

RESOLUTION NO. 1653

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AMENDING RESOLUTION NO. 1646 AUTHORIZING THE MAYOR TO EXECUTE THE THIRD LIMITED MODIFICATION TO THE PUYALLUP TRIBE LAND CLAIMS SETTLEMENT

WHEREAS, on February 10, 2015, the City Council adopted Resolution No. 1646 authorizing the City Manager 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 executed the Interlocal Agreement substantially in the form as set forth in Resolution No. 1647; and

WHEREAS, the authorization for signing the Third Limited Modification was linked to the signing of the Interlocal Agreement approved by Resolution No. 1647 because at the time, it was expected that both agreements would be mutually agreed upon and ready for execution concurrently; and

WHEREAS, the Third Limited Modification is ready for execution but the City and the Tribe need additional time to finalize the wording of the Interlocal Agreement; and

WHEREAS, in order to avoid delaying the execution of the Third Limited Modification, it is the Council's intent to amend Resolution No. 1646 to remove the condition requiring prior execution of the Interlocal Agreement; now, therefore

BE IT RESOLVED that the City Council hereby amends Resolution No. 1646 as follows:

BE IT RESOLVED that the City County 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.

ADOPTED by the City Council at an open public meeting held on the ¹²10 day of March, 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

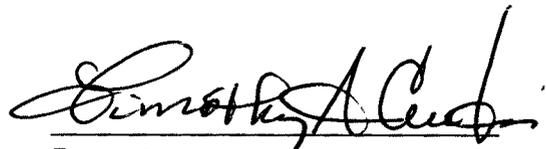
By:

By:

CITY OF TACOMA

CITY OF FIFE

By:


By: 3-10-14

STATE OF WASHINGTON

CITY OF PUYALLUP

By:

By:

PORT OF TACOMA

By:

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12/11/14