



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 06-55 OF THE SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

WHEREAS, under the Constitution and the Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of the tribal members, and with protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Squaxin Island Tribal Council has an established commitment to and history of working to obtain funding from various sources, including federal and tribal funding, for on-reservation and off-reservation transportation projects of importance to the Tribe and the surrounding community; and

WHEREAS, the Tribe desires to replace the Skookum Creek Bridge on Old Olympic Highway (Mason County Route Number 14010) to improve its safety and capacity; and

WHEREAS, the Tribe has received 80% funding from the Bureau of Indian Affairs, Indian Reservation Roads Bridge Program (IRRBP) to replace the bridge (BIA Project No. P0650200); and

WHEREAS, the bridge owner, Mason County, is providing the balance of total project funding (20%) for the bridge replacement (Mason County Project No. 1598); and

WHEREAS, the construction project contractor, Squaxin Island Tribe, intends to enter into an Intergovernmental Agreement with Mason County for the replacement of the Skookum Creek Bridge on Old Olympic Highway.

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby approves the Intergovernmental Agreement between the Squaxin Island Tribe and Mason County for the Replacement of the Skookum Creek Bridge on Old Olympic Highway (as attached);

NOW THEREFORE BE IT FURTHER RESOLVED, that the Squaxin Island Tribal Council waives its sovereign immunity as follows:

The Tribe expressly waives its sovereign immunity from suit with respect to the obligations and indebtedness that arise out of or relate to this Agreement, provided that the waiver of sovereign immunity expressed herein is expressly limited as follows:

- The waiver of sovereign immunity expressed herein is limited to Mason County;
- The waiver of sovereign immunity expressed herein is limited to funds received from the BIA for this project;
- The waiver of sovereign immunity expressed herein is limited to the jurisdiction of the Mason County Superior Court.

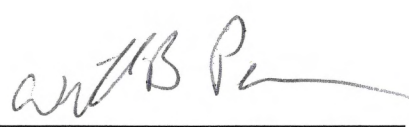
BE IT FURTHER RESOLVED, that the Squaxin Island Tribal Council further authorizes the Chairman, Executive Director, or Deputy Executive Director in the absence of the Director, to execute the agreement on behalf of the Squaxin Island Tribe and is further authorized to do any and all acts necessary to implement and/or perform the Intergovernmental Agreement.

CERTIFICATION

The Squaxin Island Tribal Council does hereby certify that the foregoing Resolution was adopted during a phone poll held on this 8 day of June 2006, and was passed by a vote of 4 for, and 0 against with 0 abstentions.


James L. Peters, Chairman


Andy Whitener, Vice-Chairman

Attested by: 
for Vince Henry, Sr., Secretary

6/8/06
w/06-55
SIT ves.

**Intergovernmental Agreement
Between the Squaxin Island Tribe and Mason County
for the Replacement of the Skookum Creek Bridge on Old Olympic Highway**

Whereas, the Squaxin Island Tribe has received funding from the U.S. Department of Interior, Bureau of Indian Affairs (BIA) for the Skookum Creek Bridge Replacement Project - the replacement of a bridge over Skookum Creek on Old Olympic Highway (Mason County Project #1598-2, BIA Project #P0650200, Squaxin Project #20-11-10-104), and;

Whereas, Mason County (County) has the necessary staff and expertise to assist the Squaxin Island Tribe (Tribe) with the construction, administration, and management of the Skookum Creek Bridge Replacement Project (Project).

NOW THEREFORE, in consideration of the mutual promises contained herein, the Tribe and the County agree as follows:

I. Purpose

1.1 The purpose of this Agreement is to define the obligations and responsibilities of the Tribe and the County as it relates to reconstruction of Mason County's Skookum Creek Bridge.

II. Scope of Work

2.1 Background

In the late 1990s, the Skookum Creek Bridge on Old Olympic Highway (County Road 14010) was inspected and found to be functionally obsolete and in need of replacement as noted in the National Bridge Inventory System. Since Old Olympic Highway is a critical access road for all Kamilche area residents, the Project was identified by the Tribe and the County as a high priority project, and the replacement project was developed and funded by the County and the Tribe with BIA Indian Reservation Roads Bridge Preservation (IRRBP) funds. In 2004, the Project construction was postponed because the design did not meet the requirements of all parties, and a redesign was not feasible within the available timeframe. In 2006, the Project was redesigned by the County with the additional requirements and construction funded by the County (20%) and the Tribe with BIA IRRBP funds (80%).

