

RESOLUTION NO. 1646

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AUTHORIZING THE CITY MANAGER TO EXECUTE THE THIRD LIMITED MODIFICATION TO THE PUYALLUP TRIBE LAND CLAIMS SETTLEMENT

WHEREAS, Fife and the Tribe, along with other municipal governments, the State of Washington, the United States of America, the Port of Tacoma, two railroads and two committees representing various property and business owners, are parties to the Land Claims Settlement Agreement dated August 27, 1988 ("Agreement"); and

WHEREAS, a dispute has arisen between the State of Washington and the Tribe regarding the correct interpretation of Agreement Section VIII(A)(4). The Tribe and the State have tentatively reached an agreed interpretation of Section VIII(A)(4) and have proposed that Pierce County, and all of the municipal governments that were signatory to the Agreement sign a document entitled "Third Limited Modification of Settlement Agreement concerning Section VIII(A)(4) of the Agreement among the Puyallup Indian Tribe, State of Washington, Pierce County, City of Tacoma, City of Fife, City of Puyallup and Port of Tacoma" (hereinafter referred to as the "Limited Modification"), copy of which is attached hereto as Exhibit A; and

WHEREAS, Fife is the only city whose jurisdictional boundaries are located entirely within the exterior boundaries of the Puyallup Indian Reservation; and

WHEREAS, the Tribe is a sovereign Indian government that exercises governmental jurisdiction throughout the Puyallup Indian Reservation; and

WHEREAS, the Tribe and Fife have always recognized this unique relationship between their two governments and their respective jurisdictional authority, even to the point of having special economic provisions in the Agreement that only apply to Fife; and

WHEREAS, Fife is desirous of assisting the Tribe in resolving its dispute with the State, and apparently the State has insisted the Limited Modification be executed by all of the parties that are listed in the Limited Modification; and

WHEREAS, the Tribe and Fife have in the past entered into numerous agreements to take into consideration the unique relationship between the Tribe and Fife and how their respective governmental authority would be exercised relative to a specific project. Given that the Limited Modification relates to general governmental authority, the Tribe and Fife recognize this as a good opportunity to enter into an Interlocal Agreement in order to establish operational standards

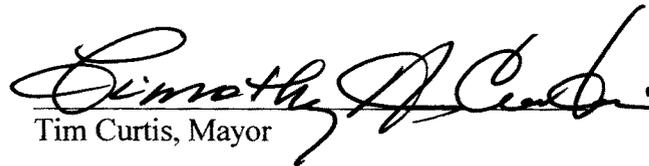
that the Tribe and Fife will follow on reservation within the Fife municipal boundaries as it relates to the governmental services offered by the City of Fife; and

WHEREAS, the intent of the attached interlocal agreement is to designate which Party will provide what service and how that service will be provided and under what condition. This Interlocal Agreement is not intended, nor should it be construed as an expansion, or a limitation upon either the Tribe's or City's jurisdictional, sovereign, or governmental authority; and

WHEREAS, the Council is willing to have the City sign the Limited Modification if the Tribe signs the Interlocal Agreement; now, therefore

BE IT RESOLVED that the City Council hereby authorizes the Mayor to execute the "Third Limited Modification of Settlement Agreement concerning Section VIII(A)(4) of the Agreement among the Puyallup Indian Tribe, State of Washington, Pierce County, City of Tacoma, City of Fife, City of Puyallup and Port of Tacoma" attached hereto as Exhibit A, if, and only if, the Tribe executes the Interlocal Agreement substantially in the form as set forth in Resolution No. 1647.

ADOPTED by the City Council at an open public meeting held on the 10th day of February, 2015.


