



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 14- 75

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 Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill its 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, it is the best interests of the Tribe to enter into an agreement with the Confederated Tribes of the Chehalis Reservation and the Chehalis Tribal Wellness Center with respect to the Special Diabetes Program for Indians Prevention Program, 2013-1014; and

WHEREAS, it is necessary for the Tribe to make an expressly limited waiver of its inherent sovereign immunity to the extent necessary to make the terms and conditions of the Services Agreement with the Chehalis Tribe; and

NOW THEREFORE BE IT RESOLVED, that the Tribe is authorized to enter into the Services Agreement; **and**

BE IT FURTHER RESOLVED, that the Tribe waives its inherent sovereign immunity only to the extent delineated in *Section K* of the Services Agreement, as follows:

DISPUTE RESOLUTION AND LIMITED WAIVER OF SOVEREIGN IMMUNITY.

The parties to this Agreement hereby grant to each other a limited waiver of sovereign immunity for the purpose of enforcing the provisions of this Agreement; provided that the parties expressly reserve all their inherent sovereign rights as federally-recognized Indian Tribes, and that this limited waiver of sovereign immunity is subject to and conditioned upon the following:

1. This waiver of sovereign immunity is strictly limited to the enforcement of the provisions of this Agreement between the Grantee and the Sub-Grantee, and to any dispute that may arise under or in relation to this Agreement or operations performed under this Agreement. This waiver of sovereign immunity shall not extend to, nor be used for or to the benefit of, any other person or entity of any kind or description whatsoever, including any successor or assign, of either party Tribe.

2. To the extent that jurisdiction obtains, this limited waiver of sovereign immunity shall be deemed a consent to the jurisdiction of the Tribal Courts of the waiving parties. The Chehalis Tribal Court shall have jurisdiction over actions against the Chehalis Tribe, and the Chehalis Tribal Court shall have jurisdiction over actions against the Squaxin Island Tribe. If jurisdiction does not exist in Tribal Court, then either party may bring an action to enforce the provisions of this Agreement in the United States District Court for the Western District of Washington. The law to be applied in any action under this Agreement shall be: first, the law of the Tribe with jurisdiction over the action, including traditional laws; second, federal law, including federal statutory and common law; and third, in the absence of applicable tribal or federal law, the law of the State of Washington.

3. Neither this Agreement nor this limited waiver of sovereign immunity shall be effective or enforceable against either party Tribe or any of its officers, agents or entities, until approved by Resolution of the governing bodies of both Tribes.

4. The terms of this Agreement shall be enforceable for a period of six years after the grant period ends or until audit is completed and all resulting questions are resolved, whichever occurs first.

5. Financial obligations imposed upon either party Tribe or any of its officers, agents or entities pursuant to this limited waiver of sovereign immunity may only be satisfied to the extent of the value of the Grant, along with any penalties that are imposed by the applicable agency of the United States government for breach of any provisions of this Agreement.

6. Nothing in this Agreement, nor any activity of either party Tribe, shall be construed to implicate or in any involve the credit of either Tribe or any of its members.

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 23rd day of October, 2014, at which time a quorum was present and was passed by a vote of 6 for and 0 against, with 0 abstentions.



David Lopeman, Chairman

Attested by: 

Peter Kruger Sr., Secretary



Arnold Cooper, Vice Chairman



Chehalis Tribal Wellness Center

SERVICES AGREEMENT

This Agreement is made by and between the Confederated Tribes of the Chehalis Reservation ("Grantee"), and the **Squaxin Island Tribe** ("Sub-Grantee"), for services as set forth herein.

PURPOSE

The purpose of this Agreement is to implement the Special Diabetes Prevention Program funded by the Indian Health Service ("the Grant").

AGREEMENTS

In consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed and understood by the parties that:

A. TERM OF AGREEMENT

The term of this Agreement shall begin on the date of execution of this Agreement by both parties, and end at the close of the Grant period, subject to the continuing record maintenance, audit, and enforcement obligations provided in Sections (F) and (K) of this Agreement.

B. CONTRACT REPRESENTATIVES

1. Contract Administrators. The Contract Administrators for this Agreement shall be: for Grantee: Chehalis Tribe; and for Sub-Grantee: **Squaxin Island Tribe**.
2. Grant Implementation. There shall be a representative who will oversee the provision of deliverables outlined in the project Work Plan. **Bonnie Sanchez, Health Director** will act as overseer for the SDPI Diabetes Prevention Grant.
3. Notification of Staff Changes. Each party shall notify the other within five business days of the replacement or termination of any of the personnel involved in administering or implementing the Grant or this Agreement.

C. STATEMENT OF WORK

Sub-Grantee shall perform the services described in the "Statement of Work," attached as exhibit "A" hereto and incorporated herein.

D. TIMETABLE

Sub-Grantee shall perform the services described in Exhibit "A," "Statement of Work," in a timely manner according to the timetable for delivery of services described in Exhibit "A," "Statement of Work."

