

**NORTH KITSAP FIRE & RESCUE  
PORT GAMBLE S'KLALLAM TRIBE**

**FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES AGREEMENT**

This Agreement is entered into between NORTH KITSAP FIRE & RESCUE, a municipal corporation, referred to as "North Kitsap Fire", and THE PORT GAMBLE S'KLALLAM TRIBE, referred to as "the Tribe".

**RECITALS**

1. North Kitsap Fire currently provides fire protection and emergency medical services to the area within the boundaries of the Tribe's Reservation and North Kitsap Fire.
2. North Kitsap Fire maintains and operates emergency medical service vehicles in accordance with Chapter 18.71 and 18.73 RCW and Chapter 246-976 WAC. The vehicles are staffed by emergency medical technicians and advance life support personnel in compliance with Chapter 18.71 and 18.73 RCW and Chapter 246-976WAC.
3. The Tribe has a need for the services and the North Kitsap Fire has the ability to supply the needed services to the Tribe.
4. This Agreement is entered into under the authority of Chapter 39.34 RCW.

**AGREEMENT**

To carry out the purposes of this Agreement and in consideration of the benefits to be received by each party, it is agreed as follows:

1. **Effective Date and Termination of Agreement.** This Agreement shall be effective on January 1, 2014 and shall be automatically renewed for additional one year terms unless terminated earlier with a one year advance written notice of termination given by the appropriate legislative body of the party desiring to terminate this Agreement.
2. **Fire Protection and Emergency Medical Services.** During the term of this Agreement, North Kitsap Fire shall furnish fire protection services and emergency medical services including ambulance and advance life support services to all property, including all Tribal owned or leased real and personal properties, and persons within the geographical boundaries of the Tribe's Reservation "Services". The Services shall be rendered on the same basis as such Services are rendered to persons within North Kitsap Fire but North Kitsap Fire assumes no liability for failure to provide such Services by reason of any circumstances beyond its control. In the event of simultaneous emergency calls, whether within or outside of the Reservation whereby the facilities and personnel of North Kitsap Fire are taxed beyond its ability to render equal Services, the officers and agents of North Kitsap Fire shall have discretion as to which call shall be answered first and shall be the sole judge as to the most expeditious manner of handling and responding to such calls.

### 3. **Limitation of Services.**

3.1. **Code Enforcement Inspection.** It is acknowledged by the parties that North Kitsap Fire has assumed no duty to provide building inspection services that might be required under the Uniform Fire Code or any laws of the Tribe. It is further acknowledged that the parties recognize that the North Kitsap Fire, by statute, has no authority or duty to enforce any provisions of such code or to enforce any laws of the Tribe.

3.2. **EMS Transports.** The emergency medical transportation services shall be confined to transportation to facilities in Kitsap, Snohomish, King, Pierce and Jefferson Counties.

3.3. **Public Service.** North Kitsap Fire makes no guarantee or assurance of providing responses within any specific period of time or of the number and types of equipment and number of personnel that will respond at any particular emergency. The duty of North Kitsap Fire to provide Services under the provisions of this Agreement is a duty owed to the public generally and by entering into this Agreement North Kitsap Fire does not incur a special duty to the Tribe or to residents of the Reservation.

3.4. **Dispatching.** Dispatching services shall continue to be provided to both parties by CENCOM. The Tribe shall remain solely responsible for the costs of dispatch.

4. **Payment for Services.** For the Services provided by North Kitsap Fire as set forth in this Agreement, the Tribe agrees to pay to the North Kitsap Fire the sum of \$88,000.00 (\$7,333.33 per month). In addition, North Kitsap Fire reserves the right to bill third party insurance companies and Medicare for medical transport services consistent with North Kitsap Fire policy, provided, however, North Kitsap Fire will not bill such services when the Tribe has primary financial responsibility for the billed costs.

4.1. **Invoicing and Payment.** North Kitsap Fire will invoice the Tribe on January 1<sup>st</sup> of each year for the full amount determined under this paragraph. The Tribe shall pay the invoiced amounts in twelve equal monthly installments on or before the 15<sup>th</sup> of each month. Late payments will be assessed a one percent per month late charge.

4.2. **Payment Adjustment.** The annual payment shall be adjusted each January 1<sup>st</sup> by the amount of change in North Kitsap's annual property tax levy within the District as certified by the Kitsap County Assessor.

5. **Insurance.** North Kitsap Fire agrees to carry at all times during the term of this Agreement, liability insurance coverage in the amount of \$1,000,000.00 covering North Kitsap Fire and the Tribe for all activities of the employees of North Kitsap Fire relating to the performance of this Agreement. North Kitsap Fire will provide the Tribe with a certificate of insurance, naming the Tribe as additional insured.

6. **Liability.** North Kitsap Fire shall, at all times, be solely responsible and liable for the acts or the failure to act of its personnel that occur or arise in any way out of the performance of this Agreement by its personnel only and agrees to save and hold the Tribe and its personnel and officials harmless from all costs, expenses, losses and

damages, including cost of defense, incurred as a result of any acts or omissions of North Kitsap Fire's personnel relating to the performance of this Agreement.

