



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 22- 74

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe; and

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

WHEREAS, the Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

WHEREAS, the Squaxin Island Tribe wishes to enter into an Agreement for jail services with the Nisqually Indian Tribe, owners and operators of the Nisqually Jail; and

WHEREAS, the Squaxin Island Public Safety and Justice Departments have made use of the Nisqually Jail facilities for many years; and

WHEREAS, this agreement contains a provision that requires the Tribal Council to consider a limited waiver of sovereign immunity, Section 17 Dispute Resolution is as stated below:

17. **DISPUTE RESOLUTION**. If either party disputes any portion of an invoice, they will provide the other party written notice within thirty (30) days. The notice shall detail the amount in question and the grounds for withholding all or a portion of the amount billed or any other basis for the dispute. Authorized representatives of each party shall attempt to resolve the dispute by negotiation within thirty days of notification. If such negotiation is unsuccessful the parties shall apply to Judicial Arbitration and Mediation Service (JAMS) or such other alternate dispute resolution services as the parties may agree, for

the appointment of an arbitrator whose decision shall be final and binding on the parties. Each party shall be responsible for paying one-half of the arbitrator's fees. Each party will bear their own costs and legal fees. The arbitrator shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and enforced. This dispute resolution procedure shall only be available for disputes over amounts due for services provided under this agreement.

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council specifically limits its authorization to allow the Tribe to enter a limited waiver of sovereign immunity as written in Section 18 of the contract, and as stated below:

18. **LIMITED WAIVER OF IMMUNITY.** Nisqually and Squaxin each expressly and irrevocably waive sovereign immunity with respect to the Dispute Resolution procedure for billing disputes described in Paragraph 17, and consent to be sued in the Washington state courts of general jurisdiction to compel or enforce arbitration as described herein. This waiver shall survive expiration or termination of this Agreement. This limited waiver applies only to disputes between Squaxin and Nisqually regarding amounts due for services provided under this agreement.

However, notwithstanding the above, this Agreement shall not be construed as a waiver of Nisqually or Squaxin's sovereign immunity as to any other claims, suits, demands, or otherwise brought by any other person or entity, including (without limitation) individuals jailed under this Agreement. Nor shall this section be construed as a waiver of Nisqually or Squaxin's sovereign immunity as to any other claims, suits, demands, or otherwise brought by Nisqually or Squaxin other than to enforce arbitration or enforce an arbitration award. Nisqually and Squaxin expressly reserve and do not waive their respective sovereign immunity except as expressly included in this Section.

FINALLY, THEREFORE BE IT RESOLVED, that the Tribal Council hereby authorizes the Tribal Administrator to do any and all things necessary to effect execution of the Nisqually Jail Service Agreement.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 27 day of October, 2022, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.

Kristopher K Peters

Kristopher K Peters (Oct 28, 2022 14:30 PDT)

Kris Peters, Chairman

Attested by: 
Patrick Braese (Oct 28, 2022 16:06 PDT)

Patrick Braese, Secretary

Jaimie Cruz

Jaimie Cruz (Oct 28, 2022 16:03 PDT)

Jaimie Cruz, Vice Chairman

NISQUALLY JAIL SERVICE AGREEMENT

THIS AGREEMENT is made and entered into on this ____ day of _____, 2022, by and between the Nisqually Indian Tribe, a Federally Recognized Indian Tribe, hereinafter referred to as "Nisqually" and the Squaxin Island Tribe, hereinafter referred to as "Squaxin." This agreement is for the housing of inmates of Squaxin in the Nisqually Detention and Corrections Center hereinafter referred to as "jail" pursuant to Chapters 39.34 and 70.48 RCW.

