

Jefferson County
Board of Commissioners
Agenda Request

To: Board of Commissioners
Philip Morley, County Administrator

From: Frank Gifford, Public Works Director *FG*

Agenda Date: July 25, 2011

Subject: Interlocal Agreement between Jefferson County and the Hoh Tribe

Statement of Issue: An interlocal agreement between Jefferson County and the Hoh Tribe.

Analysis/Strategic Goals/Pro's & Con's: The purpose of this agreement is to provide for cooperation between Jefferson County and the Hoh Tribe by allowing either party to furnish labor, equipment, or materials when available to the other party on a reimbursable basis. Each Request for Work will be in writing and will specify the particular service required.

Fiscal Impact/Cost Benefit Analysis: For each Request for Work, the party receiving services will reimburse the party providing services for their actual direct and related indirect costs including any administrative overhead charges. There are no minimum or maximum dollar amounts established for the Interlocal Agreement, or for individual Requests for Work.

Recommendation: Please sign the attached three (3) originals of the Agreement. Please return two to Public Works and retain one for your records.

Department Contact: Monte Reinders, P.E., County Engineer, 385-9242.

Reviewed By:

Philip Morley, County Administrator

Date

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

This Interlocal Agreement is made and entered into this ____ day of _____, 2011 pursuant to the provisions of Chapter 39.34 RCW by and between the County of Jefferson and the Hoh Indian Tribe. Either party to the agreement may request labor, equipment, or materials from the other Agency as they find mutually beneficial.

WHEREAS, both parties employ persons who specialize in certain types of work and may also own certain types of equipment and have access to certain materials, and

WHEREAS, the parties may from time to time need additional labor, equipment, or materials or have labor, equipment, or materials available in certain locations which could be used by the other party to this agreement, and

WHEREAS, both parties will benefit from cooperation in this manner, and

WHEREAS, Chapter 39.34 RCW provides that local governmental agencies and Indian tribes may enter into cooperative agreements for their mutual benefit.

NOW THEREFORE, in accordance with RCW 39.34 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made part hereof, the County of Jefferson and the Hoh Indian Tribe, through their respective legislative bodies, do hereby agree as follows:

**I
PURPOSE OF AGREEMENT**

The purpose of this agreement is to provide for cooperation between the parties by allowing either party to furnish labor, equipment, or materials when available to the other party on a reimbursable basis.

**II
ADMINISTRATION OF AGREEMENT**

This Interlocal Agreement shall be administered by both parties. For Jefferson County, it shall be administered by the Director of Public Works. For the Hoh Tribe, it shall be administered by the Hoh Tribe Executive Director.

**III
REQUEST FOR SERVICES**

Each request for service shall be in writing and shall specify the particular service required; the amounts and types of labor, equipment, and material required; the location of the work; the estimated cost of the work; and other information pertinent to the request. Upon receipt of the request, the party which has been requested to supply the service shall indicate their acceptance or rejection of the request, have it signed by their authorized official, and return one copy to the requesting party. In cases of emergency, the request and approval may be done verbally, but must be documented in writing within 48 hours of the verbal request.

**IV
PAYMENT**

The parties to this agreement agree that the party receiving services under this agreement shall reimburse the party providing the services for their actual direct and related indirect costs including any administrative overhead charges. Partial payments shall be made by the party receiving services upon request of the providing party, to cover costs incurred. These payments are not to be more frequent than one (1) per month. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item.

**V
RECORDS RETENTION AND AUDIT**

The parties agree to maintain records of all costs incurred under this agreement, in accordance with a work order accounting system as prescribed and approved by the State Auditor's Office. These records shall be kept available for inspection and audit by the party requesting the service for five (5) years after payment of the requested service.

**VI
CARE AND MAINTENANCE OF EQUIPMENT**

The parties agree that any time a request is made for the use of equipment that the requesting party shall be responsible for the proper care, maintenance, and security of the equipment until the equipment is returned to the owner. Any damage other than normal wear and tear will be the responsibility of the party in possession of the equipment at the time the equipment is damaged.

**VII
RIGHT OF ENTRY**

The parties to this agreement hereby grant and convey to each other the right of entry upon all said land in which the parties have interest, within or adjacent to the right of way of the highway,

road, or street for the purpose of accomplishing all work or services requested as part of this agreement.

