

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Mark McCauley, County Administrator

FROM: Andy Pernsteiner, Undersheriff JCSO

DATE: November 13, 2023

SUBJECT: AGREEMENT: re: ILA with Hoh Tribe for Law Enforcement Services

STATEMENT OF ISSUE:

Jefferson County Sheriff's Office (JCSO) started providing law enforcement services to the Hoh Tribe in 2009 and completed the contract with them in 2020. At contract completion the Hoh Tribe had started their own Police Department for their law enforcement needs. The Hoh Tribe contacted me in June stating that their police department was in peril and by July both their police officers had resigned. The Hoh Tribe has agreed to enter into an interlocal agreement with Jefferson County to provide law enforcement services for the amount of \$275,000 annually.

ANALYSIS:

This agreement renews the expired contract with the Hoh Tribe for law enforcement services.

FISCAL IMPACT:

County will receive \$275,000 annually for this contract period (through 2026).

RECOMMENDATION:

Recommend approval of this agreement.

REVIEWED BY:


Mark McCauley, County Administrator


Date

CONTRACT REVIEW FORM
(INSTRUCTIONS ARE ON THE NEXT PAGE)

Clear Form

CONTRACT WITH: Hoh Tribe

Contract No: JCSO HOH TRIBE

Contract For: Law Enforcement Services

Term: 3 years

COUNTY DEPARTMENT: Jefferson County Sheriff
Contact Person: Andy Pernsteiner
Contact Phone: (360)344-9760
Contact email: apernsteiner@co.jefferson.wa.us

AMOUNT: 275,000

Revenue: 275,000

Expenditure:

Matching Funds Required: na

Sources(s) of Matching Funds: na

Fund #

Munis Org/Obj

PROCESS:

- ☒ Exempt from Bid Process
- ☐ Cooperative Purchase
- ☐ Competitive Sealed Bid
- ☐ Small Works Roster
- ☐ Vendor List Bid
- ☐ RFP or RFQ
- ☐ Other: _____

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 3.55.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☒ N/A: ☐

Signature

Date

10-27-23

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☒ N/A: ☐

Signature

Date

10-27-23

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 11/3/2023.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 11/2/2023.
Prepared with the assistance of the PAO.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL

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government- to-government relationship regarding criminal jurisdiction and the Mutual Aid of Peace Officers Powers Act (Chapter [10.93](#) RCW).

NOW, THEREFORE, this Agreement is entered into under the Washington Interlocal Cooperation Act (Chapter [39.34](#) RCW), the Washington Mutual Aid Peace Officers Powers Act (Chapter [10.93](#) RCW), and ARTICLE IV, SECTION 1(a) of the Constitution of the Hoh Indian Tribe, and the Parties agree as follows:

TERMS AND CONDITIONS

Section 1 - Definitions.

As used in this Agreement:

- a. "Agreement" means this Interlocal Cooperative Agreement.
- b. "Base Level Law Enforcement Services" means responses to calls for service, conducting investigations, and proactive patrol of various forms to detect, prevent, and deter criminal activity as further described in the Scope of Services.
- c. "County" means Jefferson County, Washington, a political subdivision of the State of Washington, whose physical address is 1820 Jefferson Street, Port Townsend, WA 98368 and whose mailing address is P.O. Box 1220, Port Townsend, WA 98368.
- d. "Deputy" means a full time commissioned Jefferson County Sheriff's deputy.
- e. "Deputy to the Hoh Indian Tribe" means a Deputy appointed to provide Base Level Law Enforcement Services to the Hoh Indian Tribe pursuant to this Agreement.
- f. "Hoh Indian Tribe" means the Hoh Indian Tribe, a federally recognized Indian Tribe, whose physical address is 2426 Lower Hoh Road, Forks, Washington 98331 and whose mailing address is P.O. Box, 2196, Forks, WA 98331.
- g. "Indian" means a member of the Hoh Indian Tribe or any other federally recognized Indian Tribe.
- h. "Indian Juvenile" means an Indian who qualifies as a juvenile under the law.
- i. "Parties" means the Hoh Indian Tribe and the County collectively.
- j. "Party" means one of the Parties.
- k. "Or" means or and and/or.
- l. "Reservation" means the Hoh Indian Tribe's Reservation established by an Executive Order in 1893 and all territory within the exterior boundaries

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thereof, including, without limitation, all roads, rights of way, easements and waterways within such exterior boundaries. The Reservation is described by the Hoh Indian Tribe on its website as: The Hoh Reservation consists of 443 acres located 28 miles south of Forks, and 80 miles north of Aberdeen. The Hoh Reservation has approximately one mile of beach front running east from the mouth of the Hoh River, and south to Ruby Beach. See <http://hohtribe-nsn.org/our-history/>, last accessed on August 15, 2020. A map of the Reservation can be found at the same web address.

