



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Puget Sound Agency 2707 Colby

Avenue, Suite 1101

Everett, Washington 98201

In Reply Refer To:
Division of Tribal Government

Honorable Teri Gobin, Chairperson
Tulalip Tribes
6406 Marine Drive
Tulalip, Washington 98271

Dear Chairperson Gobin:

We are in receipt of Tulalip Tribes Resolution 2024-105, Amendment to Tulalip Tribal Codes 2.25 Criminal Procedures, 3.15 Offenses Involving Damage to the Person, 3.25 Offenses Against the Family.

Resolution No. 2024-105 was adopted by the Board of the Tulalip Tribes of Washington on March 1, 2024, and received by us at Puget Sound Agency on March 11, 2024. This resolution is accepted as reviewed and approved by the Superintendent on March 11, 2024. This resolution is in accordance with Article VI, Section 1(K) and (L) of the Tulalip Constitution.

The resolution is subject to a 90 day secretarial review pursuant to your Constitution and was forwarded to the regional office on March 11, 2024

If you have any questions, please email Administrative Officer, Stephanie Ancheta at stephanie.ancheta@bia.gov.

Sincerely,

Janine B. Van Dusen
Superintendent

THE TULALIP TRIBES OF WASHINGTON
RESOLUTION 2024- 105

**Amendment to Tulalip Tribal Codes 2.25 Criminal Procedures, 3.15 Offenses
Involving Damage to the Person, 3.25 Offenses Against the Family**

WHEREAS, the Board of Directors is the governing body of the Tulalip Tribes under the Constitution and Bylaws of the Tribes approved by the United States Commissioner of Indian Affairs and the Secretary of the Interior on January 24, 1936, pursuant to the Act of June 18, 1934 (48 Stat. 984, 25 U.S.C. 5123); and

WHEREAS, under the Tulalip Tribes Constitution Article VI, Section 1(K), the Board of Directors has the authority to promulgate and enforce ordinances governing the conduct of members of the Tribes providing for the maintenance of law and order and the administration of justice by establishing a tribal court and defining its duties and powers; and;

WHEREAS, the Board of Directors has exercised the foregoing constitutional authority by adopting and enforcing criminal laws through its Tribal Court and police department; and

WHEREAS, the 2022 reauthorization of the Violence Against Women Act (VAWA) recognized the inherent sovereignty of Indian Tribes to exercise special tribal criminal jurisdiction over “covered crimes,” including crimes involving “child violence;”

WHEREAS, children are one of the Tribes’ most precious resources, and the safety of children is of the utmost concern to the Tulalip tribal community. To better protect children, the Board of Directors finds it is necessary to provide a statutory definition of “child violence,” and enact new crimes covered by the definition, in order for the Tribes to exercise its jurisdiction to the fullest extent allowed by federal law;

WHEREAS, Elders are a valuable cultural resource. Our Elders carry our history and teachings. The Board of Directors finds that criminal prohibitions on the emotional and psychological abuse of Elders is necessary to protect this vulnerable population;

NOW THEREFORE BE IT ENACTED, by the Board of Directors of the Tulalip Tribes:

Section 1. Chapter 2.25.010(1)(c)(i) of the Tulalip Tribal Code and Res. 2022-400; Res. 2012-445, 5; Res. 2010-10, are hereby amended as indicated by Attachment One track changes ordinance.

Section 2. Chapter 3.15 of the Tulalip Tribal Code and Res. 2023-310; Res. 2017-090; Res. 2012-445; Res. 2010-10, are hereby amended as indicated by Attachment Two track changes ordinance.

Section 3. Chapter 3.25 of the Tulalip Tribal Code and Res. 2018-444; Res. 2010-10, are hereby amended as indicated by Attachment Three track changes ordinance.

Section 4. These ordinances shall be in full force and effect on May 1, 2024.

THE TULALIP TRIBES OF WASHINGTON
RESOLUTION 2024 - 105

ADOPTED by the Board of Directors of the Tulalip Tribes of Washington at a regular board meeting assembled on the 1st day of March, 2024, with a quorum present, by a vote of 5 For, 0 Against, and 0 Abstain.

THE TULALIP TRIBES OF WASHINGTON


Teri Gobin, Chair

ATTEST:


Debra Posey, Secretary

The within document is hereby approved pursuant to
209 IM8, 230 IM 1, 3IAM 4

Superintendent, Puget Sound Agency

24-
Resolution Summary

Enacting Amendments to TTC 2.25; 3.15; and 3.25 for the Protection of Children and Elders

- VAWA 2022 affirmed Tribes' inherent jurisdiction over a list of "covered crimes," including child violence. Tribes are able to legislate within the parameters of covered crimes to best meet needs of community.
- "Child violence" is defined as "the use, threatened use, or attempted use of violence against a child proscribed by the criminal law of the Indian tribe that has jurisdiction over the Indian country where the violation occurs." Violence is not defined in VAWA 2022.
- Attachment One – Adds definition of child violence to jurisdictional statement
 - Maximizes Tribes' exercise of special tribal criminal jurisdiction (STCJ) by providing a broad definition of child violence
 - Will provide statutory guidance if Tribes' exercise of STCJ under this covered crime is challenged
 - Definition is compatible with the World Health Organization's literature on what constitutes violence against children
- Attachment Two – Amends Aggravated Assault Statute
 - Under current code, a simple assault against a child is only a felony if the child is under 12 years old, unless another aggravator applies. Proposed code –an assault against any minor is a felony if the defendant is at least three years older than the victim
 - Makes an assault against a police officer a felony, assault on an officer is a felony in the state, and was an aggravator in the Tribes' previous assault code. Additionally, crimes against justice personnel is a "covered crime" in VAWA 2022, code will apply to VAWA defendants
 - Amends definition of "serious physical injury," to a more comprehensive definition that includes fractures, temporary but substantial disfigurements, and concussions
 - Adds definition of psychological and emotional harm to Elder Abuse statute
- Attachment Three – Amends TTC 3.25 Offenses Against the Family
 - Adds committing psychological or emotional harm to a child to Failure to Support or Care for Dependent Person. Amends crime from a class D to a class E offense, and Aggravated Failure to Support or Care from a class E to a class F offense
 - Creates two new crimes. Exposing Children to Domestic or Family Violence, and Leaving a Child in the Care of a Sex Offender

