

**RESOLUTION NO. 1653
CITY OF SUMNER, WASHINGTON**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL
COOPERATION AGREEMENT FOR A MULTIJURISDICTIONAL SWAT TEAM.**

WHEREAS, the City of Sumner along with the cities of Bonney Lake, Dupont, Fife, Milton, Orting, and Puyallup, desire to cooperatively form and operate a multijurisdictional Special Weapons and Tactics Team (known as a SWAT Team); and

WHEREAS, it is advantageous for the City of Sumner to enter into an interlocal agreement with the above municipalities to provide mutual aid and support for a SWAT Team to effectively share resources and capabilities to better protect life and property and preserve the peace; and

WHEREAS, such agreements are authorized pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW, and the Washington Mutual Aid Peace Officers Powers Act, Chapter 10.93 RCW; and

WHEREAS, the Sumner City Council Public Safety Committee has recommended approving this resolution during their committee meeting on February 15, 2023.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON,
DOES RESOLVE AS FOLLOWS:**

Section 1. The Mayor is hereby authorized to enter into the Interlocal Cooperation Agreement For Multijurisdictional SWAT Team substantially in a form approved by the City Attorney.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

APPROVED AND ADOPTED this 20th day of March 2023.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

Michelle Converse, CMC, City Clerk

City Attorney Andrea Marquez

INTERLOCAL COOPERATION AGREEMENT FOR MULTIJURISDICTIONAL SWAT TEAM

WHEREAS, incidents of a serious criminal or emergent nature often require officers with specialty training and equipment in excess of what an individual law enforcement agency can reasonably provide on its own; and

WHEREAS, these incidents can often be effectively resolved via the cooperation and collective effort of multiple jurisdictions;

NOW, THEREFORE, THIS AGREEMENT is made under the Interlocal Cooperation Act (Chapter 39.34 RCW) and the Mutual Aid Peace Officers Powers Act (chapter 10.93 RCW) between the Cities of Bonney Lake, Fife, Milton, Orting, Puyallup, Sumner, and DuPont (the "Signatory Agencies"). Through this agreement, the Signatory Agencies agree to provide mutual aid and support for a multijurisdictional SWAT Team as provided herein.

Section 1. Definitions

For the purposes of this Agreement and all exhibits attached hereto the following terms, phrases, words and their derivations shall have the meanings given herein. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

- A. **Call Out** means any use or mobilization of SWAT Team following the request of the Chief Law Enforcement Officer of any Signatory Agency pursuant to the terms of this Agreement.
- B. **Chief Law Enforcement Officer** means the director of public safety or police chief.
- C. **Host Agency** means the Signatory Agency designated to maintain a single SWAT Team operational budget.
- D. **Incident Commander** means the representative appointed by the agency with primary geographic/territorial jurisdiction to serve as the overall commander of the SWAT Team during the callout.
- E. **Oversight Committee ("OC")** means the Executive Board composed of the Chief Law Enforcement Officer (or his/her designee) from each of the Signatory Agencies.
- F. **Primary Geographic or Territorial Jurisdiction** means the territorial boundaries of the city, town, or other public agency or unit of local government in which a law enforcement agency is authorized to act. Such jurisdiction includes the definition contained in RCW 10.93.020, as now enacted or hereafter amended.

- G. **Primarily Responsible Agency** means the law enforcement agency within whose primary geographic or territorial jurisdiction a call out occurs, if it occurs within a Signatory Agency jurisdiction. If the call out takes place outside the primary geographic or territorial jurisdiction of a Signatory Agency, then the term shall mean the Signatory Agency who requested the call out.
- H. **Requesting Agency** means the law enforcement agency that has requested assistance from the SWAT Team.
- I. **Signatory Agency** means a city, town or other public agency or unit of local government that is a signing party to this Interlocal Agreement.
- J. **Team Commander** means the individual responsible for directing the tactics and deployment of the SWAT Team during callouts.
- K. **SWAT Team** means a team of individual law enforcement officers, drawn from the Signatory Agencies, qualified by training and expertise to perform the tasks of a SWAT Team as defined in the Tactical Response and Operations Standard for Law Enforcement Agencies, published by the National Tactical Officer's Association. SWAT Team also includes a negotiator team composed of individual law enforcement officers, also drawn from the Signatory Agencies, qualified by training and expertise to perform the tasks of Negotiator.

Section 2. Objective

The primary objective of the SWAT Team is to respond effectively and appropriately to emergencies, major incidents and/or major law enforcement operations that create, or have the potential to create, significant and higher safety risk for public safety personnel and the public.

Section 3. Governance of the SWAT Team

- A. **Executive Board - Oversight Committee**: The management and affairs of the SWAT Team operating under this Agreement shall be governed by an Executive Board, known as the Oversight Committee ("OC"). The OC is comprised of the Chief Law Enforcement Officer (or his/her designee) from each Signatory Agency.

In the event a new Signatory Agency is added to this Agreement, the Chief Law Enforcement Officer from the newly-added agency will become a member of the OC beginning on the first day of the next new month following that Signatory Agency's adoption of this Agreement.

- B. **Chair of the OC:** The OC shall elect a Chair by majority vote at its first meeting. The Chair shall serve a 2-year term, after which the OC will hold another vote to elect a Chair for the next 2-year term. There is no limit to the number of terms an individual may serve as Chair. The Chair shall be responsible for leading discussion, preparing an agenda, and generally overseeing the operation of the OC, but has no additional voting authority as a result of his/her role as Chair.
- C. **Normal Voting:** Each member of the Oversight Committee shall have one vote for all committee decisions on which a vote is required or taken. Except in emergency circumstances as outlined below, voting shall only be allowed in-person, at a properly-scheduled OC meeting. No absentee, proxy, electronic, or telephonic voting shall be allowed. All decisions, except those related to the SWAT Policy and Procedures Manual, shall be made by simple majority vote of OC members appearing at the meeting during which the vote is taken. All decisions regarding changes to the SWAT Policy and Procedures Manual will require a unanimous vote from all OC members.
- D. **Emergency Voting:** If the Chair determines a vote is required on an emergency matter, and that the vote must take place sooner than a meeting can reasonably be scheduled, the Chair may call for a vote via email. In such a circumstance, the Chair must send an email with each member of the OC copied. The email shall (1) describe the background and nature of the issue, (2) describe the reasoning for calling an electronic vote, and (3) clearly state the motion presented for a vote. Each OC member shall have 24 hours to respond to the email and indicate their vote on the matter. A member's vote should clearly and unequivocally state whether it is in favor or against the motion. The motion shall only pass if, at the end of the 24-hour period, a majority of the OC members have voted in favor.
- E. **Quorum:** No vote shall take place at any meeting unless a majority of the Oversight Committee is present.
- F. **OC Adopts Policies/Procedures:** The OC may, at its discretion, adopt policies, procedures and regulations applicable to the SWAT Team's operations and structure, consistent with best practices. In addition, the OC may adopt standards for qualification and selection to the Team, and subsequent training required for continued participation on the Team.
1. Any policies and procedures adopted by the OC must be signed by each OC member and the Chief Law Enforcement Officer of each Signatory Agency if someone other than the Chief Law Enforcement Officer is that agency's representative on the OC.
 2. Following the adoption, modification, or removal of any policy or procedure, the OC shall forward notice of the change to each Signatory Agency, along with an updated copy of the applicable policy/procedure/regulation, if

applicable.

- G. **Meetings and Attendance:** At minimum, the OC shall meet once a quarter. Each meeting shall be scheduled at least 30 days in advance, except in extenuating circumstances. Scheduling shall be coordinated by the Chair of the OC, who shall make every effort to ensure the meetings occur at times convenient for all members. Each member shall make all reasonable efforts to attend regularly-scheduled OC meetings in person. As indicated in section 3.C, no absentee, proxy, electronic, or telephonic voting shall be allowed except as outlined in section 3.D above.