- m. "Scope of Services" means the Scope of Services in "Exhibit A."
- n. "Tribal Trust Lands" means land, other than land within the Reservation, held by the United States in trust for the Hoh Indian Tribe or for members of the Hoh Indian Tribe.

Section 2 - Term of Agreement

This Agreement shall have a term commencing on the date of execution of this Agreement and terminating August 1, 2026, unless either Party initiates termination as provided in Section 7. The Parties may agree to extend the term of this Agreement; provided that any such extension must be in executed in writing by the Parties.

Section 3 - County's Obligations

- a. The County shall provide Base Level Law Enforcement Services for the Hoh Indian Tribe on the Reservation, pursuant to the terms and conditions of this Agreement, including "Exhibit A." Except as otherwise provided in this Agreement, the County shall furnish all personnel and equipment necessary to provide the Base Level Law Enforcement Services. All County personnel assigned to provide any law enforcement under this Agreement remain employees of the County.
- b. The County shall hire, assign, supervise, retain, and discipline all employees according to its collective bargaining agreement, civil service rules, and state and federal law. In the Assignment of Deputies, the County shall use, whenever possible, Deputies who volunteer for duty under this Agreement and or request this duty. The County and the Hoh Indian Tribe shall work together to encourage officer retention to provide continuity of service.
- c. The Hoh Indian Tribe shall retain the right to meet and confer with the Sheriff (or his or her designee) with respect to those personnel who are assigned to work under this Agreement. If the Hoh Indian Tribe has requested the reassignment of personnel and the Sheriff (or his or her designee) does, in fact, reassign the personnel, the reassignment shall not be considered disciplinary or in any way reflect upon the performance evaluation of the deputy. Provided however, that issues of discipline or performance shall be specifically handled according to County policies.
- d. Nothing in this Agreement shall prevent individuals from seeking promotional opportunities or receiving a promotion. Sole authority to appoint the Deputies to implement the County's obligations under this Agreement shall rest with the Jefferson County Sheriff.

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- e. The County shall provide investigative services to the Hoh Indian Tribe following the same protocols utilized for the provision of these services to citizens of unincorporated Jefferson County with the exception of major crimes, as defined by the Major Crimes Act, 18 U.S.C. 1153 et seq., which remains within the exclusive jurisdiction of the Federal Government.
- f. While assigned to the Hoh Indian Tribe under this Agreement, Deputies shall be free to respond to calls for service both within and outside the Hoh Indian Tribe's Reservation and to provide Base Level Law Enforcement Services both within and outside the Reservation. Deputies shall be at all times available to respond to an emergency involving an immediate threat to human life or property or when in fresh pursuit as defined in RCW 10.93.120.
- g. County shall coordinate transfers to minimize the time positions are vacant, as well as the impact of vacancies on the Hoh Indian Tribe, and the County shall consult with the Director of Emergency Services and Community Safety on the timing and process for filling such vacancies.
- h. Upon execution of this Agreement the County shall immediately provide one (1) supervisor to oversee the agreement. The Supervisor shall be selected and assigned by the Sheriff of Jefferson County with the advice of the Director of Emergency Services and Community Safety.
- i. At the request of the Hoh Indian Tribe, the County shall provide additional Deputies available to work on a temporary basis, at a rate pursuant to Section 6.b. to perform additional policing and protection services in addition to the Base Level Law Enforcement Services.

Section 4 - The Hoh Indian Tribe's Obligations

- a. The Executive Director shall serve as the liaison to coordinate with the County for this Agreement. The liaison shall communicate with the County regarding operational assignments relating to this Agreement and issues of concern to the Hoh Indian Tribe, its employees and passengers. The Hoh Indian Tribe shall employ a Director of Emergency Services and Public Safety. The Deputies assigned to the Hoh Indian Tribe shall report to the Director of Emergency Services and Public Safety, however in the absence of the Director of Emergency Services and Public Safety, shall report to the Executive Director of the Hoh Indian Tribe.
- b. The Hoh Indian Tribe shall provide, at its expense, adequate office space with adequate number of workstations including related utilities, janitorial services, and furnishings for the Deputies to the Hoh Indian Tribe. This office shall be maintained as other Tribally owned and operated offices, and equipped with limited access control and physical security counter measures for the protection of law enforcement sensitive information and records.
- c. The Hoh Indian Tribe shall provide an orientation for County Deputies assigned to provide law enforcement to familiarize these personnel with the Hoh Indian Tribe, its community and reservation. Additionally, to the extent that the Deputies use tribal equipment and facilities, the Hoh Indian Tribe shall provide training and support for the use of such equipment and facilities.

