

**INTERLOCAL AGREEMENT FOR JAIL SERVICES  
BETWEEN SNOHOMISH COUNTY AND THE STILLAGUAMISH TRIBE OF  
INDIANS**

This Interlocal Agreement For Jail Services Between Snohomish County And The Stillaguamish Tribe Of Indians (this "Agreement"), is made and entered into this 21 day of September, 2017 by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), and the STILLAGUAMISH TRIBE OF INDIANS ("Tribe") pursuant to Chapter 39.34 RCW and Chapter 70.48 RCW.

**RECITALS**

**A.** The County currently maintains and operates a correctional facility known as the Snohomish County Corrections Bureau (the "Jail"). In order to assist other jurisdictions, the County from time to time will enter into interlocal agreements to confine in the Jail persons from other jurisdictions.

**B.** The County and Tribe entered into a interlocal agreement pursuant to chapter 10.92 RCW whereby certain Tribal police officers could become eligible to act as a general authority Washington peace officer.

**C.** The Tribe desires to confine in the Jail persons who have been arrested or detained by the Tribal police officers acting pursuant to general Washington peace officer authority (the "Tribal Detainees"), and the County is willing to furnish its Jail facilities and personnel in exchange for payment from the Tribe of fees and costs, all as more fully described in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Tribe agree as follows:

**1. Purpose of Agreement.** This Agreement is authorized by and entered into pursuant to Chapter 10.92 RCW, Chapter 39.34 RCW and Chapter 70.48 RCW. The purpose and intent of this Agreement is for the County and the Tribe to work together efficiently and effectively in order that the County may provide the Tribe with Jail Services (the "Services"), as defined in Section 4 below, based on the rules and conditions set forth in the Jail's policies, procedures, rules and regulations and in this Agreement and any attachments hereto.

**2. Effective Date and Duration.** This Agreement shall not take effect unless and until it has been duly executed by both Parties and either filed with the County Auditor or posted on the County's Interlocal Agreements website. This Agreement shall remain in effect through December 31, 2018, unless earlier terminated pursuant to the provisions of Section 13 below, PROVIDED HOWEVER, that the term of this Agreement may be extended or renewed for up to two (2) additional three (3) year terms by written notice from the County to the Tribe, PROVIDED FURTHER that each Party's obligations after December 31, 2015, are contingent

upon local legislative appropriation of necessary funds for this specific purpose in accordance with applicable law.

**3. Administrators.** Each party to this Agreement shall designate an individual (an “Administrator”), who may be designated by title or position, to oversee and administer such party’s participation in this Agreement. The parties’ initial Administrators shall be the following individuals:

County’s Initial Administrator:

Anthony Aston,  
Corrections Bureau Chief  
Snohomish County Sheriff’s Office  
Corrections Bureau  
3000 Rockefeller Avenue M/S 509  
Everett, Washington 98201

Tribe’s Initial Administrator:

Doug Pendergrass Chief Stillaguamish  
Police  
22714 6th Ave NE  
Arlington WA 98223  
Office : 360.474.9111  
Fax: 360.474.1570  
dpendergrass@stillypd.org

Either party may change its Administrator at any time by delivering written notice of such party’s new Administrator to the other party.

**4. Scope of Services.** As described in this Section 4 and subject to the conditions set forth in Section 5 below, the County will accept Tribal Inmates for purposes of confinement, correction, punishment and/or rehabilitation, and hold such Tribal Inmates until such time as they are lawfully discharged from custody pursuant to law, or the terms of a judicial Order of Commitment., and/or returned to the custody of the Tribe:

4.1 Effect of Ordinance, Policies, Procedures, Rules and Regulations. The Jail will be administered by the County in accordance with the ordinance, policies, procedures, rules and regulations of the County and in accordance with the rules and regulations of any agency of the State of Washington empowered to make rules governing the administration of county jails. The Tribe and Tribal Inmates shall be subject to the County’s ordinances, policies, procedures, rules and regulations relating to Jail operations, including any emergency security rules imposed by the County’s Administrator, PROVIDED, HOWEVER, that nothing in this Agreement shall be construed as creating, modifying, or expanding any duty on the part of the County except as specifically provided herein. Nothing in this Agreement shall be interpreted as a delegation by the City, its judicial and law enforcement agencies, to the County of the duty of supervise Tribal Inmates.

