written notice to the other within 180 days of the expiration of the current term of its intent not to renew. The Agreement may be terminated without cause by either party by providing the other party with ninety (90) days written notice. Notice shall be deemed proper when provided to:

Tacoma: T.C. Broadnax, City Manager  
City of Tacoma, City Manager's Office  
747 Market Street, Room 1200  
Tacoma, WA 98402  
Phone: (253) 591-5134  
Fax: (253) 591-5123

Nisqually: Chief Executive Officer  
Nisqually Indian Tribe  
4820 She-Nah-Num Dr. S.E.  
Olympia, WA 98513

**4. RELEASE.** Inmates will only be released when they have served their full time unless release is authorized by any other provision of this Agreement or is ordered by a court of competent jurisdiction.

**5. PAYMENT.** Tacoma shall pay to Nisqually a daily rate of sixty-seven dollars and fifty cents (\$67.50) per Inmate day per Inmate for care, Inmate transports and coordination of hearings, appearances, release dates and other administrative functions. Beginning July 1, 2016 and annually on July 1<sup>st</sup> thereafter, the daily rate shall be adjusted by the annual percent change in the preceding June Consumer Price Index for All Urban Consumers (CPI-U) for the Seattle-Tacoma-Bremerton, WA area, as published by the Bureau of Labor Statistics, not to exceed three percent (3%). Daily rates are assessed as follows:

- An Inmate who remains in custody for five or more hours will be assessed the daily rate.
- An Inmate who remains in custody for five or more hours on one calendar day and five or more hours the next calendar day, but less than twenty-four hours total, will be charged only one daily rate.
- In the case of multiple jurisdictions, charges for the subsequent agencies do not begin until the charges for Tacoma have been adjudicated and/or released.

- If an Inmate is being held on a Tacoma charge and, later, a non-billable agency adds a charge that takes precedence such as District or Superior Court, Tacoma will be responsible for the daily fee accumulated before the additional charge(s) were submitted.
- If a higher court sentence such as District or Superior is to be served consecutively with a Tacoma sentence, Tacoma will be responsible for the daily fees until such time as the higher court sentence takes effect.
- In the case of multiple charges, the following criteria will prevail in determining the billable agency:
  - o Current charges over warrants
  - o Court Precedence – Superior, District, Municipality
  - o Cash bail over bail bonds
  - o Highest cash bail in the event of multiple cash bails
  - o All things being equal, goes to arresting agency
  - o DOC / “Hold” status
  - o If there is still a tie, Command staff will determine whether one agency should be billed or if the agencies involved should share the billing.
  - o If multiple agencies are to be billed and Nisqually does not have an agreement with the other agency or agencies, Tacoma will be responsible for the daily fees if an agreement with the other agencies cannot be obtained.

Nisqually will submit a monthly invoice to Tacoma for Inmates housed pursuant to this Agreement. Tacoma shall pay such invoices within 30 days of receipt. Interest at the rate of 12% per annum shall be charged on all past due accounts. An account shall be deemed past due after 45 days from the date of invoice.

Without prejudice to any other contract rights available to it, if Tacoma does not pay the invoice with Sixty (60) days of receipt of invoice, Nisqually acting through its Police Chief, will not accept Prisoners until the delinquent amount is paid in full. Nisqually agrees to maintain its billing, and all supporting, records for a period of 6 years, and agrees to make such records available to the City for Audit, upon reasonable advance notice.

6. MEDICAL CARE. With the exception of basic non-urgent medical care, Tacoma shall be solely responsible for the medical care and medical expenses of Inmates housed pursuant to this Agreement, provided that if the Inmate has his or her own medical coverage, Nisqually will coordinate with Tacoma and health care providers so that such insurance may be utilized. In the event that an Inmate requests non-urgent medical care, Nisqually shall provide basic, non-urgent medical care as is normally available and provided to all other Jail Inmates at the Nisqually Clinic as determined by Nisqually. In the event that Nisqually deems an Inmate to be in need of urgent or emergency care, Nisqually shall make the best efforts to contact Tacoma based upon the procedure established by Tacoma, but may take any action it deems necessary to provide the Inmate with the needed care without obtaining prior approval.

To the extent permitted by state law, Tacoma shall protect, defend, hold harmless and indemnify Nisqually from and against all claims, suits and actions relating to the medical care of Inmate housed under this Agreement which result from the failure of Tacoma to approve such care or for any reason other than injuries and harm resulting from the negligent or intentional acts or omissions of Nisqually or its officers.