THE PARTIES HEREBY AGREE as follows:

1. **SERVICE.** Nisqually shall care for prisoners placed in the custody of officers of the Nisqually Jail and cooperate with the Tribe to arrange for video hearings. The term "prisoner" shall include any person arrested, sentenced by the court or held under authority of any law or ordinance of Squaxin;
2. **REFUSAL OF PRISONERS.** The Nisqually Police Chief or the Nisqually Corrections Director shall have the right to refuse to accept custody if in their opinion the prisoner does not meet medical (or other) criteria for booking. The Nisqually Corrections Director may also refuse to accept custody of a prisoner if doing so would result in overcrowding of the jail, or health, safety or security risks. Nisqually similarly shall have no obligation to receive a Squaxin prisoner into custody absent proper documentation providing a legal basis for confining the prisoner. Squaxin shall immediately transport any prisoner that is refused booking off the Nisqually Reservation. The parties agree that dumping of inmates denied booking on or near the Nisqually Reservation shall be grounds for immediate for-cause termination of this Agreement.
3. **CARE.** "Care" shall mean to provide room and board; to provide for the prisoner's physical needs; to retain the prisoner in custody; and to supervise and maintain proper discipline and control. In addition, prisoners housed pursuant to this Agreement shall be subject to the same rules and regulations required of other prisoners housed in the Nisqually Jail. Such rules and regulations shall comport with Washington state law, and federal law regarding issues of civil rights and due process of prisoners.
4. **DURATION OF CONTRACT.** The term of this agreement shall be for five (5) years, beginning _____ 2022. The agreement may be terminated without cause by either party by providing the other party with sixty (60) days written notice. Notice shall be deemed proper when provided to:

Nisqually:
Chief Executive Officer
Nisqually Indian Tribe
4820 She-Nah-Num Dr. S.E.
Olympia, WA 98513

Squaxin:
Tribal Administrator
Squaxin Island Tribe
10 SE Squaxin Lane
Shelton, WA 98584

5. **RELEASE.** Prisoners will only be released when they have served their full time unless release is authorized by any other provision of this Agreement or is ordered by a court of competent jurisdiction. When a prisoner is booked without a warrant, it will be deemed a 72 hour hold and release. Prisoners booked with a warrant will be held until released by Court Order.

6. **NO GUARANTEED MINIMUM BED SPACE.** Nisqually does not guarantee bed space. Bed space will be provided on a space-available basis. Nisqually shall have sole and unfettered discretion in determining whether or not space is available. Squaxin shall immediately transport any prisoner denied booking off the Nisqually Reservation. Dumping of inmates on or near the Nisqually Reservation shall be grounds for immediate termination of this Agreement.

7. **RATE/PAYMENT.** Squaxin shall pay to Nisqually the amount of \$110.00 per day (Basic Inmate Rate) per inmate for care. A "day" is the twenty-four-hour period beginning at 12:00 a.m. and ending at 11:59 p.m. in the Pacific Time Zone. Basic Inmate Rate will increase by 5% annually on January 1. Squaxin shall pay such invoices within 30 days of receipt. Interest at the rate of 12% per annum shall be charged on all past due accounts. Without prejudice to any other contract rights available to it, if Squaxin does not pay the invoice within Sixty (60) days of receipt of invoice, Nisqually, acting through its Police Chief, will not accept prisoners until the delinquent amount is paid in full.
 - **SPECIALTY RATES.** The following per inmate/per diem Specialty Rates are total rates. They are inclusive of, not in addition to, the Basic Inmate Rate. Nisqually will provide notice to Squaxin of the imposition of any specialty rate within 24 hours of designation.

 - **\$180 Medical Care** — Payable at this rate only when the inmate is in a designated infirmary bed/unit/cell. Payment at this rate is included for any inmate who is detoxing with a Clinical Opiate Withdrawal Scale (COWS) score of 6 or higher.

 - **\$160 Compliant Mental Health Care** — Payable at this rate only when the inmate is in a designated mental health bed/unit/cell;

- \$210 Acute Mental Health — Payable at this rate only when the inmate is in a designated mental health bed/unit/cell;
- \$140 Pharmacy — Payable at this rate only when inmate utilizes on-site pharmacy services.

