



Meeting Date:
Agenda Item No:

<u>Kitsap County Board of Commissioners</u>	
<p>Department: Kitsap County Juvenile Department Staff Contact: William G. Truemper, Jr., 337-5406 Title: Proposed Agreement between Kitsap County and the Skokomish Tribe for Provision of Juvenile Detention Facilities.</p>	
<p>Recommended Action: Move that the Board approve and execute the proposed Agreement between Kitsap County and the Skokomish Tribe for Provision of Juvenile Detention Facilities.</p>	
Summary:	<p>This agreement initiates an arrangement between Kitsap County Juvenile Department and the Skokomish Tribe wherein the Juvenile Department provides bed space for youth detained under the authority of the Skokomish Tribal Court on a space available basis at the rate of \$125 per day.</p> <p>This agreement is on a space available basis at \$125 per day. The reimbursement rate covers ancillary costs such as dinner (breakfast and lunch are reimbursed by Office of State Public Instruction) and personal items such as toothbrushes, shampoo, etc. An important fiscal issue to note is that the Medical Services contract with the Health District is based on set hours of service, not on a cost per youth seen basis and that additional, out-sourced medical costs for detained youth are to be borne by the Skokomish Tribe per the contract provisions. This contract does not incur additional detention staffing costs because it is on a space available basis and detention officers are already on duty for each shift.</p>
Attachments:	<ol style="list-style-type: none"> 1. Contract Review Sheet 2. Agreement No KC-066-08
<u>Fiscal Impact</u>	
Expenditure required for this specific action:	Covered through reimbursement bed day rate.
Total cost including all related costs:	
Related Revenue:	Approximately \$3,125 (fee for service at \$125 per bed day rate).
Cost Savings:	N/A
Total Fiscal Impact:	Approximately \$3,125.00
Source of Funds:	Skokomish Tribe

<u>Fiscal Impact (DAS) Review</u>			
Departmental Coordination			
Department	Representative	Recommendation/Comments	
Juvenile Department			
Contract Information			
Contract Number	Date Original Contract or Amendment Approved	Amount of Original Contract Amendment	Total Amount of Amended Contract
KC-066-08			

**AGREEMENT BETWEEN
KITSAP COUNTY AND THE SKOKOMISH INDIAN TRIBE
FOR PROVISION OF JUVENILE DETENTION FACILITIES**

RECITALS

Whereas, Kitsap County has and maintains a juvenile detention facility at the Kitsap County Youth Services Center pursuant to RCW 13, et. seq;

Whereas, the Skokomish Indian Tribe has a need for juvenile detention spaces for youths being detained pursuant to the authority of the Skokomish Indian Tribal Court, and

Whereas, it will benefit both Kitsap County and the Skokomish Indian Tribe to enter into an agreement to make available to the Skokomish Indian Tribe space in the Kitsap County Juvenile Detention Facility, when the Manager of the facility determines space is available, for which space the Skokomish Indian Tribe shall reimburse Kitsap County as set forth below;

Whereas, Kitsap County is a political subdivision of the State of Washington and the Skokomish Indian Tribe, a federally recognized Indian Tribe, whose duly authorized governing body is the Tribal Council , as provided in Article IV, Section 1, of the Constitution of the Skokomish Indian Tribe; and the Skokomish Indian Tribe being a “public agency” as defined in RCW 39.34.020;

Now, therefore, in accordance with the Inter-local Cooperation Act (RCW 39.34), and the City and the County Jails Act (RCW, Chapter 70.48), Kitsap County (COUNTY) and the Skokomish Indian Tribe (TRIBE) enter into this Agreement. The parties agree as follows:

I. GENERAL CONDITIONS

A. Effective Date of Agreement. The effective date of this Agreement shall be upon execution of this Agreement by the parties.

B. Length of Term. The term of this Agreement is one year, commencing upon the execution of this Agreement, and terminating on December 31, 2008, unless cancelled by either party or modified by mutual agreement of the parties. This contract will automatically extend for successive one-year periods upon the same terms and conditions set forth herein.

C. Termination. This Agreement may be terminated by either party upon thirty (30) days written notice to the other party.

D. Completed Expression of Agreement and Modification. The parties agree that this Agreement is the completed expression of the terms hereto, and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties.

E. Contractor Administrator. This Agreement shall be administered for Kitsap County by Bill Truemper, Manager of the Kitsap County Juvenile Department, Kitsap County Youth Service Center, 1338 SW Old Clifton Road, Port Orchard, WA 98366 and by Santo Digrigoli, Director, Skokomish Public Safety Department, N.80 Tribal Center Road, Skokomish Nation, WA 98584

II. SPECIFIC TERMS AND CONDITIONS

A. Detention. COUNTY will provide secure custody/detention for juveniles detained pursuant to RCW 13 et. seq., in accordance with the rules, policies and procedures governing the detention of juveniles. The TRIBE's youths will be afforded the same programs and care provided to non-Indian youth, unless otherwise provided in this Agreement.