7. TRANSPORTATION, BOOKING and ADMINISTRATIVE DUTIES.

A. Court Transportation. Nisqually shall, in coordination with the City Contract Manager, provide transportation of Tacoma Inmates from the Jail, and inmates from the jail facility determined by the City Contract Manager, to the Tacoma Municipal Court for court appearances (hereafter "Court Transportation") as needed. Court appearances, with the exception of legal holidays and week-ends, are held daily between the hours of 9:00 a.m. and 1:00 p.m., and generally less frequently as needed for afternoon court sessions between the hours of 1:00 p.m. and 5:00 p.m. The Tacoma Contract Manager shall provide a schedule for Court Transportation establishing the dates and times that will best serve the court's needs for transportation and security. Court Transportation services are subject to periodic review and modification.

Court Transportation includes:

1. Taking custody of Tacoma Inmates from the Jail; or Tacoma inmates of other facility(ies) designated by the City Contract Manager;
2. Transporting such inmates to the appropriate Municipal Courtroom at the time specified by the City Contract Manager;
3. Maintaining custody, security and control of such inmates at all times while in transit and while present in the courtroom or a holding facility in proximity to the court;
4. Taking persons into custody in the courtroom who have been ordered by the court to be taken into custody;
5. Bringing inmates to and from holding cells within or in proximity to the court and providing security for the holding cell(s) while occupied;
6. Transporting the inmates from the Municipal Court to, and releasing the inmates to the custody of, the Jail or other facility(ies) designated by the City Contract Manager; and
7. Maintaining all records associated with such Court Transportation as required.

The transportation location for all transports shall be determined by Tacoma and may include locations in neighboring counties.

Nisqually shall determine the appropriate number of correction officers necessary to safely maintain custody, security and control of inmates while providing court transportation services; provided that, court transportation of more than one inmate shall consist of a minimum staffing level of two Nisqually correction officers. The two court transports shall not exceed a total of 16 officer hours per day unless necessary to safely maintain custody, security and control of inmates.

B. Booking Transportation. Nisqually shall, in coordination with the City Contract Manager, provide transport of Tacoma Prisoners for booking (hereafter "Booking Transportation"). For purposes of this Agreement, the term "Booking" shall mean and include, registering, screening and examining persons for confinement and all other activities associated with processing a person for confinement. Booking Transportation shall include:

1. Taking Tacoma prisoners into custody at a holding facility(ies) agreed to by Nisqually and Tacoma;
2. Transporting such prisoners to the Nisqually Jail, or other facility(ies) designated by the City Contract Manager for Booking and confinement;
3. Facilitating the Booking of such prisoners; and
4. Facilitating transportation of prisoners released from confinement at facilities designated by the City Contract Manager for confinement.

Nisqually and Tacoma understand and agree that the level of service required for Booking Transportation is subject to mutual agreement of Nisqually and Tacoma. For purposes of this section, "Level of Service" shall mean and include, the frequency of daily Booking Transportation, the location of the holding facility where Tacoma Prisoners will be housed until transport for booking and/or confinement, staffing necessary to transport Tacoma Prisoners to the designed holding facility (ies), staffing of the holding facility (ies), the rate(s) for service, and all such other activities related thereto.

Nisqually and Tacoma agree to enter into good faith discussions upon execution of this Agreement to determine the Level of Service. The parties, upon reaching agreement upon the Level of Service shall prepare an amendment to this Agreement setting forth the terms and conditions of the Level of Service, which Amendment will be approved by Nisqually and Tacoma in the same manner as this Agreement was approved.

Nisqually agrees that until such time as the Level of Service amendment becomes effective (the "Interim Period"), Nisqually will work cooperatively with Tacoma during this Interim Period using its best efforts to accommodate the Booking Transportation service needs of the City; provided that, nothing herein shall require Nisqually to provide Booking Transportation services in a manner that would, in the sole and reasonable determination of the Nisqually Police Chief or the Nisqually Corrections Director, result in health, safety or security risks or where Nisqually has inadequate staffing to safely provide such services.