8. **MEDICAL CARE.** Each party shall be responsible for the medical care and medical expenses of prisoners housed pursuant to this agreement as listed in Exhibit A, attached hereto and incorporated herein; provided that if the prisoner has his or her own medical coverage, Nisqually will coordinate with Squaxin so that such insurance may be utilized. In the event that a prisoner requests non-urgent medical care, Nisqually shall contact Squaxin for approval. Squaxin shall provide Nisqually with the names and telephone numbers of designated contact people who shall be available on a twenty-four-hour basis. Failure of Squaxin to approve medical care shall relieve Nisqually of liability to Squaxin for any injury resulting therefrom. In the event that Nisqually deems a prisoner to be in need of urgent or emergency care, Nisqually shall make the best efforts to contact Squaxin, but may take any action it deems necessary to provide the prisoner with the needed care without obtaining prior approval, and said action(s) shall not affect Squaxin's responsibility for paying for such medical care as required by this Agreement. Squaxin shall reimburse Nisqually promptly for all medical expenses incurred by Nisqually for services that are the responsibility of Squaxin under Exhibit A, "Medical Expenses."
9. **TRANSPORTATION.** Squaxin shall be solely responsible for furnishing transportation for prisoners housed pursuant to this Agreement. Squaxin may request that Nisqually provide necessary transportation and Nisqually shall make best efforts to provide such transportation, subject to staff availability, but shall not be obligated to provide such transportation. Squaxin shall reimburse Nisqually for costs incurred for transportation. Such costs shall include mileage at the rate of \$1.00 per mile, plus labor and overhead (0.5 x labor). Nisqually shall not transport any prisoner without the express agreement of Squaxin unless such transportation is required by a court order or because of a medical emergency.
10. **CUSTODY TRANSFER.** Officers of Squaxin placing a prisoner in custody of Nisqually will be required to remain in the immediate presence of the prisoner at all times until relieved of custody by Nisqually Corrections Staff. Booking out and/or release of Squaxin's prisoners shall be the responsibility of Squaxin Officers. Squaxin shall immediately transport any prisoner that is refused booking off the Nisqually Reservation. The parties agree that dumping of inmates denied booking on or near the Nisqually Reservation shall be grounds for immediate for-cause termination of this Agreement.
11. **TRIBE ACCESS TO PRISONERS.** All Squaxin police officers and investigators directed by the Squaxin Tribal Attorney shall have the right to interview the prisoner

inside the confines of the Nisqually Jail subject only to necessary security rules. Interview rooms will be made available to Squaxin police officers in equal priority with those of any other department, including the Nisqually law enforcement personnel.

12. **RELEASE OF SQUAXIN PRISONERS FROM NISQUALLY.** No Squaxin Prisoner confined in the Nisqually Jail shall be removed therefrom except:
 - a. When requested by Squaxin Police Department in writing;
 - b. By Order of the Squaxin Tribal Court in those matters in which they have jurisdiction; or upon Order of the Thurston County District Court or the Thurston County Superior Court in those matters in which said courts have jurisdiction;
 - c. For appearance in the court in which a Squaxin prisoner is charged;
 - d. In compliance with a writ of habeas corpus;
 - e. For interviews by the Squaxin prosecuting attorney, Squaxin appointed public defender, or member of the Squaxin Police Department;
 - f. If the prisoner has served his sentence or the charge pending against said prisoner has been dismissed or bail or other recognizance has been posted as required by the courts.

13. **INDEMNIFICATION.** Squaxin shall protect, defend, save harmless and indemnify Nisqually, its officers, agents and employees, from and against all claims, suits and actions arising from intentional or negligent acts or omissions of Squaxin in performance of this Agreement. Squaxin's indemnification obligation shall also extend to all claims, suits and actions relating to the medical care of prisoners housed under this Agreement which result from the failure of Squaxin to approve such care or for any reason other than injuries and harm resulting from the negligent or intentional acts or omissions of Nisqually or its officers.

14. **NOTICE OF CLAIMS.** In the event that a claim or lawsuit is brought against Squaxin or Nisqually arising from or related to this Agreement, the party shall promptly notify the other party of said claim or lawsuit.