Section 4. Operation of the SWAT Team

- A. **Governing Policies and Procedures:** During a callout, members of the SWAT Team will be governed by, and act in accordance with, the SWAT policies and procedures approved by the OC. To the extent the policies/procedures/regulations of the SWAT Team conflict with those of the individual jurisdictions, the SWAT versions will apply to all SWAT activities.
- B. **Team Structure:** The goal of the SWAT Team is to have an initial sixteen (16) operators and two (2) Team Commanders.
1. **Tactical Personnel:** The SWAT Team shall initially be comprised of the following number of members from the Signatory Agencies. It is understood and intended the number and distribution of personnel may be adjusted at a later time by a vote of the Oversight Committee.
 - Puyallup: 8 team members plus 2 team commanders
 - Bonney Lake: 2 team members
 - Fife: 2 team members
 - Sumner: 2 team members
 - Milton: 1 team member
 - Orting: 1 team member
 - DuPont: 1 team member
 2. **Negotiators:** The SWAT Team shall include a negotiator element. The composition and structure of the negotiator element shall be left to the discretion of the OC.
 3. **Vacant Positions:** When subsequent attrition occurs in the SWAT Team, vacancies shall be filled based on criteria and processes approved by the OC.
 4. **Team Commander – Selection and Term:** The OC shall select two (2) Team Commanders by majority vote. Each individual selected as Team Commander shall agree to serve in the position for at least three (3) years. Following the expiration of the 3-year term, the OC may determine to extend the term of one or both Team Commanders for a longer period of time. The

OC may extend the term of one or both Team Commander/s for a fixed period of time, or may allow one or both Team Commander/s to continue in the role/s indefinitely.

The OC may, by majority vote, replace one or both Team Commander/s for any reason.

The OC shall determine the qualifications for the position of Team Commander, and the method by which team members may be nominated and/or considered for that position.

- C. **Incident Commander – Role and Authority:** For every SWAT Team activation/callout, an Incident Commander shall be appointed by the Primarily Responsible Agency. The Chief Law Enforcement Officer of the Primarily Responsible Agency, or his/her designee, shall notify the Team Commander of the individual being appointed as Incident Commander for that activation/callout.

The Incident Commander holds final authority for all aspects of a SWAT Team activation/ callout, including developing incident objectives, managing all incident operations, application of resources, and responsibility for all persons involved in the incident.

- D. **Team Commander – Role and Authority:** The Team Commander reports to, and is under the direct command of, the Incident Commander at any SWAT Team activation/callout. The Team Commander shall be responsible for the tactical application of SWAT Team personnel and resources to accomplish the objectives established by the Incident Commander.

- E. **Primary/Secondary Team Commander Selection and Authority:** For each SWAT Team activation/callout, one of the Team Commanders shall be identified as the primary Team Commander. The primary Team Commander shall have the authority of the Team Commander for that activation/callout. The Team Commander not identified as the primary will provide advice and support to the primary Team Commander.

The OC shall adopt a method or process by which the primary Team Commander is selected for each activation/callout, and shall notify the Team Commanders of that method or process. The Team Commanders shall abide by the method or process established by the OC, unless and until the OC approves an alternative method or process.

Section 5. Activations/Call Outs

- A. **Request For Assistance:** In the event that the Chief Law Enforcement officer of a Signatory Agency (or his/her designee in times of his/her absence) determines the

Signatory Agency has a need for the services of the SWAT Team, he/she shall contact one of the Team Commanders and make the request for assistance. He/she shall provide any relevant information requested by the Team Commander/s.

- B. **Acceptance/Denial – Response – Withdrawal:** The Team Commander(s) shall determine whether the request for assistance is within the scope and capabilities of the SWAT Team based on criteria outlined in the NTOA Manual. The Team Commander(s) shall have the authority to deny the request for assistance. If the Team Commander(s) determine the SWAT Team will respond to the request, the Team Commander(s) shall determine the number and type of SWAT Team personnel, equipment, and other resources needed. The Team Commander(s) shall have the authority to withdraw the SWAT Team from any incident at any time he/she determine/s the incident no longer fits within the scope of the SWAT Team.
- C. **Emergency Withdrawal of Single Agency From Activation/Callout:** The Chief Law Enforcement officer of a Signatory Agency, or his/her authorized representative, may withdraw all of that agency's personnel/services from an activation/callout if an emergency, major incident, or major crime event occurs within that jurisdiction that requires additional personnel to resolve safely and appropriately. In general, however, each Signatory Agency shall direct SWAT Team members in its employ to respond to an activation/callout as promptly and fully as possible. Withdrawal of a Signatory Agency from an incident shall not affect that agency's financial responsibilities for any cost or liability incurred by the SWAT Team during the incident.

Section 6. Budgeting and Cost-Sharing

- A. **Host Agency:** For purposes of general administration, the OC shall designate one (1) Signatory Agency as the Host Agency. The Host Agency will be responsible for maintaining the budget approved by the OC, as well as all budget-related records and receipts.
- B. **Annual Operating Budget**
 - 1. By June 1 of each year, the Team Commanders shall submit a proposed annual budget to the OC. The budget should include all reasonably-anticipated training, equipment, and other operational costs for the following calendar year. The OC will consider the proposed budget at its next regularly-scheduled meeting.
 - 2. By December 31 of each year, the OC shall adopt a proposed budget for the following calendar year by majority vote. The budget should include all reasonably-anticipated training, equipment, and other operational costs for the following calendar year. Once adopted, that budget will be the official

budget of the SWAT Team for the relevant calendar year, subject to change only by a majority vote of the OC.

3. Each Signatory Agency hereby agrees to be liable for its proportional share of any OC-approved annual budget. Each member of the OC shall be responsible for submitting his/her agency's proportional share of the budget to his/her agency's budgeting process, and ensuring payment for that share is deposited into the account maintained by the Host Agency.

C. Proportional Share of Operational Costs: The share of the annual SWAT Team budget for which each Signatory Agency will be responsible is equal to the percentage of each Signatory Agency's population to the total population of all Signatory Agencies combined, per the most recent Washington Office of Financial Management (OFM) estimate as of December 1 of the calendar year prior to which the budget applies. The percentage of each Signatory Agency's share shall be calculated to two decimal points (i.e., 1/100th of one-percent, without rounding). Any added amount necessary to bring the total to 100% after tabulation shall be added to the share of the Signatory Agency with the largest population.

In the event a new Signatory Agency is added to this Agreement at any time other than the beginning of an annual budget cycle, the proportional share of each Signatory Agency shall be recalculated, to include the new Signatory Agency's proportional share, on the first day of the next new month immediately following the new Signatory Agency's adoption of this Agreement.

In the event that any Signatory Agency has prepaid its proportional share of the budget, any overpayment resulting from a recalculation of proportional share following the addition of a Signatory Agent shall not be refunded, but shall be credited to that Signatory Agency's proportional cost of the budget for the next month, and any month thereafter, until such overpayment has been resolved.

D. Certain Costs/Expenses Not Shared: The following costs/expenses of participation in the TRT are to be borne solely by the individual Signatory Agency to which the cost accrues

1. Regular pay and benefits for any Team Member;
2. Overtime pay for any Team Member;
3. The cost of outfitting an individual Team Member for participation on the team, including uniform, boots, gloves, helmet, other clothing-type items, individual weapon, and weapon-related accessories (suppressors, scopes, etc.);

4. Fuel for agency vehicles used to transport a Team Member to/from a call out;
 5. Damage, including wear and tear, on agency-owned vehicles not used exclusively for SWAT Team operations (*i.e.*, patrol cars, etc.);
- E. **Training Costs:** Costs for SWAT Team-specific training events (*i.e.*, events attended by the entire Team) shall be included in the annual operational budget. The Team Commander shall have the authority to coordinate and schedule training within the budget, and approve any requests for SWAT Team-specific training submitted by Team Members. Unless otherwise approved by the OC, individual training for Team Members (outside of Team training events) shall be the sole responsibility of the Signatory Agency that employs that Team Member.
- F. **Emergency Expenses.** If, during an incident to which the SWAT Team has responded, the Team Commander determines an emergency expense is necessary to the continued participation of the SWAT Team, the Team Commander shall inform the Incident Commander of the necessary expense and the basis therefore. The Incident Commander shall authorize or decline the expense. If the Incident Commander authorizes the expense, payment of that expense shall be the sole responsibility of the Signatory Agency employing the Incident Commander.
- G. **Consumables Used During a Callout:** The cost to replace consumable goods/equipment used during a particular activation/callout shall be the sole responsibility of the Requesting Agency for that activation/callout. Consumable goods/equipment includes, but is not limited to, explosives, ammunition, first aid supplies, and so on. Within a reasonable amount of time after the callout, the OC shall provide the Requesting Agency an accounting of any and all consumable items for which SWAT Team seeks reimbursement, and the Requesting Agency shall remit payment via the Host Agency within a reasonable time after receiving the accounting.
- H. **Funds Remaining at End of Budget Cycle:** Signatory Agencies agree that any money left over from any calendar year shall remain in the SWAT Team general account to supplement/augment continuing SWAT Team operations. Signatory Agencies shall provide a record of all direct and other costs to the Host Agency.
- I. **Audit Rights of Signatory Agencies:** Each Signatory Agency shall have the right to conduct an audit of the SWAT Team budget and account/s at any time.
- J. **Annual Report:** An annual report of all SWAT Team activities during a calendar year shall be provided to each Signatory Agency by April 1 of the following calendar year. This report shall include the following:
1. A tabulation of the number and nature of call outs and any other Team activity;

2. A tabulation of the personnel and respective jurisdiction at each call out;
3. A summary of the command positions assumed by personnel and their respective jurisdiction at each call out, including Incident Commander, Team Commanders, etc.;
4. A summary of any policy changes and the inclusion of a copy of the signed policy;
5. A copy of all completed risk matrixes, regardless of whether a SWAT Team call out resulted; and
6. A copy of the operational budget.

