

Approved: 05/01/2024
Effective: 05/16/2024

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 24-025

APPROVING AND AUTHORIZING THE SNOHOMISH COUNTY EXECUTIVE
TO SIGN AN INTERLOCAL AGREEMENT BETWEEN
SNOHOMISH COUNTY AND THE STILLAGUAMISH TRIBE
FOR EQUIPMENT MAINTENANCE AND REPAIR SERVICES

WHEREAS, the Stillaguamish Tribe (the "Tribe") possesses the power and legal authority to maintain and repair equipment owned by the Tribe; and

WHEREAS, Snohomish County (the "County"), through its Department of Facilities & Fleet, provides equipment maintenance and repair services ("Services") to the County and possesses the capability of extending such Services to the Tribe; and

WHEREAS, the Tribe desires to enter into an "Interlocal Agreement for Equipment Maintenance and Repair Services" (the "Agreement") whereby the County will perform Services for the Tribe; and

WHEREAS, Snohomish County is willing to rendering such Services subject to the terms and conditions set forth in the Agreement; and

WHEREAS, the County Fleet Manager has reviewed the Agreement and determined it would increase efficiency and foster cost savings to the County.

WHEREAS, the parties are authorized to enter into an interlocal agreement pursuant to Chapter 39.34 RCW; and

WHEREAS, the County Council held a public hearing on May 1, 2024, to consider approving the Agreement and authorizing the County Executive to sign the Agreement on behalf of the County.

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 and authorizes the County Executive, or designee, to sign the "Interlocal Agreement for Equipment Maintenance and Repair Service" a copy of which is attached to this ordinance as Exhibit A.

1 PASSED this 1st day of May, 2024.

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3 SNOHOMISH COUNTY COUNCIL
4 Snohomish County, Washington

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6 Jared Mead
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8 Chairperson

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10 ATTEST:

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12 M. Deunlar
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14 Deputy Clerk of the Council

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16 (X) APPROVED

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18 () EMERGENCY

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20 () VETOED

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22 DATE: May 6, 2024

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24 [Signature]
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26 County Executive

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28 ATTEST:

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31 Melissa Geraghty
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34 Approved as to form only:

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36 [Signature]
37 Deputy Prosecuting Attorney

EXHIBIT A

Snohomish County
Department of Facilities & Fleet
Fleet Services Division
3402 McDougall Avenue
Everett WA 98201

INTERLOCAL AGREEMENT FOR EQUIPMENT MAINTENANCE AND REPAIR SERVICE

This Equipment Maintenance And Repair Service Agreement is entered into by and between Snohomish County, a political subdivision of the State of Washington (hereinafter referred to as the “County”), and the Stillaguamish Tribe (hereinafter referred to as the “Agency”). In consideration of the mutual promises contained in this Agreement and the mutual benefits to result therefrom, the parties agree as follows:

1. Purpose and Scope of Services. The purpose of this Agreement is to make available to the Agency equipment maintenance, repair and upfit services (“Services”) performed by the County or under third party vendor contracts entered into by the County, pursuant to the authority contained in RCW 39.34.080 and chapter 36.33A RCW.
2. Scheduling Work. The Agency may request that the County provide Services for Agency vehicles and equipment. The Agency shall contact the County’s Shop Supervisor or Communication Repair Technician to request Services and coordinate scheduling. The Agency will provide a description of the asset and any additional information necessary to perform Service requested. If the County is unfamiliar with the particular make and model of the vehicle/equipment, the County may decline the request. When Agency vehicles are in need of scheduled maintenance or unscheduled repair or upfit, such Service will be provided at the County’s Shop Supervisor’s discretion considering County resources and availability. Emergent repairs will be undertaken as soon as reasonably possible given County resources and availability.
3. Transportation. The Agency shall transport its vehicles or equipment to and from a County Service Location designated by the County. In situations where the vehicle or equipment is inoperative, the County’s Shop Supervisor will determine whether the vehicle or equipment shall be towed to the County location at the Agency’s expense, or repaired at the Agency location.
4. Maximum Cost For Repairs--Extent of Work. The cost for each Service order shall not exceed one thousand dollars (\$1,000.00) without consultation by the County with the Agency. If the cost for Services is estimated to exceed one thousand dollars, the County will notify the the Agency Administrator, named below. The Agency Administrator will advise the County whether or not to proceed with specified Service order. Service estimates provided by the County are estimates

only; regardless of the cost, if in the course of performing Services costs are estimated to exceed an original estimate by more than five hundred dollars (\$500), the County will contact the Agency Administrator for permission to proceed with Services.