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- d. The Hoh Indian Tribe shall review and pay invoices from the County within thirty (30) business days of receipt of such invoices as provided in Section 6.b.

Section 5 - Joint Obligations of Parties

- a. The County and the Hoh Indian Tribe agree to work cooperatively in the selection of Deputy Sheriffs selected to provide the law enforcement services under this Agreement. The County shall provide the Tribal Council an opportunity to interview candidates for the positions of Deputy, provided for in this Agreement, and make hiring recommendations to the County. Nothing in this Agreement shall prevent individuals from seeking promotional opportunities or receiving a promotion. Sole authority to appoint the Deputy to the Hoh Indian Tribe shall rest with the Jefferson County Sheriff.
- b. The Hoh Indian Tribe and the County shall coordinate scheduling and assignment of additional policing when needed.
- c. The County and the Hoh Indian Tribe shall jointly prepare a physical security plan, acceptable to each for the designated law enforcement work areas.
- d. The Parties shall meet annually to discuss the Agreement to discuss the services provided, any additional equipment required and other issues related to the provision of law enforcement under the terms of this Agreement. The Hoh Indian Tribe shall have an opportunity to comment on the satisfaction of the provision of the service by the County and request modifications and adjustments.
- e. Prior to assigning a Deputy to the Hoh Indian Tribe, the Tribal Council and the County Sheriff or his/her designee shall confer to discuss potential changes in assignments and duties.
- f. The Parties shall comply with all applicable federal, state and local laws in performing this Agreement.
- g. The Parties agree that community policing is an effective law enforcement strategy and that during the term of this Agreement, each shall continue to work cooperatively to facilitate this strategy and to support the Deputies assigned to this work.
- h. The County and the Hoh Indian Tribe shall retain their respective authority to make operational decisions and develop and implement policies for their agencies; provided that they shall endeavor to ensure that such decisions and policies do not conflict with their obligations and duties arising from this Agreement.
- i. The County and the Hoh Indian Tribe agree that to the extent permitted by applicable law, information concerning documents or performance under this Agreement shall not be released in response to any public records and disclosure requests until the Party receiving the request has given written and oral notice to the other Party; provided that nothing in this Agreement shall prevent either Party from complying with a valid court order from a court of competent jurisdiction directing such disclosure.

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Section 6 - Payment

- a. Quarterly Payment for Regular Law Enforcement Services. The Hoh Indian Tribe shall pay \$68,750 per quarter for the services provided by the County during the term of this Agreement. Invoices shall be mailed by the County in January, April, July and October each year.
- b. Law Enforcement Services in Addition to Base Level Law Enforcement Services. The Parties agree that the applicable hourly rate for law enforcement services in addition to Base Level Law Enforcement Services shall be \$102.00 per hour. The County shall provide an invoice to the Hoh Indian Tribe for law enforcement services in addition to Base Level Law Enforcement Services, which provide the date, hours and Deputies assigned for the additional duties within thirty (30) days of providing such services.
- c. The Hoh Indian Tribe agrees to pay the all invoices submitted under this Section 6 within thirty (30) days of receipt of such invoices.
- d. All invoices shall be mailed to:

Hoh Indian Tribe
P.O. Box 2167
Forks, WA 98331

- e. All payments shall be mailed to:

Jefferson County Sheriff's Office
79 Elkins Road
Port Hadlock, WA 98339

Section 7 - Termination of Agreement

Either Party may terminate this Agreement for any reason upon providing written notice to the other Party six (6) months prior to the effective termination date, in which case the Hoh Indian Tribe shall compensate the County only for the costs of these services provided through the period of time this Agreement remains in effect, provided this Agreement shall not be terminated before one year from the commencement of this Agreement for any reason other than lack of federal government (Bureau of Indian Affairs) funding.

This Agreement is contingent upon governmental funding. In the event that funding reductions result in a decrease in appropriations for law enforcement, the County or the Hoh Indian Tribe may terminate this agreement by providing six (6) month s' notice to the other. Termination shall not affect the accrued rights and obligations of either Party under other sections of this Agreement.

Section 8 - Notice

- a. Any notice to be given under this Agreement shall be sent either by registered mail, return receipt requested, or by personal delivery.

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- b. Any notice from the Hoh Indian Tribe to be sent to the County shall be sent or delivered to:

Jefferson County Sheriff
79 Elkins Road
Port Hadlock, WA 98339

- c. Any notice from the County to be sent to the Hoh Indian Tribe shall be sent or delivered to:

Hoh Indian Tribe
P.O. Box 2196
Forks, WA 98331

- d. Notices shall become effective upon delivery or three days after being sent by registered mail, whichever occurs first.

