

Agreement #

201523

**INFORMATION TECHNOLOGY
SERVICES AGREEMENT**

BETWEEN

THE KALISPEL TRIBE OF INDIANS

AND

PEND OREILLE COUNTY

January 1st, 2015 to December 31st, 2015

COPY

The County understands and acknowledges that the Kalispel Tribe enjoys sovereign immunity from suit and nothing in this Agreement shall be construed as a waiver of this immunity from suit; provided, however, that the Kalispel Tribe hereby provides a limited waiver of its sovereign immunity to the County as to any settlement or judgment for a breach of contract claim brought by the County in the instance that the Kalispel Tribe does not act in good faith and fails to comply with the indemnification provision of this Agreement to the County. In any event and notwithstanding the above, the Kalispel Tribe's indemnification obligations to the County under this Agreement and limited waiver of sovereign immunity herein shall be limited to the amount recoverable under the general commercial liability insurance policy maintained by the Kalispel Tribe in an amount not to exceed \$1,000,000 per occurrence, with a \$2,000,000 aggregate. The Kalispel Tribe shall provide County as an additional insured and provide the County with proof of additional insured status within ten (10) days of execution of this Agreement.

ARTICLE I

PURPOSE OF CONTRACT

1. Pend Oreille County has an established Information Technology (IT) Department. The parties believe it is in the public interest to make these services available to the Kalispel Tribe on a contractual basis as set forth herein.

ARTICLE II

PART I

INFORMATION TECHNOLOGY SERVICES

Pend Oreille County, through its (IT) Department, agrees to provide the Kalispel Tribe, the same (IT) support services that it provides to County Departments. These core services include the following:

- Network switches and routers
- Domain Controllers and Network Security
- Network Firewall

Power Backup UPS
Network Print Services
Communication (internet access)
Data file storage
Backup and recovery
Sophos End Point Security
Desktop Support and Computer Repair
Access to Chad, Cindi, Zach and Josh for Support (Monday –Friday, 7 AM to 5:30 PM)
Online Ticketing Software

This Agreement does NOT include the periodic replacement of computers.

PART II
COSTS AND PAYMENTS FOR IT SERVICES

The Kalispel Tribe agrees to pay Pend Oreille County \$2,390 per workstation, per year for the services set forth herein, plus an additional \$105.00 per year, per license for their VPN software.

The parties agree that 11 workstations are covered by this agreement. After hours support will be billed at the composite rate of \$44.41 per hour with a minimum of 2 hours per support call.

Mileage for onsite support and/or training will be billed at the current IRS Revenue Procedure Rate of .56 cents per mile.

The Kalispel Tribe will remit payments for \$27,445.

ARTICLE III
PART I
PUBLIC DISCLOSURE

As a public agency, the County is bound by the Public Disclosure and Criminal Records laws as declared in Chapter 42.56 RCW, the Washington State Criminal Records Act, Chapter 10.97

RCW and other applicable state and federal laws. Requests for public information shall be processed as set forth below.

The County, as a public agency, is required to allow members of the public access to certain materials within the County's control or possession. In the event the County receives a public records request for records clearly belonging to the Kalispel Tribe, within five days of receiving such a request and prior to providing any materials to the Requestor, the County will notify the Kalispel Tribe of such request for records and will make attempts to provide the Kalispel Tribe with adequate time to seek a protective order under applicable law. In the event the Kalispel Tribe does not seek a protective order, or in the event the Kalispel Tribe does not timely obtain such an order, any records requested, except those records that are exempt from disclosure based upon some other provision of law, will be released.

PART II

DISPUTE RESOLUTION

It is the intent and purpose of both parties to this contract to negotiate the services in good faith and to provide for reasonable terms and conditions and equitable costs. In the event the Kalispel Tribe and the County are unable to reach an agreement for disputes pertaining to the terms and conditions of this contract, the matter may be submitted by either party for binding arbitration. The Kalispel Tribe and County shall each select one arbitrator, the two of whom shall pick a third arbitrator. The decision of the arbitrator shall be final. Except for the specific terms and/or conditions in dispute, all other terms and conditions outlined in this contract shall remain in full force and effect throughout the duration of this contract.

PART III

HOLD HARMLESS

1. The Kalispel Tribe shall defend, indemnify and hold harmless the County, its agents, employees, officials and officers from any and all liability and/or losses and damages including, but not limited to, attorney's fees, costs, and all other damages for all acts and omissions of the Kalispel Tribe, its officials, agents, employees or officers, including liability arising out of unlawful or claim of unlawful acts, under this contract, by the Kalispel Tribe or any other claim arising out of performance of this contract which claim results or is alleged to result from or alleged to be connected in any manner whatsoever from any act or omission by the Kalispel Tribe, its agents, employees, officials or officers, but not under any circumstances for any acts or omissions of the County its agents, employees, officials and officers over which the Kalispel Tribe exercises no direction or control. The liability for which the Kalispel Tribe shall defend, indemnify and hold harmless, as described above, shall be based on acts or omissions of the Kalispel Tribe. Further, the Kalispel Tribe specifically agrees to pay on demand, any reasonable costs or legal fees required to establish the County's right to indemnification.
2. The County agrees to defend, indemnify, and hold harmless the Kalispel Tribe, its officials, officers, agents, and employees from any and all liability and/or losses and damages including, but not limited to attorney's fees, costs, and all other damages for all acts and omissions of the County, its officials, agents, employees or officers including liability arising out of unlawful or claim of unlawful acts under this contract, by the County, or any other claim arising out of performance of this contract which claim results or is alleged to result from or alleged to be connected in any manner whatsoever from any act or omission by the County, its agents, employees or officers, but not under any circumstances for any acts or omissions of the Kalispel Tribe, its agents, employees, officials and officers over which the County exercises no direction or control. The liability for which the County shall defend, indemnify and hold harmless, as described above, shall be based on acts or omissions of the County. Further, the County specifically agrees to pay on demand, any reasonable costs or legal fees required to establish the Kalispel Tribe's right to indemnification.

