

# CONSTRUCTION CONTRACT

Contract No.   4  

This Construction Contract, which bears the date of October 9, 2006, is entered into between the Ranch on Swauk Creek, LLC, whose address and phone number are P.O. Box 808, Cle Elum, WA. 98922, (509) 649-2703, cell phone (509) 304-9834, and Wyss Logging, LLC, whose address and phone number is 2200 Industry Lane, Yakima, WA. 98901, (509) 452-5893, cell phone (509) 952-6356, upon the following terms and conditions in connection with the following construction project known as:

## SWAUK ENTRY ROAD

1. The Contract Documents consist of this Contract, the "Subcontractor's Agreement", the "Swauk Entry Road Specifications", and the Road Plans. The Washington State Department of Transportation 2006 edition of the "Standard Specifications for Road, Bridge, and Municipal Construction" are part of the contract documents.
2. Contractor, for the Contract Price set forth below, shall perform all work required to complete the Project and related work in accordance with the Contract Documents, and all applicable government codes, regulations, laws and ordinances, as they may apply to performance of the Project, including, but not limited to the following:
  - a. All materials, supplies, apparatuses, appliances, equipment, tools, implements, and all labor, supervision, transportation, storage, and all other services as and when required for or in connection with the performance of the Project.
  - b. The scope of the Project work shall include all work specifically called for in the Contract Documents and governmental codes and regulations, and all items necessary to provide a complete project, except for those items that are specifically and expressly excluded.
3. The work shall be done in a professional and competent manner, consistent with the Engineer's design requirements, and all the materials furnished and used in connection therewith shall be new and in accordance with the Contract Documents.
4. Contractor shall continuously remove from all areas of the Project site all litter, rubbish, debris, or surplus materials which may accumulate from prosecution of the work.
5. Contractor recognizes that time is of the essence for this project and that it is imperative that the project proceed uninterrupted until final completion.
6. Contractor shall submit a schedule of progress, within five (5) working days of the execution of this contract, showing when significant milestones will be completed and when the entire project will be completed.

7. PRICE. In consideration of the labor, materials, equipment and services to be provided by Contractor under and in accordance with the terms of this Contract, Contractor shall be paid according to the following schedule:

<u>Schedule of Items</u>	<u>Price</u>
1. Mobilization.....lump sum	\$0.00
2. Clearing , 3.223 acres, \$ [redacted] per acre, total lump sum	\$ [redacted]
3. Common Excavation, 10,207 cy, \$ [redacted] per cy, total lump sum	\$ [redacted]
4. 18" Culverts, 250 LF design, \$ [redacted] per LF installed, actual quan.	\$ [redacted]
(Contractor will be paid according to actual lineal feet of pipe installed.)	
8. 60" Culvert, 34 LF design, \$ [redacted] per LF, lump sum	\$ [redacted]
9. Silt Fence, 250 LF design, \$ [redacted] per LF installed, actual quan.	\$ [redacted]
(Contractor will be paid according to actual lineal feet of Silt Fence installed.)	
Total, before tax and before adjustments for Actual Quantities:	\$ [redacted]

NOTE:           Blasting of unknown rock not included.  
                   Prices do not include Sales Tax.  
                   Sales Tax will be added according to Kittitas County rates.  
                   Lump Sum pay items will be paid according to Lump Sum Price.  
                   Actual Quantity items will be paid according to actual quantity installed.

4. Additional Work. In the event the Ranch on Swauk Creek, LLC, needs additional work done not included in the above Schedule of Items, such additional work may only proceed with the express instructions of the Engineer. The Engineer for this project is Kenneth C. Ratliff, PE. Such additional work may not exceed ten percent (10%) of the amount in the contract (may not exceed \$7,128.91) without a written change order signed by **Patrick Deneen**. Any additional work shall only be paid according to the following rate schedule:

<u>Equipment</u>	<u>Rate Per Hour</u>
JD 772CH Grader	\$102.50
JD 550 or D3 Cat	\$90.00
D4h Cat 6 way blade & rippers	\$105.00
<u>Equipment</u>	<u>Rate Per Hour</u>
D6R Cat with rippers	\$130.00
370 Excavator with thumb	\$155.00
160 Excavator with thumb	\$115.00
200 LC Excavator with thumb	\$130.00
416C 4x4 rubber tire backhoe	\$75.00
10-12 Yard Dump Truck	\$78.00
10-12 Yard Dump Truck with trailer 7 axles	\$95.00

30 Ton Rock Truck	\$130.00
7 Axle Lowboy	\$110.00
8 Axle Lowboy	\$130.00
Dump Truck w/3 axle tiltbed trailer	\$95.00
Water Truck	\$80.00
Drill- Self Contained	\$120.00
84" Smooth Drum Vibratory Roller	\$97.50
Laborer	\$32.50
Skilled Laborer	\$42.50
Powder Laborer	\$47.50
Construction Foreman	\$47.50
Operator's Attendant (for L&I)	\$22.50
Hand Falling	\$57.50

8. Progress Payments. Contractor shall submit an itemized invoice by the 25<sup>th</sup> of each month for progress payment. The invoice shall clearly show each pay item from the Schedule of Items, the percent completed per item by the invoice date, the total amount completed in the contract for payment, and the net amount due for the current payment (subtract all prior payments).

All progress payment will have 10% withheld from payment as a performance deposit. Such performance deposit shall be paid only when project is complete and has passed final inspection by the engineer and final approval by the owner.

