SULTAN CITY COUNCIL
AGENDA ITEM

ITEM NO: Consent C 12

DATE: May 27, 2010

SUBJECT: Interlocal Agreement with Snohomish County for Jail Services – Addendum No. 1

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

ISSUE:
The issue before the Council is to authorize the Mayor to sign Addendum No. 1 to the Interlocal Agreement with Snohomish County for Jail Services.

SUMMARY:
The City has an Interlocal Agreement with Snohomish County to provide jail services to the City. The agreement was approved by the City Council in November 2009.

The addendum corrects specific paragraph reference errors noted in the Interlocal Agreement.

1. Section 1 deletes the reference to "Section 9(d) in Paragraph 8.F to the correct reference of Section 9(e).
2. Section 2 deletes the reference to Section 3(a) in Paragraph 1.D of Exhibit B to read Section 3(A)
3. Section 3 deletes the reference to Section 3(b) in Paragraph 1.E of Exhibit B to read Section 3(B) of Exhibit B.
4. Section 4 deletes the reference to Section 3(a) in Paragraph 3.C of Exhibit B to read Section 3(A) of Exhibit B.
5. Section 5 deletes the reference to Section 5(b)(i) in Paragraph 5.D of Exhibit B to read Section 5(B) of Exhibit B.

RECOMMENDATION:
Authorization for the Mayor to sign Addendum No. 1 of the Interlocal Agreement with Snohomish County for Jail Services.

Attachment: A. Interlocal Agreement Addendum No. 1 for Jail Services
B. Original Interlocal Agreement for Jail Services

ATTACHMENT A-1

ADDENDUM NO. 1
TO INTERLOCAL AGREEMENT FOR JAIL SERVICES
SNOHOMISH COUNTY AND THE CITY OF SULTAN

THIS ADDENDUM NO. 1 is entered into concurrently with the Interlocal Agreement For Jail Services between Snohomish County and the City of Sultan ("Jail Services Interlocal"). The terms of this Addendum supersede in all respects any inconsistent terms of the Jail Services Interlocal.

The parties agree to amend and/or supplemental the Jail Services Interlocal as follows:

1. By deleting the reference to "Section 9(d)" in Paragraph 8.F of the Jail Services Interlocal to read "Section 9(E)". The corrected Paragraph 8.F shall read as follows:

> F. The COUNTY will provide transportation of CITY inmates to the following courts for arraignment, trial or other hearing as required by the following Divisions of the Snohomish County District Court: Cascade Division, Everett Division, Evergreen Division and South Division, PROVIDED that should the COUNTY consolidate all in-custody District Court matters into one Division of the District Court, then the COUNTY will provide transportation only to the consolidated court location. Nothing in this Agreement shall be construed to prevent the CITY from transporting its own inmates to and from a court appearance. The COUNTY will provide transportation of CITY inmates to and from medical facilities when the Jail Medical Supervisor has determined that such treatment is necessary under Section 9.E. The CITY will furnish all other transportation of CITY Inmates.

2. By deleting the reference to "Section 3(a)" in Paragraph 1.D of Exhibit B of the Jail Services Interlocal to read "Section 3(A)". The corrected Paragraph 1.D of Exhibit B shall read as follows:

> D. "Work Crew In Custody" or "WC In Custody" means that Community Corrections Program described in Section 3(A) of Exhibit B of this Agreement.

3. By deleting the reference to "Section 3(b)" in Paragraph 1.E of Exhibit B of the Jail Services Interlocal to read "Section 3(B) of Exhibit B. The corrected Paragraph 1.E of Exhibit B shall read as follows:

A.2

E. "Work Crew Out of Custody" or "WC Out of Custody" means that Community Corrections Program described in Section 3(B) of Exhibit B of this Agreement.

4. By deleting the reference to "Section 3(a)" in Paragraph 3.C of Exhibit B of the Jail Services Interlocal to read "Section 3(A) of Exhibit B. The corrected Paragraph 3.C of Exhibit B shall read as follows:

C. Additionally, if a CITY Inmate who is sentenced to secure confinement meets the requirements set forth in Section 3(A) of Exhibit B, the CITY Inmate may be classified as a minimum security resident (MSR) and relocated as spelled out in Snohomish County Code 5.20.010.

5. By deleting the reference to "Section 5(b)(i)" in Paragraph 5.D of Exhibit B of the Jail Services Interlocal to read "Section 5(B)" of Exhibit B. The corrected Paragraph 5.D of Exhibit B shall read as follows:

D. In the event that a CITY Inmate is terminated from a Community Corrections Program and is transferred to the COUNTY Jail pursuant to Section 5(B) of Exhibit B hereof, the CITY shall be billed for the day in which the transfer occurs pursuant to its Jail Services Agreement and not pursuant to this Agreement.