15. **INSURANCE.** Each party shall obtain and maintain occurrence-based insurance that provides liability coverage in the minimum liability limits of three Million Dollars (\$3,000,000.00) per occurrence and three Million Dollars (\$3,000,000.00) in the aggregate for its conduct in creating liability exposure related to the confinement of inmates, including general liability, errors and omissions, auto liability and police professional liability. The insurance policy(ies) shall provide coverage for any liability occurrence during the policy period, regardless of when any claim or lawsuit is filed. Further, Squaxin will name the Nisqually Indian Tribe, its officers and employees as *Additional Insureds*, for any acts or omissions by Squaxin creating liability or exposure in the performance of this Agreement. Nisqually will have no obligation to list Squaxin as an *Additional Insured*.

14.1 **CERTIFICATE OF INSURANCE.** Squaxin agrees to provide Nisqually with evidence of insurance coverage in the form of a certificate from a solvent insurance provider confirming coverage from a solvent insurance pool which is sufficient to address the insurance obligations set forth above. A copy of the certificate shall be provided annually and for the duration of this agreement.

16. **CHOICE OF LAW.** This Agreement shall be interpreted under the laws of the state of Washington.
17. **DISPUTE RESOLUTION.** If either party disputes any portion of an invoice, they will provide the other party written notice within thirty (30) days. The notice shall detail the amount in question and the grounds for withholding all or a portion of the amount billed or any other basis for the dispute. Authorized representatives of each party shall attempt to resolve the dispute by negotiation within thirty days of notification. If such negotiation is unsuccessful the parties shall apply to Judicial Arbitration and Mediation Service (JAMS) or such other alternate dispute resolution services as the parties may agree, for the appointment of an arbitrator whose decision shall be final and binding on the parties. Each party shall be responsible for paying one-half of the arbitrator's fees. Each party will bear their own costs and legal fees. The arbitrator shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed and enforced. This dispute resolution procedure shall only be available for disputes over amounts due for services provided under this agreement.
18. **LIMITED WAIVER OF IMMUNITY.** Nisqually and Squaxin each expressly and irrevocably waive sovereign immunity with respect to the Dispute Resolution procedure for billing disputes described in Paragraph 17, and consent to be sued in the Washington state courts of general jurisdiction to compel or enforce arbitration as described herein. This waiver shall survive expiration or termination of this Agreement. This limited waiver applies only to disputes between Squaxin and Nisqually regarding amounts due for services provided under this agreement.

However, notwithstanding the above, this Agreement shall not be construed as a waiver of Nisqually or Squaxin's sovereign immunity as to any other claims, suits, demands, or otherwise brought by any other person or entity, including (without limitation) individuals jailed under this Agreement. Nor shall this section be construed as a waiver of Nisqually or Squaxin's sovereign immunity as to any other claims, suits, demands, or otherwise brought by Nisqually or Squaxin other than to enforce arbitration or enforce an arbitration award. Nisqually and Squaxin expressly reserve and do not waive their respective sovereign immunity except as expressly included in this Section.

18.1 **Limitation on Liability.**

IN NO EVENT WILL NISQUALLY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY,

WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE), ARISING IN ANY WAY IN CONNECTION WITH THIS AGREEMENT. THE TOTAL CUMULATIVE LIABILITY OF NISQUALLY IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE FEES PAID BY SQUAXIN TO NISQUALLY UNDER THIS AGREEMENT IN THE SIX MONTH PERIOD PRECEDING THE INITIAL OCCURRENCE OF LIABILITY.

19. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is made for the sole benefit of Nisqually and Squaxin, and no other person or entity shall have any right, benefit, or interest under or because of this Agreement. No other parties are intended to be, or shall be determined to be, direct or incidental beneficiaries of this Agreement.
20. **NO WAIVER.** The failure to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provisions. Further, any express waiver by any party with respect to any breach of any provision hereunder by any other party shall not constitute a waiver of such party's right to thereafter fully enforce each and every provision of this Agreement.
21. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the Parties and may be changed only by an agreement in writing signed by the Parties.
22. **INVALID PROVISIONS.** Should any provisions of this Agreement be held invalid, the remainder of the Agreement shall remain in effect.