Section 9 - Records

The County shall maintain adequate records to support billings for those services set forth in this Agreement. Said records shall be maintained for a period of six (6) years after completion of this Agreement. The Hoh Indian Tribe or any of its duly authorized representatives shall have access at any time during regular business hours, to any books, documents, papers, or records of the County that are directly related to this Agreement for the purposes of audit examinations, excerpts, or transcripts. The County is subject to the Public Records Act, codified at Ch. 42.56 RCW and records generated pursuant to this Agreement are subject to that state law.

Section 10 - Reporting

- a. Reporting Districts. Reporting districts coterminous with the Reservation boundaries shall be maintained to enable accurate data collection on law enforcement services provided and criminal activity.
- b. Notification of Criminal Activity. The Deputies to the Hoh Indian Tribe on duty shall notify the Director of Emergency Services and Public Safety and/or the Executive Director of the Hoh Indian Tribe by telephone in the event of a significant criminal occurrence within the unincorporated area of Jefferson County within the Reservation.
- c. Criminal Reports: Criminal reports generated by Jefferson County as a result of activities on land within unincorporated Jefferson County within the Reservation are subject to disclosure under state law, including Chapter 42.56 RCW.

Section 11 - Prosecutions, Referrals, and Civil Infractions

- a. Prosecution of Criminal Cases Involving Indians: All criminal cases involving Indians as a suspect or person of interest shall be referred to Hoh Tribal Prosecutor's office for prosecution, unless: (i) the crime falls within the definitions of the Major Crimes Act, in which case they shall be referred to the United States Attorney's Office; or, (ii) the suspect

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or person of interest is an Indian Juvenile, in which case they shall be handled pursuant to Section 11.b.

- b. Offenses by Indian Juveniles: The Hoh Tribe and the County agree that offenses committed by Indian Juveniles on the Reservation or on Off-reservation Tribal Trust land shall be prosecuted by the Hoh Indian Tribe at the discretion of the Hoh Tribal Prosecutor/Presenting Officer. If an Indian Juvenile is accused of a crime that occurred on the Reservation that would constitute a Class A Felony under the Revised Code of Washington, the Hoh Indian Tribe may elect to defer prosecution of the crime by the State of Washington and to request an investigation by the Sheriff's Office. The Jefferson County Prosecuting Attorney or the Hoh Tribal Prosecutor/Presenting Officer may refer an Indian Juvenile case to the United States Attorney for the Western District of Washington.
- c. Declination of Prosecution: All declinations of prosecutions of Indians for offenses allegedly occurring on the Reservation shall be communicated to the arresting Deputy to the Hoh Indian Tribe, along with an explanation for the declination within ninety (90) days of the decision to decline and within two hundred seventy (270) days of the incident. In all cases cited into the Hoh Tribal Court, the necessary Deputies shall be available to testify in Tribal Court.
- d. Referrals to the Jefferson County Prosecuting Attorney's Office: Referrals where the suspect or person of interest is a non-Indian shall be referred to the Jefferson County Prosecuting Attorney's Office.
- e. Civil Infractions: All civil infractions involving both Indian and non-Indians shall be referred to the Hoh Tribal Prosecutor's office for prosecution. All declinations of prosecutions of Indian persons for offenses allegedly occurring on the Reservation shall be communicated to arresting Deputy to the Hoh Indian Tribe, along with an explanation for the declination, within ninety (90) days of the decision to decline and within two hundred seventy (270) days of the incident. In all cases cited into the Hoh Tribal Court wherein a Respondent in a civil matter contests the allegation, the necessary Deputies shall be available to testify in Tribal Court.
- f. Violations of the State Statutes and Regulations Relating to Compulsory School Attendance and the Acceptance or Utilization of State-funded Public Assistance: In accordance with RCW 37.12 .010, any alleged violations of the state statutes and regulations relating to compulsory school attendance and the acceptance or utilization of state-funded public assistance ("welfare") shall be referred to the Jefferson County Prosecutor.

Section 12 - Additional Services

The Parties agree that during the term of this Agreement, additional similar services may be added in accordance with Section 13. The Parties further agree that such additional services shall be compensated at the rate in Section 6.b. or as otherwise negotiated by the Parties in a written amendment to this Agreement.

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Section 13 - Amendments

No changes or modifications to this Agreement shall be valid or binding upon the Parties unless such change or modifications are mutually agreed to in writing and authorized and executed by the Parties in the same manner and formality as the original Agreement by authorized representatives.