B. Admission.

1. Only youths alleged by the TRIBE or adjudicated by the Skokomish Tribal Court to be youth offenders pursuant to Skokomish Tribal Law shall be referred for custody.

2. TRIBE shall be solely responsible for determining that the youths presented for detention are detainable under Skokomish Tribal Law, and shall certify, by the act of presenting a youth for detention, that the youth is legally detainable under Skokomish Tribal Law.

3. COUNTY shall bear no responsibility to screen referrals against detention criteria and legal standards for detention and TRIBE shall defend and hold COUNTY harmless for any legal action resulting from detention of a youth wrongfully presented by TRIBE for detention and shall pay any judgment assessed against COUNTY for wrongly detaining a Tribal youth.

4. Prior to presenting a youth for detention, TRIBE shall contact the detention center and obtain verification that COUNTY will accept the youth for detention. All pertinent court orders concerning a youth being presented for detention shall be provided to the detention staff at the time the youth is presented for detention.

5. Any youth who is unconscious, intoxicated due to alcohol or drugs, or gravely disabled will not be accepted into detention.

6. Any youth with significant injuries, or who reports that he or she is currently experiencing significant medical problems may be accepted into detention only when approved fit for detention by a medical doctor.

7. COUNTY will accept youths for detention from TRIBE pursuant to this Agreement based upon the availability of bed space. COUNTY reserves the right to release TRIBAL youth should over-crowding at the detention facility necessitate such a release.

8. Any Tribal youth serving a split sentence (weekends/holidays) will not be accepted into custody on any weekend when adequate detention space is not available.

9. Should a youth be rejected for admission or released from detention, TRIBE shall immediately, within six (6) hours of presenting youth for detention, arrange pick up of the youth.

10. TRIBE shall, to the fullest extent practicable, provide all information regarding its detainees as is routinely required by the detention facility. Such information shall include any known accommodation requirements for detainees pursuant to the Americans with Disabilities Act and the information identified on the detention facilities' Intake Assessment Records, a true copy of which is attached hereto and incorporated herein by reference.

III. TRANSPORTATION

A. TRIBE shall assume the financial responsibility for costs necessary to secure emergent medical evaluations and/or treatment, or transportation to support the reasonable necessary operational needs of the Department.

B. Cost for transportation performed by the COUNTY staff shall be 44.5 cents per mile and \$28.00 per hour.

C. TRIBE shall guarantee transportation for detainees upon release from custody for any reason.

D. TRIBE will provide, or arrange, for all transportation of detainees to and from detention.

E. TRIBE shall arrange to pick up the detainee within six (6) hours of notification of the release date and time from the detention center.

F. A detainee serving a sentence or commitment will not be held beyond his/her sentence commitment expiration date and time.

IV. MEDICAL TREATMENT

A. COUNTY shall provide to Tribal detainees at no additional charge those routine medical services that are provided to other detainees for which the health care provider does not render a separate billing for providing care to a specific individual.

B. TRIBE shall reimburse COUNTY for dental services, prescription drugs, and for medical services for which a health care provider renders a separate billing for providing for care to a specific Tribal detainee.

C. Detention orders shall include language giving consent to emergency medical treatment to the Director (or designee) of Kitsap County Youth Services Center.

D. In the event that a Tribal detainee is hospitalized, COUNTY will immediately contact Tribal law enforcement. Tribal law enforcement will determine and notify COUNTY whether it requires custodial security during the period of hospitalization. If custodial security is required, the TRIBE will be responsible for the cost of the custodial security provided.

V. FEES

A. The basic fee for detention/custody shall be One Hundred Twenty-Five Dollars (\$125.00) per day, per detained youth.

B. A billable custody day shall be defined as all or any part of any calendar day.

VI. BILLING

A. COUNTY shall bill TRIBE for detention costs on a monthly basis, or at a time convenient to the financial management of COUNTY.

B. TRIBE shall pay all billings in a timely manner, not to exceed thirty (30) days from the date of billing.

VII. INSURANCE/HOLD HARMLESS

A. The TRIBE shall obtain, and maintain during the term of this Agreement, public liability insurance, with limits of liability not less than \$1,000,000.00 for each occurrence, and \$500,000 for property damage for each occurrence.

B. TRIBE agrees to defend, indemnify, and hold harmless COUNTY, its appointed and elected officials, employees or agents from and against all liability, loss, cost, damage, and expenses, including costs of attorneys fees in defense thereof because of actions, claims or lawsuits, alleging damages sustained by any person or property including death at any time resulting there from, arising from, or alleged to arise from TRIBE's performance of this Agreement, or as a consequence of any wrongful or negligence act or omission by TRIBE, its appointed and elected officials, employees or agents, and from any actions, claims or lawsuits for damages alleging wrongful detention of Tribal detainee(s) as a result of TRIBE's actions or omissions.