RESOLUTION 2024 – _____ ATTACHMENT ONE

TTC 2.25.010 CRIMINAL PROCEDURES

2.25.010(1)(c)(i) Child violence defined. Child violence includes neglect, physical violence, and emotional or psychological violence. Emotional and psychological violence consists of restricting a child's movements, denigration, ridicule, threats and intimidation, discrimination, rejection and other non-physical forms of hostile treatment that, alone or in conjunction with physical abuse or neglect, results in emotional or psychological harm. emotional or psychological harm is mental or emotional trauma, or undesired behavioral or emotional changes, requiring medical or psychological treatment including but not limited to depression, suicidal ideation, anxiety, or eating disorders. Child violence includes all crimes in TTC 3.25 Offenses Against the Family.

RESOLUTION 2024 – _____ ATTACHMENT ONE

TTC 2.25.010 CRIMINAL PROCEDURES

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TTC 3.15 OFFENSES INVOLVING DAMAGE TO THE PERSON

3.15.010 Murder – Manslaughter.

(1) Murder. Murder is the unlawful killing of a human being with malice aforethought.

(a) Murder in the First Degree. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than who is killed, is murder in the first degree. Murder which is perpetrated by killing a peace officer while such officer is acting in his official capacity or by reason of an act performed in his official capacity and with knowledge that the victim was a peace officer is murder in the first degree. For purposes of this subsection, the term “peace officer” means any Tribal, State or Federal law enforcement officer including, but not limited to, fish and wildlife officer, a Federal park ranger, the chief or sheriff or police officer of an Indian tribe, city or town. Murder in the first degree is a Class F offense.

(b) Murder in the Second Degree. Any murder which does not constitute murder in the first degree is murder in the second degree. Murder in the second degree is a Class F offense.

(2) Manslaughter. Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

(a) Voluntary: upon a sudden quarrel or heat of passion.

(b) Involuntary: in the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

Voluntary and involuntary manslaughter are both Class F offenses.

(3) Attempt. Whoever attempts to commit murder or manslaughter shall be guilty of a Class F offense.

3.15.011 Maiming.

A person commits the offense of maiming by purposely, and with the intent to torture:

(1) Maiming, disfiguring, cutting, biting, or slitting the nose, ear or lip, or cutting out or disabling the tongue, or putting out or destroying an eye, or cutting off or disabling a limb or body part of another person; or

(2) Throwing or pouring upon another person any scalding water, corrosive acid, or caustic substance.

Maiming is a Class F offense.

3.15.020 Aiding or soliciting suicide.

(1) A person commits the offense of aiding or soliciting a suicide by purposely aiding or assisting another in taking his or her own life.

(2) The fact suicide was not successfully carried out is not a defense.

(3) Aiding or soliciting suicide is a Class E offense.

3.15.030 Assault.

(1) Assault. A person commits an assault by:

(a) Intentionally, knowingly, or recklessly causing any physical injury to another person; or

(b) Intentionally placing another person in reasonable apprehension of imminent physical injury; or

(c) Knowingly touching another person in an injurious, insulting, or provoking manner.

(2) Assault is a Class E offense.

3.15.040 Aggravated assault.

(1) A person commits aggravated assault if the person commits assault as defined in TTC 3.15.030 under any of the following circumstances:

(a) If the person causes serious physical injury;

(b) If the person uses a deadly weapon or dangerous instrument;

(c) If the person assaults another by strangulation or suffocation;

(d) If the assault victim is a minor and the offender is an adult at least three years older than the victim;

(e) If the assault victim is a vulnerable adult or a person for whom an elder protection order is in effect;

(f) If the person commits the assault while the victim is bound or otherwise physically restrained;

- (g) If the person commits the assault while the victim's capacity to resist is substantially impaired;
- (h) The person has previously been convicted of assaulting the same victim;
- (i) If the person commits the assault after entering the private home of another with the intent to commit the assault; or
- (j) If the assault victim is the protected party and the defendant is the restrained party in a court order issued pursuant to Chapter 4.25 TTC or a valid foreign protection order as defined by TTC 4.25.690. A foreign protection order is presumed valid if it appears authentic on its face;
- (k) the victim is an on-duty law enforcement officer or the person commits the assault because the victim is a law enforcement officer or because of the victim's work as a law enforcement officer.

(2) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection:

- (a) "Dangerous instrument" means anything that, under circumstances, is readily capable of causing death or serious physical injury, including, but not limited to, a vehicle.
- (b) "Deadly weapon" means anything designed for lethal use, including a firearm.
- (c) "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.
- (d) "Serious physical injury" means physical injury that creates a risk of death, a temporary but substantial disfigurement, a serious and permanent disfigurement, a serious impairment of health, a fracture of any bodily part, or a loss or impairment of the function of any bodily part or organ, or a concussion
- (e) "Strangulation" means to intentionally apply external pressure to the neck, by any means, that impedes airflow, blood flow, or both.
- (f) "Suffocation" means to intentionally cause the obstruction of airflow to and from the lungs making it difficult to breathe.