[THIS SPACE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on this date, the _____ day of _____, 2022.

SQUAXIN ISLAND TRIBE:

NISQUALLY TRIBE:

Tribal Administrator

Chief Executive Officer

Attest:

Approved as to legal form only:

Tribe Clerk

Tribal Attorney

**EXHIBIT A
MEDICAL EXPENSES**

NISQUALLY TRIBE SHALL BE RESPONSIBLE FOR:

- Initial Screening
- Intake Screening
- Nurse Sick Call
- Physician Sick Call
- Physical if housed longer than 14 days
- Routine lab work that can be completed in the facility
- Routine medications, other than biologicals / non-formulary medications
- Mental health assessments and basic services that can be provided in-facility
- Body Cavity Collection of Evidence/Searches, conducted only with Court order at Squaxin's expense.

SQUAXIN TRIBE SHALL BE RESPONSIBLE FOR:

- Pre-booking medical
- Urgent Care Facility Visits
- Emergency Room Visits
- Hospitalizations, including the cost of security provided by Nisqually Personnel. Agency will reimburse Nisqually for each attending officer at the time-and-one-half overtime rate of \$48.50 per hour.
- Non-Formulary / Biological Medications
- Ultra Sounds
- Ambulance Services
- OBGYN Care / Prenatal Care
- Vision
- Mental Health
- Long Term Care
- Auxiliary lab work and X-Rays
- Dental
- Costs of Fire Response
- Other Specialty Services
- All services provided outside the facility












PS - Nisqually Jail Limited Waiver of SI

Final Audit Report

2022-10-28

Created:	2022-10-28
By:	Melissa Puhn (mpuhn@squaxin.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAaTF_JjUNsW8ItxaN0H1xHxVDAS2D0oCC

"PS - Nisqually Jail Limited Waiver of SI" History

-  Document created by Melissa Puhn (mpuhn@squaxin.us)
2022-10-28 - 9:25:59 PM GMT- IP address: 216.235.106.129
-  Document emailed to kpeters@squaxin.us for signature
2022-10-28 - 9:26:28 PM GMT
-  Email viewed by kpeters@squaxin.us
2022-10-28 - 9:30:09 PM GMT- IP address: 71.231.44.163
-  Signer kpeters@squaxin.us entered name at signing as Kristopher K Peters
2022-10-28 - 9:30:27 PM GMT- IP address: 71.231.44.163
-  Document e-signed by Kristopher K Peters (kpeters@squaxin.us)
Signature Date: 2022-10-28 - 9:30:29 PM GMT - Time Source: server- IP address: 71.231.44.163
-  Document emailed to jcruz@squaxin.us for signature
2022-10-28 - 9:30:31 PM GMT
-  Email viewed by jcruz@squaxin.us
2022-10-28 - 11:02:58 PM GMT- IP address: 174.231.157.79
-  Signer jcruz@squaxin.us entered name at signing as Jaimie Cruz
2022-10-28 - 11:03:20 PM GMT- IP address: 174.231.157.79
-  Document e-signed by Jaimie Cruz (jcruz@squaxin.us)
Signature Date: 2022-10-28 - 11:03:22 PM GMT - Time Source: server- IP address: 174.231.157.79
-  Document emailed to pbraese@squaxin.us for signature
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 Signer pbraese@squaxin.us entered name at signing as Patrick Braese

2022-10-28 - 11:06:36 PM GMT- IP address: 174.204.66.58

 Document e-signed by Patrick Braese (pbraese@squaxin.us)

Signature Date: 2022-10-28 - 11:06:38 PM GMT - Time Source: server- IP address: 174.204.66.58

 Agreement completed.

2022-10-28 - 11:06:38 PM GMT