VIII EMPLOYEES

All employees assigned to work pursuant to this agreement remain employees of their respective agency at all times and shall perform the work requested under sole supervision of their agency. Procedures used in performance of work pursuant to this agreement shall be mutually agreed to in writing.

IX LEGAL RELATIONS

No liability shall attach to the parties to this agreement by reason of entering into this agreement except as expressly provided herein. Each party shall defend, indemnify, and hold harmless the other party from and against all claims, suits and/or other actions arising from any negligent or intentional act or omission of that party's employees, agents, and/or authorized subcontractors arising from the performance of this agreement.

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 IX of this Agreement, and for no other purpose. Neither party hereto 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 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 and to the recovery of damages to the extent covered by insurance. Except for the limited waiver of sovereign immunity provided in this section, nothing in this agreement shall be construed as a general or specific waiver of the 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 Tribe.

Any legal proceeding regarding the mutual indemnities agreed to by the parties herein shall be brought in the United States District Court for the Western District of Washington, at Seattle; provided, however, that if for any reason the U.S. District Court lacks jurisdiction over the matter, then the suit may be heard in the Hoh Tribal Court or in the Superior Court of the State of Washington for Kitsap County. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

X
INSURANCE

The County is self-insured through the Washington Counties Risk Pool (WCRP) program.

Prior to commencing work, the Hoh Indian Tribe shall obtain at its own cost and expense the following insurance from companies licensed in the State with a Best's rating of no less than A: VII. The Hoh Indian Tribe shall provide to the County Risk Manager certificates of insurance with original endorsements affecting insurance required by this clause prior to the commencement of work to be performed.

The insurance policies required shall provide that thirty (30) days prior to cancellation, suspension, reduction or material change in the policy, notice of same shall be given to the County Risk Manager by registered mail, return receipt requested, for all of the following stated insurance policies.

A. Workers Compensation and Employers Liability Insurance. The Hoh Indian Tribe shall procure and maintain for the life of the contract, Workers Compensation Insurance, including Employers Liability Coverage, in accordance with the laws of the State of Washington.

B. General Liability(1) - with a minimum limit per occurrence of one million dollars (\$1,000,000) and an aggregate of not less than two million dollars (\$2,000,000) for bodily injury, death and property damage unless otherwise specified in the contract specifications. This insurance coverage shall contain no limitations on the scope of the protection provided and indicate on the certificate of insurance the following coverage:

1. Broad Form Property Damage with no employee exclusion;
2. Personal Injury Liability, including extended bodily injury;
3. Broad Form Commercial Liability;
4. Premises - Operations Liability (M&C);
5. Independent Contractors and Subcontractors; and
6. Blanket Contractual Liability.

(1)Note: The County shall be named as an additional insured party under this policy.

C. Automobile (2) - with a minimum limit per occurrence of \$1,000,000 for bodily injury, death and property damage unless otherwise specified in the contract specifications. This insurance shall indicate on the certificate of insurance the following coverage:

1. Owned automobiles;
2. Hired automobiles; and,
3. Non-owned automobiles.

(2) Note: The County shall be named as an additional insured party under this policy.

XI TERMINATION OF AGREEMENT

The right is reserved by the parties to this agreement to terminate the agreement at any time by giving 30 days written notice to the other party.

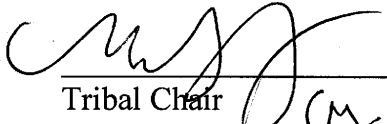
XII DURATION OF AGREEMENT

This Interlocal Agreement shall be of indefinite duration unless terminated pursuant to Section XI above.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

HOH INDIAN TRIBE

BOARD OF COMMISSIONERS
JEFFERSON COUNTY, WASHINGTON


Tribal Chair (Maria Lopez)

John Austin, Chair

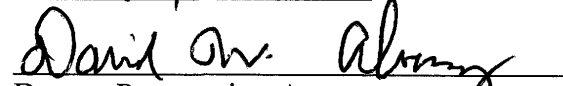
7/13/11
Date

Phil Johnson, Member

David Sullivan, Member

Date

Approved as to form only this 11th day of
JULY, 2011.


Deputy Prosecuting Attorney


Frank Gifford, Public Works Director