

## COUNTY / CITY OF SEQUIM FINAL 11.5.2015

### INTERLOCAL AGREEMENT BETWEEN CLALLAM COUNTY AND THE CITY OF SEQUIM REGARDING CRIMINAL JUSTICE SERVICES

**Preamble:** This Agreement is made and entered into effective January 1, 2016, by and between Clallam County, a political subdivision, and the City of Sequim, a code city, (City) both entities duly organized and operating under and by virtue of the laws of the State of Washington. The County and the City collectively may be referred to as the "Parties."

Now, therefore, in consideration of the terms, conditions, covenants stated herein and the performance to be rendered hereunder, the Parties agree as follows:

**Section 1. Purpose:** The City desires to contract with the County by way of Interlocal Cooperative Agreement pursuant to RCW 39.34.180 for the provision of Criminal Justice Services for the City. For purposes of this Agreement, Criminal Justice Services means and includes all work, functions, duties, prosecution, adjudication, indigent defense, sentencing, and incarceration services for City Misdemeanants. In this Agreement, City Misdemeanants means all adults who commit misdemeanor and gross misdemeanor offenses, and traffic infractions in the City of Sequim and are booked into jail and or are referred for prosecution by the City of Sequim Police Department. Criminal Justice Services also means and includes all the responsibilities and tasks commonly performed by the Sequim City Attorney and Sequim's contractor prosecutor to the extent those responsibilities and tasks are currently done in the County Prosecuting Attorney's Office for County Misdemeanants. Nothing in this Agreement is intended to affect or alter the functions and operations of the City of Sequim Police Department.

**Section 2. Authority:** This agreement is based upon the authority of Chapter 308 laws of 1996, presently codified as RCW 39.34.180, which provides in relevant part as follows:

Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective, law enforcement agencies, whether filed under state law or local city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services.

**Section 3. County to Provide Criminal Justice Services for the City:**

The County shall:

- A. Furnish its facilities and personnel for prosecuting, adjudicating, sentencing, and incarcerating those adults committing criminal misdemeanors and gross misdemeanors and, subject to paragraphs H and J below, all individuals committing infractions in the City of Sequim referred for prosecution by the Sequim Police Department in the same manner and to the same extent as the County furnishes facilities and personnel for prosecuting, adjudicating, sentencing, and incarcerating those adults committing misdemeanors and gross misdemeanors referred for prosecution by the Clallam County Sheriff's Department. The work, functions, duties, and responsibilities include, but are not limited to, provision and management of diversion services, prosecution, court services, indigent defense, prisoner confinement, appeals, and record keeping.
- B. Maintain adequate staff and budget to fully and competently perform all the services, duties, and obligations undertaken by the County in this Agreement for the duration of the Agreement. Such services, duties, and obligations include, but are not limited to, all aspects of criminal prosecution, which includes court appearances, briefing, witness interviews, plea negotiations, research and analysis, filing decisions, search warrants, coordinating and consulting with City police personnel, and any other task required to competently prosecute crimes. Services also include any appearing and defending appeals to the Clallam County Superior Court after consultation with the City Attorney. Further appeals to the Washington State Court of Appeals or the Washington State Supreme Court will be undertaken only after consultation and joint agreement of the Parties regarding the terms for handling any such appeals.

Prosecution services also include attending meetings with the Police Department and other City staff as requested to address current issues; make suggestions to the City Attorney regarding municipal code revisions; and provide quarterly reports identifying total case filings and dispositions.

- C. Not reduce budget support for the Prosecutor's Office to fall below the previous year's staffing, after adjustment for inflation or seniority, without the prior consent of the City. This restriction is intended to ensure financial compensation by the City does not supplant existing resources, but instead supplements those resources and permits the dedication of sufficient staff and resources from the Prosecutor's Office to address City matters.
- D. Provide court services, which include filing, probation services, translation services, jury services, expert services, and other court services as needed. Expert witness fees, and witness fees are included in this Agreement. The City will pay no additional fees for court services.

The County may not reduce budget support for the Clallam County District Court I or Public Defense to fall below the previous year's staffing, after adjustment for inflation or seniority, without the prior consent of the City. This restriction is intended to ensure financial compensation by the City does not supplant existing resources, but instead supplements those resources and permits the dedication of sufficient staff and resources from Clallam County District Court I and Public Defense contracts to address City matters.

