

# SHOALWATER BAY INDIAN TRIBE

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## SHOALWATER BAY INDIAN TRIBE RESOLUTION # 12-12-12-03

WHEREAS, the Shoalwater Bay Indian Tribe is a Federally Recognized Tribe headquartered on the Shoalwater Bay Indian Reservation in the State of Washington; and

WHEREAS, the Shoalwater Bay Tribal Council is the governing body of the Shoalwater Bay Indian Tribe in accordance with their Constitution and By-Laws; and

WHEREAS, the Shoalwater Bay Indian Tribe is committed to the safety of the community and effective law enforcement;

NOW THEREFORE BE IT RESOLVED, that the Shoalwater Bay Tribal Council supports the signing of Inter local Agreement, Shoalwater Bay Indian Tribe and the Pacific County Sheriff's Office.

(Agreement attached)

### CERTIFICATION

This Resolution was adopted at a regular meeting of the Shoalwater Bay Tribal Council, at which a quorum was present on December 12, 2012 by a vote of 5 FOR, 0 AGAINST and 0 ABSTENTIONS.

A handwritten signature in cursive script, appearing to read "Charlene Nelson".

Charlene Nelson, Chairman  
Shoalwater Bay Tribal Council

A handwritten signature in cursive script, appearing to read "Lynn Clark".

Lynn Clark, Secretary  
Shoalwater Bay Tribal Council

**INTERLOCAL AGREEMENT  
SHOALWATERBAY INDIAN TRIBE AND  
THE PACIFIC COUNTY SHERIFF'S OFFICE**

**Pacific County Sheriff's Office  
and  
Shoalwater Bay Indian Tribe**

This agreement is entered into under:

The Inter-local Cooperation Act (Chapter 39.34 RCW); Washington Mutual Aid Peace Officers Powers Act (Chapter 10.93 RCW);  
The Tribal Police Officers Act (Chapter 10.92 RCW);  
Between the Pacific County Sheriff's Office (hereinafter Sheriff) and the Shoalwater Bay Indian Tribe (hereinafter Tribe), in order to provide mutual aid as provided herein.

WHEREAS, law enforcement agencies have the responsibility to protect lives, protect property, to keep the peace; and

WHEREAS, effective law enforcement depends upon the ability of responding law enforcement officers to take emergency action to protect lives protect lives and property and to preserve the peace without regard to jurisdictional limits; and

WHEREAS, it is necessary and desirable that a cooperative agreement is executed for the purpose of effectuating efficient law enforcement within the boundaries of the Tribe's reservation.

WHEREAS, it is not intended that the traditional law enforcement responsibilities of the signatory agencies be altered, but rather that they be empowered to act in appropriate situations; and

WHEREAS, it is intended that tribal police officers who (1) have successfully completed the requirements of RCW 43.101.157; (2) are employed by a tribal authority that has provided sufficient proof of insurance to the Office of Financial Management for the State of Washington, and (3) are in all other respects to act as a peace officer under Chapter 10.92 RCW, shall be eligible to act as a general authority Washington peace officer as provided under the law and this Agreement within the boundaries of the Tribe's reservation; and

WHEREAS, this understanding shall not impair the authority of any officer who has acted pursuant to a special commission separately granted by the Sheriff;

NOW, THEREFORE,

The Parties agree to the following:

1. **ADMINISTRATIVE CONSIDERATIONS:** The Parties shall comply with Chapter 10.92 RCW.
2. **PEACE OFFICER AUTHORITY:** A Tribal officer who is authorized hereunder shall be recognized and authorized to act as a general authority Washington peace officer pursuant to Chapter 10.92 RCW within the boundaries of the Tribe's reservation. All of the activity of that officer shall be in

accord with the laws of the Shoalwater Bay Tribe, the State of Washington and the United States of America. To the extent that Tribal Officers act with the cooperation or assistance of the Sheriff's Office, Tribal Officers must follow the requirements of the Washington State Constitution and the laws of the State of Washington.

Nothing in this agreement shall affect the current authority of non-tribal police officers to exercise proper authority to enforce state laws within the boundaries of the Tribe/Nation.