Section 7. Claims – Notice and Processing

- A. **Notice of Claim:** In the event a tort claim is filed against a Signatory Agency or its employees for actions arising from their conduct on behalf of the SWAT Team, the Signatory Agency shall promptly notify the other Signatory Agencies that the claim has been initiated. Any documentation, including the claim or legal complaints, shall promptly be provided to each Signatory Agency.
- B. **Designation of Lead Jurisdiction:** There shall be a lead jurisdiction for processing any claim filed with a Signatory Agency for alleged damages/injuries that occur as a result of SWAT Team activities. The lead jurisdiction shall be the jurisdiction that served as the Primarily Responsible Agency for the incident during which the action subject to the claim took place. If the claim also involves acts/omissions that did not occur during a SWAT Team call out, the lead jurisdiction for those portions of the claim shall be the jurisdiction that employs the individuals whose actions/omissions serve as the basis for that portion of the claim. If allegations are made against more than one Signatory Agency, or the employees of more than one Signatory Agency, the OC shall determine the lead jurisdiction for a claim by majority vote
- C. **Assistance Responding to Claims:** All SWAT Team personnel shall assist the lead jurisdiction, and anyone working on behalf of that jurisdiction with regard to any claim, in responding to the claim and providing relevant records. These records shall include, but are not limited to, incident reports, notes, transcripts, photos, evidence logs, recorded statements, documents from emergency dispatch centers, and warrants from all jurisdictions that participated in the action subject to the claim. Whenever necessary, the Team Commander/s shall assist in coordinating the provision of any records, and communications with any Team Member.
- D. **Claims of \$7,500 or Less**

1. Lead Jurisdiction Responsibilities: The lead jurisdiction shall be responsible for gathering records relating to the claim. The lead jurisdiction shall provide records to its insurance provider or risk-pooling organization, and shall assist the same in assessing liability for acts associated with the claim. The lead jurisdiction shall notify the other jurisdictions of any determinations as to payment of the claim. In determining whether a claim should be paid, the lead jurisdiction and its insurance provider or risk-pooling organization shall, at a minimum, consider the potential legal defenses to the claim and the costs of defending the claim.
 2. Payment of the Claim - Apportionment of Payment: The lead jurisdiction, with the assistance of its insurance carrier or risk-pooling organization, shall determine whether payment of the claim would be in the best interest of the Signatory Agencies. In the event the lead jurisdiction determines payment of a claim of \$7,500 or less is appropriate, such determination shall be final and binding upon the other Signatory Agencies, and payment shall be apportioned equally among all Signatory Agencies. The lead jurisdiction shall provide full payment to the claimant, and the remaining Signatory Agencies or their insurers shall reimburse the lead agency for their respective shares. Prior to the payment of any claim, and as a condition of such payment, the lead jurisdiction shall obtain from the claimant a complete and total release of liability on behalf of all Signatory Agencies and each and every officer, agent, or volunteer of those agencies.
 3. Denial of the Claim: In the event the lead jurisdiction determines payment of the claim would not be in the best interest of the Signatory Agencies, the lead jurisdiction shall notify the other Signatory Agencies, and that determination shall be binding on the other Signatory Agencies; PROVIDED, another Signatory Agency that determines payment is appropriate may pay such claim in full, but shall not be entitled to any reimbursement from the other Signatory Agencies.
- E. Claims over \$7,500: The lead jurisdiction shall coordinate communication among all Signatory Agencies to discuss any claim over \$7,500, and to determine, with input from the involved insurance carriers or risk-pooling organizations, the appropriate manner in which to respond to such a claim. This communication may occur in person, by phone, or by email where appropriate.

Section 8. Litigation - Process – Cost Sharing

- A. General Intent: It is the intent of the Signatory Agencies to provide and receive services of the SWAT Team without the threat of liability to one another, and to fully cooperate in the defense of any claims or lawsuits arising out of or connected with any SWAT Team action. It is the intent of the Signatory Agencies that they

share equally in the financial burden of litigation regarding SWAT Team activities. The costs to be equally shared include, but are not necessarily limited to, costs of defense, compensatory damages, and any attorney's fees awarded. The Signatory Agencies intend this cost-sharing to apply in all circumstances, regardless which Signatory Agency employs any individual team member/s whose actions or omissions are at issue in the litigation. The remainder of the liability-sharing portion of this agreement should be interpreted consistent with this intent.

- B. Notification to Other Signatory Agencies:** In the event a Signatory Agency is served with a lawsuit alleging any act or omission by any Team Member, Team Commander, or Signatory Agency, undertaken on behalf of the SWAT Team, that Signatory Agency shall provide timely notice and documentation of the lawsuit to each of the other Signatory Agencies. The Signatory Agency that initially receives the lawsuit shall also schedule a meeting with all Signatory Agencies to discuss the lawsuit and to determine, with input from the insurer or risk-pooling organization for each Signatory Agency, the appropriate manner in which to respond to and/or defend the lawsuit. Nothing in the Agreement shall be deemed a waiver by any Signatory Agency of the requirements set forth in Chapter 4.96 RCW, and the fact that a Signatory Agency provides notice or copies of a claim to another jurisdiction shall not constitute a waiver of the requirement that a party who files suit against a jurisdiction first file a claim with the jurisdiction in accordance with Chapter 4.96 RCW. Moreover, nothing in this Agreement shall be deemed acceptance of service of a lawsuit, and the fact that a Signatory Agency provides notice or copies of a lawsuit to another jurisdiction shall not be deemed adequate service of such lawsuit.
- C. Costs of Defense:** The cost of defense of any claim or litigation brought against any Signatory Agency or its employees for any act or omission undertaken on behalf of the SWAT Team shall be shared equally among the Signatory Agencies. The Signatory Agencies recognize this equal sharing of liability is different than the proportional sharing of budgeted expenses described above. This equal sharing of litigation costs shall apply regardless whether any Signatory Agencies are represented jointly.
- D. Joint Representation Encouraged:** In the event of litigation against a Signatory Agency or its employees for any act or omission undertaken on behalf of the SWAT Team, the Signatory Agencies are encouraged to select a single attorney to coordinate and conduct the defense. The Signatory Agencies recognize that joint representation improves access to records and personnel, improves communication among agencies and personnel, and minimizes the overall costs of defense. It is generally intended that Signatory Agencies and their employees will agree to joint defense, except in cases of bona fide conflict, as described in the next section.
- E. Conflict Counsel – Cost-Sharing:** In the event any attorney retained to represent any individual of Signatory Agency in any SWAT Team-related litigation determines conflict counsel should be appointed for any individual or Signatory Agency, that individual or Signatory Agency shall be entitled select their own

conflict counsel, with the input of the relevant insurance carrier or risk-pooling organization. The costs of any conflict counsel shall be shared equally among the Signatory Agencies.

- F. **Dismissal From Lawsuit – Continued Cost-Sharing:** In the event a Signatory Agency or its employee/s is/are successfully withdrawn or dismissed from a lawsuit, that Signatory Agency shall nonetheless be required to pay its equal share of any subsequent and continued litigation costs.

G. **Settlement – Procedure - Effect**

1. **Settlement Procedure:** Any Signatory Agency receiving a settlement offer or demand in any action or proceeding arising from SWAT Team activity shall immediately notify the other Signatory Agencies of that offer/demand, including the particulars thereof. Such Signatory Agency shall consult with the other Signatory Agencies and their insurance carrier/s or risk-pooling organization/s prior to making any settlement decision.
2. **Individual Settlement Decisions Discouraged:** It is the intent of this Agreement that the Signatory Agencies act in good faith on behalf of each other in conducting settlement negotiations on liability claims or lawsuits so that, whenever possible, all Signatory Agencies agree with the settlement costs or, in the alternative, that all Signatory Agencies reject settlement demands and agree to go to trial and share in any litigation costs going forward.
3. **Individual Settlement Decision – Settlement Costs Not Shared:** Any Signatory Agency entering into settlement with a claimant/plaintiff without ending the liability of all other Signatory Agencies and their employees shall not be entitled to contribution from the other Signatory Agencies for the amount of that settlement.
4. **Individual Settlements – Continued Litigation Costs Shared:** Any Signatory Agency entering into settlement with a claimant/plaintiff without ending the liability of all other Signatory Agencies and their employees shall remain responsible for an equal share of any costs/expenses for any continued litigation against other Signatory Agencies and/or their employee/s.