EXCEPT AS AMENDED HEREIN, ALL PROVISIONS OF THE JAIL SERVICES INTERLOCAL SHALL REMAIN IN FULL FORCE AND EFFECT.

"COUNTY" Snohomish County	"CITY" City of Sultan
_____ Aaron Reardon, County Executive DATE: _____	_____ Print Name/Title: _____ DATE: _____
APPROVED AS TO FORM:	APPROVED AS TO FORM:
_____ Deputy Prosecutor Attorney DATE: _____	_____ City Attorney DATE: _____

APPROVAL RECOMMENDED:

_____
John Lovick, Sheriff
DATE: _____

REVIEWED BY RISK MANAGEMENT:

_____
Diane Weber, Loss Control Manager
DATE: _____

ATTACHMENT B

INTERLOCAL AGREEMENT FOR JAIL SERVICES

THIS INTERLOCAL AGREEMENT FOR JAIL SERVICES (the "Agreement") is entered into by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (hereinafter COUNTY) and the City of **[SULTAN]**, a municipal corporation of the State of Washington (hereinafter CITY).

NOW, THEREFORE, in accordance with the Interlocal Cooperation Act (Chapter 39.34 RCW) and the City and County Jails Act (Chapter 70.48 RCW), the COUNTY and CITY hereby agree as follows:

Section 1 Definitions

A. The term "Jail" means a COUNTY operated facility primarily designed, staffed, and used for the housing of adults charged or convicted of a criminal offense; for the punishment, correction, and rehabilitation of offenders convicted of a criminal offense; or for confinement during a criminal investigation or for civil detention to enforce a court order. Upon the date of the execution of this Agreement, Jail includes the Snohomish County Main Jail and Community Corrections.

B. The term "Book" means the act of registering, screening and examining inmates for confinement in the Jail; inventorying and safekeeping inmates' personal property; maintaining all computerized records of arrest; performing warrant checks; and all other activities associated with processing an inmate for confinement.

C. The term "CITY Inmate" means a person Booked or housed in the Jail for whom the CITY is a billable agency under the procedure set out in Section 6.

D. The term "COUNTY Inmate" means any person Booked or housed in the Jail who is not a CITY Inmate.

E. The term "Bureau Chief" means the Corrections Bureau Chief, Snohomish County Sheriff's Office.

F. The term "CITY Municipal Code" means the Municipal Code of the CITY signing this Agreement.

G. The term "CITY Municipal Court" means the Court of Limited Jurisdiction charged with hearing violations of the CITY Municipal Code, including any division of the COUNTY District Court acting for the CITY via a service contract.

H. The term "Cities" means collectively all cities that have executed Interlocal Agreements for Jail Services with the COUNTY in substantially the same form as this Agreement.

I. The term "Force Majeure" means war, civil unrest, and any natural event outside of the party's reasonable control, including fire, storm, flood, earthquake or other act of nature.

J. The term "Business Day" means Monday through Friday, 8:00 a.m. until 5:00 p.m. excluding COUNTY recognized holidays,

K. The term "maximum allowable population level" means the greatest allowable number of inmates that can be held in the Jail in a safe, secure humane manner. The maximum allowable population level shall be determined by the Sheriff or his designee.

Section 2 Purpose

Under the authority of Chapter 70.48 RCW, the COUNTY maintains a Jail. The CITY from time to time desires to confine CITY inmates in the COUNTY Jail. In return for payment as specified in Section 9, the COUNTY agrees to furnish its facilities and personnel for confinement of CITY prisoners subject to the terms of this agreement. Community Corrections options will also be made available to qualifying CITY Inmates based on rules and conditions as laid out in Exhibit B, attached hereto and incorporated herein by reference.

Section 3 Term

This Agreement shall be in effect from the date of signature and shall continue until December 31, 2014, or until terminated by either party in accordance with Section 4, PROVIDED that the COUNTY'S obligations are contingent upon local legislative appropriation of necessary funds in accordance with applicable laws and the Snohomish County Charter.

Section 4 Termination

In the event that either party desires to terminate this agreement, one (1) year's written notice shall be provided to the other party.

Section 5 Population Level Limitation

In the event that the Jail's maximum acceptable population level is reached, inmates who are confined on Snohomish County charges or commitments will have first priority. In the event that inmate's are required to leave the Jail, out-of-county inmates shall be the first inmates removed. Every effort will be made to manage the average daily population (ADP), including booking restrictions as a method to lower the ADP. The Bureau Chief shall have final authority on reduction measures.