**3. DECERTIFICATION OF PEACE OFFICER AUTHORITY:** The Parties agree to notify all signatories and the county and tribal prosecutor's offices by the next business day, in writing, should their officer become decertified.

**4 BRADY NOTIFICATION:** The Parties shall timely provide Brady material.

**5. TRIBAL AUTHORITY:** This agreement shall not otherwise expand or limit the authority or jurisdiction of any city, county, state, federal or tribal court or other government authority.

**6. GEOGRAPHIC AUTHORITY:** The authority granted herein shall be coextensive with the exterior boundaries of the Tribe's reservation.

**7. NO AGENCY OR EMPLOYEE STATUS:** The authority granted herein shall not create an agency or employee status between a tribal officer and Pacific County.

**8. SOVEREIGNTY RETAINED:** Except as articulated in Section 28 of this Agreement, nothing in this Agreement shall affect the existing status and sovereignty of either Party.

**9. STATE AND LOCAL ENFORCEMENT:** Nothing in this Agreement limits, impairs or otherwise affects the existing authority of state or local law enforcement officers to enforce state law within the exterior boundaries of an Indian reservation or to enter Indian country in fresh pursuit, as defined in RCW 10. 93.070.

**10. RATIFICATION, DURATION, AMENDMENTS, RENEWAL OF AGREEMENT, WITHDRAWAL and ARBITRATION:** This Agreement shall be in effect for four years from the date of ratification by the last party to the Agreement to ratify. The Agreement remains in effect regardless of leadership changes within the organizations of signing Parties.

This Agreement is not deemed to be in force unless ratified by the appropriate legislative and/or governing bodies of each Party.

If either party's legislative/governing body fails to ratify the agreement within 30 days, the Parties agree to make an effort to work toward ratification for an additional 30 days to complete the Agreement.

It is recognized that special circumstances arise from time-to-time. Therefore, amendments to the Agreement can be accomplished at any time on consent and signature of all Parties involved. Approved and signed amendments shall be attached to the original document.

An amendment in the form of a new signature page is required when leadership / signatory changes occur. It is the responsibility of the party who experiences the change to accomplish and distribute a new signature page as described in AGREEMENT DISTRIBUTION below within 30 days of the change. The amendment shall be attached to the original document.

The Parties agree to meet prior to the expiration of the Agreement in order to reach a new Agreement. In the event that a new Agreement is not reached between Parties, the Parties agree to use binding last best offer arbitration under Chapter 7.04A RCW as provided in RCW 10.92.020(10)(a).

Either Party may terminate this Agreement for cause by providing written notice to the other Party of the intent to terminate the Agreement. Unless the request to terminate is withdrawn, the Agreement will then terminate at midnight on the 30<sup>th</sup> day. The Parties agree to meet in an attempt to settle differences. If differences are not resolved after 60 days, the Parties agree to submit the dispute to mandatory last best offer arbitration.

**11. AGREEMENT DISTRIBUTION:** The parties agree that current and signed copies of this Agreement and copies of any signed amendments to this Agreement will be retained by each party. Furthermore, each party will send copies of the most current Agreement and amendments to the Office of Financial Management for the State of Washington and to the Washington Criminal Justice Training Commission as soon as possible after the signing of a new Agreement or amendments.

**12. FIELD OPERATIONS:** The parties may create separate documents for field operations protocols, 911 protocols, and fire operation protocols.

**13. CERTIFICATION:** The Tribe shall notify the Sheriff when a tribal officer has been certified pursuant to Chapter 10.92 RCW. The notification shall be in writing and shall be delivered to the Sheriff within 10 days of certification.

Each party shall provide the Criminal Justice Training Commission with documentation for the fulfillment of the certification and revocation process.

The parties agree that the Sheriff may commission Tribal officers. In the event that the Sheriff does commission a Tribal officer, the Tribe agrees to a limited waive of sovereign immunity and to comply with the requirements for insurance pursuant to Section 28 of this Agreement.

Nothing in this Agreement requires a Party to cross-deputize an officer.

A Party may suspend or revoke the authority of any officer to exercise commissions granted by the other party. A Party shall notify the other Party within 24 hours, in writing, of any suspension or revocation.

Upon the decertification of any officer, the Parties shall notify each other, the county and tribal prosecuting attorneys in writing within 24 hours.