(3) Aggravated assault is a Class F offense.

3.15.050 Intimidation.

(1) A person commits the offense of intimidation by attempting to have another person perform or refrain from performing a specific act by threatening, under circumstances producing a fear that the threat will be carried out, to:

- (a) Inflict bodily harm on the person threatened or any other person;
- (b) Subject any person to physical confinement or restraint; or
- (c) Commit any Class E offense.

(2) Intimidation is a Class E offense.

3.15.060 Mistreating prisoners.

(1) A person commits the offense of mistreating prisoners, if, being responsible for the care or custody of a prisoner, he purposely or knowingly:

- (a) Assaults or otherwise injures a prisoner; or
- (b) Intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner; or
- (c) Violates any civil right of a prisoner.

(2) Mistreating prisoners is a Class D offense.

3.15.070 Negligent vehicular assault.

(1) A person who negligently operates a motor vehicle under the influence of alcohol, a controlled substance, any other drug, or any combination of the three, and who causes bodily injury to another, commits the offense of vehicular assault in the second degree. Vehicular assault in the second degree is a Class D offense.

(2) A person who willfully, wantonly or recklessly operates a motor vehicle and causes bodily injury to another commits the offense of vehicular assault in the first degree. Vehicular assault in the first degree is a Class E offense.

3.15.080 Negligent endangerment.

(1) A person who negligently engages in conduct that creates a substantial risk of death or serious bodily injury to a person or animal commits the offense of negligent endangerment.

(2) Negligent endangerment is a Class D offense.

3.15.090 Criminal endangerment.

(1) A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to a person commits the offense of criminal endangerment.

(2) For the purposes of this section, "knowingly" means that the person is aware of the high probability that their conduct, whatever that conduct may be, will cause a substantial risk of death or serious bodily injury to a person.

(3) Criminal endangerment is a Class E offense.

3.15.100 Elder abuse.

(1) A person commits the offense of elder abuse by knowingly or purposely, physically or mentally, abusing or exploiting an older person.

(2) "Exploiting" means the unjust use of an individual's money or property for another's advantage by means of duress, menace, fraud, or undue influence.

(3) "Older person" means a Tribal member or other person residing on the Reservation who is:

(a) Sixty-two years of age or older;

(b) Determined by the Tribal Court to be an elder; or

(c) At least 45 years of age and unable to protect herself or himself from abuse, neglect, or exploitation because of a mental disorder or physical impairment, or frailties or dependencies brought about by age or disease or alcoholism.

(4) "Mentally abusing" means restricting an elder's movements, denigration, ridicule, threats and intimidation, discrimination, rejection and other non-physical forms of hostile treatment that, alone or in conjunction with physical abuse or neglect, results in emotional or psychological harm. emotional or psychological harm is mental or emotional trauma, or undesired behavioral or emotional changes, requiring medical or psychological treatment including but not limited to depression, suicidal ideation, anxiety, or eating disorders.

(5) Elder abuse is a Class E offense.

3.15.110 Robbery.

(1) A person commits robbery when he or she unlawfully takes personal property from the person of another or in his or her presence against his or her will by the use or threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force is immaterial. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom it was taken, such knowledge was prevented by the use of force or fear.

(2) Robbery is a Class F offense.

3.15.120 Unlawful restraint.

(1) A person commits the offense of unlawful restraint by knowingly or purposely, and without lawful authority, restraining another so as to interfere substantially with another's liberty.

(2) Unlawful restraint is a Class C offense.

3.15.130 Kidnapping.

(1) Kidnapping in the First Degree.

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when:

(i) The person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

(ii) Any such act against the person is done within the exterior boundaries of the Tulalip Tribes;

(iii) A foreign official, an internationally protected person; or

(iv) The person is a Tribal public servant, as defined in Chapter 3.35 TTC, and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties, shall be guilty of a Class F offense.

(b) With respect to subsection (1)(a)(i) of this section, the failure to release the victim within 24 hours after he has been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation or Tribal investigation of a possible violation of this section before the 24-hour period has ended.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be guilty of a Class F offense.

(d) Whoever attempts to violate subsection (1)(a) of this section shall be guilty of a Class F offense.

(e) Special Rule for Certain Offenses Involving Children.

(i) To Whom Applicable. If:

(A) The victim of an offense under this section has not attained the age of 18 years; and

(B) The offender:

1. Has attained such age; and

2. Is not:

a. A parent;

- b. A grandparent;
- c. A brother;
- d. A sister;
- e. An aunt;
- f. An uncle; or
- g. An individual having legal custody of the victim.

(f) As used in this section, the term "parent" does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.

(2) Kidnapping in the Second Degree.

(a) A person commits the offense of kidnapping in the second degree by knowingly or purposely, and without lawful authority, restraining another person by:

- (i) Secreting or holding the person in a place of isolation; or
- (ii) Using or threatening to use physical force against the other person.

(b) Kidnapping in the second degree is a Class E offense.