4.2 Tribe Access to Tribal Inmates. The Tribe, its officers, employees, or agents, may interview Tribal Inmates inside the confines of the Jail subject to necessary operational and security rules and regulations. Interview rooms will be made available on an equivalent basis to all jurisdictions with inmates in confined in the Jail.

4.3 Transport of Tribal Inmates. The Tribe shall provide or arrange for transportation and security of Tribal Inmates to the Jail. Unless the Tribal Inmate is being held on Tribal Court charges, the Tribe is not responsible for transportation of Tribal inmates from the

Jail to any other court other than Tribal Court If the County determines, in its sole discretion, that emergency transportation is necessary in order to secure medical and/or psychiatric evaluation or treatment, or the County determines, in its sole discretion, that transportation is required to support the orderly operation of the Jail, then the County shall provide for or arrange for transportation and security of Tribal Inmates to and from the Jail.. The Tribe shall provide the County with at least twenty-four (24) hours' notice prior to transporting a Tribal Inmate from the Jail.

4.4 Video Court. Upon request, the County will provide the Tribe with use of the Jail's "Video Court" services, which include, by way of example but not by way of limitation, the following types of services: use of County video camera(s), audio technology, and the video courtroom facility; scheduling inmates for appearances by video; and transporting inmates to and from the video courtroom; PROVIDED, HOWEVER, that the County shall have no liability or obligation for the installation, operation, maintenance, inspection, repair or replacement of the Video Court equipment operated by the Tribe on Tribe property. Appearances made by video shall be scheduled only between the hours of \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ through \_\_\_\_\_ each week. The County shall have discretion to set the date, time and duration of the Tribe's Video Court. The County will provide the Tribe with a Video Court Schedule no later than ten (10) days after execution of this Agreement. The County may change the Tribe's Video Court Schedule by providing the Tribe with at-least thirty (30) days written notice. The County will deliver the Tribal Inmate(s) to the video courtroom by at least thirty (30) minutes prior to the Tribal Inmate(s) hearing time so that the Tribal Inmate(s) may prepare for the hearing and meet with his or her respective attorney(s). The Tribe shall provide the County with all paperwork requiring the signature of Tribal Inmate(s) at least thirty (30) minutes before the start of the Tribe's scheduled Video Court time. In the event of a technical problem that the Parties are unable to repair in a timely manner, the Parties shall work together to reschedule the impacted hearings to be reheard within two (2) judicial days.

4.5 Health Care of Tribe Inmates. The County is hereby granted the authority to seek necessary medical, dental and mental health services for Tribal Inmates without consulting with the Tribe. The County shall notify the Tribe prior to seeking treatment, unless immediate treatment is required, in which case, the County will notify the Tribe as soon after the event as reasonably possible. During "Normal Business Hours, defined as Monday through Friday, from 8:00 a.m. to 5:00 p.m., the Tribe's point of contact for Tribal Inmate health issues will be as follows:

Doug Pendergrass  
Chief, Stillaguamish Police  
22714 6<sup>th</sup> Avenue NE  
Arlington, WA 98223  
Office: (360) 474-9111  
Fx: (360) 474-1570  
Cell 425-508-0084  
dpendergrass@stillypd.org

Outside Normal Business Hours, the Tribe's point of contact for Tribal Inmate health issues will be as follows:

Doug Pendergrass  
Chief, Stillaguamish Police  
22714 6<sup>th</sup> Avenue NE  
Arlington, WA 98223  
Office: (360) 474-9111  
Fx: (360) 474-1570  
Cell 425-508-0084  
dpendergrass@stillypd.org

Any failure or error by the County to provide the Tribe with proper notification of medical, dental and/or mental health services delivered to a Tribal Inmate shall in no way excuse full, complete and timely payment by the Tribe under Section 6 of this Agreement. The Tribe and the County will comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and County policies and procedures regarding HIPAA.

4.6 Community Corrections. As provided in this Section 4.6 and the Jail's policies and procedures, Tribal Inmates confined to the Jail may serve their time in a Community Corrections Program.

4.6.1 The term "Community Corrections Program" includes Electronic Home Detention, Work/Education Release and Work Crew, as those programs are defined in the Jail's policies and procedures.