C. Payment. Tacoma shall, during the Interim Period, pay Nisqually for Court Transportation and Booking Transportation services provided. Except as provided below, such costs shall be based on a flat hourly charge to include the costs of the transport unit, labor and overhead and shall be reimbursed based on actual time required at a rate of \$50 per hour per custody officer. The actual time of Court Transportation, to

the extent that it solely involves transportation of Tacoma Inmates of the Nisqually Jail, is included in the costs of Inmate Housing as provided at Section 5 of this Agreement, and such time shall not be billable to the City for Court Transportation.

- D. Invoices; Payment. Nisqually will submit a detailed monthly invoice to Tacoma for the billable hourly transportation costs incurred for Court Transportation and Booking Transportation, pursuant to this Agreement. Tacoma shall pay such invoices within 30 days of receipt. Interest at the rate of 12% per annum shall be charged on all past due accounts. An account shall be deemed past due after 45 days from the date of invoice.

Without prejudice to any other contract rights available to it, if Tacoma does not pay the invoice with Sixty (60) days of receipt of invoice, Nisqually acting through its Police Chief, will not accept Prisoners until the delinquent amount is paid in full. Nisqually agrees to maintain its billing and supporting records for a period of 6 years, and agrees to make such records available to the City for Audit, upon reasonable advance notice.

- E. Bookings. Tacoma shall be solely responsible for determining the booking location for Tacoma prisoners. Tacoma may request Nisqually to develop a booking system at the Tacoma Police Department, or other location agreed to by Nisqually and Tacoma, for the temporary holding of Tacoma prisoners for up to four hours prior to transportation to Nisqually or another jail facility determined by the Tacoma Contract Manager.
- F. Limitation. Nisqually shall not transport any prisoner or Inmate without the express agreement of Tacoma unless such transportation is required by a court order or because of a medical emergency.

G. Administrative Duties.

1. Contract Managers. Tacoma and Nisqually will each designate a key point of contact who will serve as contract manager. The designated contract managers will work together and coordinate with other staff as necessary from Nisqually, the Tacoma Police Department and the Tacoma Municipal Court on the development of an inmate booking, transportation and video arraignment system and any other issues that may arise.
2. Video Arraignments. Nisqually shall provide a video system and associated equipment that is interoperable with Tacoma's system at the Tacoma Municipal Court and/or Tacoma Police Department as determined by Tacoma. Required coordination will include, but not be limited to:
  - Transportation Coordination
  - Hearings / Court Appearances / Other
  - Sentence and Pre-Trial Management such as sentencing calculations, alternative sentencing Records Management

- Invoice reconciliation
  - Other administrative needs mutually agreed upon by both parties
3. Records. Nisqually shall keep all necessary and pertinent records concerning Tacoma Inmates and the services provided pursuant to this Agreement in the manner mutually agreed upon by the parties hereto. During an Inmate's confinement in the Jail, the City shall upon request be entitled to receive and be furnished with copies of any report or record associated with said Inmate's incarceration.

8. CUSTODY TRANSFER. Tacoma authorizes Nisqually to obtain and relinquish custody as necessary in the receipt, transportation and release of prisoners and inmates as determined with advance notice by the Tacoma Contract Manager.

9. CITY ACCESS TO PRISONERS. All Tacoma police officers and investigators shall have the right to interview the Inmates inside the confines of the Nisqually Jail subject only to necessary security rules. Interview rooms will be made available to Tacoma police officers in equal priority with those of any other department, including the Nisqually law enforcement personnel. Nisqually shall ensure confidential access to prisoners by defense counsel.

Tacoma may direct Nisqually to transport prisoners to the Tacoma Police Department or other location during regularly scheduled transport trips or upon special request at Tacoma's discretion. Such transport service is subject to payment as provided in section 7 of this Agreement.

10. PREA COMPLIANCE. Nisqually complies with or exceeds the standards set forth in the Prison Rape Elimination Act and, in accordance with 28 C.F.R Part 115.12, shall allow Tacoma staff to monitor its facility with reasonable notice to ensure compliance thereto.

11. RELEASE OF PRISONERS FROM NISQUALLY. No Tacoma Inmate confined in the Nisqually Jail shall be removed therefrom except:

- A. When requested by Tacoma Police Department in writing;
- B. By Order of the Tacoma Municipal Court in those matters in which it has jurisdiction;
- C. For appearance in the court in which a Tacoma Prisoner or Inmate is charged;
- D. In compliance with a writ of habeas corpus;
- E. For interviews by the City attorney or member of the Tacoma Police Department;
- F. If the prisoner has served his sentence or the charge pending against said prisoner has been dismissed or bail or other recognizance has been posted, as required by the courts.

