

The Tulalip Tribes of Washington

CONTRACT FORM

THE CONTRACT, evidenced by this Contract Form, made and entered into by and between:

< Contractor >
<Contact Information of Contractor>

(the "Contractor") and the Tulalip Tribes of Washington (the "Tulalip Tribes"), through the Chairman of the Board of Directors on the date executed by the Tulalip Tribes.

In consideration of the mutual promises herein contained, the Tulalip Tribes and Contractor agree as set forth below:

ARTICLE 1

- 1.1 The Contractor shall perform the entire Work described in the Contract Documents and reasonably inferable by the Contractor as necessary to produce the results intended by the Contract Documents, for:

Project No. QCV – CP – 10-003
Bid Package No. 10-003 – Olive Garden Site Utilities Work
Tulalip, WA

ARTICLE 2

- 2.1 The Tulalip Tribes shall pay the Contractor for the performance of the Contract, subject to additions and deductions by Change Order as provided in the Contract Documents, the amount of < *Total Contract Amount* > (the "Contract Price"), based upon the Bid Form, dated < *bid opening date* > submitted by the Contractor.

< *Base Bid* >

- 2.2 The Contract Price shall be paid in current funds by the Tulalip Tribes upon Applications for Payment submitted by the Contractor and approved by the Tulalip Tribes as provided in the Contract Documents.

ARTICLE 3

- 3.1 The Contractor shall diligently prosecute the Work and shall complete all Work so that Contract Completion can occur on or before 42 days from Notice to proceed, unless the Contractor timely requests and the Tulalip Tribes grants an extension of time in accordance with the Contract Documents.
- 3.2 It is understood and agreed that all Work shall be completed within the established time for Contract Completion, and that each applicable portion of the Work shall be completed upon the respective milestone completion date(s), unless the Contractor timely requests and the Tulalip Tribes grants an extension of time in accordance with the Contract Documents.
- 3.3 Upon failure to have all Work completed within the period of time above specified, or failure to have the applicable portion of the Work completed upon any milestone completion date, the Tulalip Tribes shall be entitled to retain or recover from the Contractor, as Liquidated Damages, and not as a penalty, the applicable amount set forth in the following table for each and every day thereafter until Contract Completion,

unless the Contractor timely requests and the Tulalip Tribes grants an extension of time in accordance with the Contract Documents.

| <u>Contract Amount</u> | <u>Dollars Per Day</u> |
|---------------------------------------|------------------------|
| \$1 to \$50,000 | \$150 |
| More than \$50,000 to \$150,000 | \$250 |
| More than \$150,000 to \$500,000 | \$500 |
| More than \$500,000 to \$2,000,000 | \$1,000 |
| More than \$2,000,000 to \$5,000,000 | \$2,000 |
| More than \$5,000,000 to \$10,000,000 | \$2,500 |
| More than \$10,000,000 | \$3,000 |

- 3.4 The amount of Liquidated Damages is agreed upon by and between the Contractor and the Tulalip Tribes because of the impracticality and extreme difficulty of ascertaining the actual amount of damage the Tulalip Tribes would sustain.

ARTICLE 4

- 4.1 The Contract Documents embody the entire understanding of the parties and form the basis of the Contract between the Tulalip Tribes and the Contractor. The Contract Documents shall be considered to be incorporated by reference into this Contract Form as if fully rewritten herein.
- 4.2 The Contract and any modification, amendments or alterations thereto shall be governed, construed and enforced by and under the laws of the Tribal Court of the Tulalip Tribes.
- 4.3 If any term or provision of the Contract, or the application thereof to any person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.
- 4.4 The Contract shall be binding on the Contractor and the Tulalip Tribes, their successors and assigns, in respect to all covenants and obligations contained in the Contract Documents, but the Contract may not be assigned by the Contractor without the prior written consent of the Tulalip Tribes.

ARTICLE 5

- 5.1 It is expressly understood by the Contractor that none of the rights, duties and obligations described in the Contract Documents shall be valid and enforceable unless the Tulalip Tribes Treasurer first certifies there is a balance sufficient to pay the obligations set forth in the Contract.

ARTICLE 6

- 6.1 This Contract Form has been executed in several counterparts, each of which shall constitute an original Contract Form which may be introduced in evidence or used for any other purpose without production of any other counterparts.

ARTICLE 7

- 7.1 The Contract documents includes the following, which are incorporated by reference as if fully set forth herein (not in order of precedence), on which the agreement between the Tulalip Tribes of Washington and the Contractor is based upon:
- a) This Agreement;
 - b) Proposal (Form of Bid);
 - c) Table of Contents;
 - d) Division 0 – Bidding Requirements, Contract Forms, and Conditions of the Contract complete;
 - e) Division 1 – General Requirements complete;
 - f) Technical Specifications;
 - g) Plans as listed in the Table of Contents on the Restaurant Utilities Plan Set Cover Sheet complete;;
 - h) Geotechnical Engineering report prepared by AMEC Earth & Environmental, Inc., 1-91M-13973-0, dated June 15, 2001 related to the adjacent Tulalip Casino project and. This is for reference use only and is provided solely to share information available to the Tulalip Tribes of Washington and any use of, or reliance upon, such items by the Contractor is at the risk of the Contractor;
 - i) Tribal Employment Rights Office (TERO) Ordinance Nos. 60 and 89; and
 - j) Addendum No. _____ dated _____, 20_____.
- 7.2 These Contract documents together form the Contract for the Work herein described. The parties intend that the documents include provisions for all supervision, engineering, management, labor, tools, equipment, materials, supplies, facilities and financing and to secure all field measurements necessary to perform and to fully complete the Work, as well as, all work incidental thereto and all terms and conditions of payment. The documents also include all work and procedures not expressly indicated therein which are necessary for the proper execution of the Project.

ARTICLE 8

- 8.1 The Tulalip Tribes' representative designated as Construction Manager authorized to administer and implement the terms and conditions of this agreement is Mr. Nick Gobin.
- 8.2 The Tulalip Tribes' representative designated as Project Engineer authorized to directly supervise the engineering and administration of the construction project is Mr. Fred McDonald.
- 8.3 The Tulalip Tribes' representative designated as Inspector authorized to inspect Contract performance in detail is _____.
- 8.4 The Tulalip Tribes' authorized representatives shall be allowed to observe any work done by the Contractor which is covered by this agreement.

This agreement, including its referenced appendices, represents the entire and complete agreement between the parties and supersedes all prior negotiations, representations, or agreements either written or oral and may be amended or modified only in writing signed by both parties. Nothing whatsoever in this agreement constitutes or shall be construed as a waiver of the Tulalip Tribes of Washington's sovereign immunity. This agreement shall not be valid unless each and every signature designated below is affixed.

(Remainder of Page Left Intentionally Blank)

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

CONTRACTOR

(Company Name)

(Print Name & Title)

By: _____
(Authorized Signature)

Date: _____, _____

THE TULALIP TRIBES OF WASHINGTON

Chairman of the Board

Date: _____, _____

(Print Name)

Date: _____, _____