5. Service Location. The County's three shop locations ("Service Location") are located at Everett, Arlington or Cathcart:

Everett: 3402 McDougall Avenue, Everett WA 98201
Arlington: 19700 67th Avenue NE, Arlington WA 98223
Cathcart: 8915 Cathcart Way, Snohomish WA 98296

6. Compensation. Compensation for Services rendered during the initial and extension terms of this Agreement shall be based on rates approved annually through the County Council budget process and formally distributed by December 1st of the calendar year.

a. County inventory parts shall be supplied at cost plus the County's standard markup rate for services provided in calendar year 2024 to 2028, and, if applicable, any extended term.

b. During calendar year 2024, County labor shall be billed at the following rates:

- i. One Hundred Fifteen and 00/100 Dollars (\$115.00) per hour for Light Equipment Services;
- ii. One Hundred Forty and 00/100 Dollars (\$140.00) per hour for Heavy Equipment Services;
- iii. One Hundred Fifteen and 00/100 Dollars (\$115.00) per hour for two-way radio equipment repair Services; and
- iv. Eighty Five and 00/100 Dollars (\$85.00) per hour for Small Power Equipment.
- v. Overtime labor shall be provided at 1.5 times the above listed hourly rate.

c. Equipment categories are further defined as follows:

- i. "Small Power Equipment" = small gasoline or diesel powered equipment; portable equipment such as chainsaws, weed-eaters, backpack blowers, water pumps, generators, compactors and lawn mowers. This class would typically include small garden tractors and riding lawn mowers.
- ii. "Light Equipment" = Automotive/Light Duty – Passenger cars, law enforcement vehicles and pickup trucks up to 1-ton category (Ford F350 equivalent).

iii. "Heavy Equipment" = Trucks above 1-ton category (F450 equivalent and above) and including dump trucks, vactor trucks, street sweepers, backhoes, aerial lift "bucket" trucks, road graders, snow removal equipment, and other municipal heavy equipment, usually diesel powered.

iv. "Two-Way Radio Equipment" = Emergency and public service two way radio systems and associated accessories and hardware.

d. Vendor repairs shall be provided at County cost plus 15% markup, plus labor for transporting to and from vendor, and direct purchase non-inventory parts shall be supplied at cost +15%.

e. Rates for years 2025 - 2028, and any extended term, will be based on rates approved through the County Council budget process. Rates will be based upon the County's actual cost to perform the Services, including employee wages. The County will notify the Agency in writing of any changes to rates set forth in Section 6 by December 1st of the year preceding the year for which the rates apply. Such new rates shall apply to all Services performed for the Agency starting January 1 of the subsequent year.

6.1. Itemized Statement. At the close of each calendar month, the County shall provide the Agency with an itemized statement detailing the cost of Services, including all categories of items listed in this section.

6.2. Payment. The Agency shall pay the County for services rendered within thirty (30) days after receipt of the statement.

7. Term/Termination/Extension. This Agreement shall govern Services provided from January 1, 2024, through December 31, 2028 ("Initial term"), PROVIDED, HOWEVER, that the term of this Agreement may be extended for one (1) additional five (5) year term, with mutual agreement of the County and the Agency, FURTHER PROVIDED, HOWEVER, that the County's obligations after December 31, 2024, are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

Either party may terminate this Agreement by providing not less than ninety (90) days written notice of the intent to terminate to the other party. The Agency shall remain responsible for payment for all Services provided up until the date of termination.

8. Indemnification. The Tribe shall hold harmless, indemnify, and defend, at its own expense, the County, its elected and appointed officials, officers, employees, and agents from any loss or claim for damages of any nature whatsoever arising out of the Tribe's

performance of this Agreement, including claims by the Tribe's employees, or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of the County, its elected and appointed officials, officers, employees, or agents. The County shall hold harmless, indemnify, and defend, at its own expense, the Agency, its elected and appointed officials, officers, employees, and agents from any loss or claim for damages of any nature whatsoever arising out of the County's performance of this Agreement, including claims by the County's employees or third parties, except for those losses or claims for damages solely caused by the negligence or willful misconduct of the Agency, its elected and appointed officials, employees, or agents.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the COUNTY and the AGENCY, their officers, employees, and agents, each party's liability hereunder shall be only to the extent of their respective negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes both the County's and the City's or Agency's waiver to each other only, of their respective immunity under Industrial Insurance, Title 51 RCW, solely for purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this Section shall survive the expiration or termination of this Agreement.

9. Insurance. The Tribe agrees to maintain commercial general liability insurance in the amount of at least \$1 million per occurrence. The limit for any claim of indemnification will be the insurance limit required by this Agreement.