Section 6 Placing CITY Inmates in Jail by Law Enforcement Personnel

Subject to the conditions stated herein, and the constraints listed in the previous sections, the COUNTY will accept arrested persons delivered to the Jail for confinement, including persons arrested for, or convicted of, violations of the CITY Municipal Code and will hold them until such time as they are lawfully discharged from custody pursuant to law, or returned to the custody of the CITY.

A. CITY law enforcement personnel will follow all Jail procedures when presenting arrested persons for Booking.

B. The Jail will not receive a person into custody until the officer having custody of the person provides the Jail with proper documentation of the Jail's legal basis to hold the person in custody. Proper documentation will consist of an arrest warrant, the order of a court of competent jurisdiction, or a properly completed Notice of Arrest on the form provided by the court into which the person is being cited.

C. An arrested person will not be considered a CITY Inmate for purposes of this Agreement until transfer of custody is complete. Transfer of custody from CITY law enforcement personnel to the Jail will not occur until the Jail receives both the legal basis to hold the arrested person and has medically cleared the arrested person as "fit for Jail". The Bureau Chief shall have final authority on all "fir for Jail" determinations.

D. A CITY police officer may request that a person be Booked for information purposes only (I.D. Booking), in which case, the person will be Booked and immediately thereafter returned to the custody of the CITY police officer.

E. Conditions under which an inmate is billable to a CITY:

a. Inmate Status: An inmate is billable to a CITY during the time period when:

i. The inmate is being held on violation of a misdemeanor or gross misdemeanor or on a warrant or court order issued by the CITY's Municipal Court;

ii. The inmate is not being held on any active County felony charge; and

iii. The inmate is not a Federal inmate who can be removed by the Federal agency without regard to local charges.

b. An inmate is also billable to a CITY during the time when:

i. The inmate is billable to a CITY in accordance with Section 6(E)(a);

and;

ii. The inmate is being held by the State for a violation of the Offender Accountability Act and the CITY will not allow the State to move the inmate.

F. Active vs. Inactive Charges: A charge is considered inactive and not relevant for billing purposes when:

a. The inmate receives a personal recognizant release, posts bail or finishes serving a sentence on that charge; or

b. The charge is dismissed, not filed or otherwise withdrawn; or

c. The charge carries a consecutive sentence the prisoner has not yet begun to serve; or

d. The agency with jurisdiction on that charge cannot remove the inmate to its own facility until other charges requiring the inmate's custody in the Jail are satisfied.

G. Booking Fees: Booking fees are assessed against the Cities or agencies billable at time of Booking. A CITY that becomes billable only when Booking charges become inactive or when new charges are added is not responsible for any part of the Booking fee.

H. A City will not be billed for subsequent Bookings when the inmate:

a. Returns from a furlough or temporary removal order, unless the inmate is arrested and charged with escape for failing to return voluntarily; or

b. Is serving a sentence on weekends; or

c. Has more charges than can be contained in single Booking record, requiring the creation of a new Booking.

I. The CITY will be billed for a subsequent Booking following a break in custody when the inmate:

a. Is Booked on new charges; or

b. Returns to custody on a warrant or bond surrender or to serve a sentence on a charge on which the inmate was previously Booked; or

c. Did not return voluntarily from a court ordered temporary removal order or

furlough but rather was returned under arrest and charged with escape.

Section 7 Walk-In Commitments

A. Subject to the conditions stated herein, the COUNTY will accept persons sentenced to a term of confinement to Jail by a CITY Municipal Court, including persons convicted of violations of the CITY Municipal Code and will hold them until such time as they are lawfully discharged from custody pursuant to law and the terms of the judicial Order of Commitment, or returned to the custody of the CITY.

B. A person reporting for commitment will not be Booked until a valid judicial Order of Commitment has been received from the CITY Municipal Court.

C. A person reporting for commitment will not be considered a CITY inmate for the purposes of this Agreement until the person is accepted for Booking. Acceptance for Booking will occur when the Jail receives an Order of Commitment and has medically cleared the person reporting for commitment as "fit for Jail". In the event that a person reporting for commitment is not accepted for Booking, the Jail will notify the CITY Municipal Court of the person's non-acceptance and the reason for the non-acceptance. Notification will occur on the same day if the non-acceptance occurs during a Business Day or on the following Business Day if the non-acceptance occurs after the end of a Business Day.

Section 8 Rules Relating to Prisoners in Custody.