- E. Pay for filing the City's criminal citations and infractions with the Clallam County District Court I. Any charges for court services, including, but not limited to, filing fees, probation services, translation services, jury services, expert witness fees, and witness fees are included in this Agreement. The City will pay no additional fees for court services.
- F. Provide criminal defense and related services for indigent persons facing incarceration in Clallam County District Court No. 1. The County will provide defense services in accordance with standards adopted by the Washington Office of Public Defense, the Washington State Supreme Court, and the Washington State Bar Association. The County, at its discretion, may contract with an outside agency or law firm to provide indigent defense services. Upon request from the City, the County will provide adequate evidence to demonstrate that its arrangements for public defense comply with the standards referenced above.
- G. Provide defendant management services, including jail and special arrangements such as deferral programs and monitored release from jail using SCRAM bracelets and similar devices, for persons committing misdemeanor or gross misdemeanor offenses in the City's jurisdiction.

The County agrees to furnish its facilities and personnel for the confinement, processing, and incarceration of City prisoners in the same manner and to the same extent as the County furnishes the services for confinement, processing, and incarceration activities of its own prisoners. The County jail facilities shall be made available and furnished for booking and holding City prisoners held upon arrest, awaiting trial, and serving imposed jail terms. All City police officers and investigators shall have the right to interview the prisoners at any reasonable time inside the confines of the County jail, subject only to necessary security rules. Interview space will be made available to City police officers in equal priority with those of any other department, including the Sheriff's Department. The County will provide all prisoner confinement services including room, board, medical, and other services at no additional cost to the City. The County agrees to act as agent for the City in the receipt of bail posted during other than normal working hours. The County agrees to diligently and timely deliver said bail bonds or monies to District Court I. Any monies refused for receipt by District Court I shall be returned to the posting party as soon as practical.

The County may not reduce budget support for the Clallam County jail operations to fall below the previous year's staffing and operating budget, after adjustment for inflation or seniority, without the prior consent of the City. This restriction is intended to ensure financial compensation by the City does not supplant existing resources, but instead supplements those resources and permits the dedication of sufficient staff and resources from Clallam County jail staff and operating budgets.

- H. Be responsible for all City criminal and traffic infraction cases beginning January 1, 2016. The County will process City infractions in the same manner and to the same extent as County infractions, which specifically includes providing discovery in contested cases.

- I. Maintain and allow the City to inspect and audit records of all revenue and expenditures pertaining to the services provided for in this agreement.
- J. Not be responsible for the City's code enforcement actions. Code enforcement means and includes such actions as nuisance code enforcement, animal control, and zoning violations. The City is solely responsible for all code enforcement actions including those in which the City files a complaint in District Court alleging that a particular act constitutes a misdemeanor or gross misdemeanor.
- K. Not be responsible for appearing in infractions, involuntary commitment proceedings, administrative proceedings, or any other civil matter that may arise from or in conjunction with criminal proceedings.

**Section 4. Additional Rights, Obligations, and Responsibilities:**

- A. The City shall be responsible for transporting all City Misdemeanants arrested by City police officers to the County jail. For every City Misdemeanant transported to the County jail, the transporting officer shall deliver to the jailer satisfactory proof of the reason for confinement of the prisoner.
- B. The City will try any City case set for trial on January 6, 2016, and the County will try all cases after that date. The City will provide any active case files to the County by January 4, 2016. The City will transfer all closed files from calendar years 2014 and 2015 to the County. For any cases closed before 2014, the City and the County will work together to transfer the files to the County as needed.
- C. The rights and powers of the Prosecutor as defined under RCW 36.27, including without limitation those pertaining to the appointment of deputies, shall not be infringed by way of this agreement. However, the City may consult with the Prosecutor on cases of interest to the City.
- D. The City acknowledges the County's operational control of the County offices and departments providing facilities and services incident to misdemeanor and gross misdemeanor offenses committed by adults within the City of Sequim and referred by the Sequim Police Department.