4.6.2 Except where a Tribal Inmate is confined in the Jail at the request of multiple jurisdictions of which not all have executed an interlocal agreement in substantially the same form as this Agreement, a Tribal Inmate is eligible to participate in a Community Corrections Program if he or she has been (a) screened by the County and the County has found that the Tribal Inmate meets all statutory and program eligibility requirements, and (b) ordered into a Community Corrections Program by the Tribal court or other judicial agency.

4.6.3 A Tribal Inmate may be terminated from a Community Corrections Program if: (a) the Tribal court or other judicial agency order the Tribal Inmate terminated from the Program or otherwise amends its earlier order; (b) the County determines, in its sole discretion, that the Tribal Inmate is no longer eligible for the Program, in which case the County will provide notice of such to the Tribe and/or the Tribal court or other judicial or law enforcement agency within twenty-four (24) hours of the termination. Upon termination from a Program, a Tribal Inmate already in the custody of the County shall be confined in the Jail to serve the remainder of his or her term of confinement. If the Tribal Inmate is not yet in the County's custody at termination, he or she will be the immediate responsibility of the Tribe for all purposes, including, but not limited to, the duty to apprehend.

4.7 Administrative Booking. Upon request by the arresting officer or the Tribe's Administrator and when not otherwise prohibited by statute, court rule or court order, the County

shall administratively book and immediately release a Tribal Inmate. The County further reserves the right to administratively book and immediately release a Tribal Inmate when, in the sole discretion of the County's Administrator, the County is unable to accept the Tribe's Inmate for housing and when such action is not otherwise prohibited by statute, court rule or court order.

**5. Conditions of Acceptance of Tribal Inmates.** The County shall provide Services to the Tribe subject to the conditions set forth in this Section 5. Should the County, in its sole discretion, decline to accept or retain custody of a Tribal Inmate for any of the reasons identified in this Section 5, the County shall notify the arresting officer in person or the Tribe's judicial or law enforcement agency of the non-acceptance and the reason for the non-acceptance. Notification may be made immediately to the arresting officer in person but in any case will be provided no later than 5:00 p.m. the next business day as follows:

Doug Pendergrass  
Chief, Stillaguamish Police  
22714 6<sup>th</sup> Avenue NE  
Arlington, WA 98223  
Office: (360) 474-9111  
Fx: (360) 474-1570  
Cell 425-508-0084  
dpendergrass@stillypd.org

Acceptance of a Tribal Inmate into the Jail shall be conditioned upon the following:

5.1 Obligation to Abide by Policies and Procedures. The Tribe, its officers, employees and agents shall follow all Jail policies and procedures.

5.2 Documentation for Legal Basis for Confinement. Absent proper documentation providing a legal basis for confining the Tribal Inmate, the County will have no obligation to receive the Tribal Inmate into custody. Proper documentation for purposes of this section means an arrest warrant, judicial Order of Commitment, other order of a court of competent jurisdiction, or a properly completed Notice of Arrest.

5.3 Health Care Clearance. The County will have no obligation to receive into custody or retain custody of a Tribal Inmate absent a determination, on an ongoing basis, by Jail staff that the Tribal Inmate (a) is medically and psychiatrically able to be housed in the Jail, and (b) does not need medical and/or psychiatric attention that would require treatment at a hospital or other type of health care facility. At all times, the County's Administrator shall have final authority to determine whether a Tribal Inmate is medically and/or psychiatrically fit for Jail.

5.4 Population Limits. The County shall have the right to return Tribal Inmates to Tribe custody if the Jail reaches the maximum allowable population level (the "MAPL"). The MAPL refers to the greatest number of inmates that can be held in the Jail in a safe, secure, and humane manner. The Snohomish County Sheriff or his or her designee shall determine, in his or her sole discretion, the MAPL. Every effort will be made to manage the

MAPL, including booking restrictions. In the event that the MAPL is reached and the County determines that inmates must be removed from the Jail, priority for removal shall be as follows:

Inmates from out-of-county jurisdictions in reverse order from the date of execution of the respective jurisdictions' interlocal agreements with the County; then:

- (a) Inmates from in-county jurisdictions, including the Tribe, in reverse order from the date of execution of the respective jurisdictions' interlocal agreements with the County; then
- (b) Inmates confined on Snohomish County charges or commitments.

The County's Administrator shall have final authority on MAPL reduction measures, and in the event the County determines that Tribal Inmates shall be removed from the Jail according to this priority schedule, the County will provide the Tribe fourteen (14) days' notice to remove Tribal Inmates.