Section 14 - Waiver

No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Agreement unless stated to be such through written approval by the County, which shall be attached to this Agreement.

Section 15 - Non-Discrimination

The County and the Hoh Indian Tribe certify that they are Equal Opportunity Employers.

Section 16 - No Third-Party Beneficiary/Non-Exclusivity

- a. The Parties not intend by this Agreement to assume any contractual obligations to anyone other than the County. The Parties do not intend that there be any third-party beneficiary to this Agreement.
- b. The Parties agree that this is a non-exclusive Agreement and that the Hoh Indian Tribe may employ or contract for additional police and safety services, including services provided by off-duty law enforcement officers.

Section 17 - Indemnification

- a. In executing this Agreement, the County does not assume liability or responsibility for or in any way release the Hoh Indian Tribe from any liability or responsibility which arises in whole or in part from the existence or effect of the Hoh Indian Tribe's ordinances, rules, regulations, resolutions, customs, policies or practices. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability or validity of any such tribal ordinance, rule, regulation, resolution, custom, policy or practice is at issue, then the Hoh Indian Tribe shall defend the same at its sole expense, and if judgment specifically attributable to such tribal provisions is entered and damages are awarded against the Hoh Indian Tribe, the County, or both, then the Hoh Indian Tribe shall entirely satisfy the same, including all chargeable costs and reasonable attorney's fees and costs. To the extent permitted by law, the Hoh Indian Tribe shall defend, indemnify and hold harmless the County, its officers, officials, employees, agents and volunteers (and their marital communities) from any and all costs, including reasonable attorney fees, claims, judgments, or awards of damages, resulting from the breach of this Agreement, acts or omission of the Tribe, the County, its officers, officials, employees, agents and volunteers (and their marital communities) arising out of or in connection with the performance of this Agreement except for injuries, damages, judgments caused by the sole negligence of the County.

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- b. In executing this Agreement, the Hoh Indian Tribe does not assume liability or responsibility for or in way release the County from any liability or responsibility which arises in whole or in part from the existence or effect of County ordinance, rules, regulations, resolutions, customs, policies, or practices. If any cause, claim, suit, action, or administrative proceeding is commenced in which the enforceability or validity of any such County ordinance, rule, regulation, resolution, custom, policy, or practice is at issue, the County shall defend the same at its sole expense, and if judgment is entered and damages are awarded against the County, the Hoh Indian Tribe, or both, the County shall entirely satisfy the same, including all chargeable costs and reasonable attorney's fees and costs. To the extent permitted by law, the County shall defend, indemnify, and hold harmless the Hoh Indian Tribe, the County, its officers, officials, employees, agents and volunteers (and their marital communities) from any and all costs, including reasonable attorney fees, claims, judgments, or awards or damages, resulting from the breach of this Agreement, acts or omissions of the County, the County, its officers, officials, employees, agents and volunteers (and their marital communities) arising out of or in connection with the performance of this Agreement except for injuries, damages and judgments caused by the sole negligence of the Hoh Indian Tribe.

Section 18 - Immunity

- a. The County and the Hoh Indian Tribe with respect to each other only waive and shall not assert against each other, any immunity under Title 51 of the Industrial Insurance laws of the State of Washington. This waiver does not extend to the employees of either Party. The County and the Hoh Indian Tribe expressly do not waive their immunity against claims brought by their own employees. This waiver has been expressly and mutually negotiated. It is further provided that no liability shall attach to either Party by reason of entering into this Agreement, except as expressly provided herein. If the claim, suit or action for injuries, death or damages as provided for in the proceeding paragraphs of this Agreement is caused by or results from the concurrent negligence of (a) the indemnitee or the indemnitee's agents or employees, and (b) the indemnitor or the indemnitor's agents or employees, the indemnity provisions provided for in these paragraphs shall be valid and enforceable only to the extent of the indemnitor's negligence.
- b. The Parties enter into a limited mutual waiver of their respective sovereign immunities for the sole and limited purpose of enforcing the mutual indemnities in Section 17 of this Agreement, and for no other purpose. Neither Party waives its sovereign immunity for any other purpose or with respect to or for the benefit of any other entity, person or government. Provided, that the Hoh Indian Tribe's limited waiver of sovereign immunity set out in this paragraph is further limited to injunctive and declaratory relief related to the mutual indemnifications set out in this Section 18 and to the recovery of damages to the extent covered by insurance.
- c. Except for the limited waiver of sovereign immunity provided in this Section 18, nothing in this agreement shall be construed as a general or specific waiver of the Hoh Indian Tribe's sovereign immunity, which immunities are expressly asserted. Furthermore, nothing contained in this Limited Waiver shall be construed to create a contractual relationship with or a cause of action in favor of any third party against the Hoh Indian

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Tribe. This limited waiver of sovereign immunity is not, and shall not be deemed to be, a consent by the Hoh Indian Tribe to the levy of any judgment, lien or attachment on any appropriations received from any government by agreement or by grant or upon any property or revenues of the Hoh Indian Tribe.