**Section 5. Consideration to the County:**

- A. As partial consideration for this Agreement, the County shall retain the entire local share of any and all relevant fines and fees collected on or after January 1, 2016 by Clallam County District Court I from adults arrested or referred for prosecution by the Sequim Police Department who are accused or convicted of committing misdemeanors or gross misdemeanors within the City. The County shall also retain any and all relevant fines and fees collected on or after January 1, 2016 for infractions. The amounts generated by the local

share of said fines and fees are intended to compensate the County for the costs associated with the provision of District Court I and Public Defense services.

- B. As additional consideration, in 2016 the City shall also pay to the County the sum of three hundred twenty thousand Dollars (\$320,000.00) each year thereafter for Criminal Justice Services. This sum shall be paid in 12 equal monthly installments, each installment due on or before the 5<sup>th</sup> day of each month. For subsequent years, the amount described in paragraph C below shall be paid in 12 equal monthly installments, each installment due on or before the 5<sup>th</sup> day of each month.
- C. Beginning in the year 2017, and each year thereafter for the duration of this agreement, those sums payable by the City pursuant to paragraph (B) above shall automatically increase or decrease at a rate of the annual Seattle-Tacoma-Bremerton CPI-W published in June of each year. Such annual increases are intended to compensate the County for increasing costs associated with staff salaries, employee benefits, facilities maintenance/upgrades, and other rising expenditures associated with the provision of Criminal Justice Services; provided, however, the County shall have the right to demand that compensation be renegotiated in the event that the bookings into jail of City Misdemeanants in one year exceeds by 25% or more the average bookings into jail of City Misdemeanants over the prior 3 years.
- D. Payment of the amounts described in Sections A through C immediately above shall constitute full and complete compensation to Clallam County for all Criminal Justice Services to be provided pursuant to this Agreement, including, but not limited to, Prosecutor's staff costs for City Misdemeanants, appointed counsel for City Misdemeanants, judicial salaries, staff benefits and facilities used for the adjudication of City Misdemeanants, fees and costs for prisoner confinement services and for all medical costs of City Misdemeanants while they are in County custody.

#### **Section 6. Additional Terms and Conditions.**

Relationship of the Parties: No agent, official, employee, servant, or representative of the City shall be deemed an officer, employee, agent, servant or representative of the County for any purpose. No agent, official, employee, servant or representative of the County shall be an officer, employee, agent servant or representative of the City for any purpose. Bringing a criminal action in the City's name shall not be construed to imply or create any type of agency relationship between the Parties.

#### Duration and Termination:

- A. This Agreement shall be in force and effect on January 1, 2016, and shall remain in effect (1) for a period of ten years; or (2) until the legislature amends RCW 39.34.180 to affect the relationship of the parties pursuant to that law; or (3) until terminated by either party as provided for in paragraph B below, whichever shall occur first.
- B. Either party may terminate this Agreement, prior to its expiration, for cause, by providing the other party at least one year prior written notice and complying with the provisions of

Chapter 3.50 RCW. Such notice shall state the grounds for the termination and the specific plan of the City for providing criminal justice functions as required by RCW 39.34.180.

Annual Review: The terms and operations of this Agreement shall be reviewed annually in August of each year. The purpose of the review is to assure that the consolidation of governmental services, as provided for in this Agreement, is successful and to identify any changes or improvements that might make this arrangement more beneficial to the citizens of Clallam County. This review shall be conducted by a committee composed of: One (1) County Commissioner; the Clallam County Sheriff; the Clallam County Prosecuting Attorney; the Judge of the Clallam County District Court I; the City Manager of Sequim; One (1) Sequim City Council Member; the City Attorney and the City Police Chief. This committee may be supported by staff of either or both the City and the County. The committee shall make a report to both the City and the County legislative authorities after its review expressing its opinion on: (1) The state of the criminal justice system in the area; (2) The relationship of the costs of that criminal justice system to the contribution of each party as required by RCW 39.34.180; and (3) To recommend any changes to this Agreement. The primary purpose of this committee is to ensure that the operation of, and the resources dedicated to, the criminal justice system remain current with evolving criminal justice needs.

Indemnification:

A. To the fullest extent allowed by law, the City will be solely and entirely responsible for its acts/omissions and for the acts/omissions of its agents, employees, servants, or representatives. To the fullest extent allowed by law, the County will be solely and entirely responsible for its acts/omissions and for the acts/omissions of its agents, employees, servants or representatives.