- H. **Liability Sharing – Non-Punitive Damages:** Excluding any award of punitive damages, liability for the actions or omissions of any individual or Signatory Agency, imposed as a result of their participation in the SWAT Team, shall be shared equally among all Signatory Agencies. The costs and expenses to be shared equally include, but are not limited to, any settlement of any claim for damages, fines, costs and expenses, awards, and attorney's fees (including costs of defense).

These costs and expenses shall be shared equally regardless of which Signatory Agency or employee the action is brought against, regardless of which Signatory Agency or employee is ultimately responsible for the conduct, regardless of the number of Signatory Agencies named in the lawsuit or claim, and regardless of the number of officers from each Signatory Agency named in the lawsuit or claim.

- I. **Liability – Punitive Damages:** In the event punitive damages are awarded against any individual or Signatory Agency as a result of any action or omission occurring on behalf of the SWAT Team, no other Signatory Agency shall be liable for any portion of such award. Any decision by a Signatory Agency to indemnify its officer/s or employee/s for any award of punitive damages will have no effect on the contribution owed by any other Signatory Agency.
- J. **Payment of Costs/Awards – Reimbursement:** In the event any Signatory Agency fails to timely provide payment of its equal portion of any shared costs/expenses outlined above, any other Signatory Agency may choose to pay the non-paying Signatory Agency's share. The Signatory Agency that failed to pay shall then be liable to the Signatory Agency that paid the share, plus any attorney's fees incurred in the collection of said monies from the non-paying Signatory Agency.
- K. **Hold Harmless:** The Signatory Agencies express their intent that no legal cause of action shall be brought by one Signatory Agency against any other Signatory Agency as a result of any SWAT Team-related activity, except to enforce the cost- and liability-sharing provisions of this Agreement. Therefore, each Signatory Agency agrees to hold harmless and indemnify the other Signatory Agencies from any loss, claim or liability arising from the actions or omissions of its officers and employees or each other as related to any SWAT Team activity, except as expressly outlined in this Agreement.
- L. **Insurance – Effect on Agreement:** The failure of any insurance carrier or self-insured pooling organization to agree to or follow the terms of this section shall not relieve any individual Signatory Agency from its obligations under this Agreement.

Section 9. Insurance Coverage Required

The Signatory Agencies shall, to the best of their ability, coordinate their liability insurance and/or self-insured coverage to the extent possible to fully implement and follow this Agreement. However, the consent of any liability insurance carrier or self-insured pool or organization is not required to make this agreement effective as between the Signatory Agencies, and the failure of any insurance carrier or risk-pooling organization to agree or follow the terms of this provision on liability shall not relieve any Signatory Agency from its obligations under this agreement.

Section 10. Employment

Except as provided herein, all public personnel are deemed to be continuing employment for their respective employers when activated as members of the SWAT Team. Each Signatory Agency shall be solely and exclusively responsible for the compensation and benefits for those personnel. All rights, duties, and obligations of the employer and the employee shall remain with that Signatory Agency. Each Signatory Agency shall be responsible for ensuring compliance with all applicable laws regarding employees, and with provisions on any applicable collective bargaining agreements, civil service rules regulations, and its own disciplinary policies and procedures.

Section 11. Press Releases

Signatory Agencies will coordinate any press releases relating to SWAT Team activities only through the Primary Responsible Agency, in an effort to fully and fairly acknowledge the contributions of participating agencies, and with due regard for the integrity of the operations and the safety of officers.

Section 12. Authorized Staff

The Signatory Agencies to this agreement shall provide the names and phone numbers of staff who have the authority to commit manpower and/or equipment to any SWAT Team activation/callout.

Section 13. Prisoner Transportation

Transportation of arrestees will be coordinated by the Incident Commander.

Section 14. Injury Benefits

Whenever any commissioned officer of a Signatory Agency is injured while acting pursuant to this agreement, even though such injury may have occurred while the officer was under the direction of a Signatory Agency which was not the employer of the injured officer at the time of such injury, such officer and/or his/her dependents shall receive from that Officer's employer the same benefits which such officer would have received had said officer been acting under the immediate direction of said officer's employer and within said employer's jurisdiction.

Section 15. Severability

Should any clause, phrase, sentence or paragraph of the Agreement or its application to any party or circumstance be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement and/or their application to other parties and circumstances, not declared invalid or void, shall remain in full force and effect.

Section 16. Term

The minimum term of this Agreement shall be one (1) year, effective upon its adoption by all Signatory Agencies. This Agreement shall automatically extend for consecutive one (1) year terms without action of the legislative bodies of the Signatory Agency jurisdictions, unless and until terminated pursuant to the terms of this agreement.

Section 17. Termination

Any Signatory Agency may withdraw from this Agreement with thirty (30) calendar days advance written notice to the other Signatory Agencies herein. Withdrawal during any calendar year shall not entitle the withdrawing agency to a reduction or refund with respect to funds budgeted for or otherwise committed with respect to the withdrawing agency for that calendar year. Termination of this Agreement and/or withdrawal of an agency shall not terminate the indemnity/liability of that agency for any incident arising prior to the withdrawal. All terms of this Agreement shall survive the termination with respect to any cause of action, claim or liability arising on or prior to the date of termination.

1. In the event a Signatory Agency withdraws from and terminates participation under this Agreement, property provided by that Signatory Agency pursuant to the terms and conditions of this Agreement, including but not limited to vehicles, equipment, firearms, ammunition and explosives, shall belong to and shall be returned to that Signatory Agency.
2. Items that were jointly purchased through the SWAT Team general operating budget will continue to remain with and be available for use by the SWAT Team until such time that this Agreement is terminated in its entirety, at which time items that were jointly purchased by the Signatory Agencies will be divided among the Signatory Agencies in proportion to the number of Team Members each Agency contributes to the Team under the Agreement as of the date of termination.

Section 18. Contract Administration

The Signatory Agencies do not, by this Agreement, intend to create any separate legal or administrative entity. The Signatory Agencies will cooperatively work together to further

the intent and purpose of this agreement. The Chief Law Enforcement Officers from the Signatory Agencies shall be responsible for administering the terms of this agreement.

Section 19. Extent of Agreement

This agreement contains the complete understanding of the Signatory Agencies regarding the subject matter of this agreement.

Section 20. Authorization

By resolution or ordinance or otherwise pursuant to law, the governing bodies of the Signatory Agencies listed below have authorized their respective designated officials to execute this agreement on their behalf. This agreement may be executed by counterparts and if so, shall be deemed valid as if each designated official had signed the original.

Section 21. Additional Signatory Agencies

Additional agencies may become parties to this Agreement if approved by a majority vote of the OC at a regularly scheduled meeting. Once approved by such a vote, the new Signatory Agency will execute this Agreement by affixing the signature of a designated official to a copy of this Agreement in the same manner as the existing Signatory Agencies.

The addition of a Signatory Agency does not change the terms of this Agreement unless otherwise stated herein, and does not require re-adoption of this Agreement by any Signatory Agency or such agency's governing body.

Except as otherwise provided herein, the rights and liabilities of any additional Signatory Agency shall attach immediately upon that Agency's adoption of this Agreement by signature of a designated official.

CITY OF BONNEY LAKE

By: _____
Michael McCullough, Mayor

Date: _

As To Form: _____
Print Name: _____
Bonney Lake City Attorney

Date: _

CITY OF PUYALLUP

By:_____

Steve Kinkelie, City Manager

Date: _

As To Form: _____

Joe Beck, Puyallup City Attorney

Date: _

CITY OF MILTON

By: _____

Shanna Styron-Sherell, Mayor

Date: _

As To Form: _____

Print Name: _____

Milton City Attorney

Date: _

CITY OF SUMNER

By: _____
Kathy Hayden, Mayor

Date: _

As To Form: _____
Andrea Marquez, Sumner City Attorney

Date: _

CITY OF FIFE

By:_____

Derek Matheson, City Manager

Date: _

*As To Form:*_____

Greg Amann, Fife City Attorney

Date: _

CITY OF ORTING

By:_____

Date:_____

Joshua Penner, Mayor

*As To Form:*_____

Date:_____

Print Name:_____

Orting City Attorney

CITY OF DUPONT

By:_____

Date: _

Ronald J. Frederick, Mayor

*As To Form:*_____

Date: _

Gordon P. Karg
DuPont City Attorney

**RESOLUTION NO. 1654
CITY OF SUMNER, WASHINGTON**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT FOR INMATE HOUSING WITH THE SOUTH CORRECTIONAL ENTITY.