- d. All immunities enjoyed by Hoh tribal officers under state, tribal or federal law shall inure to the benefit of each Deputy to the Hoh Indian Tribe, when acting pursuant to the terms of this Agreement.
- e. Neither the Hoh Indian Tribe nor the County shall be held liable for the acts or omissions of employees, agents, or representatives of the other party that are performed under color of this Agreement.

Section 19 - Insurance

- a. The County represents and warrants that it is a member of a "Risk Pool" created pursuant to Chapter 48.62 RCW and maintains sufficient third-party liability coverage for all purposes of this Agreement. The Hoh Indian Tribe has general liability insurance in an amount of not less than five million dollars (\$5,000,000.00) aggregate. The County shall provide proof of this coverage via a "Certificate of Insurance" or other documentation within 30 days of the date when the last Party to this Agreement executes this Agreement. The County shall keep this coverage (or an insurance policy with equal aggregate liability coverage amounts) in effect for the entire term of the Agreement.
- b. The Parties agree that in discharging this liability coverage obligation, the Hoh Tribe shall look first to the proceeds of liability coverage procured by the County from the Washington Counties Risk Pool and any insurance coverage Tribe arising out of the performance of this Agreement.

Section 20 - County as Independent Contractor

The County is, and shall at all times be deemed to be, an independent contractor. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between the Hoh Indian Tribe and County or any of the County's agents or employees, including but not limited to Deputies to the Hoh Indian Tribe. The County shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by County pursuant to this Agreement.

Section 21 - Governing Law, Dispute Resolution and Venue.

- a. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Washington.
- b. Any controversy, dispute, claim or counterclaim 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, equity, tort or statute shall be first directed to the Hoh Indian Tribe's Executive Director and the designated Sheriffs Supervisor. If the dispute is not resolved between those persons, then it shall then

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be referred to the Tribal Council and Sheriff, who shall meet to attempt to resolve such dispute.

- c. Any dispute that cannot be resolve pursuant to Section 21.b. shall be resolved by final and binding arbitration, provided that the Parties shall first seek to resolve any dispute through good-faith negotiation and may, on a case-by-case basis, agree to mediation prior to binding arbitration. The County recognizes that the requirement to first seek to resolve any dispute through good-faith negotiation is a jurisdictional pre-requisite to the limited waiver of the Hoh Indian Tribe's sovereign immunity contained in this Section 21.
- d. The Hoh Indian Tribe recognizes that the provisions for binding arbitration set out in this Section 21 constitute a limited waiver of the Hoh Indian Tribe's sovereign immunity for purposes of arbitration and for enforcement of any arbitration award or judgment in the Superior Court of Washington for Jefferson County.
- e. The Hoh Indian Tribe or the County may initiate arbitration by providing written notice of intent to arbitrate to the other Party, together with a statement of the matter in controversy. It is the intent of the Parties that the arbitration be conducted by a single arbitrator. If within thirty (30) days of the notice of intent to arbitrate, the Parties are unable to agree upon such single arbitrator, the Hoh Indian Tribe and the County each may appoint an arbitrator by providing written notice of the name of an arbitrator to the other. If either the Hoh Indian Tribe or the County 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 Hoh Indian Tribe or the County may apply to the Superior Court of Jefferson County for the selection of a third arbitrator. 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.
- f. The arbitration rules and procedures set out in Chapter 7.04A RCW shall govern the arbitration process, the Washington State Superior Court Civil Rules shall govern pre-hearing discovery to the extent not incompatible with the procedures set forth in Chapter 7.04A RCW, and the Washington State Rules of Evidence shall govern the presentation of evidence at the arbitration hearing.
- g. 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 Jefferson County, Washington, and enforced in the same manner as any other judgment.
- h. Nothing in this Agreement shall be deemed or construed to confer on the arbitrator or 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 contrary to applicable law.

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Section 22 - Hoh Indian Tribe's Limited Waiver of Sovereign Immunity.

The Hoh Tribe waives its right to assert sovereign immunity as a defense to any lawsuit or complaint by the County pursuant to Section 21 and consents to the jurisdiction of the courts of the State of Washington to hear and resolve any such lawsuit or complaint. The Hoh Tribe and County agree that Section 21 is the sole process for remedying or resolving disputes that arise under this Agreement and that no other lawsuit or complaint is permitted other than one arising under Section 21.