3.15.140 Aggravated kidnapping.

(1) A person commits the offense of aggravated kidnapping if he or she knowingly or purposely and without lawful authority restrains another person by either secreting or holding him or her in a place of isolation or by using or threatening to use physical force, with any of the following purposes:

- (a) To hold for ransom or reward or as a shield or hostage;
- (b) To facilitate commission of any felony or flight thereafter;
- (c) To inflict bodily injury on or to terrorize the victim or another; or
- (d) To interfere with the performance of any governmental or political function.

(2) Aggravated kidnapping is a Class E offense.

3.15.150 Terrorism.

(1) A person commits the offense of terrorism when he or she knowingly or purposely:

- (a) Threatens to destroy or damage any structure, conveyance, or other real or personal property within the Reservation boundaries;
- (b) Attempts or conspires to destroy or damage any structure, conveyance, or other real or personal property within the Reservation boundaries; or

(c) Creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the Reservation boundaries.

(2) Terrorism is a Class F offense.

3.15.160 Harassment – Statement of purpose.

It is the purpose of TTC 3.15.160 through 3.15.190 to create and maintain a peaceful and safe environment for all persons on the Tulalip Indian Reservation by making unlawful invasions of a person's privacy by acts or threats that show a pattern of harassment designed to coerce, intimidate, or humiliate the person harassed. Harassment is a serious crime against society and TTC 3.15.160 through 3.15.190 seeks to guarantee to the victim of harassment the maximum protection under the law.

3.15.170 Harassment.

(1) A person commits the offense of harassment if:

(a) Without lawful authority, the person knowingly threatens:

- (i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or
- (ii) To cause physical damage to the property of a person other than the actor; or
- (iii) To subject the person threatened or any other person to physical confinement or restraint; or
- (iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

(2) Harassment is a Class D offense.

3.15.180 Definitions.

(1) "Electronic communication," for the purpose of TTC 3.15.160 through 3.15.190, means any form of expression or exchange of information by speech, photographs or written form using electronic means. Electronic communication includes, but is not limited to, communication via telephone, facsimile, electronic mail, social media and other electronic forms.

(2) "Specific person," for the purpose of TTC 3.15.160 through 3.15.190, means any person who is subjected to harassment as defined by subsection (1) of this section.

(3) "Electronic surveillance," for the purpose of TTC 3.15.160 through 3.15.190, means monitoring the behavior, activities, or whereabouts by electronic means.

(4) "Harassment restraining order," for the purpose of TTC 3.15.160 through 3.15.190, means a Court order restricting a person from harassing, threatening, contacting, or approaching another specified person for a period of time.

(5) "Temporary harassment restraining order," for the purpose of TTC 3.15.160 through 3.15.190, means a Court order restricting a person from harassing, threatening, contacting, or approaching another specified person for a period generally not longer than 14 days.

3.15.190 Harassment – Contempt and violation of order – Penalties.

(1) Willful violation of any harassment restraining order subjects the respondent to criminal penalties under this title and TTC Title 2.

(2) Any respondent who is found guilty of violating the terms of harassment restraining order may also, subject to the Court's discretion, be held in contempt of Court, and the Court may impose such sanctions as it deems appropriate.

(3) Violation of a harassment restraining order is a Class D offense.

(4) Third or subsequent violation of a harassment restraining order is a Class E offense.

3.15.200 Unlawful distribution of intimate image.

(1) It is unlawful to knowingly distribute a private, visual depiction of a person who is engaging in sexually explicit conduct, or of a person's intimate parts, with reckless disregard for the person's lack of consent to the distribution, when the person is identifiable from the visual depiction itself or information displayed in connection with the visual depiction.

(2) A first violation of this section is a Class E offense. Second and subsequent violations of this section are Class F offenses.

(3) Definitions. Terms not specifically defined in this section shall be defined according to their ordinary usage:

(a) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consent.

(b) "Intimate parts" means the naked or undergarment-clad genitals, pubic area, or buttocks of a post-pubescent person, or any portion of a post-pubescent female breast below the top of the areola with less than an opaque covering.

(c) "Visual depiction" means any photograph, digital image, computer image, computer-generated image, film, video, or recording, whether produced by electronic, mechanical, or other means, and includes undeveloped film and videotape, data stored

on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.

(d) "Private, visual depiction" means a visual depiction of another person who is engaging in sexually explicit conduct, or of another person's intimate parts, for which the distributor does not have affirmative consent to distribute. Provided, however, that a "private, visual depiction" does not include:

(i) Law enforcement and other legal proceedings, including:

(A) Reporting unlawful activity,

(B) A law enforcement, correctional, or prosecution agency function,

(C) Court or other judicial proceedings.

(ii) Voluntary public or commercial exposure. This section does not apply to a visual depiction of a voluntary exposure of person's intimate parts or an individual's voluntary engagement in sexually explicit conduct if such occurs in public or in a lawful commercial setting.

(iii) Lawful and generally accepted medical practices and procedures.

(e) "Sexually explicit conduct" means actual or simulated:

(i) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast or pubic area of any person is exhibited;

(ii) Bestiality;

(iii) Masturbation;

(iv) Sadistic or masochistic abuse;

(v) Exhibition of the genitals or pubic area of any person;

(vi) Fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(vii) Explicit representation of the defecation or urination functions;

(viii) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of a reasonable person, the appearance of an actual act of sexually explicit conduct.

RESOLUTION 2024 – _____ ATTACHMENT TWO

TTC 3.15 OFFENSES INVOLVING DAMAGE TO THE PERSON

3.15.010 Murder – Manslaughter.

(1) Murder. Murder is the unlawful killing of a human being with malice aforethought.