**14. TRAINING:** Any officer who is subject to this Agreement or otherwise cross-commissioned shall meet the minimum standards for State certification. Both Parties are responsible for on-going training as required.

**15. RIGHT OF FIRST REFUSAL and RESPONSIBILITY:** The Parties agree that when life or property is in jeopardy, the closest officer(s) will respond. It will be the initial responding officer's responsibility to first protect life and property, then to establish the agency of jurisdiction. The agency of jurisdiction will be consulted, as safety allows, to determine who will conduct further law enforcement involvement.

Operations requiring a joint operation will be directed by the agency of jurisdiction unless otherwise agreed upon.

**16. INVESTIGATIONS, WARRANTS and ARREST:** Any investigation, warrant activity, or arrest shall take place in accordance with applicable tribal, state or federal law.

**17. REPORTING:** All personnel will timely submit required reports to the agency of jurisdiction.

**18. EVIDENCE and PROPERTY RECEIPTING, SAFEGUARDING and RETENTION:** Retained evidence and / or property shall be properly receipted. A complete inventory sheet shall be kept for all retained evidence.

All evidence and / or property so receipted shall be safeguarded and maintained in a secure environment that may be accessed for viewing. A list of all persons with access to the secure environment shall be kept. A log of the removal and return of any evidence or property shall be kept and shall include the personnel and time.

No evidence or property shall be released except upon a court order or a written directive of the Prosecuting Attorney or the Tribal Chief of Police, or his or her designee.

**Policies regarding unclaimed property shall conform to Chapter 63.40 RCW.**

**19. REFERRAL TO PROSECUTING AUTHORITY:** For any matter which is going to be prosecuted in the Pacific County Court, a Tribal police officer shall submit relevant paperwork to the Pacific County Prosecuting Attorney's Office for charging. Whenever any matter is referred to the Prosecuting Attorney's Office, a Tribal police officer must provide necessary paperwork within the timelines required by the Prosecuting Attorney and applicable court rules.

**20. FOLLOW-UP INVESTIGATION:** The Parties shall conduct whatever follow-up investigation is needed and requested. The lead agency will be determined by a verbal agreement between the Chief of Police of the Shoalwater Bay Police Department and a Lieutenant or above from the Pacific County Sheriff's Office.

**21. WARRANT SERVICE:** The Parties shall assist one another, when requested, in the execution of search warrants and arrest warrants properly issued by the jurisdiction. Execution of any warrant shall be governed by applicable State and Federal Law.

**22. SUBPOENA and DISCOVERY:** All rules of discovery in a criminal case shall apply and personnel will be subject to subpoena or other court process.

**23. PRE-TRIAL INTERVIEWS and MOTIONS:** Personnel shall be available at reasonable times and upon reasonable notice for any pre-trial interviews, depositions, or motions.

**24. JAIL:** The Sheriff's Office will be responsible for all costs associated with non-Indians booked into the Pacific County Jail by Tribal officers. Tribal officers will follow all booking procedures of the Pacific County Sheriff's Office.

**25. PROSECUTION and COURTS:** Cases will be adjudicated through the appropriate court of jurisdiction. Cases prosecuted in Pacific County courts that emanate within the boundaries of the Tribe will be treated in the same manner as other similar cases.

**26. RESOLVING CITIZEN COMPLAINTS:** The Parties agree to each maintain a process that will accommodate citizen or other agency complaints regarding their personnel.

**27. EXTRAORDINARY COSTS:** The parties may enter into a separate Local Agreement on Extraordinary Costs.

**28. GOVERNING LAW, VENUE, and LIMITED CONSENT TO SUIT AND INSURANCE:** This Agreement shall be governed by the laws of the State of Washington, as to interpretation and performance. Any action hereunder shall be brought in the Superior Court of Washington for Pacific County.

The Tribe agrees to maintain insurance policies in the amount of \$5,000,000.00 per occurrence for claims arising from the actions of tribal law enforcement officers pursuant to this Agreement.

The Tribe shall maintain this level of insurance in full force and effect during the life of this Agreement. If this Agreement is terminated for any reason, the Tribe agrees to continue to carry this level of insurance for potential claims covered by this Agreement until such time as protection from suit is granted by the relevant statutes of limitations. This provision shall survive termination of this Agreement.