7. **Limited Waiver Of Sovereign Immunity.** The Tribe hereby expressly grants a limited waiver of sovereign immunity to suit solely with respect to claims made against it by the other party relating to, or arising under, this Agreement. Any such suit shall be brought and maintained in the United States District Court for the Western District of Washington at Seattle; provided, however, that if for any reason that court lacks jurisdiction over the matter, the suit may be heard in the Tribal Court or in the District or Superior Court of the State of Washington for Kitsap County. Nothing in this Agreement shall be construed to authorize any suit, execution, attachment, or judicial process against persons or property of the Port Gamble S'Klallam Tribal Council or any member thereof, other than as specifically set forth above. In no event shall this agreement be construed to authorize attachment, execution, or other judicial process against real property of the Tribe, any property held in trust by the United States or subject to a restriction against alienation imposed by federal law, or any funds held by or on behalf of the Tribe and derived from federal or state grants or contracts.

8. **Dispute Resolution.**

8.1. **Meet and Confer Process.** In the event that either party believes that the other has committed a possible violation of this Agreement, it may request in writing that the parties meet and confer in good faith for the purpose of attempting to reach a mutually satisfactory resolution of the problem within fifteen (15) days of the date of service of said request; provided that if the complaining party believes that the problem identified creates a threat to public health or safety, the complaining party may proceed directly to Judicial Review as provided in Section 16 below.

8.2. **Notice of Disagreement.** If the complaining party is not satisfied with the result of the meet and confer process, the complaining party may provide written notice to the other identifying and describing any alleged violation of this Agreement ("Notice of Disagreement"), with particularity, if available, and setting forth the action required to remedy the alleged violation.

8.3. **Response to Notice of Disagreement.** Within fifteen (15) business days of service of a Notice of Disagreement, the recipient shall provide a written response either denying or admitting the allegation(s) set forth in the Notice of Disagreement, and, if the truth of the allegations are admitted, setting forth in detail the steps it has taken and/or will take to cure the violations. Failure to serve a timely response shall entitle the complaining party to proceed directly to Judicial Review as provided below.

8.4. **Expedited Procedure for Threats to Public Safety.** If the either party reasonably believes that the other party's conduct is in violation of this Agreement and has caused or will cause a significant threat to public health or safety, resolution of which cannot be delayed for the time periods otherwise specified in this section, the complaining party may proceed directly to Judicial Review. At least twenty-four (24) hours before proceeding in this manner, the complaining party shall provide to the other a written request for correction and notice of intent to exercise its rights

under this Paragraph, setting out the legal and/or factual basis for its reasonable belief that there is a present or an imminent threat to public health or safety.

9. **Miscellaneous**

- 9.1. **No Separate Entity Created.** This Agreement does not establish a separate legal entity, joint board, or administrative section for the purpose of acquiring, managing, or disposing of property, or any other financial obligation allowed under the Act.
- 9.2. **Administration.** Unless the Parties otherwise agree, there shall be no lead agency responsible for the administration of this Agreement. The chief officers of the respective Parties shall jointly administer this Agreement.
- 9.3. **Property Ownership.** This Agreement does not provide for jointly owned property. All property presently owned or hereafter acquired by the either party to enable it to perform the services required under this agreement shall remain the property of the acquiring party in the event of the termination of this agreement.
- 9.4. **Filing/Web Site. Filing/Web Site.** This Agreement shall either be filed with the County Auditor or by listing on either of the party's websites in accordance with RCW 39.34.040.
- 9.5. **Non-Waiver of Breach.** The failure of either party to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements, or options, and the same shall be and remain in full force and effect.
- 9.6. **Assignment.** Any assignment of this Agreement by either party without the prior written consent of the non-assigning party shall be void. If the non-assigning party gives its consent to any assignment, the terms of this Agreement shall continue in full force and effect and no further assignment shall be made without additional written consent.
- 9.7. **Modification.** No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party and subject to ratification by the legislative body of each party.
- 9.8. **Entire Agreement.** The written terms and provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior communications, negotiations, representations or agreements, either verbal or written of any officer or other representative of each party, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the Exhibits are hereby made part of this Agreement.
- 9.9. **Severability.** If any section of this Agreement is adjudicated to be invalid, such action shall not affect the validity of any section not so adjudicated.

9.10. **Interpretation.** Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

9.11. **Notices.** All notices, requests, demands and other communications required by this Agreement shall be in writing and, except as expressly provided elsewhere in this Agreement, shall be deemed to have been given at the time of delivery if personally delivered or at the time of mailing if mailed by first class, postage pre-paid and addressed to the party at its address as stated in this Agreement or at such address as either party may designate at any time in writing.

The following addresses are designated:

North Kitsap Fire & Rescue  
~~P.O. Box 412664~~ Miller Bay Rd NE  
Kingston, WA 98346

Port Gamble S'Klallam Tribe  
31912 Little Boston Road NE  
Kingston, WA 98346

9.12. **Benefits.** This Agreement is entered into for the benefit of the parties to this Agreement only and shall confer no benefits, direct or implied, on any third persons.

Dated: 10/14/13

Patel M. [Signature] North Kitsap Fire & Rescue  
Commissioner  
[Signature]  
Commissioner  
[Signature]  
Commissioner

[Signature] Commissioner  
[Signature] Commissioner  
[Signature] Commissioner

Attest  
[Signature]

Port Gamble S'Klallam Tribe

[Signature]  
Tribal Chairman

Attest  
[Signature]