(a) Murder in the First Degree. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than who is killed, is murder in the first degree. Murder which is perpetrated by killing a peace officer while such officer is acting in his official capacity or by reason of an act performed in his official capacity and with knowledge that the victim was a peace officer is murder in the first degree. For purposes of this subsection, the term “peace officer” means any Tribal, State or Federal law enforcement officer including, but not limited to, fish and wildlife officer, a Federal park ranger, the chief or sheriff or police officer of an Indian tribe, city or town. Murder in the first degree is a Class F offense.

(b) Murder in the Second Degree. Any murder which does not constitute murder in the first degree is murder in the second degree. Murder in the second degree is a Class F offense.

(2) Manslaughter. Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

(a) Voluntary: upon a sudden quarrel or heat of passion.

(b) Involuntary: in the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

Voluntary and involuntary manslaughter are both Class F offenses.

(3) Attempt. Whoever attempts to commit murder or manslaughter shall be guilty of a Class F offense.

3.15.011 Maiming.

A person commits the offense of maiming by purposely, and with the intent to torture:

(1) Maiming, disfiguring, cutting, biting, or slitting the nose, ear or lip, or cutting out or disabling the tongue, or putting out or destroying an eye, or cutting off or disabling a limb or body part of another person; or

(2) Throwing or pouring upon another person any scalding water, corrosive acid, or caustic substance.

Maiming is a Class F offense.

3.15.020 Aiding or soliciting suicide.

(1) A person commits the offense of aiding or soliciting a suicide by purposely aiding or assisting another in taking his or her own life.

(2) The fact suicide was not successfully carried out is not a defense.

(3) Aiding or soliciting suicide is a Class E offense.

3.15.030 Assault.

(1) Assault. A person commits an assault by:

(a) Intentionally, knowingly, or recklessly causing any physical injury to another person; or

(b) Intentionally placing another person in reasonable apprehension of imminent physical injury; or

(c) Knowingly touching another person in an injurious, insulting, or provoking manner.

(2) Assault is a Class E offense.

3.15.040 Aggravated assault.

(1) A person commits aggravated assault if the person commits assault as defined in TTC 3.15.030 under any of the following circumstances:

(a) If the person causes serious physical injury;

(b) If the person uses a deadly weapon or dangerous instrument;

(c) If the person assaults another by strangulation or suffocation;

(d) If the assault victim is ~~younger than 12 years old~~ a minor and the offender is an adult at least three years older than the victim;

(e) If the assault victim is a vulnerable adult or a person for whom an elder protection order is in effect;

(f) If the person commits the assault while the victim is bound or otherwise physically restrained;

- (g) If the person commits the assault while the victim's capacity to resist is substantially impaired;
- (h) The person has previously been convicted of assaulting the same victim;
- (i) If the person commits the assault after entering the private home of another with the intent to commit the assault; or
- (j) If the assault victim is the protected party and the defendant is the restrained party in a court order issued pursuant to Chapter 4.25 TTC or a valid foreign protection order as defined by TTC 4.25.690. A foreign protection order is presumed valid if it appears authentic on its face;
- (k) the victim is an on-duty law enforcement officer or the person commits the assault because the victim is a law enforcement officer or because of the victim's work as a law enforcement officer.

(2) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection:

- (a) "Dangerous instrument" means anything that, under circumstances, is readily capable of causing death or serious physical injury, including, but not limited to, a vehicle.
- (b) "Deadly weapon" means anything designed for lethal use, including a firearm.
- (c) "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, but does not include a firearm in permanently inoperable condition.
- (d) "Serious physical injury" means physical injury that creates a risk of death, a temporary but substantial disfigurement, a ~~or that causes~~ serious and permanent disfigurement, a serious impairment of health, a fracture of any bodily part, ~~or a loss or protracted~~ impairment of the function of any bodily part or organ, or a concussion ~~of limb.~~
- (~~e~~) "Strangulation" means to intentionally apply external pressure to the neck, by any means, that impedes airflow, blood flow, or both.
- (~~e~~f) "Suffocation" means to intentionally cause the obstruction of airflow to and from the lungs making it difficult to breath.

(3) Aggravated assault is a Class F offense.

3.15.050 Intimidation.

(1) A person commits the offense of intimidation by attempting to have another person perform or refrain from performing a specific act by threatening, under circumstances producing a fear that the threat will be carried out, to:

- (a) Inflict bodily harm on the person threatened or any other person;
- (b) Subject any person to physical confinement or restraint; or
- (c) Commit any Class E offense.

(2) Intimidation is a Class E offense.

3.15.060 Mistreating prisoners.

(1) A person commits the offense of mistreating prisoners, if, being responsible for the care or custody of a prisoner, he purposely or knowingly:

- (a) Assaults or otherwise injures a prisoner; or
- (b) Intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner; or
- (c) Violates any civil right of a prisoner.

(2) Mistreating prisoners is a Class D offense.

3.15.070 Negligent vehicular assault.

(1) A person who negligently operates a motor vehicle under the influence of alcohol, a controlled substance, any other drug, or any combination of the three, and who causes bodily injury to another, commits the offense of vehicular assault in the second degree. Vehicular assault in the second degree is a Class D offense.

(2) A person who willfully, wantonly or recklessly operates a motor vehicle and causes bodily injury to another commits the offense of vehicular assault in the first degree. Vehicular assault in the first degree is a Class E offense.

3.15.080 Negligent endangerment.

(1) A person who negligently engages in conduct that creates a substantial risk of death or serious bodily injury to a person or animal commits the offense of negligent endangerment.