5.5 Earned Early Release. The County will release Tribal Inmates in accordance with Chapter 9.94A RCW.

## **6. Payment by Tribe.**

6.1 Proportional Billing. The County employs proportional billing practices when invoicing jurisdictions for Services. Attached hereto as Exhibit A and incorporated herein by this reference is an explanation of the County's proportional billing practices. Commensurate with these practices, the Tribe shall be invoiced only its proportionate share of the applicable Fees and Costs, as defined in Section 6.2 below, for a Tribal Inmate under either of the following circumstances:

6.1.1 The Tribal Inmate (a) Is being held on criminal misdemeanor or gross misdemeanor charge(s) (whether or not formally arraigned) or on a warrant or court order issued by the Tribal court, (b) Is not being held on criminal misdemeanor or gross misdemeanor charge(s) (whether or not formally arraigned) or on a warrant or court order issued by a city municipal court, (c) Is not being held on any active County felony charge, and (d) Cannot be removed by a Federal agency without regard to local charges; OR

6.1.2 The Tribal Inmate is being held (a) On criminal misdemeanor or gross misdemeanor charge(s) (whether or not formally arraigned) or on a warrant or court order issued by a city municipal court, and (b) By the State of Washington for violation of the Offender Accountability Act, and the Tribe has declined to transfer custody to the State of Washington.

## 6.2 Fees and Costs.

6.2.1 The County shall invoice the Tribe a "Booking Fee" for each Tribal Inmate for whom the County provides Services. For purposes of this Agreement, "Booking" means the act of registering, screening, and examining inmates for

confinement in the Jail; Administrative Booking pursuant to Section 4.7; inventorying and safekeeping inmates' personal property; maintaining all computerized records of arrest; performing warrant checks; and all other activities associated with processing an inmate for confinement.

Subject to any adjustments consistent with Section 6.2.3 below, the Booking Fee beginning January 1, 2015, shall be:

<b>2017 Booking Fee</b>
118.23

Further or additional increases in the Booking Fee beginning January 1, 2016, and each year thereafter shall be calculated pursuant to Section 6.2.3.

6.2.2 The County shall invoice the Tribe a per calendar day "Daily Maintenance Fee" for each Tribal Inmate for whom the County provides Services.

Beginning January 1, 2015, the Daily Maintenance Fee shall be calculated based on the housing assignment of the Tribal Inmate as determined by Jail staff pursuant to Jail policies and procedures. Except as where otherwise provided in this Agreement, the housing assignment of a Tribal Inmate is subject to change at any time without notice to the Tribe. Subject to any adjustments consistent with Section 6.2.3 below, the Daily Maintenance Fee for 2015 through 2017 shall be calculated as follows:

<b>Housing Assignment</b>	<b>2015 Daily Maintenance Fee</b>	<b>2016 Daily Maintenance Fee</b>	<b>2017 Daily Maintenance Fee</b>
General Population	\$84.00	\$88.50	96.13
Medical and Specialty	\$132.50	\$140.00	151.47
Mental Health	\$201.00	\$212.00	229.52

Should the parties renew this Agreement beyond December 31, 2017, additional annual increases shall be calculated pursuant to Section 6.2.3.

6.2.3 The Booking Fee and Daily Maintenance Fee shall increase on January 1 of each calendar year during the term of this Agreement by a rate equal to ninety percent (90%) of the Bureau of Labor Statistics Consumer Price Index (Urban Wage Earners) for the Seattle-Tacoma-Bremerton area, measured from June of the prior year to June of the current year, PROVIDED, HOWEVER, that in no event shall the increase be greater than

three percent (3%) per calendar year. The County shall provide the Tribe notice of the Booking Fee and Daily Maintenance Fee increases by August 1 of each year.

6.2.3 The County shall invoice the Tribe for all costs incurred for necessary medical, dental, or mental health services to Tribal Inmates, including, but not limited to, all medication, durable medical equipment, ambulance fees, and medical, dental, and mental health services provided outside the Jail (the “Medical Costs”). The Medical Costs do not include routine medical examinations, tests, procedures performed at the Jail by Jail staff or contractors. In addition, the Medical Costs do not include expenses not covered by the Tribe Inmate’s health insurance and/or public assistance for injuries suffered while in the custody of the County. The County will credit amounts received from the Tribal Inmate’s own health insurance and applicable public assistance before billing the Tribe.