A. Persons convicted of violations of the CITY Municipal Code may earn early release time of up to one third of the total sentence as authorized by Chapter 9.94A RCW.

B. Investigators directed by the CITY attorney and CITY police officers will have the right to interview CITY inmates inside the confines of the Jail, subject to necessary operational and security rules. Interview rooms will be made available as appropriate to CITY police officers in equal priority with those of other CITY police departments.

C. CITY Inmates will be under the complete charge of the COUNTY and subject to all applicable rules of the Jail, including any emergency security rules imposed by the Bureau Chief. It is expressly agreed by the CITY that visitation and telephone privileges of CITY inmates, if any, will be the same as COUNTY inmates and subject to applicable requirements of law.

D. The Jail will be administered by the COUNTY in accordance with the rules and regulations of the COUNTY, COUNTY ordinances and in accordance with the rules and regulations of any agency of the State of Washington empowered to make rules governing the administration of county jails.

E. CITY Inmates may be made inmate workers at the discretion of the COUNTY, and such inmates may be allowed by the COUNTY to work on public property.

F. The COUNTY will provide transportation of CITY inmates to the following courts for arraignment, trial or other hearing as required by the following Divisions of the Snohomish County District Court: Cascade Division, Everett Division, Evergreen Division and South Division, PROVIDED that should the COUNTY consolidate all in-custody District Court matters into one Division of the District Court, then the COUNTY will provide transportation only to the consolidated court location. Nothing in this Agreement shall be construed to prevent the CITY from transporting its own inmates to and from a court appearance. The COUNTY will provide transportation of CITY inmates to and from medical facilities when the Jail Medical Supervisor has determined that such treatment is necessary under Section 9(d). The CITY will furnish all other transportation of CITY Inmates.

Section 9 Fees

A. The CITY will pay the COUNTY fees for services as follows:

a. Booking Fee: A Booking Fee shall be assessed for the Booking of CITY Inmates by or on behalf of the CITY into the Jail. It is the only fee charged for inmates released within four (4) hours of Booking into the Jail. The 2010 Booking Fee shall be ninety dollars ($90) per Booking.

b. Daily Maintenance Fee: A Daily Maintenance Fee shall be assessed for each calendar day that a CITY Inmate is housed in the Jail. This fee shall not be charged for inmates released within four (4) hours of Booking. The 2010 Daily Maintenance Fee shall be sixty-two dollars and fifty cents ($62.50) per day for each housing day.

c. Work Release Daily Fee: A Work Release Daily Fee shall be assessed for each calendar day that a CITY Inmate is housed in the Work Release facility. The 2010 Work Release Daily Fee shall be forty-two dollars ($42) per day for each housing day.

d. Electronic Home Detention (EHD) daily fee: An EHD daily fee shall be assessed for each calendar day that a CITY Inmate participates in the EHD program. The 2010 EHD daily fee shall be sixteen dollars ($16) per day for each housing day. The COUNTY will prorate the CITY's fee based on an inmate's ability to pay a portion of the EHD fee.

e. In-Custody Work Crew Daily Fee: An In-Custody Work Crew Daily Fee shall be assessed for each calendar day that a CITY Inmate participates in the In-Custody Work Crew program. The 2010 In-Custody Work Crew Fee shall

be forty-two dollars ($42) per day for each housing day.

B. The billing process calculates booking and daily inmate charges using proportional methodology. If multiple jurisdictions have an open misdemeanor charge on an individual, the jurisdictions will share the cost as long as an open charge persists for that agency. A contract agency is billed for booking an individual for its misdemeanor charge or charges. If there are open charges with more than one contract agency, each agency will be billed in equal portions. The same process applies for determining the daily billing. When a contracting agency's charge is closed, that agency drops from the proportional billing process. The proportional billing is recalculated without that agency. If an agency has multiple open misdemeanor charges, the agency is only billed as one element of the proportional booking process, equal to all others with open misdemeanor charges. Additionally, there will be no partial days billed. The billing process looks at who is billable to whom each day and bills accordingly. See Exhibit A attached hereto and incorporated herein by reference.

C. Fees will increase each calendar year during the term of this Agreement by a rate equal to ninety percent (90%) of the Bureau of Labor Statistics Consumer Price Index (Urban Wage Earners) for the Seattle-Tacoma-Bremerton area, measured from June of the prior year to June of the current year. In no event shall the increase be greater than three percent (3%).

D. In July each year, the COUNTY will provide the CITY with Fees for the following year. Annual revision of fees will be established by notice to the CITY, as provided in Section 14. The new fees will go into effect with the January billing.