WHEREAS, the City of Sumner needs and desires to have available jail facilities to provide for the custody and care of our misdemeanor inmates; and

WHEREAS, the South Correctional Entity, known as SCORE, owns and operates a consolidated correctional facility in the City of Des Moines to provide correctional services essential to the preservation of the public health, safety, and welfare; and

WHEREAS, both the City of Sumner and the South Correctional Entity desire to enter into a jail services agreement for the housing of Sumner inmates; and

WHEREAS, such agreements are authorized pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW, and the Cities and Counties Jails Act, Chapter 70.48 RCW; and

WHEREAS, the Sumner City Council Public Safety Committee recommended approving this resolution during their committee meeting on February 15, 2023.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON DOES RESOLVE AS FOLLOWS:

Section 1. The Mayor is authorized to enter into the Interlocal Agreement For Inmate Housing with the South Correctional Entity substantially in a form as approved by the City Attorney.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

APPROVED AND ADOPTED this 6th day of March 2023.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

Michelle Converse, CMC, City Clerk

City Attorney Andrea Marquez

INTERLOCAL AGREEMENT FOR INMATE HOUSING

THIS INTERLOCAL AGREEMENT FOR INMATE HOUSING (hereinafter “Agreement”) is made and entered into by and between the SOUTH CORRECTIONAL ENTITY, a governmental administrative agency formed pursuant to RCW 39.34.030(3) (“SCORE”) and the CITY OF SUMNER, a municipal corporation organized under the laws of the State of Washington (hereinafter the “Contract Agency” together with SCORE, the “Parties” or individually a “Party”).

RECITALS

WHEREAS, SCORE was formed by its Owner Cities (as defined herein) as a governmental administrative agency pursuant to RCW 39.34.030(3) to operate and maintain a consolidated correctional facility located in the city of Des Moines (the “SCORE Facility”) to serve the Owner Cities, federal and state agencies and other local governments that contract with SCORE from time to time to provide correctional services essential to the preservation of the public health, safety and welfare; and

WHEREAS, the Contract Agency desires to transfer custody of certain inmates to SCORE to be housed at the SCORE Facility; and

WHEREAS, this Agreement is entered into by and between the Parties pursuant to chapters 39.34 and 70.48 RCW, which provide for interlocal agreements for sharing of correction/detention facilities between local governments;

In consideration of the mutual covenants, conditions, and promises contained herein, the Parties hereto mutually agree as follows:

SECTION 1. DEFINITIONS.

Terms defined in the recitals of this Agreement are incorporated herein as if fully set forth in this Agreement. Capitalized terms used herein shall have the following meanings. Terms not otherwise defined herein shall have the meanings set forth in the Interlocal Agreement.

Detainer means a legal order authorizing or commanding another agency a right to take custody of a person.

Commencement Date means January 1, 2023.

Contract Agency Inmate means a person or persons subject to the Contract Agency’s custody who is transferred to SCORE’s custody under this Agreement.

Daily Bed Rate means the daily rate the Contract Agency is charged to occupy a general population bed, as set forth in Exhibit A.

Daily Surcharge Rates means any of the following special charges as defined in Exhibit A: Daily Surcharge Rates: Medical-Acute; Mental Health-Acute; and Mental Health-General Population.

Guaranteed Bed Rate means a reduced Daily Bed Rate - Guaranteed, as set forth in Exhibit A.

Inmate means a person or persons transferred to SCORE’s custody to be housed at the SCORE Facility. The term “Inmates” includes Contract Agency Inmates.

Interlocal Agreement means the Amended and Restated SCORE Interlocal Agreement dated as of October 1, 2009 and amended and restated on December 11, 2019, as it may be further amended from time to time, executed among the parties thereto for the purpose of forming SCORE.

Mental Health - Residential Beds means Inmates clinically determined by SCORE Health Services Provider, or its successor charged with the same duties, as needing ongoing mental health care services and specialized housing in SCORE's Mental Health - Residential Unit.

Medical – Acute Beds means an Inmate clinically determined by SCORE Health Services Provider, or its successor charged with the same duties, as needing the level of medical services and housing provided in SCORE's medical clinic.

Mental Health – Acute Beds means an Inmate clinically determined by SCORE Health Services Provider, or its successor charged with the same duties, as needing the level of psychiatric services and specialized housing in SCORE's Mental Health - Acute Unit.

Owner City has the meaning set forth in the Interlocal Agreement.

Non-Guaranteed Bed Rate means a higher daily housing bed rate and subject to availability, as set forth in Exhibit A.

SCORE Facility means the correctional facility maintained and operated by SCORE located at 20817 17th Avenue South, Des Moines, WA 98198.

Termination Date means December 31, 2023.

SECTION 2. TERM.

This Agreement shall commence at 12:00 a.m. PST on the Commencement Date and terminate at 11:59 p.m. PST on the Termination Date, unless sooner terminated by either Party in accordance with this Agreement. This Agreement may be renewed for any successive period by written addendum under terms and conditions acceptable to the Parties.

SECTION 3. INMATE HOUSING AND SERVICES.

Subject to the terms of this Agreement, SCORE hereby agrees to accept Contract Agency Inmates and to provide housing, care, and custody of those Contract Agency Inmates pursuant to SCORE policies and procedures. Additional related services and associated fees, if any, to be provided to Contract Agency Inmates and/or the Contract Agency are listed in Exhibit A.

To the greatest extent permitted by law, SCORE shall have the right to refuse to accept an individual in custody of the Contract Agency or to return any Contract Agency Inmate to the Contract Agency for any reason, including but not limited to if, in the sole discretion of SCORE, such individual presents a substantial risk of escape, of injury to self or other persons or property, of adversely affecting or significantly disrupting the operations of the SCORE Facility, and/or has a medical illness or injury that makes housing such individual not in the best interest of SCORE or other Inmates as described in Exhibit D. Final acceptance of an individual based on illness or injury is determined upon approval of medical staff at the time of booking.

SECTION 4. COMPENSATION.

In consideration of SCORE's commitment to provide housing and related services for Contract Agency Inmates, the Contract Agency agrees to pay SCORE the fees and charges set forth in Exhibit A.

Such fees and charges may include, but are not limited to, booking, daily bed rate, medical and specialty, mental health, transportation, security, other charges and/or negotiated fees.

SCORE may from time to time revise the fees and charges for housing and related services under this Agreement during the term of this Agreement. SCORE shall give advance notice of any change to its fees and charges for such service in order to allow the Contract Agency sufficient time to adjust its annual budget. Unless otherwise agreed to by the Parties hereto, any new fees and charges under a new fee schedule shall become effective on January 1 of the following year.

The Contract Agency shall acknowledge receipt of the rates and charges schedule in writing and such acknowledgement shall be deemed to be an amendment to this Agreement and incorporated as if fully set forth herein without the necessity of a formal amendment or separate approval by the legislative authority of the Contract Agency or the Administrative Board of SCORE.

SECTION 5. TRANSPORTATION, BOOKING, CLASSIFICATION, DISCIPLINE AND RELEASE PROCEDURES.

- A. Transportation. The Contract Agency is responsible for the transportation of Contract Agency Inmates to the SCORE Facility, including all costs associated therewith.
- B. Booking. Contract Agency Inmates shall be booked pursuant to SCORE's booking policies and procedures. Pursuant to RCW 70.48.130, and as part of the booking procedure, SCORE shall obtain general information concerning the Contract Agency Inmate's ability to pay for medical care, including insurance or other medical benefits or resources to which a Contract Agency Inmate is entitled. The information is used for third party billing.
- C. Classification. Contract Agency Inmates shall be classified pursuant to SCORE's classification policies and procedures, and within the sole discretion and reasonable judgment of SCORE. The Contract Agency shall provide sufficient information regarding each Contract Agency Inmate as needed to allow SCORE to make such classification. Contract Agency Inmates shall be assigned to housing pursuant to SCORE's policies and procedures, and within the sole discretion and reasonable judgment of SCORE as provided in Exhibit F.
- D. Inmate Discipline. SCORE shall discipline Contract Agency Inmates according to SCORE policies and procedures and in the same manner which other Inmates are disciplined; provided, however, nothing contained herein shall be construed to authorize the imposition of a type of discipline that would not be imposed on a comparable Inmate, up to and including the removal of earned early release credits as approved by the Contract Agency.
- E. Release. Except for work programs or health care, if no probable cause determination is made as required by law, and during emergencies, Contract Agency Inmates shall not be removed and/or released from the SCORE Facility without written authorization from the Contract Agency or by the order of a court of competent jurisdiction. If SCORE becomes aware that there has been no probable cause determination as required by law, and the person is still in SCORE's custody, SCORE will notify the Contract Agency that the person must be released unless written proof that the probable cause determination was made is provided. Other jurisdictions may "borrow" a Contract Agency Inmate according to policies and procedures of SCORE and as listed in Exhibit G.

