

**COOPERATIVE LAW ENFORCEMENT AGREEMENT
BETWEEN
THE SWINOMISH INDIAN TRIBAL COMMUNITY
AND
SKAGIT COUNTY
1999**

PREAMBLE

THIS AGREEMENT dated _____, 1999, is between the Swinomish Indian Tribal Community, a federally recognized Indian Tribe organized pursuant to Section Sixteen of the Indian Reorganization Act of 1934 (25 U.S.C. & 476), hereinafter "TRIBE," and Skagit County, Washington, hereinafter "COUNTY," through the Skagit County Sheriff, hereinafter "SHERIFF."

THIS AGREEMENT IS ENTERED INTO UNDER THE Interlocal Cooperation Act (Chapter 39.34 RCW), the Mutual Aid Peace Officers Powers Act (10.93 RCW), and the Constitution and Bylaws of the Swinomish Indian Tribal Community (Article VI Section 1(a)).

INTENT

The TRIBE and the COUNTY each wish to protect the lives and property of all people within the Swinomish Indian Reservation. The TRIBE and the COUNTY, therefore, have entered into this Agreement governing certain aspects of the relationships between the COUNTY and TRIBE with respect to the commission of tribal law enforcement officers as COUNTY deputies. Such commission is for the sole purpose of empowering Approved Tribal Officers to investigate designated offenses under Washington State Law. Such commission shall empower tribal officers to investigate designated offenses when they occur within the Reservation, or in the officer's presence outside the Reservation boundaries. The commission shall empower a tribal officer as described in Section V (Scope of Powers). Crimes investigated under this commission shall only be prosecuted in the courts of the STATE OF WASHINGTON.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

Section I. Definitions

As used in this Agreement:

Approved Tribal Officer: means a law enforcement officer employed by the TRIBE, who has submitted to a background check and training as required by the COUNTY, and has thereafter been granted a commission by the SHERIFF.

Commission: A Skagit County Deputy Sheriff commission granted to an Approved Tribal Officer in accordance with this Agreement.

Commission Card: An identification card issued by the Skagit County Sheriff to an Approved Tribal Officer.

Designated Offenses: All violations of the laws of the State of Washington, whether civil or criminal, and of any Model Traffic Code adopted by the Skagit County.

Reservation: The Swinomish Indian Reservation, and all territory within the exterior boundaries thereof, including without limitation all roads, rights of way, easements and waterways within such exterior boundaries.

Section II. Jurisdiction

Nothing in this Agreement shall be construed to cede any jurisdiction of either of the parties, to modify the legal requirements for arrest or search and seizure or to otherwise modify the legal rights of any person, to accomplish any act violative of state or federal law or to subject the parties to any liability to which they would not be subject by law.

Section III. Issuing Commissions

The granting of Deputy Sheriff commissions shall be at the sole discretion of the SHERIFF. Applications for commissions shall be submitted in writing to the SHERIFF or his designee. Each application shall be accompanied by all background information on the applicant known to Tribal Law Enforcement, appropriate waivers allowing the standard SHERIFF'S Office preemployment investigation, and such other information as may be required. The applicant may be required to undergo a polygraph examination. The SHERIFF shall grant or deny each application within a reasonable period of time. The granting of a commission shall be evidenced by the issuance of a commission card to the officer receiving the commission. No commission shall be denied on the basis of race, creed, sex, color or national origin. No individual officer of the Tribe's law enforcement agency shall be commissioned by the SHERIFF unless that officer has successfully completed the Washington State Basic Law Enforcement Training Academy.

Section IV. Suspension and Revocation of Commissions

The SHERIFF or his designee may, at any time, suspend or revoke the commission of any Tribal law enforcement officer for reasons solely within his discretion. The Tribe's Chief of Police shall receive written notice of any such suspension or revocation and the reasons for such action.

Section V. Scope of Powers

An Approved Tribal Officer shall have a commission card in his or her possession at all times when acting pursuant to the commission. This commission shall empower Approved Tribal Officers to investigate all designated offenses when they occur within the Reservation, or in the

officer's presence outside the Reservation boundaries. Such power shall include the power to make arrests.

Tribal law enforcement officers commissioned pursuant to this Agreement shall comply with the applicable constitutional and statutory provisions concerning enforcement of state laws when exercising such authority. Any court actions resulting from the exercise of a commission shall be filed in state court, and any referral for prosecution shall be made to the COUNTY Prosecutor.

Tribal law enforcement officers shall remain under the control of the TRIBE, but when acting under the authority of a commission shall abide by the rules and regulations of the SHERIFF, all State laws and regulations, the State and Federal Constitutions, and shall be subject to the direction of the SHERIFF'S Office.

Section VI. Report of Exercise of Commission Powers

Any action taken by an approved tribal officer pursuant to a commission shall be immediately reported to the SHERIFF'S Office Dispatcher. A written report will be filed with the SHERIFF'S Office within 12 hours of the enforcement action.