E. Costs incurred for necessary medical services provided to CITY Inmates beyond routine medical examinations, tests, procedures and prescriptions will be borne by the CITY in addition to the basic rates set out in Section 9(A). If an inmate suffers an injury while in the custody of the Jail, the COUNTY will bear all expenses not covered by the inmate's health insurance and/or public assistance. The Custody or Medical Supervisor(s) on duty in the Jail is hereby granted the authority to seek necessary medical services for CITY Inmates without consulting with CITY officials; PROVIDED, that when it appears that a CITY Inmate, due to illness, will incur unusual or substantial medical expenses, the COUNTY shall notify the CITY prior to seeking treatment unless immediate treatment is required for a life threatening emergency. If the Custody or Medical Supervisor(s) on duty orders immediate treatment, the COUNTY will notify the CITY as soon after the event as possible. The CITY and the COUNTY will comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Snohomish County policies and procedures regarding HIPAA. The COUNTY will credit amounts received from the inmate's own health insurance and applicable public assistance before billing the CITY.

Section 10 Method of Payment & Billing Dispute Resolution Procedure

A. The COUNTY shall transmit billings to the CITY monthly. Within thirty (30) days after receipt, the CITY shall pay the full amount billed.

B. Payments from the CITY shall clearly indicate that the payment is for Jail services and the period covered by the payment.

C. If a CITY disputes amounts billed, it shall have thirty (30) days after receipt of billing to notify the COUNTY of alleged mistakes incorrectly calculating the amount the CITY owes the COUNTY. The CITY will provide the COUNTY with documentation for all alleged discrepancies. The COUNTY will address all alleged discrepancies within fifteen (15) working days of receipt of documentation. Credits for resolved discrepancies will be reflected on next billing cycle. The COUNTY will notify the CITY of all unresolved discrepancies.

D. Withholding of any amount billed or alleging that any party is in violation of any provision of this Agreement shall constitute a dispute, which shall be resolved as follows:

   a. The Bureau Chief and CITY Police Chief or their designees shall attempt to resolve the dispute by negotiation. If such negotiation is unsuccessful, the dispute shall be appealed to the Chief Executive Officer of the CITY and the COUNTY Executive for settlement. If not resolved within thirty (30) days of referral, the Chief Executive Officer of the CITY and the COUNTY Executive 1) may by mutual written consent apply to the Presiding Judge of the Snohomish County Superior Court for appointment of an arbitrator whose decision shall be final and binding on both parties. OR 2) may invoke the procedures set out in RCW 39.34.180(3) for binding arbitration. Each party shall pay one-half of any arbitration fees incurred.

   b. Any amount withheld from a billing, which is determined to be owed to the COUNTY pursuant to the dispute resolution procedure described herein, shall be paid by the CITY within thirty (30) days of the date of the negotiated resolution or appeal determination.

E. Any undisputed billing amount not paid by the CITY within forty-five (45) days of receipt of the billing, and any amounts found to be owing to the COUNTY as a result of the billing dispute resolution procedure set forth in Section 10(D) that are not paid within thirty (30) days of dispute resolution, shall be conclusively established as a lawful debt owed to the COUNTY by the CITY, shall be binding on the parties and shall not be subject to legal question either directly or collaterally. This provision shall not limit a CITY's ability to challenge or dispute any billings that have been paid by the CITY.

F. If the CITY fails to pay a billing within forty-five (45) days of receipt, the CITY shall be deemed to have waived its right to house CITY Inmates in the Jail and, at the COUNTY's request, will remove CITY Inmates already housed in the Jail within thirty (30) days. Thereafter, the COUNTY, at its sole discretion, may accept no further CITY Inmates until all outstanding bills are paid.

G. The COUNTY may charge an interest rate equal to the interest rate on the monthly COUNTY investment earnings on any undisputed billing amount not paid by the CITY within forty-five (45) days of receipt of the billing, and any amounts found to be owing to the COUNTY as a result of the billing dispute resolution procedure.

H. Each party many examine the other's books and records to verify charges. If an examination reveals an improper charge, the next billing statement will be adjusted appropriately.

Section 11 Indemnification

A. The COUNTY shall indemnify and hold harmless the CITY and its officers, agents, and employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason of or arising out of any negligent action or omission of the COUNTY, its officers, agents, and employees, or any of them related to the services provided under this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the CITY, the COUNTY shall defend the same at its sole cost and expense; provided, that, the CITY retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the CITY and its officers, agents, and employees, or any of them, or jointly against the CITY and the COUNTY and their respective officers, agents, and employees, or any of them, the COUNTY shall satisfy the same.

