

Approved: 4/27/2022

Effective: 5/14/2022

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 22-012

APPROVING AND AUTHORIZING THE SNOHOMISH COUNTY EXECUTIVE
TO SIGN FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN
SNOHOMISH COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR
STILLAGUAMISH AND SNOHOMISH RIVER MODELING

WHEREAS, the Stillaguamish Tribe of Indians (the "Tribe") was awarded funding from the Washington State Department of Ecology ("Ecology") under Agreement No. SEAFBD-2019-StillTI-00062 (the "Tribal Grant") to implement the Stillaguamish Watershed Integrated Floodplain Management Project; and

WHEREAS, Snohomish County (the "County") was awarded grant funds from Ecology under Agreement No. SEAFBD-2019-SnCoPW-00051 (the "County Grant") to implement the Snohomish Watershed Integrated Floodplain Management Project; and

WHEREAS, the goal of the Tribal Grant and the County Grant is to reduce flood hazards, and protect and restore floodplain function and ecological processes, while supporting values important to the local community such as protecting agricultural productivity, improving water quality, and providing recreational opportunities within the Stillaguamish and Snohomish watersheds in Snohomish County; and

WHEREAS, the County and the Tribe executed an agreement titled "Interlocal Agreement between Snohomish County and Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling" (the "Agreement"), on August 21, 2020

WHEREAS, the County and the Tribe have negotiated the terms of a first amendment to the Agreement, attached to this ordinance as Exhibit A; and

WHEREAS, the first amendment to the Agreement is authorized by the Interlocal Cooperation Act, chapter 39.34 RCW; and

WHEREAS, the County Council held a public hearing on April 27, 2022, to consider approving and authorizing the County Executive to sign the first amendment on the County's behalf;

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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 approves and authorizes the County Executive to execute the *First Amendment to the Interlocal Agreement Between Snohomish County and Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling* in the form attached hereto as Exhibit A.

PASSED this 27th day of April, 2022.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ATTEST:


Asst. Clerk of the Council


Council Chair

- APPROVED
- EMERGENCY
- VETOED

DATE: 5/4/2022


Dave Somers
County Executive

ATTEST: Melissa Geraghty

Approved as to form only:
 12/21/21
Deputy Prosecuting Attorney

EXHIBIT A

to

ORDINANCE NO. 22-012

FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN SNOHOMISH
COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR STILLAGUAMISH AND
SNOHOMISH RIVER MODELING

[See Attached]

**AMENDMENT NO. 1 TO
INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND STILLAGUAMISH
TRIBE OF INDIANS FOR STILLAGUAMISH AND SNOHOMISH RIVER MODELING**

This Amendment No. 1 to Interlocal Agreement Between Snohomish County and Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling (the “First Amendment”) is made and entered into by and between Snohomish County, a political subdivision of the State of Washington (the “County”), and Stillaguamish Tribe of Indians, a federally-recognized Indian Tribe (the “Tribe”).

- A.** The County and the Tribe executed an agreement entitled “Interlocal Agreement between Snohomish County and the Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling” (the “Agreement”), on August 21, 2020;
- B.** The Tribe was awarded grant funds from the Washington State Department of Ecology (“Ecology”) in Ecology Grant Agreement #SEAFBD-2019-StillTI-00062 (“the Tribal Grant”) to implement the Stillaguamish Watershed Integrated Floodplain Management Project;
- C.** The County was awarded grant funds from Ecology in Ecology Grant Agreement #SEAFBD-2019-SnCoPW-00051 (“the County Grant”) to implement the Snohomish Watershed Integrated Floodplain Management Project;
- D.** The goal of the Tribal Grant and the County Grant is to reduce flood hazards, and protect and restore floodplain function and ecological processes, while supporting values important to the local community such as protecting agricultural productivity, improving water quality, and providing recreational opportunities within the Stillaguamish and Snohomish watersheds in Snohomish County;
- E.** The County and the Tribe wish to revise the amount of compensation due to the County for work performed under the Agreement through this First Amendment to reflect the original understanding of the parties; and
- F.** The total budgeted amount for the work to be performed by the County will remain the same, however, the County will be compensated for less than the full amount of the project budget to reflect a 20% match requirement in the Tribal Grant.

NOW, THEREFORE, for and in consideration of the mutual benefits conferred on both parties, the parties agree as follows:

Section 1 Section 7, of the Agreement is amended to read as follows:

The budget for work to be performed under the Agreement is \$375,000.00, as set forth in Appendix B to the Agreement, attached hereto and incorporated herein. The total compensation due to the County under this Agreement shall be 80% of the total cost of the work performed under the Agreement, and in no event shall exceed **\$300,000.00**. The Tribe shall have no obligation to pay any invoice from the County that would cause the total payments made to the County under this agreement to exceed **\$300,000.00**. Although the County will be

compensated no more than \$300,000.00 for work performed under this Agreement, it shall provide to the Tribe documentation of costs up to \$375,000.00 for work performed under the Agreement, consistent with Appendix B to the Agreement. For example, if the project costs total \$375,000.00, the County shall provide to the Tribe documentation of \$375,000.00 of costs, and the Tribe shall compensate the County \$300,000.00; if the project costs total \$350,000.00, the County shall provide to the Tribe documentation of \$350,000.00 of costs, and the Tribe shall compensate the County \$280,000.00.

The Tribe shall have the right to withhold payment of all or any portion of a County invoice provided under Section 9 below if the Tribe has a reasonable good faith basis to believe that the work performed by the County is not consistent with the Scope of Work. In such an event the Tribe shall provide the County a written statement identifying and describing problems or deficiencies it perceives on or before the date such payment is due. Upon receipt of such notice the County shall have twenty (20) days to either correct the problem or object to the Tribe's determination. In the event the County objects the matter shall be submitted to a consulting engineer for review to determine whether work performed by the County is consistent with the Scope of Work, and if not, what remedial action is required to bring the work into compliance. The consulting engineer will be mutually agreed upon by both parties. The Tribe's right to withhold payment shall last until the work has been brought into compliance or the work is deemed consistent with the approved scope and task.

Section 2 All other terms and conditions of the Agreement shall remain in full force and effect except as expressly modified by this First Amendment.

Section 3 This First Amendment may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

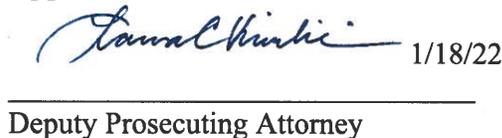
IN WITNESS WHEREOF, the parties hereto enter into this First Amendment as of the date it is fully executed below.

COUNTY:

Snohomish County, a political subdivision of the State of Washington

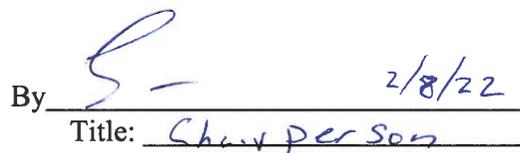
By 
Title: Executive Director

Approved as to Form:

 1/18/22
Deputy Prosecuting Attorney

TRIBE:

Stillaguamish Tribe of Indians, a federally-recognized Indian Tribe

By  2/8/22
Title: Cheryl Peterson

Approved as to Form:

 2/8/22
Attorney