6.2.4 The County shall invoice the Tribe a “Video Court Fee” for each scheduled hour of Video Court time. As of the Effective Date, the current Video Court Fee per hour is as follows:

<b>Video Court Fee</b>
<b>\$115.50</b>

The County may increase the Video Court Fee upon thirty (30) days’ notice to the Tribe.

6.3 Invoicing and Payment. The Tribe shall remain liable for complete and timely payment of all amounts invoiced. Invoices may be sent monthly, quarterly or on any other schedule that is mutually convenient to the parties. Where complete payment is not tendered within thirty (30) days of the invoice date, the County may charge interest on the outstanding balance at a rate equal to the interest rate on the monthly County investment earnings. Should the Tribe wish to dispute the amount of a particular invoice, it will (a) make complete and timely payment on the outstanding balance, and (b) deliver written notice of the dispute to the County within thirty (30) days of the invoice date. Failure to properly notify the County of any disputed amounts within thirty (30) days of the invoice shall constitute an acceptance by the Tribe of all charges contained therein. Within fifteen (15) days of timely receipt of payment and the Tribe’s written notice of dispute, the County shall review the disputed invoice. Should the County resolve the dispute in favor of the Tribe, the disputed amounts will be credited towards the Tribe’s next billing cycle, PROVIDED, HOWEVER, that upon termination of this Agreement, the County shall pay out to the Tribe any such credited amounts. Withholding payment of any amount billed, regardless of whether the Tribe has provided timely written notice of a disputed invoice, will constitute a default under Section 11 of this Agreement.

6.4 Records. Each party may examine the other party’s books and records to verify charges. The County shall maintain accurate time and accounting records related to the Services for a period of three (3) years following final payment.

## **7. Indemnification/Hold Harmless.**



7.1 Tribe Held Harmless. The County shall indemnify and hold harmless the Tribe and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the County, its officers, agents, and employees, or any of them relating to or arising out of performing services pursuant to this agreement. In the event that any such suit based upon such a claim, action, loss, or damages is brought against the Tribe, the County shall defend the same at its sole cost and expense; provided that the Tribe reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment in said suit be rendered against the Tribe, and its officers, agents, and employees, or any of them, or jointly against the Tribe and the County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

7.2 County Held Harmless. The Tribe shall indemnify and hold harmless the County and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the Tribe, its officers, agents, and employees, or any of them relating to or arising out of performing services pursuant to this agreement. In the event that any suit based upon such a claim, action, loss, or damages is brought against the County, the Tribe shall defend the same at its sole cost and expense; provided that the County reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County, and its officers, agents, and employees, or any of them, or jointly against the County and the Tribe and their respective officers, agents, and employees, or any of them, the Tribe shall satisfy the same.

7.3 Waiver Under Washington Industrial Insurance Act. The foregoing indemnity is specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, Chapter 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

**8. Liability Related to Tribal Code Ordinances, Policies, Rules and Regulations.** In executing this Agreement, the County does not assume liability or responsibility for or in any way release the Tribe from any liability or responsibility which arises in whole or in part from the existence or effect of Tribal codes, ordinances, policies, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such Tribal code, ordinance, policy, rule or regulation is at issue, the Tribe shall defend the same at its sole expense and, if judgment is entered or damages are awarded against the Tribe, the County, or both, the Tribe shall satisfy the same, including all chargeable costs and reasonable attorney's fees.

**9. Insurance.** The Tribe agrees to procure and maintain an insurance policy(s) in the amount of not less than \$10 million (10,000,000.00) dollars per occurrence insuring against claims for Bodily Injury, Personal Injury and Property Damage including false imprisonment, false arrest, police professional liability, and violation of civil rights, including cross-liability claims and shall maintain said policy(s) in full force and effect during the life of this Agreement.

If this Agreement expires or is terminated for any reason, the Tribe agrees to continue to carry the above required insurance covering all actions taken under this Agreement until such time as protection from suit is granted by the statute of limitations. In the event the coverage is on a claims-made basis, the Tribe warrants that it will maintain said coverage to the statute of limitations for any covered action for each policy year in succession.