B. The CITY shall indemnify and hold harmless the COUNTY and its officers, agents, and employees, or any of them, from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the CITY, its officers, agents, and employees, or any of them related to the arrest or confinement of a CITY inmate. In the event that any suit based upon such a claim, action, loss, or damage is brought against the COUNTY, the CITY shall defend the same at its sole cost and expense; provided that the COUNTY retains the right to participate in said suit if any principle of governmental or public laws is involved; and if final judgment be rendered against the COUNTY, and its officers, agents, and employees, or any of them, or jointly against the COUNTY and the CITY and their respective officers, agents, and employees, or any of them, the CITY shall satisfy the same.

C. In the event of the concurrent negligence of the parties, the COUNTY's and the CITY's obligations hereunder shall apply to the percentage of fault attributable to the COUNTY and CITY or the COUNTY's and CITY's agents, employees or officials respectively.

D. The foregoing indemnity is specifically and expressly intended to constitute a waiver of the CITY's indemnity under Washington's Industrial Insurance act, Title 51 RCW, as respects the COUNTY only, and only to the extent necessary to provide the COUNTY with a full and complete indemnity of claims made by the CITY's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

E. In executing this agreement, the COUNTY does not assume liability or responsibility for or in any way release the CITY from any liability or responsibility, which arises in whole or in part from the existence or effect of the CITY Municipal Code, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such CITY Municipal Code, rule or regulation is at issue, the CITY shall defend the same at its sole expense and if judgment is entered or damages are awarded against the CITY, the COUNTY, or both, the CITY shall satisfy the same, including all chargeable costs and attorney's fees.

F. The terms of Section 11 shall survive the termination or expiration of this Agreement.

Section 12 Non-Waiver of Rights

Except as provided in subsections 11(E) or 11(F), no waiver of any right under this Agreement shall be effective unless made in writing by the authorized representative of the party to be bound thereby. Failure to insist upon full performance of any one or several occasions does not constitute consent to or waiver of any later non-performance nor does payment of a billing or continued performance after notice of a deficiency in performance constitute an acquiescence thereto. The parties are entitled to all remedies in law or equity.

Section 13 Modification / Amendment

All provisions of this Agreement may be modified and amended with the written consent of the parties. This Agreement may not be modified orally. Modification must be accomplished with the same formalities as are required for execution of this agreement.

Section 14 Notices

A. All notices required by this Agreement to be given to the COUNTY shall be made in writing and personally delivered or sent by certified mail to the Bureau Chief.

B. All notices required by this Agreement to be given to the CITY shall be made in writing and personally delivered or sent by certified mail to the Chief Law Enforcement Officer of the CITY.

C. The Bureau Chief and the Chief Law Enforcement Officer of the CITY, shall be the administrators of this Agreement pursuant to RCW 39.34.030(4)(a).

Section 15 Entire Agreement

A. This Agreement represents the entire understanding of the parties and supersedes any oral representations that are inconsistent with or modify its terms and conditions.

B. Nothing in this Agreement shall limit the ability of the COUNTY to contract with other entities at different rates or terms.

Section 16 Force Majeure

In the event either party's performance of any of the provisions of this Agreement become impossible due to Force Majeure, that party will be excused from performing such obligations until such time as the Force Majeure event has ended and all facilities and operations have been repaired and/or restored.

Section 17 Severability

If any provision of this Agreement is found to be invalid or contrary to law, the remainder of this Agreement shall not be affected thereby.

Section 18 No Creation of or Expansion of Duty to Supervise; No Partnership or Joint Venture

A. Nothing in this Agreement shall be construed as creating, modifying, or expanding any duty on the part of the COUNTY. By agreeing to provide the Community Corrections Programs described in Exhibit B to the CITY, the COUNTY is not agreeing to any supervision of CITY inmates except as specifically provided herein. Nothing in this Agreement shall be interpreted as a delegation by the CITY, the CITY Municipal Court or the CITY Municipal Court's probation department to the COUNTY of its duty of supervision.

B. Nothing in this Agreement shall be construed to render the parties partners or joint venturers.

Section 19 Offer

A. This Agreement is offered to all entities currently contracting with the COUNTY for

jail services who are current in their payments to the COUNTY as defined in their existing contracts. Any entity that is not current, but has negotiated a payment arrangement with the COUNTY and is following the terms of that arrangement shall be offered the opportunity to sign this Agreement.