Tim Curtis, Mayor

Attest:


Carol Etgen, City Clerk

THIRD LIMITED MODIFICATION OF SETTLEMENT AGREEMENT

concerning

SECTION VIII(A)(4) OF THE AGREEMENT

among the

PUYALLUP INDIAN TRIBE,
STATE OF WASHINGTON,
PIERCE COUNTY, CITY OF TACOMA,
CITY OF FIFE, CITY OF PUYALLUP, and
PORT OF TACOMA

Pierce County, the City of Tacoma, City of Fife, City of Puyallup, the Port of Tacoma, the State of Washington ("the State") and the Puyallup Indian Tribe ("the Tribe") enter into this Third Limited Modification of the "Agreement between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners" ("Settlement Agreement") dated August 27, 1988, which was adopted by the court on March 24, 1990, in *Puyallup Tribe of Indians v. Union Pacific Railroad Company*, Civil No. C84-359TC (W.D. Wash.). This Third Limited Modification is undertaken in accordance with the "Modification Procedure to the Settlement Agreement," which was filed with the court on December 31, 1991.

I. PURPOSE

The purpose of this Third Limited Modification is to resolve a dispute between the Tribe and the State concerning Section VIII(A)(4) of the Agreement. That section reads:

The State and its political subdivisions will retain and exercise all jurisdiction and governmental authority over all non-trust lands and the activities conducted thereon and as provided in federal law over non-Indians.

The State and the Tribe have disagreed on the interpretation of Section VIII(A)(4) as it applies to certain questions of state jurisdiction and governmental authority. The parties

agree that rather than litigating the proper interpretation, the parties are much better served by agreeing on how the subsection will be implemented in their future dealings.

II. SCOPE

Environmental laws are addressed in Section VIII(A)(3) of the Settlement Agreement, and are outside the scope of Section VIII(A)(4). Nothing in this Third Limited Modification affects the implementation of Section VIII(A)(3). Land use regulation is addressed in Technical Document No. 7 appended to the Settlement Agreement, and is outside the scope of Section VIII(A)(4). Nothing in this Third Limited Modification affects the implementation of Technical Document No. 7. Regulation of hunting and fishing are outside the scope of the Settlement Agreement, and are therefore outside the scope of this Third Limited Modification.

The parties agree that the Tribe shall not use the terms of this Limited Modification to assert, and the Tribe hereby waives, any claim for money damages, reimbursement or compensation against or from any other party based on a claim that any party asserted jurisdiction without valid authority over the Tribe or a Tribal member on fee land within the 1873 Survey Area at any time between the effective date of the Agreement and the date of this Limited Modification.

The State and the Tribe agree that nothing in this Third Limited Modification is intended to have any impact or modify any other agreement that is in place between the State and the Tribe or a local government party and the Tribe including, for example but without limitation, the 2010 Agreement Concerning Taxation of Motor Vehicle Fuel and Special Fuel and the 2013 Cigarette Tax Agreement between the Tribe and the Department of Revenue.

The parties agree that this Limited Modification is not intended to, and does not, have any impact on the procedures followed by the respective parties for the handling of traffic infraction citations issued to Puyallup Tribal members at locations within the 1873 Survey Area. Any infraction citations written and delivered to Tribal members by state and local law enforcement officers concerning events at those locations will continue to be handled as provided by federal law to the extent applicable.

III. LIMITED MODIFICATION OF SECTION VIII(A)(4)

The parties agree to modify the language of Section VIII(A)(4) so that it will read in its entirety as follows, and agree further that this language shall be subject to the provisions of Section II of this document :

The State and its political subdivisions will retain and will continue to exercise those forms of jurisdiction and governmental authority over all non-trust lands and the activities conducted thereon as federal law recognizes to be within their authority. Section VIII(A)(4), as herein modified, does not grant to state or local governments any authority beyond that which federal law otherwise recognizes. The parties recognize that the extent of that authority may be modified by acts of Congress and rulings of the federal courts. The state and its political subdivisions will also retain and continue to exercise jurisdiction over non-Indians as provided by federal law.

This Third Limited Modification shall become effective upon, and only upon, approval and signature on this document by all seven parties.

AGREED TO THIS ____ day of _____, 2014.

PUYALLUP INDIAN TRIBE

PIERCE COUNTY

By:

By:

CITY OF TACOMA

CITY OF FIFE

By:

By:

STATE OF WASHINGTON

CITY OF PUYALLUP

By:

By:

PORT OF TACOMA

By:

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