

**INTERLOCAL AGREEMENT
BETWEEN SNOHOMISH COUNTY, WASHINGTON,
AND THE STILLAGUAMISH TRIBE
FOR OFFENDER WORK CREWS**

This Interlocal Agreement (the “Agreement”) is entered into by and between Snohomish County, a political subdivision of the State of Washington, (the “County”), and the Stillaguamish Tribe, a federally recognized Indian tribe (the “Tribe”) pursuant to Chapter 39.34 RCW.

NOW, THEREFORE, in consideration of the mutual benefits conferred upon each party hereto, the respective agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. PROGRAM DESCRIPTION.

The purpose of this Agreement is to provide a supervised crew of County inmates (the “Work Crew”) to prepare, implement, maintain, and monitor riparian restoration projects in the Stillaguamish watershed. The work to be performed includes, but is not limited to, assisting with spawning and habitat improvement projects related to salmon, vegetation control, hand excavation as directed, moving materials, and manual labor. 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. The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement. 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.

2. TRIBE RESPONSIBILITIES.

The Tribe will undertake the following responsibilities:

- a) Provide at least one full-time Restoration Site Supervisor, Manager, or Designee, to act as a coordinator for Work Crew activities.
- b) Provide the Work Crew safe transportation to and from the work sites.
- c) Supply the Work Crew with required personal protective equipment for Work Crew activities, including, but not limited to, safety glasses, high visibility vest, hard hat, and other equipment as required by the County’s Department of Safety and Health (DOSH). The Tribe will have the right to reject any proposed member of a Work Crew based upon its review of the assessment and screening completed by the County’s Sheriff’s Office Corrections Bureau.
- d) In performing this Agreement, the Tribe shall comply with all applicable federal, state, and local laws, rules, and regulations including, but not limited to, laws against discrimination.
- e) The Tribe will provide funding for one (1) County Deputy to supervise Work Crews, as specified in Exhibit A attached hereto and incorporated herein by this reference.

3. COUNTY RESPONSIBILITIES.

The County will undertake the following responsibilities:

- a) Provide one (1) County Deputy to supervise the Work Crew performing riparian work under this Agreement.
- b) Provide the Work Crew with general safety training per Tribe's requirements.
- c) Supply the Work Crew with necessary food, work clothes, gloves, and rain gear according to Tribe's guidelines.

4. ON SITE ILLNESS/ACCIDENTS.

In the event of the illness or injury to a member of the Work Crew, the Tribe and/or County Deputy shall provide appropriate first aid or medical treatment, and call for immediate assistance as necessary.

All accidents and incidents shall be documented using the County's Supervisor Report of Accident Form.

5. PERIOD OF PERFORMANCE.

As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it (i) has been duly executed by both parties, and (ii) either filed with the County Auditor or posted on the County's Interlocal Agreements website. This Agreement shall remain in effect for five (5) years unless terminated earlier pursuant to the provisions of Section 6 below or upon a lack of funding necessary to carry out the tasks of this Agreement.

6. TERMINATION.

Either party may terminate this Agreement, with or without reason, upon thirty (30) days' written notice beginning on the second day after the mailing.

7. WORKERS' COMPENSATION.

Medical care for the Work Crew shall be provided through the Tribe's (self-insured) workers' compensation program as a Volunteer and managed according to Department of Labor and Industry rules and regulations.

8. INSURANCE.

The Tribe shall obtain and maintain continuously, at its own expense, the following primary insurance appropriate to the activity and necessary to protect the public for the term of the Agreement:

- a) *Commercial general liability insurance* with a minimum limit of \$1,000,000 per

occurrence and endorsed to include Snohomish County, its officers, elected officials, agents, and employees as an additional insured. Claims-made Commercial General Liability insurance will not be accepted.

- b) *Automobile liability* insurance for ANY AUTO with a minimum limit of \$1,000,000 combined single limit is required.

All insurance shall be placed with insurance carriers licensed to do business in the state of Washington and with carriers subject to approval by the County. Insurance shall not be reduced or canceled without thirty (30) days' prior written notice to the County.

Prior to the execution of this Agreement and within ten (10) days after the bid award, if any, the Contractor shall provide the County with a certificate of insurance outlining the required coverage's, limits and additional insured endorsement. Approval of insurance is a condition precedent to approval of this Agreement by the County Risk Manager.

9. PUBLIC INFORMATION.

Neither party shall arrange for news media coverage relative to this Agreement that would specifically identify a member of a Work Crew without the written consent of such inmate. Subject to compliance with the requirements of public disclosure laws, neither party shall release information to the news media relative to this Agreement concerning Work Crew members without the consent of the other party.

10. ACCESS TO RECORDS.

Each party may, at reasonable times, inspect the books and records of the other party relating to the performance of this Agreement. Each party shall keep all records required by this Agreement for five (5) years after termination of this Agreement for audit or inspection by the other party.

11. RESPONSIBILITIES.

Each party shall be responsible for the acts of its employees or agents in the performance of this Agreement.

12. CHANGES AND MODIFICATIONS.

Any alteration, modification, or waiver of any clause or condition of this Agreement shall be agreed to in writing by both parties hereto and executed with the same formalities as required for this Agreement.

13. INDEMNIFICATION AND LIABILITY.

- a) The Tribe shall protect, save harmless, indemnify, and defend at its own expense, the County, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of the Tribe's

performance of this Agreement, including claims by the Tribe's employees or third parties, except for those losses, claims, or damages solely caused by the negligence or willful misconduct of the County, its elected and appointed officials, officers, employees, agents or offender workers.