(2) Negligent endangerment is a Class D offense.

3.15.090 Criminal endangerment.

(1) A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to a person commits the offense of criminal endangerment.

(2) For the purposes of this section, "knowingly" means that the person is aware of the high probability that their conduct, whatever that conduct may be, will cause a substantial risk of death or serious bodily injury to a person.

(3) Criminal endangerment is a Class E offense.

3.15.100 Elder abuse.

(1) A person commits the offense of elder abuse by knowingly or purposely, physically or mentally, abusing or exploiting an older person.

(2) "Exploiting" means the unjust use of an individual's money or property for another's advantage by means of duress, menace, fraud, or undue influence.

(3) "Older person" means a Tribal member or other person residing on the Reservation who is:

(a) Sixty-two years of age or older;

(b) Determined by the Tribal Court to be an elder; or

(c) At least 45 years of age and unable to protect herself or himself from abuse, neglect, or exploitation because of a mental disorder or physical impairment, or frailties or dependencies brought about by age or disease or alcoholism.

(4) "Mentally abusing" means restricting an elder's movements, denigration, ridicule, threats and intimidation, discrimination, rejection and other non-physical forms of hostile treatment that, alone or in conjunction with physical abuse or neglect, results in emotional or psychological harm. emotional or psychological harm is mental or emotional trauma, or undesired behavioral or emotional changes, requiring medical or psychological treatment including but not limited to depression, suicidal ideation, anxiety, or eating disorders.

(4~~5~~) Elder abuse is a Class E offense.

3.15.110 Robbery.

(1) A person commits robbery when he or she unlawfully takes personal property from the person of another or in his or her presence against his or her will by the use or threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force is immaterial. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom it was taken, such knowledge was prevented by the use of force or fear.

(2) Robbery is a Class F offense.

3.15.120 Unlawful restraint.

(1) A person commits the offense of unlawful restraint by knowingly or purposely, and without lawful authority, restraining another so as to interfere substantially with another's liberty.

(2) Unlawful restraint is a Class C offense.

3.15.130 Kidnapping.

(1) Kidnapping in the First Degree.

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when:

(i) The person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

(ii) Any such act against the person is done within the exterior boundaries of the Tulalip Tribes;

(iii) A foreign official, an internationally protected person; or

(iv) The person is a Tribal public servant, as defined in Chapter 3.35 TTC, and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties, shall be guilty of a Class F offense.

(b) With respect to subsection (1)(a)(i) of this section, the failure to release the victim within 24 hours after he has been unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation or Tribal investigation of a possible violation of this section before the 24-hour period has ended.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be guilty of a Class F offense.

(d) Whoever attempts to violate subsection (1)(a) of this section shall be guilty of a Class F offense.

(e) Special Rule for Certain Offenses Involving Children.

(i) To Whom Applicable. If:

(A) The victim of an offense under this section has not attained the age of 18 years; and

(B) The offender:

1. Has attained such age; and

2. Is not:

a. A parent;

- b. A grandparent;
- c. A brother;
- d. A sister;
- e. An aunt;
- f. An uncle; or
- g. An individual having legal custody of the victim.

(f) As used in this section, the term "parent" does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.

(2) Kidnapping in the Second Degree.

(a) A person commits the offense of kidnapping in the second degree by knowingly or purposely, and without lawful authority, restraining another person by:

- (i) Secreting or holding the person in a place of isolation; or
- (ii) Using or threatening to use physical force against the other person.

(b) Kidnapping in the second degree is a Class E offense.

3.15.140 Aggravated kidnapping.

(1) A person commits the offense of aggravated kidnapping if he or she knowingly or purposely and without lawful authority restrains another person by either secreting or holding him or her in a place of isolation or by using or threatening to use physical force, with any of the following purposes:

- (a) To hold for ransom or reward or as a shield or hostage;
- (b) To facilitate commission of any felony or flight thereafter;
- (c) To inflict bodily injury on or to terrorize the victim or another; or
- (d) To interfere with the performance of any governmental or political function.

(2) Aggravated kidnapping is a Class E offense.

3.15.150 Terrorism.

(1) A person commits the offense of terrorism when he or she knowingly or purposely:

- (a) Threatens to destroy or damage any structure, conveyance, or other real or personal property within the Reservation boundaries;
- (b) Attempts or conspires to destroy or damage any structure, conveyance, or other real or personal property within the Reservation boundaries; or

(c) Creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the Reservation boundaries.

(2) Terrorism is a Class F offense.

3.15.160 Harassment – Statement of purpose.

It is the purpose of TTC 3.15.160 through 3.15.190 to create and maintain a peaceful and safe environment for all persons on the Tulalip Indian Reservation by making unlawful invasions of a person's privacy by acts or threats that show a pattern of harassment designed to coerce, intimidate, or humiliate the person harassed. Harassment is a serious crime against society and TTC 3.15.160 through 3.15.190 seeks to guarantee to the victim of harassment the maximum protection under the law.

3.15.170 Harassment.

(1) A person commits the offense of harassment if:

(a) Without lawful authority, the person knowingly threatens:

- (i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or
- (ii) To cause physical damage to the property of a person other than the actor; or
- (iii) To subject the person threatened or any other person to physical confinement or restraint; or
- (iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

(2) Harassment is a Class D offense.

3.15.180 Definitions.

(1) "Electronic communication," for the purpose of TTC 3.15.160 through 3.15.190, means any form of expression or exchange of information by speech, photographs or written form using electronic means. Electronic communication includes, but is not limited to, communication via telephone, facsimile, electronic mail, social media and other electronic forms.