The insurance shall be endorsed to include the County, its officers, officials, employees and agents as an additional insured, in a form acceptable to the County, without a cross-liability exclusion and refer to this Agreement and the Agreement for Jail Services (when executed). Such insurance shall provide thirty (30) days' written notice to the County in the event of cancellation or material change. The insurance company or the Tribe shall provide written notice to the County within thirty (30) days after any reduction in the general aggregate or occurrence limit. The Tribe shall provide the County with a certificate of insurance and additional insured endorsement prior to this Agreement's effective date and shall provide the County a copy of the above insurance policy upon its request, including any endorsements to said policy after the date of its issuance.

The County shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and /or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent.

**10. Limited Waiver of Sovereign Immunity.** The Tribe expressly reserves all of its inherent sovereign rights as a sovereign Tribe, including its rights as a federally-recognized Tribe to sovereign immunity from suit in any state, federal or tribal court without the Tribe's explicit consent. By entering into this Agreement, the Tribe hereby grants a limited waiver of sovereign immunity to Snohomish County only, subject to and conditioned on the following:

- a. This limited waiver of sovereign immunity shall not extend to or be used for or to the benefit of any other person or entity of any kind or description whatsoever, including any successor or assign of Snohomish County.
- b. Nothing contained in this Agreement shall be deemed a consent to levy of any judgment, lien or attachment upon any assets, property or interest of the Tribe except as specifically described herein.
- c. Nothing in this Agreement nor any activity of the Tribe shall implicate or in any way involve the trust assets or credit of the Tribe or any of its members.
- d. The Tribe hereby expressly waives sovereign immunity to suit only with respect to claims made relating to, or arising under, this Agreement by any party, to interpret or enforce the terms of this Agreement, or upon a claim of indemnification by Snohomish County to this Agreement under Section 7. The limit for any claim of indemnification will be the insurance limit required by this Agreement. The parties agree that in discharging this indemnification obligation, where the required insurance is procured, the County shall look only to the proceeds of the insurance procured by the Tribe herein, and the policy of insurance obtained by the Tribe shall prohibit the insurer from asserting a defense of sovereign immunity to a claim made under the policy.

The Tribe agrees to assign over to the County, at its request, any and all of its rights against the insurer to effectuate a payment of its indemnification provision. Should the Tribe fail to procure and maintain the insurance required by this Agreement, the Tribe hereby waives any claim of immunity or exemption for any assets it holds that are not subject to a restriction against alienation up to the amount necessary to discharge the indemnity obligation and the costs of collection.

All immunities enjoyed by County law enforcement officers under state or federal law shall inure to the benefit of Authorized Tribal Officers when exercising general Washington peace officer authority pursuant to chapter 10.92 RCW and the terms of this Agreement.

Nothing in this Agreement shall preclude the Tribe, the County, or their employees, agents, or representatives from seeking the benefits and protections of the Federal Tort Claims Act. It is expressly agreed and understood that the indemnification provided for in this section is for the benefit of the Tribe and County and their respective Authorized Tribal Officers and Commissioned Deputies individually only, and there is no intention by the parties to confer any other rights.

**11. Compliance with Laws.** In the performance of its obligations under this Agreement, each party shall comply with all applicable Tribal, federal, state, and local laws, rules and regulations.

**12. Default and Remedies.**

12.1 Default. If either the County or the Tribe fails to perform any act or obligation required to be performed by it hereunder, the other party shall deliver written notice of such failure to the non-performing party. The non-performing party shall have fifteen (15) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default (“Default”) under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said fifteen (15) day period, then the non-performing party shall not be in Default if it commences cure within said fifteen (15) day period and thereafter diligently pursues cure to completion.

12.2 Remedies. In the event of a party’s Default under this Agreement, then after giving notice and an opportunity to cure pursuant to Section 12.1 above, the non-Defaulting party shall have the right to exercise any or all rights and remedies available to it in law or equity. In addition, if the Tribe fails to make payment on an outstanding invoice within the time to cure and the Tribe has not disputed the invoice as provided in Section 6.3, the Tribe shall have no further right under this Agreement to deliver custody to or otherwise house Tribal Inmates at the Jail. and shall, at the County’s request, remove all Tribal Inmates from the Jail within fourteen (14) days of notice to do so. Thereafter, the County may, in its sole discretion, accept Tribal Inmates to the Jail if all outstanding invoices are paid.