Section 23 - Federal Tort Claims Act.

Nothing in this Agreement shall preclude the Hoh Indian Tribe, the County, or their respective employees, agents, or representatives from seeking the benefits and protections of the Federal Tort Claims Act (28 U.S. Code § 2671, et seq.). It is expressly agreed and understood that the indemnification provided for in Section 21 is for the benefit of the Hoh Tribe and the County and all their officers, officials, employees, agents and volunteers (and their marital communities) only and there is no intention by the Parties to confer any rights under this Agreement to any person or entity who is not a Party, intentionally, unintentionally or by implication.

Section 23 - Severability

If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.

Section 24 - Entire Agreement

This Agreement contains terms and conditions agreed upon by the Parties. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement.

Section 25 – Filing with County Auditor

- a. It is mutually agreed by the Parties that this Agreement shall be filed with the Jefferson County Auditor after it is signed by the Parties, or in lieu thereof, posted on the official website of each Party. Recording costs shall be equally borne between the Parties.
- b. It is further agreed by the Parties, that each Party shall within fifteen (15) days of the date of ratification of the Agreement by each Party's legislating or governing body that copies of the Agreement shall be sent to the State of Washington's Department of Enterprise Services/Office of Financial Management and to the Washington Criminal Justice Training Commission.¹

¹ Per RCW 10.92.020(2)(a): "The appropriate sovereign tribal nation shall submit to the department of enterprise services proof of public liability and property damage insurance for vehicles operated by the peace officers and police professional liability insurance from a company licensed to sell insurance in the state. For purposes of determining adequacy of insurance liability, the sovereign tribal government must submit with the proof of liability insurance a copy of the interlocal agreement between the sovereign tribal

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
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Section 26 - No Joint Acquisition of Property

This Agreement does not contemplate the joint acquisition of property by the Parties. At termination, each Party will remain the sole owner of its own property.

Section 27 – Warranties

The signers to this Agreement warrant that they have the power and authority and are duly authorized by their respective legislative bodies to enter into this Agreement on behalf of the entity for whom they execute this Agreement in a representative capacity.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

government and the local governments that have shared jurisdiction under this chapter where such an agreement has been reached pursuant to subsection (10) of this section.” Subsection (10) states: “An interlocal agreement pursuant to chapter [39.34](#) RCW is required between the sovereign tribal government and all local government law enforcement agencies that will have shared jurisdiction under this chapter prior to authorization taking effect under this chapter.” RCW [10.92.020\(10\)](#). The effective date of an interlocal agreement under Chapter [39.34](#) RCW is contingent on the State of Washington’s Department of Enterprise Services/Office of Financial Management’s finding that sufficient insurance coverage has been obtained commensurate with the scope of activities authorized by the Interlocal Agreement (“a condition precedent to its entry into force”).

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
THE HOH INDIAN TRIBE AND JEFFERSON COUNTY

IN WITNESS WHEREOF, the Parties execute this Agreement.

JEFFERSON COUNTY

HOH INDIAN TRIBE

Greg Brotherton, Chair,
Jefferson County Board of Commissioners

Dawn Gomez, Chairwoman,
Hoh Tribal Council

Date

Date

Joe Nole, Sheriff
Jefferson County Sheriff's Office

Date

Attest:

Carolyn Gallaway, CMC
Jefferson County Board of Commissioners

Approved as to form:



November 2, 2023

Philip C. Hunsucker,

Chief Civil Deputy
Prosecuting Attorney

LeaAnn Easton
Dorsay & Easton LLP
Hoh Tribal Attorney

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
THE HOH INDIAN TRIBE AND JEFFERSON COUNTY

EXHIBIT "A"