(2) "Specific person," for the purpose of TTC 3.15.160 through 3.15.190, means any person who is subjected to harassment as defined by subsection (1) of this section.

(3) "Electronic surveillance," for the purpose of TTC 3.15.160 through 3.15.190, means monitoring the behavior, activities, or whereabouts by electronic means.

(4) "Harassment restraining order," for the purpose of TTC 3.15.160 through 3.15.190, means a Court order restricting a person from harassing, threatening, contacting, or approaching another specified person for a period of time.

(5) "Temporary harassment restraining order," for the purpose of TTC 3.15.160 through 3.15.190, means a Court order restricting a person from harassing, threatening, contacting, or approaching another specified person for a period generally not longer than 14 days.

3.15.190 Harassment – Contempt and violation of order – Penalties.

(1) Willful violation of any harassment restraining order subjects the respondent to criminal penalties under this title and TTC Title 2.

(2) Any respondent who is found guilty of violating the terms of harassment restraining order may also, subject to the Court's discretion, be held in contempt of Court, and the Court may impose such sanctions as it deems appropriate.

(3) Violation of a harassment restraining order is a Class D offense.

(4) Third or subsequent violation of a harassment restraining order is a Class E offense.

3.15.200 Unlawful distribution of intimate image.

(1) It is unlawful to knowingly distribute a private, visual depiction of a person who is engaging in sexually explicit conduct, or of a person's intimate parts, with reckless disregard for the person's lack of consent to the distribution, when the person is identifiable from the visual depiction itself or information displayed in connection with the visual depiction.

(2) A first violation of this section is a Class E offense. Second and subsequent violations of this section are Class F offenses.

(3) Definitions. Terms not specifically defined in this section shall be defined according to their ordinary usage:

(a) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consent.

(b) "Intimate parts" means the naked or undergarment-clad genitals, pubic area, or buttocks of a post-pubescent person, or any portion of a post-pubescent female breast below the top of the areola with less than an opaque covering.

(c) "Visual depiction" means any photograph, digital image, computer image, computer-generated image, film, video, or recording, whether produced by electronic, mechanical, or other means, and includes undeveloped film and videotape, data stored

on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.

(d) "Private, visual depiction" means a visual depiction of another person who is engaging in sexually explicit conduct, or of another person's intimate parts, for which the distributor does not have affirmative consent to distribute. Provided, however, that a "private, visual depiction" does not include:

(i) Law enforcement and other legal proceedings, including:

(A) Reporting unlawful activity,

(B) A law enforcement, correctional, or prosecution agency function,

(C) Court or other judicial proceedings.

(ii) Voluntary public or commercial exposure. This section does not apply to a visual depiction of a voluntary exposure of person's intimate parts or an individual's voluntary engagement in sexually explicit conduct if such occurs in public or in a lawful commercial setting.

(iii) Lawful and generally accepted medical practices and procedures.

(e) "Sexually explicit conduct" means actual or simulated:

(i) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast or pubic area of any person is exhibited;

(ii) Bestiality;

(iii) Masturbation;

(iv) Sadistic or masochistic abuse;

(v) Exhibition of the genitals or pubic area of any person;

(vi) Fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(vii) Explicit representation of the defecation or urination functions;

(viii) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of a reasonable person, the appearance of an actual act of sexually explicit conduct.

RESOLUTION 2024 – _____ ATTACHMENT THREE

TTC 3.25 OFFENSES AGAINST THE FAMILY

3.25.010 Reserved.

3.25.020 Reserved.

3.25.030 Bigamy.

(1) A person commits the offense of bigamy if, while married, the person knowingly contracts or purports to contract another marriage unless at the time of the subsequent marriage:

- (a) The person believes on reasonable grounds that the prior spouse is dead;
- (b) The person and the prior spouse have been living apart for five consecutive years throughout which the prior spouse was not known by the person to be alive;
- (c) A court has entered a judgment purporting to terminate or annul a prior marriage and the person does not know the judgment to be invalid; or
- (d) The person reasonably believes she or he is legally eligible to marry.

(2) Bigamy is a Class B offense.

3.25.040 Failure to support or care for dependent person.

(1) A person commits the offense of failure to support or care for a dependent person by knowingly:

- (a) Refusing or neglecting to furnish food, shelter, or proper care, which the person is physically and financially able to provide to any person recognized as legally dependent upon the person;
- (b) Endangering the health or, welfare of; or committing psychological or emotional harm to any child under the person's care; or
- (c) Failing to provide financial support, which the person is legally obligated to provide and the person is financially able to provide.

(2) Failure to support or care for a dependent person is a Class E offense.

(3) Psychological and emotional harm have the same meaning as defined in TTC 2.25.010(1)(c).

(4) It is not a defense to a charge of failure to support that any other person, organization, or agency furnishes necessary food, clothing, shelter, medical attention, or other essential needs for the support of the spouse, child, or other dependent.

(45) A person commits the offense of aggravated failure to support if:

- (a) The person has left the Reservation to avoid the duty of support; or
- (b) The person has been previously convicted of the offense of failure to support.

(56) Aggravated failure to support is a Class F~~E~~ offense.