- b) The County shall protect, save harmless, indemnify, and defend, at its own expense the Tribe, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever, arising out of the County's performance of this Agreement, including claims by the County's employees or third parties, except for those losses, claims, or damages solely caused by the negligence or willful misconduct of the Tribe, its elected and appointed officials, officers, employees or agents.
- c) In the event of liability for damages of any nature whatsoever arising out of the performance of this Agreement by the Tribe and the County, including claims by the Tribe's or the County's own officers, officials employees, agents, volunteers, offender workers or third parties, caused by or resulting from concurrent negligence of the County and the Tribe, their officers, officials, employees, volunteers or offender workers, each party's liability hereunder shall only be to the extent of that party's negligence.

14. LIMITED WAIVER OF SOVEREIGN IMMUNITY.

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

- a) This limited waiver of immunity shall not extend to interpretation of the Treaty of Point Elliott, 12 Stat. 927, or the rights reserved by the Tribe under that Treaty. This waiver of 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 the County.
- b) To the extent that jurisdiction obtains, this limited waiver of immunity shall be deemed a consent to jurisdiction only of the Snohomish County Superior Court.
- c) This limited waiver of immunity in favor of the County shall commence and become effective as of the effective date of this Agreement and shall remain in effect for three (3) years from the ending date under Section 5 or three (3) years from earlier termination of this Agreement as set forth in Sections 5 and 6 herein. Notwithstanding any applicable statute of limitations or other law, upon expiration of the above three (3) year period, this limited waiver of immunity shall be deemed withdrawn without further action by the Tribe or notice to the County.
- d) 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.
- e) 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.
- f) The Tribe hereby expressly waives sovereign immunity to suit only upon a claim of

indemnification by the County pursuant to this Agreement. 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 warrants its authority to and 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 obligation.

15. NON-ASSIGNMENT.

Each Party shall not subcontract, assign or delegate any of the rights, duties, or obligations covered by this Agreement without the prior express written consent of the other party.

16. ADMINISTRATORS AND NOTICES.

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:

Shawn Yanity
Stillaguamish Tribe Fisheries Department
P.O. Box 277
Arlington, Washington 98223

Mark Baird, Corrections Bureau Chief
Snohomish County Sheriff's Office
MS 509 3000 Rockefeller
Everett, Washington 98201

By entering into this Agreement and upon it becoming effective as described in Section 5 above, both Parties authorize their respective Administrators to execute this Agreement and negotiate any changes. Either party may change its Administrator at any time by delivering written notice of such party's new Administrator to the other party.

All notices required to be given under this Agreement shall be delivered to the Parties at the addresses listed above in person or by United States mail (postage prepaid). Notices sent by registered mail shall be deemed served when deposited in the U.S. Mail.

17. GOVERNING LAW AND STIPULATION OF VENUE.

This Agreement shall be governed by the laws of the State of Washington. The Parties stipulate that any lawsuit regarding this contract must be brought in Snohomish County, Washington.

18. INTEGRATION.

This Agreement contains all of the terms and conditions agreed upon by the parties. No understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either of the parties hereto.

19. SEVERABILITY.

Should any part, term or provision of this Agreement be determined by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall not be affected, and the same shall continue in full force and effect.

20. 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.

IN WITNESS WHEREOF, the undersigned have affixed their signatures in execution thereof.

DATED this 23rd day of April, 2013.

TRIBE:

Stillaguamish Tribe

[Signature]
Chairman, Stillaguamish Tribe of Indians Board of Directors
Date Signed: 4-23-13

Attest:

[Signature]
Secretary, Stillaguamish Tribe of Indians Board of Directors
Date Signed: 4/23/13

COUNTY:

Snohomish County

[Signature] PETER B. CAMP
Executive Director
County Executive
Date Signed: 6/19/13

Attest:

[Signature]
Asst. Clerk of the Council
Date Signed: 6-19-13

Approved as to form only:

[Signature]
Deputy Prosecuting Attorney
Date Signed: 05-10-13

Reviewed by Risk Management

Date Signed: _____

COUNCIL USE ONLY
Approved: 6-19-13
Docfile: D-6

**EXHIBIT A TO
INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY, WASHINGTON
AND THE STILLAGUAMISH TRIBE
TO REIMBURSE THE COUNTY FOR SUPERVISION OF OFFENDER WORK CREWS**

As provided in Section 2 of this Agreement, the Tribe shall provide funding for the services of one (1) Corrections Deputy to supervise inmate Work Crews performing riparian work for the entire watershed identified by the Tribe. The total rate shall be determined using actual budgeted rates established for the Snohomish County Annual Budget for the following components: Wages (25 of the annual work days may be calculated at an overtime rate); Employee health, dental, and vision benefits; The County's contribution to federal taxes and to the Washington State Public Employees Retirement System; and The per-employee cost of workers' compensation, unemployment compensation, and liability insurance.

For the duration of the agreement, the County shall bill the Tribe for County Deputy actual time spent supervising inmate Work Crews according to the following rates:

Current Standard Hourly Rate: \$38.80

Overtime Standard Hourly Rate: \$48.04

The Tribe will pay the Standard Overtime Rate for all Federal Holidays worked by the County Deputies, not to include Thanksgiving or Christmas.

For the duration of this Contract the Tribe will pay the County Deputies at their negotiated hourly rate.

The County shall bill the Tribe monthly for work performed and this bill shall be paid by the 30th day following the date of invoice.

No hours of supervision shall be provided by the County over and above those that are reimbursed by the Tribe at the established total rate.