The timing for completing the Project is critical since it requires:

- 1) Full road closure of Old Olympic Highway at the project site with local access provided to Old Olympic Highway from its northerly and southerly intersections with US 101.
- 2) Construction affecting the waterway must occur inside a fish work window of July 15 – Oct. 15 (a regulated period of time when old/young fish are not moving through the Skookum Creek).

The Squaxin Island Tribe will enter into a sole source agreement with Mason County to provide construction services, including contract administration, construction surveying, quality control (QC), inspection, and testing. The Tribe will provide quality assurance (QA), budget oversight, and coordination. The BIA will provide QA and budget oversight.

2.2 Program, Specifications, and Estimates. The following documents are attached hereto and incorporated herein by reference:

- 2.2.1 Project program, specifications and estimates attached as Exhibit A.
- 2.2.2 Estimated Cost of Construction Services provided by Mason County attached as Exhibit B.
- 2.2.3 Estimated Cost of Tribal Project Management provided by the Squaxin Island Tribe as Exhibit C.

III. Responsibilities

3.1 Responsibilities of the County. In conformance with this Agreement including all documents attached hereto and incorporated herein by reference, the County will:

- Subject to the approval of the Tribe and BIA, prepare all third party contracts, construction bid documents, including drawings, advertise for construction bids, issue bid proposals, receive and tabulate the bids and award a contract for construction of the Project in accordance with existing procedures and applicable laws.
- Submit all construction documents, including drawings, bidder notification, and third party contracts to the Tribe and the BIA for their review prior to bid solicitation.
- Provide contract administration, construction surveying, inspection and materials testing during construction.
- Provide administrative support for all third party contract related activities including all required documentation.
- Provide the Tribe with a monthly summary of expenses and all required documentation.
- Timely notify the Tribe of any required change orders and proceed only after receiving their written approval for such change orders, which includes approvals from funding sources.
- Timely pay all approved costs and expenses associated with the installation.
- Provide the Tribe with all documentation that it generates in the course of contract administration in order to support the Tribe's reimbursement requests to the BIA.
- Provide twenty-percent (20%) of the total project cost.
- Use best efforts to complete the project within the available budget.

3.2 Responsibilities of the Tribe. In conformance with this Agreement including all documents attached hereto and incorporated herein by reference, the Tribe will:

- Review and respond to all documents provided by the County in a timely manner, including timely written approval of change orders or extra work requests, to ensure against delay claims by the construction contractor
- Pay all allowable construction costs and expenses in a timely basis. Note: this Contract is funded from appropriated federal funds. Should those funds be reduced or eliminated, the Tribe may terminate or modify this Agreement to reflect the change in funding. If this Agreement is terminated under this subsection 3.2, Tribe shall pay for all work properly completed up to the effective date of termination and for any proven loss, cost or expense in connection with such work.
- Communicate and coordinate between the Tribe's Planner and/or Construction Manager and the County's Project Engineer and/or Road Engineer in a timely manner.
- Administer the BIA grant and monitor project costs.
- If environmentally feasible, support the County with securing extension of the July 15 – Oct. 15 fish work window from the appropriate regulatory agencies if required to complete the project on schedule.
- Reimburse the County for 80% of the actual pre-approved direct and associated indirect cost for the project, not to exceed \$1.5 million per Title 23 CFR Part 661.37. The Tribe will use its best efforts to seek additional BIA funds if additional funding is needed to complete the project per Title 23 CFR Part 661.47.
- Nothing in this Agreement shall be construed to make the Tribe liable for any errors, omissions or other deficiencies in the County's bid processes or other performance, including but not limited to failure to comply with applicable law.

3.3 Deliverables. The County shall provide:

- One fully executed Project construction contract to the Tribe.
- Project constructed to the design and specifications required by the contract or as amended by approved written change orders.