B. This Agreement may be offered to entities not previously contracting with the COUNTY for jail services.

C. This Agreement shall be offered first to currently contracting entities, and only then to non-contracting entities. However, it is the date of acceptance of this Agreement that shall control any section that considers order of signature rather than the date of the offer.

Section 20 Filing

Pursuant to Chapter 39.34 RCW, a copy of this Agreement as fully executed shall be filed by the COUNTY with the County Auditor and by the CITY with the City Clerk.

IN WITNESS WHEREOF, the COUNTY and the CITY have executed this Agreement by subscribing their names ad follows:

SNOHOMISH COUNTY

_____

Aaron Reardon Date
COUNTY EXECUTIVE

CITY OF SULTAN

Carolyn Eslick 11-12-09

Carolyn Eslick Date
MAYOR

ATTEST:

_____

Date

APPROVED AS TO FORM:

_____

DEPUTY PROSECUTING ATTORNEY Date

EXHIBIT A

PROPORTIONAL BILLING

Each day the billing program examines the open charges for each active booking and applies uniform rules for determining billable charges and identifying the billable agencies.

The procedure for selecting the billable charges and responsible agencies is outline below. The program proceeds in sequence through the series of steps only as far as needed to isolate a billable charge and determine the responsible agency.

A. Select all felony charges. If there is more than one, go to Rule #2. If there is a felony but no State DOC hold, do not bill. If there are no felony charges, go to Rule #5.

B. Select the Arresting Agency DOC-Parole-Olympia. If there are no other arresting agency charges, determine if charge is State DOC and bill accordingly.

C. If there is a State DOC hold and additional local charges (Snohomish County or contracting cities; felony, misdemeanor, or gross misdemeanor) do not bill.

D. If there is a State DOC hold and non local additional charges (from other county and municipal agencies not contracting services with Snohomish County), bill State DOC.

E. Select all open misdemeanor charges. Bill the responsible agency. If there are open charges with more than one contract agency, go to Rule #6.

F. If there are open misdemeanor charges with multiple contract agencies, bill each agency in equal portion (e.g., two agencies 50/50). If an agency has multiple open misdemeanor charges, the agency is only billed as one element of the proportional booking process, equal to all others with open misdemeanor charges.

Example: If municipal agency A has one open misdemeanor and municipal agency B has two open misdemeanor charges at the same time, each agency is billed for 50% of the day.

G. When an agency's charge is closed, that agency drops from the proportional billing process. The proportional billing is recalculated without that agency.

Example: Municipal agency A has one open misdemeanor and municipal agency B has an open misdemeanor charge. Municipal agency B's charge is closed. Agency A is billed for 100% from then on.

H. When there is a Snohomish County misdemeanor charge and contract agency misdemeanor charge, the County is billed its proportional part.

EXHIBIT B
COMMUNITY CORRECTIONS OPTIONS

Section 1 Definitions

A. "Community Corrections Programs" means alternative sentencing programs offered by the COUNTY to the CITY pursuant to this Agreement, including Electronic Home Detention with Electronic Home Monitoring, Work Education Release, and Work Crews. The Community Corrections Programs are more fully defined and described in Section 2 of this Exhibit. "Community Corrections Program" or "Program" means any one of the Community Corrections Programs.

B. "Electronic Home Detention" or "EHD" means that Community Corrections program described in Section 3 of Exhibit B of this Agreement.

C. "Jail Services Agreement" means that interlocal agreement dated _____, ____, between the CITY and the COUNTY for the provision of services at the COUNTY Jail.

D. "Work Crew In Custody" or "WC In Custody" means that Community Corrections Program described in Section 3(a) of Exhibit B of this Agreement.

E. "Work Crew Out of Custody" or "WC Out of Custody" means that Community Corrections Program described in Section 3(b) of Exhibit B of this Agreement.

F. "Work Crews" means both Work Crew In Custody and Work Crew Out of Custody.

G. "Work Education Release" or "WER" means that Community Corrections Program described in Section 3 of Exhibit B to this Agreement.

Section 2 Purpose

A. The CITY from time to time desires to confine CITY Inmates in the COUNTY Jail. The purpose of this Agreement is to make a wider variety of sentencing options available to the CITY, which has contracted with the COUNTY for Jail services.

B. In addition to Jail services provided to the CITY pursuant to separate contract and subject to availability, the COUNTY will make available to the CITY the following Community Corrections Programs:

   a. Electronic Home Detention;

   b. Work Education Release; and

c. Work Crew – In Custody.