**13. Early Termination.**

13.1 Termination by the County. Except as provided in Section 13.3 below, the

County may terminate this Agreement at any time, with or without cause, upon not less than ninety (90) days advance written notice to the Tribe. The termination notice shall specify the date on which the Agreement shall terminate.

13.2 Termination by the Tribe. The Tribe may terminate this Agreement at any time, with or without cause, upon not less than ninety (90) days advance written notice to the County and the Washington State Office of Financial Management. The termination notice shall specify the date on which the Agreement shall terminate, the grounds for termination, and the specific plans for accommodating the affected jail population.

13.3 Lack of Funding. This Agreement is contingent upon governmental funding and local legislative appropriations. In the event that funding from any source is withdrawn, reduced, limited, or not appropriated after the effective date of this Agreement, this Agreement may be terminated by the County immediately by delivering written notice to the Tribe. The termination notice shall specify the date on which the Agreement shall terminate.

13.4 Calculation of Costs Due Upon Early Termination. Upon early termination of this Agreement as provided in this Section 13, the Tribe shall pay the County for all Services performed up to the date of termination. The County shall notify the Tribe within thirty (30) days of the date of termination of all remaining costs. No payment shall be made by the Tribe for any expense incurred or Services performed following the effective date of termination unless authorized in writing by the Tribe.

**14. Notices.** All notices required to be given by any party to the other party under this Agreement shall be in writing and shall be delivered either in person, by United States mail, or by electronic mail (email) to the applicable Administrator or the Administrator's designee. Notice delivered in person shall be deemed given when accepted by the recipient. Notice by United States mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their designee, at the addresses set forth in Section 3 of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

**15. Miscellaneous.**

15.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document executed with the same formalities as required for this Agreement and signed by the party against whom such modification is sought to be enforced.

15.2 Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

15.3 Governing Law and Venue. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Washington. Any controversy, dispute, or claim of whatever nature arising out of, in connection with, or in relation to the interpretation, performance, or breach of this Agreement, including without limitation any claim based on contract, tort, or statute, shall be resolved by final and binding arbitration.

The County or the Tribe may initiate arbitration by providing written notice of intent to arbitrate to the other parties, together with a statement of the matter in controversy. If the parties are unable to agree upon a single arbitrator within thirty (30) days of such notice of intent, the County and the Tribe each may appoint an arbitrator by providing written notice of the name of an arbitrator to the other. If either the County or the Tribe does not so appoint an arbitrator within ten (10) business days after the other party appoints an arbitrator, the single appointed arbitrator shall act as the sole arbitrator of the specified controversy. If each party appoints an arbitrator, the two arbitrators shall meet promptly and attempt to select a third arbitrator. If the two appointed arbitrators are unable to agree on a third arbitrator within ten (10) business days after the second arbitrator is appointed, either the County or the Tribe may apply to the Superior Court of Snohomish County for the selection of a third arbitrator. Once appointed, the three-arbitrator panel shall determine the specified controversy. Each party shall bear the cost of any arbitrator it appoints, and one-half (1/2) of the cost of appointing a third arbitrator and the third arbitrator's fee. Any arbitrator appointed under this provision must be an active member of the Washington State bar.

The arbitration rules and procedures in Chapter 7.04 RCW shall govern the arbitration process, the Washington State rules of civil procedure shall govern pre-hearing discovery to the extent not incompatible with the procedures set forth in Chapter 7.04 RCW, and the law of evidence of the State of Washington shall govern the presentation of evidence at the arbitration hearing.

An award or decision rendered by a majority of the arbitrators appointed under this Agreement shall be final and binding on all parties to the proceeding, and judgment upon any award or decision rendered by the arbitrators may be entered in the Superior Court of Snohomish County, Washington and enforced in the same manner as any other judgment.

Nothing in this Agreement shall be deemed or construed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this Agreement, except to the extent that any part of this Agreement is determined to be illegal.

15.4 Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

15.5 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

15.6 No Waiver. A party's forbearance or delay in exercising any right or remedy with respect to a Default by the other party under this Agreement shall not constitute a waiver of the Default at issue. Nor shall a waiver by either party of any particular Default constitute a waiver of any other Default or any similar future Default.

15.7 No Assignment. This Agreement shall not be assigned, either in whole or in part, by either party without the express written consent of the other party, which may be granted or withheld in such party's sole discretion. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a Default under this Agreement.