Scope of Services

1. The Sheriff shall provide two (2) Deputies to the Hoh Indian Tribe to provide the Base Level Law Enforcement Services to the Hoh Indian Tribe under this Agreement. For the two (2) Deputies to the Hoh Indian Tribe who provide the Base Level Law Enforcement Services to the Hoh Indian Tribe, the Hoh Indian Tribe shall pay to the County the amounts required in Section 6.a.
2. The Deputies to the Hoh Indian Tribe shall maintain an office on the Reservation provided by the Hoh Indian Tribe.
3. Base Level Law Enforcement Services may be conducted in uniformed and non-uniformed capacity depending on the specific assignment.
4. Deputies to the Hoh Indian Tribe shall report to the Executive Director of the Hoh Indian Tribe, or their designee. Sheriffs Supervisors shall command all assigned personnel within the Sheriff's Office on all matters relating to this Agreement.
5. The County shall provide Base Level Law Enforcement Services in accordance with operational plans established by the Hoh Indian Tribe and the Sheriff. The Deputies to the Hoh Indian Tribe shall provide Base Level Law Enforcement Services during their scheduled work shifts for the Jefferson County Sheriff's Office. The Base Level Law Enforcement Services shall be in cooperation with other law enforcement agencies when required. For the avoidance of doubt, it is understood that the Base Level Law Enforcement Services being provided under this Agreement may be coextensive with Deputies to the Hoh Indian Tribes' duties outside the Reservation.
6. The Base Level Law Enforcement Services shall be provided within the boundaries of the Reservation.
7. If one of the Deputies to the Hoh Indian Tribe is absent from duty for any reason for longer than 30 days, the County shall provide a replacement Deputy or on the first working day after the 30 days have expired. The County and the Hoh Indian Tribe shall review this issue on an annual basis.
8. During elevated national threat levels that are specific to threats against Jefferson County, the County shall ensure minimum staffing to provide Base Level Law Enforcement Services for the Hoh Indian Tribe until such time the threat level is lowered. This may require adjustments to assigned schedules and days off.
9. Deputies to the Hoh Indian Tribe, under the guidance of the Sheriff's Supervisors, shall patrol the Reservation in either vehicle provided by the Sheriff or the Hoh Indian Tribe.

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
THE HOH INDIAN TRIBE AND JEFFERSON COUNTY

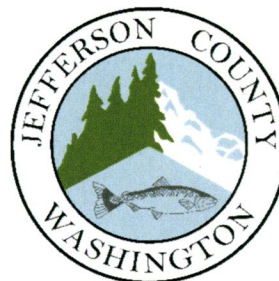
10. The Hoh Indian Tribe shall provide an orientation and training program for all Deputies to the Hoh Indian Tribe to familiarize these personnel with the Reservation, operating procedures, two-way radio protocols, facilities and vehicles.

11. County shall provide the Hoh Indian Tribe on a monthly basis and within ten (10) days of the last day of the month, a report of all services provided.

12. To the extent permitted by law, information concerning documents or performance under this Agreement shall not be released in response to any public records disclosure requests until the Party receiving the request has given written and oral notice to the other Party.

13. The Sheriff or Sheriff's designee shall meet with the Hoh Indian Tribe designee as needed and at least annually to discuss performance under this Agreement. The Hoh Indian Tribe shall have an opportunity to comment on the satisfaction of the provision of the service by the County and request modifications and adjustments.

14. Radio system and appropriate protocols shall be established by the designated liaisons. County staff shall accomplish installation of the Hoh Indian Tribe radios into Sheriff patrol cars if issued handheld radios are shown to be inadequate. Maintenance, replacement, and upgrades of the Hoh Indian Tribe radios shall be the Hoh Indian Tribe's responsibility.



**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
THE HOH INDIAN TRIBE
AND
JEFFERSON COUNTY**

This Agreement (defined below) is to provide mutual law enforcement assistance is entered into between the Hoh Indian Tribe (defined below) and the County (defined below). Both Parties (defined below) are "public agencies" as defined in RCW [39.34.020](#), and are authorized to enter into this Agreement by Washington's Interlocal Cooperation Act (Chapter [39.34](#) RCW).

RECITALS

WHEREAS, the Hoh Indian Tribe has criminal jurisdiction over Indian persons who commit crimes within the boundaries of the Hoh Indian Reservation (Reservation) which is located within the boundaries of Jefferson County and desires to provide law enforcement services on all lands in the unincorporated areas of Jefferson County within the Reservation boundaries;

WHEREAS, the Hoh Indian Tribe desires to contract with Jefferson County for law enforcement services on all lands in unincorporated Jefferson County within the Reservation and has authority pursuant to its Constitution to contract with Jefferson County for such services;

WHEREAS, the County, through the Jefferson County Sheriff's Office provides basic law enforcement services to the unincorporated areas of the County, including the Reservation;

WHEREAS, the County, through the Jefferson County Sheriff's Office, hereinafter referred to as Sheriff: and is a General Authority Law Enforcement Agency as defined in R.C.W. 10.93.020(I) and is an established law enforcement agency and possesses the power and legal authority, pursuant to chapter 10.93 R.C.W. to provide emergency and law enforcement services within Jefferson County and other jurisdictions when authorized by agreement with those jurisdictions;

WHEREAS, the County and the Hoh Indian Tribe recognize the value of community policing as an effective and important law enforcement tool; and,

WHEREAS, the Hoh Indian Tribe and the County each respects the sovereignty and political integrity of the other, and each Party desires to have an agreement reflecting a full