Section 3 Eligibility and Acceptance into Community Corrections Programs

A. CITY inmates held in the custody of the COUNTY may serve their time in a Community Corrections Program if Program services are available and if all of the following requirements are met:

a. The CITY Inmate has been prescreened by the COUNTY for the purpose of assisting the court in its decision related to sentencing the offender to a Community Corrections alternative or confinement in the County Jail.

b. The COUNTY has found that the CITY Inmate meets all statutory and Program Eligibility Requirements; and

c. The CITY Inmate has been ordered into the Program by the CITY's Municipal Court.

B. CITY Inmates not held in the custody of the COUNTY may also serve their time in a Community Corrections Program if all of the above requirements are met.

C. Additionally, if a CITY Inmate who is sentenced to secure confinement meets the requirements set forth in Section 3(a) of Exhibit B, the CITY Inmate may be classified as a minimum security resident (MSR) and relocated as spelled out in Snohomish County Code 5.20.020.

D. If a CITY Inmate is sentenced or otherwise ordered into a Community Corrections Program by a court or courts on charges from multiple jurisdictions, the CITY will be billed for its fractional share (based on the number of jurisdictions) of the Program charges, PROVIDED, HOWEVER, that the COUNTY may refuse Program admission for a CITY Inmate if any of those multiple jurisdictions (other than the COUNTY) have not entered into an agreement in substantially the same form as this Agreement. For purposes of this subsection, the COUNTY will be considered the financially responsible jurisdiction for all State agency-filed misdemeanor and gross misdemeanor charges.

Section 4 Transfers of CITY Inmates into the Community Corrections Program

A. A CITY Inmate meeting the eligibility requirements set forth in Section 3(A) of Exhibit B shall be transferred into the Community Corrections Program effective on the date agreed to by the CITY and the COUNTY in the following manner:

a. A CITY Inmate already in COUNTY custody will be transferred to the Program by the COUNTY; and

b. A CITY Inmate not in COUNTY custody on the effective date of his or her transfer to the Program shall be transferred to the Program (1) by the CITY if the inmate is then in CITY custody or (2) by the CITY Inmate's presenting himself or herself to the COUNTY, in either case on the date and at the time and place agreed to by the CITY and the COUNTY.

Section 5 Termination of CITY Inmate from Community Corrections Program

A. Once a CITY inmate is taken into a Community Corrections Program, the inmate shall remain in the Program for the remainder of his or her term of confinement, unless:

a. The CITY Municipal Court orders the CITY inmate terminated from the Program or otherwise amends its earlier order;

b. The CITY inmate is no longer eligible for, and is terminated by the COUNTY from, the Program. The termination decision shall be made by the COUNTY, in its sole discretion, and is not subject to review. An inmate who was previously found to be eligible may be found ineligible to continue in a Program either (1) because of actions by the inmate while within the Program (including but not limited to violation of rules established by the COUNTY or a new criminal conviction) or (2) due to newly discovered information which, if known to the COUNTY during initial screening, would have rendered the inmate ineligible on either statutory or Program grounds.

B. A CITY Inmate who is terminated by the COUNTY from a Program shall:

a. If then in the physical presence or custody of the COUNTY by virtue of his or her participation in a Program, be taken into custody by the COUNTY and transported to the COUNTY Jail to serve the remainder or his or her term of confinement; or

b. If not then in the physical presence or custody of the COUNTY by virtue of his or her participation in a Program, become the immediate responsibility of the CITY for all purposes including, but not limited to, duty to apprehend.

C. If the participation of a CITY Inmate in a Community Corrections Program is terminated by the COUNTY pursuant to Section 5(A)(b) of Exhibit B, the COUNTY shall notify the CITY and the CITY Municipal Court in writing within twenty-four (24) hours following the termination. Upon termination, the CITY shall be responsible for notifying the CITY Municipal Court and, if appropriate, seeking revision of the CITY Municipal Court's order. The COUNTY will contact the CITY Law Enforcement agency to notify them of the violation.

D. In the event that a CITY Inmate is terminated from a Community Corrections Program and is transferred to the COUNTY Jail pursuant to Section 5(b)(i) hereof, the CITY shall be billed for the day in which the transfer occurs pursuant to its Jail Services Agreement and not pursuant to this Agreement.

E. In the event that the CITY inmate is terminated from a Community Corrections Program on a day in which he or she has not received services pursuant to this Agreement, the COUNTY shall not bill the CITY for that day.

F. In addition to fees charged to the CITY pursuant to this Agreement, the COUNTY may also charge CITY Inmates directly for daily monitoring costs (as noted in the vendor contract) associated with their participation in a Program, i.e., for EHD and if applicable work release charges, at the same rate and under the same circumstances as COUNTY inmates are charged.