15.8 Warranty of Authority. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign this Agreement.

15.9 Independent Contractor. The County will perform all Services under this Agreement as an independent contractor and not as an agent, employee, or servant of the Tribe. The County shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be employees and agents of the County and not the Tribe. The County has the express right to direct and control the County's activities in providing the Services in accordance with the specifications set out in this Agreement. The Tribe shall only have the right to ensure performance.

15.10 No Joint Venture. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties.

15.11 No Separate Entity Necessary. The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

15.12 Ownership of Property. Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

15.13 No Third Party Beneficiaries. This Agreement and each and every provision hereof is for the sole benefit of the Tribe and the County. No other persons or parties shall be deemed to have any rights in, under or to this Agreement.

15.14 Force Majeure. In the event either party's performance of any of the provisions of this Agreement become impossible due to circumstances beyond that party's control, including without limitation, force majeure, strikes, embargoes, shortages of labor or materials, governmental regulations, acts of God, war or other strife, that party will be excused from performing such obligations until such time as the Force Majeure event has ended and all facilities and operations have been repaired and/or restored.

15.15 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**COUNTY:**

Snohomish County, a political subdivision of the State of Washington

SUSAN NEELY  
Executive Director

By Susan Neely  
for Name: Dave Somers  
Title: County Executive

**TRIBE:**

Stillaguamish Tribe of Indians

By Shawn Yanity  
Name: Shawn Yanity  
Title: Chairman

**Approved as to Form:**

[Signature] 10/9/17  
Deputy Prosecuting Attorney

**Approved as to Form:**

[Signature]  
Edward J. Wurtz  
Tribe's Attorney

**Approved as to Indemnification and Insurance:**

[Signature] 10-2-17  
Risk Management

COUNCIL USE ONLY  
Approved: 11.27.17  
Docfile: D-2

## EXHIBIT A

### Proportionate Billing

The County uses a proportional billing process to calculate fees and charges for each inmate. As a result, if multiple jurisdictions have an open charge on an individual inmate, the jurisdictions will each share equally the fees and costs as long as an open charge persists for that jurisdiction. When a contracting jurisdiction's charge is closed, that jurisdiction drops from the proportional billing process, and the proportional billing is recalculated without that jurisdiction.

Each day the County shall examine the open charges for each active booking and apply uniform rules for determining billable charges and identifying the billable jurisdiction.

The procedure employed by the County for determining the billable charges and responsible jurisdictions is outlined below and references the County's internal billing system. The procedure continues in sequence through the outlined series of steps only so far as needed to isolate a billable charge and determine the jurisdiction responsible for payment.

1. Select "All Felony Charges."
  - a. If there is more than one felony charge or if there is one felony charge and a Washington State Department of Corrections (the "DOC") hold, go to Step 2.
  - b. If there is one felony charge but no DOC hold, do not invoice.
  - c. If there are no felony charges, go to Step 3.
  
2. Select "Arresting Agency DOC-Parole-Olympia."
  - a. If there are no other arresting agency charges and all felony charges are with DOC, invoice DOC.
  - b. If there is a DOC hold and additional local charges (that is, charges from jurisdictions that have an interlocal agreement for jail services with the County), do not invoice.
  - c. If there is a DOC hold and non-local additional charges (that is, charges from jurisdictions that do not have an interlocal agreement for jail services with the County), invoice DOC.
  
3. Select "All Misdemeanor Charges."
  - a. If there is only one misdemeanor charge, invoice the charging jurisdiction.
  - b. If there is more than one misdemeanor charge from more than one jurisdiction, invoice each jurisdiction in equal shares. If a jurisdiction has multiple open misdemeanor charges, the jurisdiction is only invoiced as one element of the proportional billing process. Snohomish County shall be invoiced its proportional share where applicable.

**Example: If City A has one open misdemeanor and City B has two open misdemeanor charges, all at the same time, each city is billed for fifty percent (50%) of the Fees and Costs for that inmate.**



4. Drop jurisdictions with closed charges.

**Example: City X has one open misdemeanor charge, and City Y has one open misdemeanor charge. City Y's charge is closed. City X is billed for one hundred percent (100%) of the Fees and Costs for that inmate from then on.**

5. For the first six months of the contract, the County shall provide a monthly accounting benchmark to the Tribe.