

Adopted: 12/21/2020

Effective: 1/07/2021

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 20-091

SETTING JAIL SERVICE RATES AND APPROVING AND
AUTHORIZING THE SNOHOMISH COUNTY EXECUTIVE TO SIGN
FORM INTERLOCAL AGREEMENTS FOR JAIL SERVICES
BETWEEN SNOHOMISH COUNTY AND INDIAN TRIBES

WHEREAS, the County has the statutory power and authority to maintain and operate a correctional facility and to confine inmates therein; and

WHEREAS, the County currently maintains and operates a correctional facility known as the Snohomish County Corrections Bureau (the "Jail"); and

WHEREAS, Indian tribes, recognized as such by the federal government, from time to time desire to confine in the Jail persons who have been arrested, detained or convicted of misdemeanor or tribal offenses; and

WHEREAS, the County is willing to furnish its Jail facilities and personnel to Indian tribes in exchange for payment of fees and costs consistent with its form interlocal agreement for jail services; and

WHEREAS, such interlocal agreements for jail services create a funding stream that helps offset the cost to the taxpayers for operating the Jail; and

WHEREAS, such agreements are authorized by and are consistent with the requirements of the Interlocal Cooperation Act, chapter 39.34 RCW; and

WHEREAS, the Snohomish County Council held a public hearing on December 21, 2020, to consider approving a form interlocal agreement for jail services and authorizing the Snohomish County Executive to sign on behalf of the County such agreements when in substantially the same form as that attached hereto as Exhibit A.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The County Council hereby adopts the foregoing recitals as findings of fact and conclusions as if set forth in full herein.

Section 2. The County Council hereby approves the jail service rates and other terms contained in the form jail services agreements, attached to this ordinance as Exhibit A.

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

This INTERLOCAL AGREEMENT FOR JAIL SERVICES BETWEEN SNOHOMISH COUNTY AND THE _____ TRIBE OF INDIANS (this “Agreement”), is made and entered into this ____ day of _____, 2020, by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the “County”), and the _____ TRIBE OF INDIANS (“Tribe”), a federally recognized Tribe (“Tribe”) pursuant to Chapter 39.34 RCW and Chapter 70.48 RCW.

RECITALS

A. The County, through the Snohomish County Sheriff’s Office Corrections Bureau (“Corrections”) currently maintains and operates a correctional facility known as Snohomish County Jail (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 each have the statutory power and authority to maintain and operate a correctional facility and to confine inmates therein.

C. The Tribe from time to time desires to confine in the Jail persons who have been arrested, detained or convicted by the Tribe of criminal offenses (the “Tribal Inmates”), 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 govern jail services beginning on January 1, 2021, through December 31, 2023, unless earlier terminated pursuant to the provisions of Section 12 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, 2021, are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with applicable law.

This Agreement shall be either filed with the Snohomish County Auditor or listed on either party's website or other electronically retrievable public source, as provided by RCW 39.34.040 ("Effective Date").

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:

Jamie Kane, Corrections Bureau Chief
Snohomish County Sheriff's Office
Corrections Bureau
3000 Rockefeller Avenue M/S 509
Everett, Washington 98201

Tribe's Initial Administrator:

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, 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 Tribe, or its judicial and law enforcement agencies, to the County of the duty to 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 confined in the Jail.

4.3 Transport of Tribal Inmates. The Tribe shall provide or arrange for transportation and security of its inmates to and from the Jail, including to and from Tribal in-court

appearances, except when (a) the County determines, in its sole discretion, that emergency transportation is necessary in order to secure medical and/or psychiatric evaluation or treatment, or (b) the County determines, in its sole discretion, that transportation is required to support the orderly operation of 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, and subject to availability and feasibility, 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 Tribal property.

The County shall have discretion to set the date, time and duration of the Tribe's Video Court. The County, in its sole discretion, will establish a maximum number of Tribal Inmates for each video courtroom calendar based upon operational limitations. 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 or cancel the Tribe's Video Court Schedule by providing the Tribe with at-least seven (7) days' written notice. The County will deliver the Tribe's 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 legal counsel.

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 Tribal 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:

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

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. The County does not provide or oversee a Community Corrections Program or alternatives to confinement.

4.6.1 The term “Community Corrections Program” and “alternatives to confinement” includes but is not limited to: Electronic Home Detention, Work/Education Release, and Work Crew.

4.6.2 If the Tribe wishes to provide a Community Corrections Program and/or “alternatives to confinement” options for Tribal Inmates, the Tribe shall not book such Tribal Inmates into the Snohomish County Jail.

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.