The insurance provided by the Tribe shall include the County as an additional insured and shall be primary in the event that a claim or suit for damages is brought against both the Tribe and the County. This insurance shall not be applied to the portion of any judgment/settlement that is deemed to be the responsibility of the County. Such insurance shall provide 30 days written notice to the County in the event of cancellation or material change and include a statement to the effect that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. The insurance company or the Tribe will provide written notice to the County within thirty (30) days after any reduction in the general aggregate or occurrence limits. The Tribe shall provide the County with a certificate of insurance prior to the contract effective date. The County, at its option, may require a complete copy of the above insurance policy.

The Tribe provides a limited waiver of its sovereign immunity to suit County pursuant to this Agreement, the amount and nature of which are within the coverage and limits of the Tribe's insurance policy, i.e., \$5,000,000.00 per occurrence. This limited waiver of sovereign immunity shall apply to any incidents that occur while this Agreement is in effect and also shall apply to any actions that are commenced after this Agreement terminates if the incident date occurred while the Agreement was in effect. Policies of insurance obtained by the Tribe purchased pursuant to this section shall prohibit the insurer from asserting a defense of sovereign immunity to claims made under the policy.

**29. SEVERABILITY:** It is understood and agreed to by the Parties that if any part of this Agreement is found to be invalid the validity of the remaining provisions shall not be affected and the rights and obligations of the parties shall be construed as if the Agreement did not contain the invalidated provision. If any provision herein is in conflict with any applicable statute, said provision shall be deemed inoperative, null and void, insofar as it may be in conflict therein.

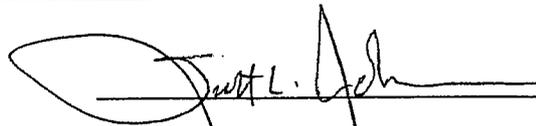
**30. INTEGRATION:** This Agreement, and any signed amendments, contains terms and conditions agreed upon by the Parties. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement.

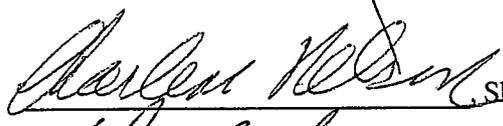
31. **NOTICE:** Any notice required or permitted to be given under this Agreement to a Party shall be deemed sufficient if given in writing and sent by certified mail to the address stated below for each Party, or to any other address to which the Party may inform all other parties in writing with specific reference to this agreement.

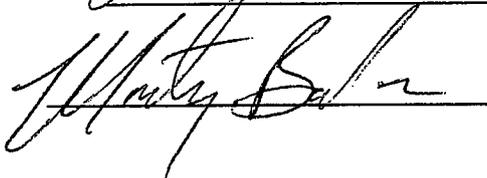
The Chief of Police for the Tribe shall provide copies of the Agreement and any amendment to the Office of Financial Management and the Criminal Justice Training Commission within 10 days after the Agreement has been ratified by each party.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands to the date first above written.

Dated this 12 day of DECEMBER, 2012.

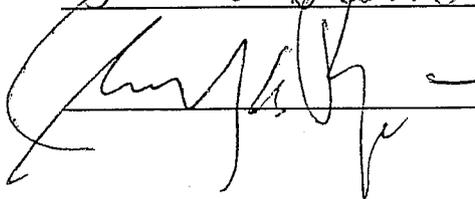
  
Pacific County Sheriff  
Scott Johnson

  
Shoalwater Bay Indian Tribe / Chairperson  
Charlene Nelson

  
Shoalwater Bay Indian Tribe / Vice Chairperson  
Monty Baker

Approved as to form:

  
Pacific County Prosecutor David Burke

  
Shoalwater Bay Indian Tribe Prosecutor Tim Rybka

PACIFIC COUNTY  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
Lisa Ayers, Chair

\_\_\_\_\_  
Norman B. Cuffel, Commissioner

ATTEST:

\_\_\_\_\_  
Marie Guernsey  
Deputy Clerk of the Board

\_\_\_\_\_  
Steve Rogers, Commissioner