Section VII. Hold Harmless/Indemnification

The TRIBE shall be responsible for all liability of whatever nature arising from the acts of its own law enforcement officers and employees to the extent provided by law. The COUNTY shall be responsible for all liability of whatever nature arising from the acts of its own law enforcement officers and employees to the extent provided by law. The TRIBE waives any and all claims against the COUNTY for activities performed by Approved Tribal Officers pursuant to this Agreement or the commissions described herein, unless such claims are proximately caused by the negligence or willful misconduct of the COUNTY or its law enforcement officers, employees or agents.

Except as provided in this Section, under no circumstances shall either the TRIBE or the COUNTY be held liable for the acts of employees of the other party performed under color of this Agreement. The TRIBE and the COUNTY shall indemnify each other for all claims, judgments or liabilities by third parties for bodily injury, property damage, personal injury or civil liability which may arise out of the activities of their employees pursuant to this Agreement of the commissions described herein.

Section VIII. Insurance/Immunities

The TRIBE agrees to maintain insurance policies in the amount of \$1,000,000.00 per occurrence insuring against claims for false imprisonment, false arrest, public liability, property damage and police professional liability and shall maintain the policy in full force and effect during the life of this Agreement. If this Agreement is terminated for any reason, the TRIBE agrees to continue to carry the insurance for all actions taken under this Agreement until such time as protection from

suit is granted by the statute of limitations. In the event the coverage is on a claims made basis, the TRIBE must ensure that the coverage extends to the statute of limitations in each policy year.

The insurance shall include the COUNTY as an additional insured and refer to and support the TRIBE'S obligation to hold harmless the COUNTY, its officers, elected officials and employees. Such insurance shall provide 30 days written notice to the COUNTY in the event of cancellation or material change and include a statement to the effect that no act on the part of the insured shall affect the coverage afforded to the COUNTY under this insurance. The insurance company or the TRIBE will provide written notice to the COUNTY within thirty (30) days after any reduction in the general aggregate or occurrence limits. The TRIBE shall provide the COUNTY with a certificate of insurance prior to the contract effective date. The COUNTY, at its option, may require a complete copy of the above insurance policy.

The TRIBE waives sovereign immunity to suit only upon claims asserted by the COUNTY, the amount and nature of which are within the coverage and limits of the TRIBE'S insurance policy. Policies of insurance obtained by the TRIBE purchased pursuant to this section shall prohibit the insurer asserting a defense of sovereign immunity to claims made under the policy.

All immunities enjoyed by COUNTY law enforcement officers under state or federal law shall inure to the benefit of Tribal law enforcement officers when acting under a commission under terms of the Agreement.

Section IX. Oversight Committee

A committee consisting of the TRIBE'S Chief of Police, the SHERIFF of his designee, and the Skagit County Prosecutor or his designee, shall review activities and methods of performance pursuant to this Agreement. The committee shall meet annually, or more frequently, as needed, to discuss the operation of the Agreement. The committee may recommend to the signatories of the Agreement any amendments to this Agreement.

Section X. Duration/Revocation of Agreement

This Agreement shall remain in full force and effect for a period of ten years, or unless terminated by either party as provided in this Agreement and shall be subject to renewal by the Agreement of the parties at the end of the ten-year period. Either party may terminate this Agreement at any time. Termination shall be immediately effective upon receipt of written notice.

Section XI. Amendments

This Agreement shall not be amended except by an instrument in writing executed by the signatories below and attached to this Agreement.

Section XII. Notice

Any notice required or permitted to be given under this Agreement shall be deemed sufficient if given in writing and sent by registered or certified mail.

In the case of the COUNTY, notices shall be sent to: Skagit County Sheriff
600 South Third Street
Mount Vernon, WA 98273

In the case of the TRIBE, notices shall be sent to: Swinomish Chief of Police
P.O. Box 817
LaConner, WA 98257

with a copy to: Office of Tribal Attorney
P.O. Box 817
LaConner, WA 98257

Section XIII. Severability/Duration of Commissions

If any provision of this Agreement or its application to any person or circumstance is held invalid, the remainder of the Agreement or the application of the provision to other persons or circumstances is not affected. Because the source of legal authority to grant, revoke, and suspend the commissions described in this Agreement is separate from and independent of the terms of this Agreement, the invalidity of all or any portion of this Agreement shall have no effect on the validity of such commissions, which shall remain in effect until suspended or revoked at the discretion of the SHERIFF or his designee.

The effective date of this Agreement shall be the _____ day of _____, 1999.

SWINOMISH INDIAN TRIBAL COMMUNITY

By: _____
Brian Cladoosby, Chairman

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Ted W. Anderson, Chairman

Harvey Wolden, Commissioner

Approved as to content:

Ed Goodman, Sheriff

Robert Hart, Commissioner

Approved as to form:

Hilary Thomas, Skagit County Prosecuting Attorney

Approved as to Indemnification language:

Dave Fleming, Risk Manager

Alicia Huschka, Budget Manager

Patti Chambers, Clerk
Skagit County Board of Commissioners