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 Tribal 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 MAPL applies to the overall number of inmates, but may also be applied to specific populations of inmates (i.e. security level, medical need, mental health housing, etc.). 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:

- (a) Inmates from out-of-county jurisdictions in reverse order from the date of execution of the respective jurisdictions' interlocal agreements with the County; then
- (b) 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
- (c) 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 applicable statutes governing the calculation of jail commitments, including with respect to earned release time pursuant to Chapter 9.94A.729 RCW and Chapter 9.92.151 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 Tribe’s municipal court, (b) Is not being held on any active County felony charge, and (c) 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 the Tribe’s 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. The Booking Fee is as follows:

2021 Booking Fee	2022 Booking Fee
\$128.88	\$134.70

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. The Daily Maintenance Fee for all Tribal Inmates is as follows:

2021 Daily Maintenance Fee	2022 Daily Maintenance Fee
\$142.63	\$187.46

Should the parties renew this Agreement beyond December 31, 2023, additional annual increases shall be calculated pursuant to Section 6.2.3.

6.2.3 Beginning January 1, 2023, the Booking Fee and Daily Maintenance Fee listed in Sections 6.2.1 and 6.2.2 shall increase on January 1 of each calendar year during the term of this Agreement by three (3) percent. The County shall provide the Tribe

notice of the Booking Fee and Daily Maintenance Fee increase by September 1 of each year. In the event direct cost to the County to provide jail services increases or decreases by a rate that is more than one (1) percent over the amount of the applicable Booking Fee and Daily Maintenance Fee, the parties agree that the costs for the remainder of the term shall be renegotiated based on actual direct costs.

6.2.4 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 covered by the Tribal 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.

6.2.5 The County shall invoice the Tribe a “Video Court Fee” for each scheduled hour of Video Court time. The Video Court Fee per hour is as follows:

2021 Video Court Fee	2022 Video Court Fee
\$207.96	\$223.12

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 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 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 ordinance, policy, rule or regulation is at issue, the Tribal 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. Each Party 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. The maintenance

of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying part to the indemnified party(s). Each Party shall provide the other with a certificate of insurance or letter of self-insurance annually as the case may be.

10. 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, as applicable to each party.

11. Default and Remedies.

11.1 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.

11.2 Remedies. In the event of a party’s Default under this Agreement, then after giving notice and an opportunity to cure pursuant to Section 11.1 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.

12. Early Termination.

12.1 Termination by the County. Except as provided in Section 12.3 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.

12.2 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.

12.3 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.

12.4 Calculation of Costs Due Upon Early Termination. Upon early termination of this Agreement as provided in this Section 12, 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.

13. Dispute Resolution. In the event differences between the Parties should arise over the terms and conditions of this Agreement, the Parties shall use their best efforts to resolve those differences through their Administrators on an informal basis. If those differences cannot be resolved informally, the matter shall be referred for mediation to a mediator mutually selected by the Parties. If mediation is not successful, either of the Parties may institute legal action for specific performance of this Agreement or for damages. The prevailing party in any legal action shall be entitled to a reasonable attorneys' fee and court costs.

14. 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 Tribe's 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. 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 the contract 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.

15. Limited Waiver of Sovereign Immunity. The Tribe waives sovereign immunity to suit upon a claim of indemnification by the County pursuant to this Agreement. Said waiver of sovereign immunity in favor of the County, its officers, officials, employees and agents shall act to prohibit the insurer(s) from asserting a defense of sovereign immunity to any claim made under the policy pursuant to this Agreement. The parties agree that in discharging this indemnification obligation, the County shall look solely to the proceeds of the required insurance procured by the Tribe herein. 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 Tribal Officers when acting pursuant to Washington state peace officer authority, pursuant to chapter 10.92 RCW.

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 Cross Commissioned Officers and Commissioned Deputies individually only, and there is no intention by the parties to confer any rights.

16. 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.

17. Miscellaneous.

17.1 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.

17.2 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.

17.3 Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County. In the event that a lawsuit is instituted to enforce any provision of this Agreement, the prevailing party shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees.

17.4 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.

17.5 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.

17.6 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.

17.7 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.

17.8 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.

17.9 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.

17.10 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.

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

17.12 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.

17.13 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.

17.14 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.

17.15 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:

TRIBE:

Snohomish County, a political subdivision
of the State of Washington

_____ Tribe of Indians

By _____
Name: Dave Somers
Title: County Executive

By _____
Name:
Title: Chairman

Approved as to Form:

Approved as to Form:

Deputy Prosecuting Attorney

, Tribal Attorney

Approved as to Indemnification and Insurance:

Risk Management

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.