12. INDEMNIFICATION. Tacoma shall protect, defend, save harmless and indemnify Nisqually, its officers, agents and employees, from and against all claims, suits and actions

arising from intentional or negligent acts or omissions of Tacoma in performance of this Agreement.

Nisqually shall protect, defend, save harmless and indemnify the City of Tacoma, its officers, agents and employees from and against all claims, suits and actions arising from intentional or negligent acts or omissions of Nisqually in performance of this Agreement.

13. INSURANCE. Each party shall obtain and maintain occurrence based insurance that provides liability coverage in the minimum liability limits of three Million Dollars (\$3,000,000.00) per occurrence and three million dollars (\$3,000,000.00) in the aggregate for its conduct in creating liability exposure related to the confinement of inmates and other services provided pursuant to this Agreement, including general liability, errors and omissions, auto liability and police professional liability. The insurance policy(ies) shall provide coverage for any liability occurrence during the policy period, regardless of when any claim or law suit is filed. Further, Nisqually will name Tacoma its officers and employees as Additional Insureds. Additionally, all health care professionals providing inmate health care and/or medical services shall maintain health care professional liability insurance issued by a responsible insurance company with limits no less than \$3,000,000 per claim. In the event that the health care professional liability insurance is provided on a "Claims Made" basis, then Nisqually will maintain such coverage for a minimum of three (3) years following the termination of the Agreement either by renewing the policy or by a three (3) year reporting endorsement. The parties acknowledge that Tacoma is self-insured and may meet this requirement by verification of its self-insured status.

14. CERTIFICATE OF INSURANCE. Each party to this Agreement agrees to provide the other with evidence of insurance coverage in the form of a certificate or other verification of coverage meeting the requirements of this Agreement. A copy of the certificate or other verification shall be provided annually and for the duration of this Agreement.

15. CONSENT TO JURISDICTION AND TRIBE'S EXPRESS LIMITED WAIVER OF SOVEREIGN IMMUNITY.

Nisqually is a Sovereign Nation with all immunities attendant thereto WITH THE FOLLOWING EXCEPTION THAT THE PARTIES TO THIS AGREEMENT HAVE SPECIFICALLY NEGOTIATED:

Nisqually does hereby expressly consent to jurisdiction of the courts of the State of Washington as having exclusive jurisdiction to hear, resolve and enter final judgment on any legal dispute by and between the parties to this Agreement and/or their affected officers, officials, and employees, concerning the interpretation of this Agreement, enforcement of any of its provisions, and any complaints, claims or counterclaims for monetary damages and/or equitable relief for any alleged or actual breach of any provision of this Agreement and/or for the enforcement of any such final judgment entered by any court of the State of Washington regarding such matters.



For this limited purpose only, Nisqually does hereby expressly waive its sovereign immunity from suit or defenses in the courts of the State of Washington for any such legal claim or complaint for the interpretation and/or enforcement of this Agreement, and/or for any complaints, claims or counterclaims for monetary damages or equitable relief for any breach of this Agreement, and/or for the enforcement of any such final judgment entered by any court of the State of Washington regarding such matters.

15. GOVERNING LAW.

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

16. MODIFICATION OF AGREEMENT.

This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized officer or representative of each party hereto in the same manner as such party has authorized this Agreement. The parties recognize that circumstances may change and that it may be in the interest of both parties that the Agreement may be amended from time to time. For this reason, each of the parties will consider changes which may be proposed by the other during the term of this Agreement.

17. NO JOINT VENTURE.

It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Tacoma and Nisqually. The parties intend that the rights, obligations, and covenants in this Agreement and the collateral instruments shall be exclusively enforceable by Tacoma and Nisqually, their successors, and assigns. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder, except as may be otherwise provided herein.

IN WITNESS WHEREOF, the parties have executed this Agreement on this date, the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF TACOMA:**

**NISQUALLY TRIBE:**

\_\_\_\_\_  
Mark Lauzier, Assistant City Manager

\_\_\_\_\_  
Title: Chief Executive Officer

\_\_\_\_\_  
Donald Ramsdell, Chief of Police  
Tacoma Police Dept. Director

Approved:

\_\_\_\_\_  
Andrew Cherullo, Finance Director

Approved as to form:

\_\_\_\_\_  
Elizabeth Pauli, City Attorney

\_\_\_\_\_  
Saada, Gegoux, Risk Manager