3.4 Timeline

Construction of the project is scheduled for 110 working days from the date of the Notice to Proceed to the Contractor. This agreement shall be in effect until Closeout and Final Acceptance of the project is completed, which is anticipated to occur by March 31, 2007.

IV. Invoicing

4.1 The County will issue progress billings to the Tribe on a monthly basis throughout the duration of the agreement detailing direct Project expenses. The Tribe will remit payment for allowable costs to the County within 30 days of the receipt of proper invoice.

V. Hold Harmless and Indemnification

5.1 The County agrees to defend, indemnify and hold the Tribe, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with the County's performance of this Agreement, except for injuries and damages caused by the sole negligence of the Tribe.

5.2 The Tribe agrees to defend, indemnify and hold the County, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with the Tribe's performance of this Agreement, except for injuries and damages caused by the sole negligence of the County.

VI. Amendments

6.1 No change, amendment, or modification of any provision of this Agreement shall be valid unless set forth in a written addendum to this Agreement and signed by the County and the Tribe.

VII. Duration

7.1 The term of this Agreement begins on the date executed by both parties and shall remain in effect until March 31, 2007. This Agreement may be terminated by either party upon fourteen (14) days written notice to the other party, stating intent to terminate.

VIII. Dispute Resolution

8.1 Any dispute under this Agreement shall first be submitted to mediation or non-binding arbitration prior to bringing an action in a court of law. The County and the Tribe shall share equally in the costs of such non-binding dispute resolution with each party bearing its own costs of preparation.

IX. Governing Law, Venue, Limited consent to Suit

9.1 This Agreement shall be governed by the laws of the State of Washington as to interpretation and performance. Any action that cannot be resolved through mediation or nonbinding arbitration may be brought in Mason County Superior Court.

9.2 Nothing in this Agreement shall be construed as a waiver of the Tribe's sovereign immunity except as explicitly stated herein. The Tribe expressly waives its sovereign immunity from suit with respect to the obligations and indebtedness that arise out of or relate to this Agreement, provided that the waiver of sovereign immunity expressed herein is expressly limited as follows:

9.2.1 The waiver of sovereign immunity expressed herein is limited to County;

9.2.2 The waiver of sovereign immunity expressed herein is limited to funds received from the BIA for this project;



9.2.3 The waiver of sovereign immunity expressed herein is limited to the jurisdiction of the Mason County Superior Court.

X Severability

10.1 If any section, subsection, paragraph, sentence, clause or phrase of this Agreement is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of the Agreement.

XI. Integration

11.1 This Agreement sets forth the terms and conditions agreed upon by the County and the Tribe, and supersedes any and all prior agreements, oral or otherwise, with respect to the subject matter addressed herein, including without limitation any rights and obligations that may now exist between the parties.

XII. Notice

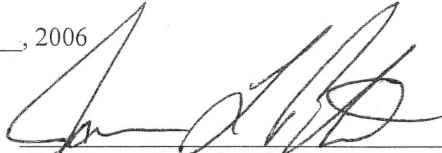
12.1 All notice required or permitted to be given under this Agreement to a party shall be deemed sufficient if given in writing and sent by certified mail to the address stated below for each party:

Squaxin Island Tribe
SE 10 Squaxin Ln
Shelton, WA 98584

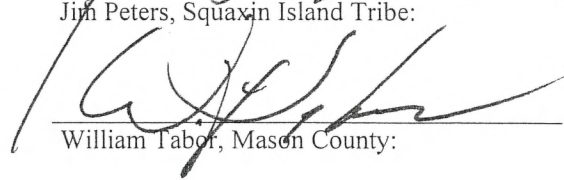
Mason County
415 North Sixth Street
P. O. Box 1850
Shelton, WA 98584

This Agreement entered into between the Squaxin Island Tribe and Mason County:

DATED this _____ day of _____, 2006



Jim Peters, Squaxin Island Tribe:



William Tabor, Mason County:

EXHIBIT A

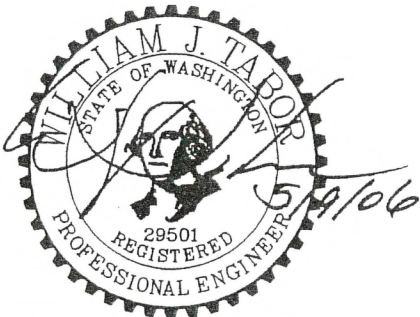
MASON COUNTY
DEPARTMENT OF PUBLIC WORKS
DIV. OF ENGINEERING & CONSTRUCTION

CRP 1598-R
SKOOKUM CREEK BRIDGE

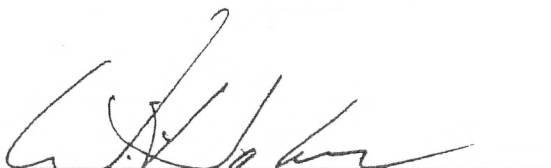
NOTICE TO PLANHOLDERS

The office assigned to show these projects to prospective bidders is located at the Mason County Engineers Office, Building 8, 415 North Sixth Street (P.O. Box 1850), Shelton Washington 98584 Phone: (360) 427-9670, Extension 450.

PLANS AND SPECIFICATIONS
APPROVED:



EXPIRES 11/03/07


William J. Tabor, P.E.
County Engineer

BY: 
CHAIRPERSON, Board of County
Commissioners

Date Approved: 4-25-06



EXHIBIT B

**SKOOKUM CREEK BRIDGE
COST ESTIMATE
CONSTRUCTION ENGINEERING SERVICES**

	<u>Cost/Hr.</u>	<u>Est. Hours</u>	<u>Total Cost</u>
<u>Bid Documents/Bidding/Award</u>			
Engr. & Constr. Manager	\$49.00	2	\$98.00
Project Engineer	\$47.00	4	\$188.00
Constr. Services Supervisor	\$46.00	16	\$736.00
Constr. Tech.	\$35.00	4	\$140.00
Contract Asst.	\$26.00	24	\$624.00
Materials/Legal Ad			<u>500</u>
Subtotal			\$2,286.00
<u>Contract Administration</u>			
Engr. & Constr. Manager	\$49.00	40	\$1,960.00
Environmental Services Man.	\$49.00	8	\$392.00
Project Engineer	\$47.00	40	\$1,880.00
Constr. Services Supervisor	\$46.00	125	\$5,750.00
Constr. Tech.	\$35.00	100	\$3,500.00
Contract Asst.	\$26.00	200	\$5,200.00
Vehicle	\$15.00	100	\$1,500.00
Materials			<u>\$250.00</u>
Subtotal			\$20,432.00
<u>Detour & Project Signs</u>			
Sign Shop Foreman	\$37.00	8	\$296.00
Sign Tech	\$33.00	16	\$528.00
Sign Truck	\$10.00	8	\$80.00
Materials			<u>\$500.00</u>
Subtotal			\$1,404.00
<u>Surveying</u>			
Survey Supervisor	\$41.00	8	\$328.00
3-Man Crew	\$100.00	16	\$1,600.00
Survey Truck	\$32.00	16	\$512.00
Materials			<u>\$100.00</u>
Subtotal			\$2,540.00
<u>Construction Inspection</u>			
Inspector (incl. vehicle)	\$45.00	1100	\$49,500.00
<u>Sampling and Testing</u>			
		LS	\$7,500.00
<u>Consultant Services (Geo-Tech/Piling)</u>			
		LS	\$10,000.00
GRAND TOTAL			\$93,662.00



Exhibit C

Estimated Cost of Tribal Project Management provided by the Squaxin Island Tribe

Skookum Creek Bridge Replacement Project Mason County #1598, BIA #P0650200, Squaxin #20-11-10-104

<u>Position</u>	<u>Function</u>	<u>Salary/Fringe</u>	<u>Est. Hours</u>	<u>Total Cost</u>
Construction Inspector	30 wks QA inspection, oversight	\$36	150	\$5,400
Planner	30 wks TA, project mgmt, coordination	\$39	350	\$13,650
NR Monitor	23 wks QA monitoring around construction	\$36	115	\$4,140
CR Monitor	2-3 visits QA monitoring around pier footing construction	\$40	12	\$480
				\$23,670
			Indirect Cost 44%	\$10,370
			Total	\$34,040