3.25.050 Contributing to the delinquency of an underage person.

(1) It is unlawful for an adult to knowingly invite, solicit, recruit, assist, support, cause, encourage, enable, induce, advise, incite, facilitate, permit, or allow a minor to:

- (a) Be truant from school;
- (b) Possess or consume alcohol, or possess or consume a controlled substance or legend drug, as those terms are defined in Chapter 3.55 TTC, without a valid prescription;
- (c) Run away from the place of abode of his or her parent, guardian, or other custodian;
- (d) Violate a Court order; or
- (e) Violate any criminal law.

(2) "Minor" means any person under 18 years of age.

(3) A first violation of this section is a Class C offense. A second or subsequent violation of this section is a Class E offense.

3.25.060 Failure to send children to school.

(1) A person commits the offense of failure to send children to school by repeatedly neglecting or refusing, without good cause, to send any child of school age under the person's care to school.

(2) For a first conviction of failure to send children to school, the offense is classified as a Class B offense.

(3) For a second or subsequent conviction of failure to send children to school, the offense is classified as a Class C offense.

3.25.070 Custodial interference.

(1) A person commits the offense of custodial interference when, with the intent to deprive another person or public agency of any custodial rights, the person maliciously takes, detains, entices, or conceals, either within or outside the exterior boundaries of the Reservation, any person under the age of 16, any incompetent person, any elder subject to an elder protection order, Chapter 4.30 TTC, or any person entrusted by authority of law to the custody of another person or institution.

(2) Expenses incurred in locating and regaining physical custody of the person taken, enticed or kept in violation of this section are “pecuniary damages” for purposes of restitution.

(3) Custodial interference is a Class E offense.

3.25.080 Visitation interference.

(1) A person who has legal custody of a minor child commits the offense of visitation interference if he or she knowingly or purposely frustrates the visitation rights of a person entitled to visitation under an existing Court order.

(2) A first violation of visitation interference is a Class B offense. All subsequent violations are Class C offenses.

3.25.090 Curfew violation.

(1) Every person under the age of 18 years is subject to curfew times as follows:

(a) 11:00 p.m. Sunday through Thursday; and

(b) 12:00 midnight on Friday and Saturday.

(2) Parents or guardians of children under the age of 18 are responsible for curfew compliance. Exceptions are permitted if the child is under the immediate supervision of a parent, guardian, or other adult approved by the parent or guardian. A child may attend authorized school functions without such supervision.

(3) Any child who fails to obey curfew regulations as well as any parent, guardian or custodian whose children fail to obey curfew regulations commits the offense of curfew violation.

(4) Curfew violation is a civil infraction with a fine of \$50.00.

3.25.100 Exposing children to domestic or family violence

(1) A person commits the crime of exposing children to domestic or family violence when he or she:

(a) Commits a crime of domestic or family violence; and

(b) The crime is committed in the immediate presence of, or is witnessed by a minor child.

(2) For the purposes of this section, a “minor” shall mean under 18 years of age.

(3) For the purposes of this section “witnessed” shall mean if any part of the crime is seen or directly perceived in any other manner by the minor child.

(4) Exposing children to domestic or family violence is a class E offense, if the underlying crime of domestic or family violence is a felony, exposing children to domestic or family

violence is a class F offense. The punishment imposed pursuant to this section shall be consecutive to any other sentence arising from the same incident.

(5) When a person is charged with exposing children to domestic or family violence, the Court shall enter a criminal no contact order protecting the child(ren) from the defendant at initial appearance.

3.25.110 Leaving a child in the care of a sex offender

(1) A person is guilty of the crime of leaving a child in the care of a sex offender if the person is

(a) the parent or guardian of a child; or

(b) entrusted with the physical custody of a child; and

(2) leaves the child in the care or custody of another person who is not a parent, guardian, or lawful custodian of the child, knowing that the person is registered or required to register as a sex offender under the laws of the Tulalip Tribes, or required to register in another jurisdiction.

(3) This section does not apply to a person who is a parent or guardian of a child or a minor, and who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

(4) Leaving a child in the care of a sex offender is a class D offense.

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(3) For the purposes of this section "witnessed" shall mean if any part of the crime is seen or directly perceived in any other manner by the minor child.

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(3) This section does not apply to a person who is a parent or guardian of a child or a minor, and who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

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Tulalip Tribes Office Of The
**Reservation
Attorney**

Phone: 360-716-4548

Fax: 360-716-0634

ira-contracts@tulaliptribes-nsn.gov

2023

LEGAL REVIEW FORM

Complete Submittal Received by ORA: 1/24/24

10-Day Business Review End: _____, 2023

Title of Submittal: Child Violence Resolution

Document Type: Resolution

Contract Amount: \$ _____

Funding Source: ****Choose Funding Source****

Submitted By: Megan James
(Name/Title/Department)

Return Submittal To: _____
(Name/Title/Department)

Submittal is **APPROVED**

Submittal Requires **ADDITIONAL INFORMATION**

Submittal is **DISAPPROVED**

Submittal is Approved With the (Following/Attached) Revisions:

Notes/Comments:

Reviewed By: 1/22/24
Date Signed

[Signature]
Reservation Attorney Signature

Notice/Disclaimer:

Program or enterprise is responsible for keeping records of Contract and this Legal Review – the Reservation Attorney Office only keeps copies of the Legal Review Cover Sheet for its own records. **Please read: This review is of the contract as a legal binding document only and does not evaluate the advisability of entering into the contract as a business or governmental decision.**

(Please note that if this review sheet is faxed or emailed to you, the originals will be returned via interoffice mail)

Legal Review Returned By: Email Interoffice Mail In-Person Fax

To: Megan James on 1-22-24, 2023 by [Signature]
Name of Recipient Month/Date Initials