Contract Agency Inmates will be transported at the time of release as follows: SCORE will release each Contract Agency Inmates to the Contract Agency at a mutually agreeable location. Alternatively, SCORE will provide transportation upon release to either the closest Owner City of

arrest, or the Owner City of residence, whichever is closer, unless confirmed transportation is available at the time of release. Additional fees, if any, for transportation outside of King County are included in Exhibit A.

Contract Agency Inmates for whom bail is posted, or who otherwise have a right to be released, may choose to remain in custody at the SCORE Facility by signing written waiver and return to the Contract Agency by the regularly scheduled transport, be released to a family Owner or friend with confirmed transportation, or be released via private taxi.

SECTION 6. INMATE MEDICAL RECORDS, CLOTHING, BEDDING, PROPERTY AND WORK PROGRAMS.

- A. Inmate Medical Records. Should a Contract Agency Inmate receive medical care for injuries or illness at the time of arrest and prior to booking at the SCORE Facility, the Contract Agency shall provide medical documentation pertaining to injury or illness to SCORE at the time of booking if the Contract Agency has access to such records. If the Contract Agency cannot provide such records, SCORE, in its sole discretion, may refuse to accept a Contract Agency Inmate.
- B. Inmate Property. SCORE agrees to provide each Contract Agency Inmate with necessary or appropriate clothing and essential hygiene items. SCORE shall accept, hold and handle, and return any Contract Agency Inmate property in accordance with SCORE's policies and procedures, and shall be responsible only for Contract Agency Inmate property actually delivered into SCORE's possession. In the event a Contract Agency Inmate is being transported from a Contract Agency designated detention or correction facility, it will be the responsibility of the Contract Agency to process the Contract Agency Inmate's property not delivered and accepted into SCORE's possession as provided in Exhibit E.
- C. Work Programs. SCORE may assign Contract Agency Inmates to work programs such as inside and outside work crews, kitchen and facility duties, and other appropriate duties pursuant to SCORE's policies and procedures and within the sole discretion and judgment of SCORE.
- D. Visitation. SCORE shall provide reasonable scheduled visitation for Contract Agency Inmates. Inmate visitation may be accessible via video connection by third party provider at off-site locations for an access fee. Complimentary video visit access is available at the SCORE Facility. Confidential telephones or visitation rooms shall be available to a Contract Agency Inmate to communicate with his or her legal counsel.
- E. Inmate Accounts. SCORE shall establish and maintain a non-interest-bearing account for each Contract Agency Inmate. Upon returning custody of a Contract Agency Inmate to the Contract Agency, SCORE shall transfer the balance of that Contract Agency Inmate's account that is not subject to charges, to the Contract Agency Inmate or to the Contract Agency in the form of cash, check, debit card or other agreed upon method in the name of the Contract Agency Inmate.

SECTION 7. HEALTH CARE.

SCORE shall provide in-facility medical care commonly associated with corrections operations as guided by American Correctional Association (ACA) or National Commission on Correctional Health Care (NCCHC).

Contract Agency Inmates shall be responsible for co-payment for health services according to SCORE policy. The Contract Agency shall not be responsible to SCORE for Contract Agency Inmate co-payments. No Contract Agency Inmate shall be denied necessary health care because of an inability to pay for health services.

In-facility medical, dental, and mental health services are included in the daily rate set forth in Exhibit A. Should a Contract Agency Inmate require medical, mental health, dental, and/or other medical services at an outside medical or health care facility, SCORE shall notify the Contract Agency's designee (either by written or electronic means) within a reasonable time period before the Contract Agency Inmate receives such medical, mental health, dental or any other medical services. Notwithstanding the foregoing, the Contract Agency acknowledges that such notice may not be reasonably possible prior to emergency care.

Except to the extent that a Contract Agency Inmate can pay pursuant to Section 5.B, the Contract Agency shall pay for all medical, mental health, dental or any other medical services or equipment that are required to care for Contract Agency Inmates outside of the SCORE Facility in addition to the charges listed in Exhibit A. Lack of prior notice shall not excuse the Contract Agency from financial responsibility for such expenses and shall not be a basis for imposing financial responsibility for related medical expenses on SCORE. SCORE shall bear the expense of any such medical care necessitated by improper conduct of SCORE, or of its officers or agents.

If a Contract Agency Inmate is admitted to a hospital, the Contracting Agency will be responsible for hospital security unless other arrangements are made with SCORE. SCORE, in its sole discretion, may, or at the request of the Contract Agency shall, provide hospital security services for an additional charge as provided in Exhibit A.

SECTION 8. DETAINERS.

Warrants and Contract Agency Inmates in a "Detainer" status shall be handled according to SCORE policies and procedures and as provided in Exhibit B attached hereto.

SECTION 9. RELEASE OF HOLDS AND COURT APPEARANCES.

If a court of limited jurisdiction releases a hold on a Contract Agency Inmate still incarcerated at the SCORE Facility, SCORE will not facilitate further court appearances of that Contract Agency Inmate except if the Contract Agency wishes to use the video arraignment system at the SCORE Facility.

SECTION 10. ESCAPE; DEATH.

If a Contract Agency Inmate escapes SCORE's custody, SCORE shall notify the Contract Agency as soon as reasonably possible. SCORE shall use all reasonable efforts to pursue and regain custody of escaped Contract Agency Inmates.

If a Contract Agency Inmate dies while in SCORE custody, SCORE shall notify the Contract Agency as soon as reasonably possible. The King County Medical Examiner shall assume custody of the Contract Agency Inmate's body. Unless another agency becomes responsible for investigation, one or more Owner City shall investigate and shall provide the Contract Agency with a report of its investigation. The Contract Agency may participate in the investigation. If another agency becomes responsible for investigation, SCORE shall serve as a liaison or otherwise facilitate the Contract Agency's communication with and receipt of reports from the other agency.

The Contract Agency shall provide SCORE with written instructions regarding the disposition of the Contract Agency Inmate's body. The Contract Agency shall pay for all reasonable expenses for the preparation and shipment of the body. The Contract Agency may request in writing that SCORE arrange for burial and all matters related or incidental thereto and the Contract Agency shall be responsible for all costs associated with this request.

SECTION 11. REPORTING AND INSPECTION.

SCORE agrees to use reasonable efforts to work with the Contract Agency to provide access to and/or reports from jail management systems that provide statistical information about Inmates. The Contract Agency shall have the right, upon reasonable advance notice, to inspect the SCORE Facility at reasonable times. During such inspections, the Contract Agency may interview Contract Agency Inmates and review Contract Agency Inmates' records. The Contract Agency shall have no right to interview Inmates housed for other jurisdictions or to review their records unless Contract Agency is properly authorized to do so by the Inmate or the other jurisdiction.

SECTION 12. TECHNOLOGY.

SCORE and the Contract Agency may each permit the other continuous access to its computer database regarding all Contract Agency Inmates housed by SCORE. This continuous access feature may be accomplished through a computer link between a computer(s) designated by the Contract Agency and appropriate computer(s) of SCORE.

SECTION 13. BILLING AND PAYMENT.

SCORE shall provide the Contract Agency with monthly statements itemizing the name of each Contract Agency Inmate; the number of days of housing, including the date and time booked into the SCORE Facility and date and time released from SCORE; and itemization of any additional charges including a description of the service provided, date provided and reason for service. Payment shall be due to SCORE within 30 days from the date the bill is received. SCORE may bill the Contract Agency electronically. Payments not received by the 30th day shall bear interest at the rate of 1% per month until payment is received. Any fees or charges for Inmates housed on charges from multiple agencies (including but not limited to outside medical care) will be divided equally among those agencies.

SECTION 14. BILLING DISPUTE RESOLUTION.

The Contract Agency must provide written notice of dispute to SCORE within 60 days of billing or other disputed charges. SCORE shall respond in writing to such disputes within 60 days of receipt of such disputes. SCORE and the Contract Agency shall attempt to resolve the dispute by negotiation. If such negotiation is unsuccessful, either Party may refer the dispute to the SCORE Operations Board for resolution. The decision of the SCORE Operations Board is the final internal administrative remedy the Contract Agency must exhaust before pursuing other contractual, legal, equitable, or alternative dispute resolutions.

SECTION 15. INDEPENDENT CONTRACTOR.