B. Each party agrees to defend and indemnify the other party and its elected and appointed officials, officers, employees and agents from and against all claims, losses, damages, suits and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees and agents in the performance of this Agreement. The indemnitor's duty to defend and indemnify extends to claims by the elected or appointed officials, officers, employees or agents of the indemnitor or of any contractor or subcontractor of indemnitor. The indemnitor waives its immunity under Title 51 (Industrial Insurance) of the Revised Code of Washington solely for the purposes of this provision and acknowledges that this waiver was mutually negotiated.

C. 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 that arises in whole or in part from unenforceability or invalidity of City ordinances, 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 ordinance, 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 on account of the unenforceability or invalidity of such City ordinance against the City, the County, or both, the City shall satisfy the

same, including all chargeable costs and attorney's fees. This provision shall survive the termination of this Agreement.

Non-Payment and Other Defaults: In the event of any default hereunder, upon thirty (30) days written notice by the County to the City with regard to failure to make any payment required, and in the event same shall not be cured within sixty (60) days, then the County shall be entitled, without further notice or demand, to give notice of termination as set forth in Section 6 Duration and Termination, including any other remedy granted at law or in equity.

Disputes: Disputes shall be referred to the County Administrator and the City Manager for settlement. If disputes are not resolved by the parties within thirty (30) days of the referral, unless the parties agree to an extension of time, the dispute shall be referred to an arbitrator who has been mutually agreed upon by the City and County. Or if they cannot agree to an arbitrator, the parties may apply to the presiding judge of the Clallam County Superior Court for appointment of an arbitrator. The arbitrator's decision shall be final and binding on both parties; provided however, an arbitrator's decision may be appealed to Superior Court if it is based on an error of law, is arbitrary and capricious, is not founded on substantial facts or exceeds the authority of the arbitrator. Each party shall pay one-half of the arbitrator's fee. If mutual written consent to apply for the appointment of an arbitrator is not reached, either party may seek court action to decide the disputed contract provision.

Notice: Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed:

To the County at:  
The Clallam County Commissioners' Office  
223 E. Fourth St., Ste. 4  
Port Angeles, WA 98362

To the City at:  
City Manager  
152 West Cedar Street  
Sequim WA 98382

Or at such other address as either party may designate to the other in writing from time to time. All notices to be given with respect to this Agreement shall be in writing. Every notice shall be deemed to have been given at the time it shall be deposited in the United States mails in the manner prescribed herein. Nothing contained herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process.

Entire Agreement: This Agreement constitutes the entire Agreement of the parties and supersedes all prior agreements, contracts, and understanding, written or oral. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. Any and all previous agreements, understandings, and the like, oral or otherwise, are hereby revoked.

Construction of Agreement: In the event of a dispute between the parties as to the meaning of terms, phrases or specific provisions of this Agreement, the authorship of this Agreement shall not be cause for this Agreement to be construed against any party nor in favor of any party.

Execution: This Agreement is executed by each party acting with authority granted, where required, by its governing body. This Agreement may be executed in counterpart originals. A copy of each such executed counterpart original shall be delivered to each party upon that party's execution of a counterpart original.

Administration: This Agreement will be administered by the County. This Agreement does not create any separate legal or administrative entity. However, nothing in this Agreement is intended to prevent or otherwise interfere with discussions or decisions that may be made by the Parties during the Annual Review. Further, the Parties understand and agree that there will be communication between the Parties to effectuate the terms of this Agreement.

Financing; Budget: This Agreement does not contemplate a joint budget.

Property Acquisition and Disposition: This Agreement does not contemplate the joint acquisition of property by the parties. At termination, each party will remain the sole owner of its own property.

Applicable Law and Venue: This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The venue for any court action will be in Kitsap County in any court with jurisdiction.

Nondiscrimination: County agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, sexual orientation, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification. County shall comply with all federal, state and local laws and ordinances applicable to the work to be done under this Agreement. Violation of this section shall be a material breach of this Agreement and grounds for cancellation, termination or suspension by the City, in whole or in part, and may result in ineligibility for further work from City.

Waivers: Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

Files: All files and other documents maintained by the County relating to this Agreement or the Services provided pursuant to this Agreement shall be the files of the County. On request, such files will be made available for review by the City through its City Attorney or other duly authorized representative during normal business hours.