9. INSURANCE- Contractor shall procure and maintain in force general liability (bodily injury/property damage) employers liability and workers compensation insurance for the Contractor and Contractors employees. Said policies shall have liability limits of not less than the following:

GENERAL LIABILITY OCCURRENCE:	\$1,000,000
AGGREGATE:	\$2,000,000
EMPLOYERS LIABILITY (STOP GAP)	\$1,000,000
AUTO LIABILITY	\$1,000,000

Contractor must also provide a Certificate of Insurance showing the Ranch on Swauk Creek, LLC, as an additional insured on a primary basis.

10. CLEANUP AND SAFETY RULES- Contractor is responsible for maintaining a safe work environment. Contractor is liable for any hazardous items or materials left by him or his crew on the property. Contractor is also liable for any incidents resulting from hazardous items or materials left by him or his crew on the job site. Should the Ranch on Swauk Creek, LLC be penalized and/or fined by the Department of Labor and Industries for the contractors act, omission, or negligence, the contractor will be held responsible for all such penalties. Contractor will receive a fax of violations of any safety standard done by contractor. The Ranch on Swauk Creek, LLC will discuss any fines with contractor before deducting them from the final payment for work completed.

11. FIRE SEASON- Contractor shall fully comply with Washington Department of Natural Resources Industrial Fire Precautions, and shall have all necessary equipment and water on site for said compliance.
12. HOLD HARMLESS AND INDEMNIFICATION- Contractor shall be responsible for all consequential damage resulting from deficiencies in his work and agrees to hold harmless and indemnify the Ranch on Swauk Creek, LLC from any claims, suits, losses, or damages resulting from deficiencies in his work, the materials used therein and damages resulting there from.
13. FIRST RIGHT TO CURE- In the event there is an alleged Construction Defect in the work performed by the contractor under this agreement, the parties agree that the contractor shall have the first right to cure any such alleged defect. The party alleging such defect shall have the obligations to notify the contractor in writing setting forth the details of such alleged defect. The contractor shall have a period of not more than 45 days to cure such alleged defect.

The parties agree that this process shall first be exhausted before any other legal or equitable remedy may be sought.

THIS CONTRACT IS ACKNOWLEDGED AND EXECUTED AS OF THE DAY SET FORTH ABOVE:

By: \_\_\_\_\_  
 Ranch on Swauk Creek, LLC  
 P.O. Box 808  
 Cle Elum, WA. 98922  
 (509) 649-2703

By: \_\_\_\_\_  
 Contractor  
 \_\_\_\_\_  
 Company

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## SWAUK ENTRY ROAD SPECIFICATIONS

**GENERAL** -Road will be built in Fall of 2006, providing access from end of "Swauk Road "A1"" to the field at Station 28+00 behind the white house.  
-Specifications are referenced from the "Standard Specifications for Road, Bridge, and Municipal Construction", 2006 edition, by the Washington State Department of Transportation.

**STAKING** Will be done by owner.

### SCOPE OF THE WORK 1-04

The intent of the contract is to prescribe a complete work. Omissions from the contract of details of work that are necessary to carry out the intent of the contract shall not relieve the contractor from performing the omitted work.

The work shall include all materials, labor, supervision, equipment, tools, insurance, and other items required to furnish and install all Clearing, Grubbing, and piling of all vegetation outside the clearing limits, excavation, compacted embankments to a completed subgrade, with ditches and cross drain culverts, seeding, and temporary erosion and sediment control for SWAUK ENTRY ROAD as described in the plans and staked on the ground.

Contractor shall build the road to subgrade under this agreement, including all designated pipes, drainage structures, and silt fences and other erosion control provisions. Aggregate for surfacing, rock for riprap, are not a part of this agreement.

### CLEARING 2-01

Contractor shall reference the following DOT specifications, with modifications as stated:

- |           |   |
|-----------|---|
| 2-01.1    | Description   |
| 2-01.2    | Disposal of Usable Material and Debris. <i>Exception- All merchantable logs shall be bucked to the most appropriate commercial lengths and decked adjacent to the clearing for later haul by the owner under separate agreement.</i>                                  |
| 2-01.2(2) | Disposal Method No. 2- Waste Site. <i>Exception- All stumps shall be grubbed from the top of cut to bottom of fill. Contractor shall pile all slash, wood, brush, and debris in piles outside the clearing limits. Remove all wood down to 6", remove brush also.</i> |
| 2-01.3(1) | Clearing (See exceptions listed above.)   |
| 2-01.3(2) | Grubbing (See exceptions listed above.)   |

**ROADWAY EXCAVATION & EMBANKMENT 2-03**

- 2-03.3(14)B Earth Embankment Construction *(No exceptions.)*  
2-03.3(14)C Compacting Earth Embankments- Method A *(compaction with earth moving equipment, cut and fill slopes smoothed and finished.)*  
2-03.3(14)D Compaction and Moisture Control Tests *(Contractor's responsibility)*

**CULVERTS (entire section) 7-02**

***Additional Provisions-***

- Pipe materials shall be either galvanized steel, aluminum, or corrugated polyethylene, fully conforming to DOT specifications. -*
- No "dimple" bands are allowed.*
- Pipe inlets shall have sufficient inlet basin to not encroach onto road traveled way.*
- All pipe trenches shall be compacted to 95% density.*
- All pipes shall be installed with positive camber, there shall be no sags in any pipe.*
- Pipe zone backfill material shall be free of rocks larger than 4 inches in dimension. Native material meeting this standard is allowed.*

**EROSION CONTROL AND ROADSIDE PLANTING 9-14**

*Silt Fence- Will be included on a unit price basis on this contract, installed in locations to be designated by the engineer.*