In providing services under this Agreement, SCORE is an independent contractor and neither it nor its officers, nor its agents nor its employees are employees of the Contract Agency for any purpose, including responsibility for any federal or state tax, industrial insurance, or Social Security liability. Neither shall the provision of services under this Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of the Contract Agency under any applicable law, rule or regulation. Nothing in this Agreement is intended to create an interest in or give a benefit to third persons not signing as a Party to this Agreement.

SECTION 16. HOLD HARMLESS, DEFENSE, AND INDEMNIFICATION.

SCORE shall hold harmless, defend, and indemnify the Contract Agency, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, alleged violation of civil rights, injury, or death of any Contract Agency Inmate, or loss or damage to Contract Agency Inmate

property while in SCORE custody) that result from or arise out of the acts or omissions of SCORE, its elected officials, officers, employees, and agents in connection with or incidental to the performance or non-performance of SCORE's services, duties, and obligations under this Agreement.

The Contract Agency shall hold harmless, defend, and indemnify SCORE, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, alleged violation of civil rights (unless the Contract Agency has affirmatively notified SCORE in writing that a probable cause determination has been made within 48 hours of the arrest of the person bringing the claim), injury, or death of any Contract Agency Inmate, or loss or damage to Contract Agency Inmate property while in SCORE custody) that result from or arise out of the acts or omissions of the Contract Agency, its elected officials, officers, employees, and agents in connection with or incidental to the performance or non-performance of the Contract Agency's services, duties, and obligations under this Agreement.

In the event the acts or omissions of the officials, officers, agents, and/or employees of both the Contract Agency and SCORE in connection with or incidental to the performance or non-performance of the Contract Agency's and or SCORE's services, duties, and obligations under this Agreement are the subject of any liability claims by a third party, the Contract Agency and SCORE shall each be liable for its proportionate concurrent negligence in any resulting suits, actions, claims, liability, damages, judgments, costs and expenses and for their own attorney's fees.

Nothing contained in this section, or this Agreement shall be construed to create a right in any third party to indemnification or defense.

SCORE and the Contract Agency hereby waive, as to each other only, their immunity from suit under industrial insurance, Title 51 RCW. This waiver of immunity was mutually negotiated by the Parties hereto.

The provisions of this section shall survive any termination or expiration of this Agreement.

SECTION 17. INSURANCE.

SCORE and the Contract Agency shall provide each other with evidence of insurance coverage, in the form of a certificate or other competent evidence from an insurance provider, insurance pool, or of self-insurance sufficient to satisfy the obligations set forth in this Agreement.

SCORE and the Contract Agency shall each maintain throughout the term of this Agreement coverage in minimum liability limits of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate for its liability exposures, including comprehensive general liability, errors and omissions, auto liability and police professional liability. The insurance policies shall provide coverage on an occurrence basis.

Each Party shall provide to the other Party at least 30 days advance notice of any cancellation, suspension or material change in coverage.

SECTION 18. TERMINATION.

Either Party may terminate this Agreement, with or without cause, by providing the other Party with 90 days written notice of termination as provided in RCW 70.48.090.

SECTION 19. RECORDS.

The Parties hereto shall maintain all records, reports, and documents created, held or maintained under this Agreement and the services to be provided hereunder in accordance with chapter 42.56 RCW (the Washington Public Records Act), chapter 40.14 RCW (Preservation and Destruction of Public Records) and all other applicable federal, state and local laws and regulations.

SECTION 20. OPERATION OF SCORE FACILITY; PRISON RAPE ELIMINATION ACT.

SCORE shall manage, maintain, and operate the SCORE Facility in compliance with all applicable federal, state, and local laws and regulations. SCORE acknowledges and complies with the terms of the Prison Rape Elimination Act regarding custodial sexual misconduct as set forth in Exhibit C.

SECTION 21. HIPAA AND HITECH COMPLIANCE.

The Parties shall comply with all requirements of the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Health Information and Technology for Economic and Clinical Health Act (HITECH Act) as applicable, which relate to the Parties' responsibilities under this Agreement, as well as state laws and regulations including chapter 70.02 RCW.

SECTION 22. EQUAL OPPORTUNITY.

Neither Party shall discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, sexual orientation, veterans and military status, political affiliation or belief or the presence of any sensory, mental or physical handicap in violation of any applicable federal law, Washington State Law Against Discrimination (chapter 49.60 RCW) or the Americans with Disabilities Act (42 USC 12110 *et seq.*).

SECTION 23. MISCELLANEOUS.

- A. Real or Personal Property. It is not anticipated that any real or personal property will be acquired or purchased by the Parties solely because of this Agreement.
- B. Assignment. This Agreement, or any interest herein, or claim hereunder, shall not be assigned or transferred in whole or in part by a Party to any other person or entity without the prior written consent of the other Party. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of the assigning Party stated herein.
- C. Non-Waiver. The failure of either Party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.
- D. Severability. If this Agreement, or any portion of this Agreement, is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.
- E. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If any dispute arises between the Parties under any of the provisions of this Agreement, resolution of that dispute shall be available only through the jurisdiction, venue and rules of the King County Superior Court, King County, Washington.
- F. Attorneys' Fees. In any claim or lawsuit for damages arising from the Parties' performance of this Agreement, each Party shall be responsible for payment of its own legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit; however, nothing in this subsection shall limit each Parties' right to indemnification under this Agreement.

- G. Approval and Filing. Each Party shall approve this Agreement by resolution, ordinance, motion or otherwise pursuant to the laws of the governing body of each Party. The signatures of the authorized signatories below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed and/or posted pursuant to chapter 39.34 RCW.
- H. Amendment. Except as otherwise provided in Section 4 of this Agreement, no waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless evidenced in writing signed by duly authorized representatives of both Parties.
- I. No Joint Venture or Partnership. No joint venture, separate administrative or governmental entity, or partnership is formed as a result of this Agreement
- J. Compliance with Applicable Laws and Standards. SCORE agrees to manage the Contract Agency Inmates and the SCORE Facility in accordance with applicable federal and state laws and regulations and to maintain staffing levels at the SCORE Facility in sufficient numbers and rank to maintain the safety of the public, staff, Inmates, and to reasonably carry out the provisions of this Agreement.
- K. Continuation of Performance. In the event that any dispute or conflict arises between the Parties while this Agreement is in effect, the Parties hereto agree that, notwithstanding such dispute or conflict, they shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities. Provided that if the Contract Agency fails to pay for the services provided by the SCORE, SCORE can cease providing such services until payment is made.
- L. Representatives; Notices. The individuals listed below the signature blocks included in this Agreement are designated as representatives of the respective Parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the Party making the change shall notify the other Party. Any notice or other communication given hereunder shall be deemed sufficient, if in writing and delivered personally to the addressee, or sent electronically or by certified or registered mail, return receipt requested, addressed as provided after the signature blocks included in this Agreement, or to such other address as may be designated by the addressee by written notice to the other Party.
- M. Entire Agreement. This Agreement, together with any subsequent amendments, constitutes the entire Agreement between the Parties and supersedes all prior agreements for inmate housing between the Parties.

SECTION 24. EXECUTION.

This Agreement shall be executed by the Parties hereto by their duly authorized representative. This Agreement may be executed in one or more counterparts.

THIS AGREEMENT is hereby effective as of the Commencement Date.

SOUTH CORRECTIONAL ENTITY

CITY OF SUMNER

Signature

Signature

Print Name - Title

Kathy Hayden, Mayor

Date

Date

ATTESTED BY:

Signature

NOTICE ADDRESS:

NOTICE ADDRESS:

SOUTH CORRECTIONAL ENTITY
20817 17th Avenue South
Des Moines, WA 98198

CITY OF SUMNER
1104 Maple Street
Sumner, WA 98390

Attention: Devon Schrum, Executive Director

Attention: Brad Moericke, Police Chief

Email: dschrum@scorejail.org

Email: bradm@sumnerwa.gov

Telephone: (206) 257-6262

Telephone: 253-299-5641

Fax: (206) 257-6310

Fax: N/A

DESIGNATED REPRESENTATIVE FOR PURPOSES OF
THIS AGREEMENT:

DESIGNATED REPRESENTATIVE FOR
PURPOSES OF THIS AGREEMENT:

Name: Devon Schrum

Name: Brad Moericke

Title: Executive Director

Title: Chief of Police

Exhibit A

FEES AND CHARGES AND SERVICES

<u>Booking Fee:</u> ¹	\$50.00	
<u>Daily Housing Rates:</u>		
General Population – Guaranteed Beds	\$138.43	No. of Beds: _____
General Population – Non-Guaranteed Beds	\$199.00	
<u>Daily Rate Surcharges:</u> ²		
Mental Health – Residential Beds	\$159.00	
Medical - Acute Beds	\$217.00	
Mental Health – Acute Beds	\$278.00	
<u>Health Care Services:</u> ³		
In-Facility Care	Included	
Co-Payments	Inmate responsibility	
Outside Medical Services	Contract Agency billed	
Emergency Care	Contract Agency billed	
Pharmaceuticals	Medications billed to Contract Agency	
<u>Transportation Fees:</u>		
SCORE Officer Transport	\$75.00/per hour	
<u>Security Services:</u>		
Hospital Security	\$75.00/per hour	
<u>Video Court:</u>		
In-Custody Arraignment	Included	
<u>Other Terms & Conditions:</u>		
<u>Fees, charges, and services will be annually adjusted each January 1st.</u>		

¹ The Booking Fee will be charged to the jurisdiction responsible for housing the inmate

² Surcharges are in addition to daily housing rates and subject to bed availability

³ Guided by American Correctional Association (ACA) and/or National Commission on Correctional Health Care (NCCHC)

Exhibit B

WARRANTS/OTHER COURT ORDERS/DETAINERS

The following shall apply to Contract Agency Inmates who are subject to warrants from other jurisdictions or to other court orders for confinement or detainers:

1. When receiving a Contract Agency Inmate, the booking officers at SCORE shall review all paperwork provided by the Contract Agency for all grounds to hold the Contract Agency Inmate.
2. Prior to releasing a Contract Agency Inmate, SCORE shall check the NCIC and WACIC systems to determine if the Contract Agency Inmate is subject to any valid warrants or other detainers.
 - a) If the Contract Agency Inmate is subject to a warrant that is limited to King County, SCORE will, upon receiving written permission (e-mail) from the Contract Agency, transport the Inmate to the custodial agency for the jurisdiction that issued the warrant. However, SCORE will not assume responsibility to serve any such warrants.
 - b) If the Contract Agency Inmate is subject to a warrant from a western Washington jurisdiction outside King County, SCORE will either process the Inmate for transfer on the Cooperative Transport Chain or provide transfer to a jurisdiction that participates in Cooperative Transport Chain.
 - c) If the Contract Agency Inmate is subject to a warrant from an eastern Washington jurisdiction, SCORE will send the Inmate to a jurisdiction that participates in the Cooperative Transport Chain.
 - d) If, upon return from SCORE to the Contract Agency, the Inmate is subject to a warrant that provides for statewide extradition, SCORE will either transport the Inmate to the detention/correction facility in King County designated by the agency/jurisdiction that issued the warrant if it is in King County or will send the Inmate to the agency/jurisdiction that issued the warrant on the Mini- Chain.

Exhibit C

PREA ACKNOWLEDGMENT - CUSTODIAL AND SEXUAL MISCONDUCT

1. Compliance
SCORE agrees to ensure that all of its employees, contractors, vendors, and volunteers that have contact with Contract Agency Inmates comply with all federal and state laws regarding sexual misconduct including, but not limited to:
 - a) The Prison Rape Elimination Act of 2003 (PREA)
 - b) The standards for adult Prisons and Jails or Community Confinement Facilities, whichever is applicable, as promulgated by the US Attorney, and
 - c) Zero tolerance toward all forms of sexual abuse and sexual harassment.
2. Monitoring
SCORE agrees to provide the Contract Agency documented compliance with the Federal Prison Rape Elimination Act standards. Monitoring may include, but is not limited to:
 - a) Site visits,
 - b) Access to facility data, and
 - c) Review of applicable documentation.
3. Contract Agency may terminate this Agreement
 - a) Should SCORE fail to provide documentation that demonstrates that the SCORE is actively and effectively working toward and is making substantive progress toward achieving compliance; or
 - b) Should SCORE fail to maintain PREA compliance between auditing periods, after being given a reasonable opportunity to cure.
4. The Contract Agency will terminate this Agreement
 - a) Should SCORE elect to discontinue pursuit of PREA compliance;
 - b) Should SCORE be found in noncompliance through a PREA Audit and fail to cure such noncompliance within the identified time-frames; or
 - c) Should SCORE be found to be in egregious violation of PREA.

Exhibit D

MEDICAL ACCEPTABILITY

SCORE shall determine the medical and mental acceptability of Inmates for booking or housing using the following guidelines. However, final acceptance is based upon approval of medical staff at the time of booking. Excluding criteria include but are not limited to:

1. Signs of untreated broken bones or dislocated joints.
2. Any injury or illness requiring emergency medical treatment.
3. Unconsciousness.
4. Inmates unable to stand and walk under their own power, unless they normally use an assistive device, such as a wheelchair, for mobility.
5. Bed bound individuals.
6. Individuals with attached IV or requiring IV medications.
7. Individuals requiring the use of oxygen tanks.
8. AMA (Against Medical Advice) from the hospital.
9. Individuals having had major invasive surgery within the last 72 hours. Non-invasive surgery such as oral surgery, laser-eye surgery and minor surgery may be evaluated on a case-by-case basis.
10. Wounds with drainage tubes attached.
11. Persons with Alzheimer's, dementia, or other psychological conditions to the point where the Inmate cannot perform activities of daily living ("ADL's") or who do not have the capacity to function safely within a correctional environment.
12. Persons who are diagnosed as developmentally delayed and who do not have the capacity to function safely within a correctional environment or who cannot perform ADL's.
13. Persons undergoing chemotherapy and/or radiation treatment.
14. Persons undergoing dialysis.
15. Persons with suicidal ideations or gestures within the past 72 hours.
16. Persons, if prescribed, who have not taken psychotropic medications for at least 72 hours.
17. Persons who have by self-disclosure, admitted to attempting suicide within the last 30 days.
18. Persons who have attempted suicide during their current incarceration.
19. Persons displaying current psychotic episode.

Exhibit E

PROPERTY

1. SCORE will *not accept or transport* the following:
 - a) Backpacks, suitcases, etc.
 - b) Unpackaged food products.
 - c) Food products in packaging that have been opened.
 - d) Any type of weapon (includes pocket knives).
 - e) Liquids.
 - f) Helmets or any kind.
 - g) Large items that will not fit into a common paper grocery bag.
 - h) Material deemed to be contraband.

SCORE will limit property returned with the Inmate to the Contract Agency according to these criteria.

Exhibit F

CLASSIFICATION

SCORE maintains a classification plan to guide staff in the processing of individuals brought into the facility. The plan includes an initial screening process, as well as a process for determining appropriate housing assignments (28 CFR 115.42) and uses an objective screening instrument and procedures for making decisions about classification and housing assignments. The plan includes, and not limited to, an evaluation of the following criteria:

1. Behavior during arrest and intake process
2. Potential risk of safety to others or self
3. Medical needs
4. The inmate's own perception of his/her vulnerability
5. Any other criteria as deemed appropriate by the Executive Director or designee

The Contract Agency shall supply SCORE with the following Classification related information, if known to or in possession of the Contract Agency:

1. If the Contract Agency Inmate has been classified to a special housing unit.
2. If the Contract Agency Inmate has been classified as protective custody.
3. If the Contract Agency Inmate:
 - a) Is a violent offender or has displayed violent behavior during present or past incarcerations
 - b) Is identified as a threat to law enforcement
 - c) Is an escape risk

Exhibit G

BORROWING

One contracting agency may “borrow” another Contract Agency’s Inmate as follows:

1. If a Contract Agency requests the transport of another contracting agency’s Inmate from SCORE the requesting agency must notify each agency with rights to custody of the Inmate, and if each agency with rights to custody of the Inmate notifies SCORE in writing (e-mail) of its approval, SCORE shall provide the requested transport to the requesting agency. SCORE will complete a custody transfer form that lists all outstanding detainers. The custody transfer paperwork will accompany the Inmate.
2. Once custody of the Inmate has been transferred to the requesting agency, it is the responsibility of the requesting agency to determine whether the Inmate shall be returned to the custody of SCORE, and if so, the requesting agency shall make all necessary and proper arrangements with SCORE and any agency with rights to custody of the Inmate, for the Inmate’s return according to the terms of this Agreement. The requesting agency, to the full extent permitted by law, defend, indemnify, save and hold harmless SCORE as provided in Section 16 of the Agreement.
3. SCORE will not track the Inmate once he or she has left the SCORE Facility.
4. If the Inmate is returned to the custody of SCORE, the requesting agency shall provide SCORE with sentencing/charge information. The requesting agency shall supply all pre-sentence, and post-sentence paperwork from agreeing agencies that authorized the borrowing of the Inmate. This will aid SCORE in determining split billing and release dates.
5. SCORE will transport the Inmate only to an agency that also contracts with SCORE for Inmate housing.