The County maintains a fully-funded self-insurance program as defined in Snohomish County Code 2.90 for the protection and handling of the County's liabilities, including injuries to persons and damage to property. The self-funded program will respond if an incident occurs involving negligence of County employees acting in the scope of their employment. The County agrees to be responsible for Agency vehicles while in the County's care, custody and control.

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

- a. This limited waiver of immunity shall not extend to interpretation of the Treaty of Point Elliott, 12 Stat. 927, or the rights reserved by the Tribe under that Treaty. This waiver of immunity shall not extend to or be used for or to the benefit of any other person or entity of any kind or description whatsoever, including any successor or assign of the County.

- b. To the extent that jurisdiction obtains, this limited waiver of immunity shall be deemed a consent to jurisdiction only of the Snohomish County Superior Court.
 - c. This limited waiver of immunity in favor of the County shall commence and become effective as of the effective date of this Agreement and shall remain in effect and extend for three (3) years from the ending date under Article 7 or three (3) years from earlier termination of this Agreement as set forth in Article 7 herein. Notwithstanding any applicable statute of limitations or other law, upon expiration of the above three (3) year period that extends from the ending date or early termination of this Agreement under Article 7, this limited waiver of immunity shall be deemed withdrawn without further action by the Tribe or notice to the County.
 - d. Nothing contained in this Agreement shall be deemed a consent to levy of any judgment, lien or attachment upon any assets, property or interest of the Tribe except as specifically described herein.
 - e. Nothing in this Agreement nor any activity of the Tribe shall implicate or in any way involve the trust assets or credit of the Tribe or any of its members.
 - f. The Tribe hereby expressly provides a limited waiver of sovereign immunity to suit with respect to claims made relating to, or arising under, this Agreement by any party, to interpret or enforce the terms of this Agreement, or to a claim of indemnification by the County. The limit for any claim if indemnification will be the insurance limit required by this Agreement. The parties agree that in discharging this indemnification obligation, where the required insurance is procured, the County shall look only to the proceeds of the insurance procured by the Tribe herein and the policy of insurance obtained by the Tribe shall prohibit the insurer from asserting a defense of sovereign immunity to a claim made under the policy. The Tribe warrants its authority to and agrees to assign over to the County, at its request, any and all of its rights against the insurer to effectuate a payment of its indemnification obligation.
11. Notices. All notices required to be given by any party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth below. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed as provided in this paragraph.

AGENCY:
 Stillaguamish Tribe
 Attn: Tribal Chairman
 PO Box 277
 Arlington WA 98223

COUNTY:
 Snohomish County Fleet Services
 Attn: Fleet Manager
 3402 McDougall Avenue
 Everett WA 98201

11. Administrators. Administrators of this Agreement shall be (i) County Fleet Manager at the “COUNTY” address above; and (ii) Stillaguamish Tribe.
14. Jurisdiction. This Agreement has been made and shall be construed according to the laws of the State of Washington. In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the parties agree that such actions shall be initiated in the Superior Court of the State of Washington in and for Snohomish County.
15. Independent Contractor. The parties agree and understand that the County is providing services as an independent contractor and no separate legal or administrative entity is created hereby. The County shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be the employees and agents of the County and not the Agency. The County shall be responsible for salaries, wages, compensation and taxes arising out of the performance of this Agreement. The County’s standards of performance and County personnel policies shall govern the performance of all work or services provided under this Agreement.
16. Severability. If any provision of the Agreement or its application to any person or circumstance is held to be invalid, such decision shall not affect the validity of the remaining portions of this Agreement or its application to other persons or circumstances.
17. Amendment. This Agreement may only be modified or amended in writing, signed by both parties.

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18. Entire Agreement. This Agreement represents the entire agreement between the County and the Agency, superseding all prior negotiations, representations or agreements, written or oral.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed by their official representatives this 1st day of May, 2024.

SNOHOMISH COUNTY

By: Klein, Ken
County Executive
Ken Klein
Executive Director

Digitally signed by Klein, Ken
Date: 2024.05.01 14:59:55 -07'00'

STILLAGUAMISH TRIBE

By: [Signature] 02/22/24
Name/Title:
ERIC WHITE
CHAIRMAN, BOARD OF DIRECTORS

Approved As To Form:

[Signature] 1/29/24
Deputy Prosecuting Attorney

ATTEST:

[Signature] 02/22/24
Stillaguamish Police Chief
MATTHEW ECKER

COUNCIL USE ONLY
Approved <u>5/1/2024</u>
ECAF # <u>2024-0296</u>
MOT/ORD <u>Ordinance 24-025</u>

Approved As To Form

[Signature]
Tribal Attorney