C. The COUNTY agrees to defend, indemnify and hold harmless the TRIBE, its appointed and elected officers, employees and agents, from and against all liability, loss, cost, damage, and expense including costs and attorney fees in defense thereof because of actions, claims or lawsuits alleging damages sustained by any person or property including death at any time resulting there from, arising from or alleged to have arisen from the COUNTY's performance of this Agreement, or as a consequence of any wrongful or negligent acts or omission of the COUNTY, its appointed and elected officials, employees and agents; any actions, claims or

lawsuits for damages alleging wrongful detention of Tribal detainee as a result of COUNTY'S actions; any actions, claims or lawsuits for damages alleging COUNTY's failure or refusal to timely provide notice of requests for legal assistance to the TRIBE by Tribal detainees; or any actions, claims or lawsuit for damages alleging COUNTY'S failure or refusal to timely release Tribal detainees.

VIII. LEGAL REPERESENTATION OF DETAINEE

TRIBE shall be responsible for responding to detainees' request for legal assistance or representation. If a Tribal detainee makes a request for legal assistance or representation to a COUNTY detention officer, or elected or appointed official while detained in the COUNTY facility, the COUNTY shall be responsible for notifying the TRIBE as soon as practicable. The TRIBE does not provide pro bono legal defense to Tribal detainees.

IX. APPLICATION OF DETENTION RULES

Kitsap County Detention Rules and Practices shall be applicable, except in cases of conflict with this Agreement. In the event of such a conflict, this Agreement will control.

X. RELEASE FROM DETENTION

A. Tribal detainees shall be released, upon demand, to any TRIBAL law enforcement officer or authorized representative of the TRIBE. The Director of Skokomish Public Safety or Chair of the Skokomish Tribal Council may authorize such a representative.

B. Tribal detainee shall be released upon written direction or verified verbal direction of the TRIBE or officer thereof.

XI. NON-DETENTION CUSTODY SERVICES

Non-detention custody services shall not be affected by this Agreement. Court services, probation services, or the like, shall continue to be the responsibility of the TRIBE and are not subject to this Agreement.

XII. DISPUTE RESOLUTION

A. If either party disputes any portion of a monthly billing or alleges that the other party is in breach of the contract, they will provide the other party written notice within thirty (30) days. The notice shall detail the amount in question and the grounds for withholding all or a portion of the amount billed or any other basis for the dispute.

B. The Director and the Tribal Police Chief or their designees shall attempt to resolve the dispute by negotiation within thirty (30) days of notification. If such negotiation is unsuccessful, the parties may apply to an appropriate alternate dispute resolution services such as the Judicial Arbitration and Mediation Services (JAMS), for the appointment of an arbitrator whose decision shall be final and binding on the parties. Each party will be responsible for paying one-half of

the arbitrator's fees. If mutual written consent for appointment of an arbitrator cannot be reached, either party may pursue any judicial relief that is available. Venue for such action shall be in the Federal District Court for Western Washington.

C. The TRIBE shall pay the disputed billing amount as determined by the negotiated resolution, arbitrator's decision or court finding within thirty (30) days of the date of the decision. Interest may accrue on any amount improperly withheld by the TRIBE pursuant to Section XII(A) at a rate not to exceed 8% per annum as determined by negotiated resolution, arbitrator's decision or court finding.

XIII. WAIVER OF IMMUNITY

A. The TRIBE authorizes a limited waiver of sovereign immunity from suit to establish its liability, if any, arising under Sections II, III, IV, V, VI, VII(A) of this Agreement, or for court costs and reasonable attorneys' fees, as may be rendered in such suit. Suits arising from the terms of this Agreement may only be made following a good faith effort to resolve any issue through the Dispute Resolution provisions in this Agreement in Section XII. This limited waiver of immunity is limited only to the provisions of this Agreement and shall terminate consistent with the termination of this Agreement.

B. Venue for any action filed under this waiver of immunity shall be in the United States District Court, Western District of Washington or if that court lacks jurisdiction, then the Superior Court of Thurston County.

C. Nothing in this Agreement shall be construed to authorize any suit, execution, attachment, or judicial process against the persons or property of the Skokomish Indian Tribe or any of its officers, agents, or employees, or against the Skokomish Indian Tribal Council or any member thereof, other than as specifically set forth above. In no event shall this Agreement be construed to authorize attachment, execution or other judicial process against real property of the TRIBE, any property held in trust by the United States or subject to restriction against alienation imposed by federal law, or any funds held by or on behalf of the TRIBE and derived from federal or state grants or contracts.

XIV. FILING

The parties will file this Agreement with the Kitsap County Auditor and with the Executive Secretary to the Skokomish Indian Tribal Council, pursuant to Chapter 39.34 of the Revised Code of Washington.

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IN WITNESS THEREOF, the parties hereto have signed and sealed this Agreement,
this ____ day of _____, 20_____.

Approved and executed this _____ day of _____, 2008.

SKOKOMISH INDIAN TRIBE

Denese LaClair, Chair
Skokomish Indian Tribe

Date

Approved as to form:

Amy Pivetta Hoffman, Tribal Attorney

BOARD OF COUNTY COMMISSIONERS KITSAP COUNTY, WASHINGTON

_____, Chair

_____, Commissioner

_____, Commissioner

Attest:

_____, Clerk of the Board