PART IV
GENERAL COMPONENTS

1. This contract shall not be construed as or deemed to be a contract for the benefit of any third party or parties and no third party or parties shall have any right of action hereunder for any cause whatsoever.
2. No agent, employee, or representative of the Kalispel Tribe shall be deemed to be an employee, agent, or representative of Pend Oreille County for any purpose whatsoever.
3. No agent, employee or representative of Pend Oreille County shall be deemed to be an employee, agent or representative of the Kalispel Tribe for any purpose whatsoever.
4. Each party agrees to aid and assist the other in accomplishing the objectives of this contract.
5. This contract supersedes all prior agreements and contracts for IT services.

PART V

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The Agency or Contractor shall not discriminate against any employee or applicant for contracted employment because of race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory or mental disability. The Contractor shall make decisions with regard to selection and retention of sub-Contractors, procurement of materials and equipment and similar actions related to the Contract without regard to race, creed, color, national origin, sex, age, marital status, or the presence of any physical, sensory, or mental disability. Compliance with Title VI of the Civil Rights Act of 1964, and RCW 49.60, Law against Discrimination, and other related laws and statutes is required.

PART VI
MODIFICATION / TERMINATION

TERMINATION

This contract may be terminated by either the County or the Kalispel Tribe by giving the other party 60 days written notice of the intended termination. Whenever the contract is terminated in accordance with this paragraph, County shall be entitled to payment for work performed through the current payment period. No adjustment shall be made for loss of anticipated profit or deleted or uncompleted work.

TERMINATION OF AGREEMENT - EVENTS OF DEFAULT.

This Agreement may be immediately terminated without notice upon an event of default, which events of default include but are not limited to the following:

- a. The Kalispel Tribe wrongfully uses the data provided by the County per terms of this agreement including all attachments.
- b. Unauthorized copying of data.
- c. In the event this Agreement is determined to be in conflict with federal or state law, County resolutions or ordinances which are in effect at the time of this Agreement or may be imposed in the future.
- d. The Kalispel Tribe sells, gives, leases, or loans access to the screens or the data contained therein to any person or in any way, directly or indirectly, allows copies to be made by any person without the express written approval of the County.

- e. If any vendor changes its support, architecture, licensing, policy or creates any other condition that would create a situation where the County could no longer meet.

ARTICLE VII

EFFECTIVE DATE OF CONTRACT

This contract shall be in full force and effect from January 1st, 2015 through December 31st, 2015.

IN WITNESS WHEREOF, the parties have executed this contract by reason of the authorization obtained by them as required by the laws governing their respective jurisdiction and powers.

DATED: _____

DATED: Feb. 24, 2015

KALISPEL TRIBE OF INDIANS

PEND OREILLE COUNTY
BOARD OF COMMISSIONERS

GLEN NENEMA, Chairman

Steve Kiss
STEVE KISS, Chairman

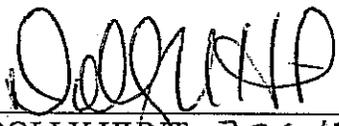
Mike Manus
MIKE MANUS, Vice- Chair

Absent Excused
KAREN SKOOG, Member

Approved as to Form:

DAVE BONGA
Kalispel Tribal General Counsel

JAMES WYNECOOP
Kalispel Tribe Director of Public Safety


DOLLY HUNT 33613
Pend Oreille Prosecuting Attorney

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DATED: 3-24-15
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KALISPEL TRIBE OF INDIANS

PEND OREILLE COUNTY
BOARD OF COMMISSIONERS

Glen Nenema
GLEN NENEMA, Chairman

Steve Kiss
STEVE KISS, Chairman

Mike Manus
MIKE MANUS, Vice- Chair

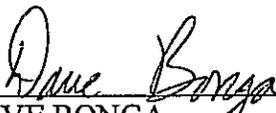
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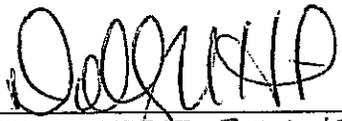
PEND OREILLE
COUNTY COMMISSIONERS

Absent Kyou Sed
KAREN SKOOG, Member

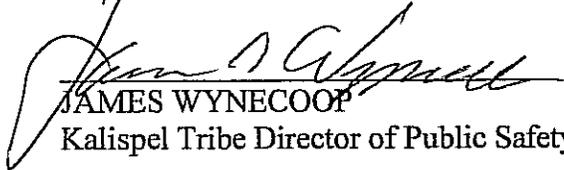
Approved as to Form:



DAVE BONGA
Kalispel Tribal General Counsel



DOLLY HUNT 33013
Pend Oreille Prosecuting Attorney



JAMES WYNECOOP
Kalispel Tribe Director of Public Safety

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