E. PAYMENTS

1. In consideration for Sub-Grantee's timely performance of all the services described in Exhibit "A," "Statement of Work," and subject to all the requirements of the Grant being met, Grantee shall provide a budget for Sub-Grantee in an amount not to exceed **\$49,500.00**. Sub-Grantee shall expend this budget in a manner consistent with the allocations delineated in the "Budget Addendum," attached as Exhibit "B" hereto and incorporated herein.
2. Sub-Grantee shall also expend this budget in a manner consistent with the "indirect cost rate" identified in Exhibit "B," "Budget Addendum."
3. Sub-Grantee shall submit requests for the reimbursement of costs incurred in performing this Agreement in monthly invoices. Invoices shall include information and backup documentation demonstrating that expenditures are consistent with Exhibit "B," "Budget Addendum." Unless otherwise provided, Grantee shall issue reimbursements within thirty (30) days of Sub-Grantee's submission of an invoice which meets the requirements of this Agreement and the Grant. Invoices shall be sent to the attention of **Pat Odiorne, Phone: (360) 709-1884; E-mail: podiorne@chehalistribe** Confederated Tribes of the Chehalis Reservation, PO Box 570, Oakville, WA 98568.

F. ACCOUNTS, AUDITS AND RECORDS

1. Consistent with the requirements of OMB Circular A-133, Sub-Grantee shall maintain books, records, documents, accounting policies and procedures, and other evidence sufficient to properly reflect all costs claimed to have been incurred in the performance of this Agreement. It is the responsibility of Sub-Grantee to provide copies of such reports and/or records as Grantee or a federal auditor may request. Sub-Grantee shall abide by the current Standard Award Terms and Conditions of the United States Department of the Interior.
2. Sub-Grantee shall preserve and make available its records for a period of six years after the end of the term of this Agreement, or until audit is

completed and all resulting questions are resolved, whichever occurs first.

G. INDEPENDENT CONTRACTOR

Sub-Grantee's services shall be furnished by Sub-Grantee as an independent contractor and nothing herein contained shall be construed to create a relationship of employer-employee or any partnership relationship. Sub-Grantee is an independent contractor for all purposes, including payroll, employment insurance, and tax liability. Grantee will not deduct federal withholdings tax, social security, insurance, or any other payroll benefits or gratuities.

H. PROJECT ADMINISTRATION AND INCORPORATION OF CHEHALIS TRIBAL WELLNESS CENTER POLICIES

1. **Pat Odiorne** on behalf of Grantee, shall supervise implementation of this Agreement by providing guidance and assistance as necessary for the performance of this Agreement, including:
 - a. The Grantee's implementation activities as listed in the project Work.(See Attachment)
 - b. Providing Guidance to Sub-Grantee's Project Administrator to ensure compliance with applicable Chehalis Tribal Wellness Center Policies.

2. **Bonnie Sanchez, Health Director**, on behalf of Sub-Grantee, shall implement this Agreement by:
 - a. ensuring that Sub-Grantee performs, in a timely manner, all services described in Exhibit "A," "Statement of Work," and
 - b. complying with Chehalis Tribal Wellness Center Policies CW-04, "Special Diabetes Program for Indians (SDPI); CW-05, "Screening and Eligibility for Diabetes Prevention Program; and CW-14, "Confidentiality, Document Access, and Record Retention in the DPP" attached as Exhibit "C" hereto and incorporated herein.

3. The parties acknowledge that the process of gathering data about SDPI program participants and reporting this data as required by the Grant amounts to "research involving human subjects" under 45 CFR Part 46. Sub-Grantee represents and warrants that Chehalis Tribal Wellness Center Policies CW-04, CW-05, and CW-14, attached as Exhibit "C" hereto, have been reviewed by Sub-Grantee's governing authority, and that this governing authority approves of this research and of the gathering, maintenance, and reporting of research data by the Grantee as described in the attached Exhibits "A" and "C." The

Sub-Grantee intends that this approval shall be equivalent to an Institutional Review Board approval of studies involving human subjects as required by federal regulations under 45 CFR. Part 46..

I. TERMINATION

This Agreement may be terminated as follows:

1. Upon the mutual written consent of the parties; or
2. Upon a party's failure to cure a default in the manner described under Section (J) of this Agreement, after thirty (30) days written notice from the non-defaulting party.

J. DEFAULT

In the event that either party believes that there has been a default or other breach of the provisions of the Agreement, it shall give the other party written notice stating the specific nature of the default or breach. The party claimed to be in default shall have fourteen (14) days from the date that notice is given to cure the default, provided that if the default cannot reasonably be cured within fourteen (14) days, the party claimed to be in default shall take all reasonable actions to effect a cure and provide written notice of the time within which the default will be cured. If the default is not cured, or if reasonable action to effect a cure is not taken within fourteen (14) days by the defaulting party, the other party may exercise its right to terminate this Agreement as set forth in Section (I)(2) of this Agreement.

K. DISPUTE RESOLUTION AND LIMITED WAIVER OF SOVEREIGN IMMUNITY

The parties to this Agreement hereby grant to each other a limited waiver of sovereign immunity for the purpose of enforcing the provisions of this Agreement; provided that the parties expressly reserve all their inherent sovereign rights as federally-recognized Indian Tribes, and that this limited waiver of sovereign immunity is subject to and conditioned upon the following:

1. This waiver of sovereign immunity is strictly limited to the enforcement of the provisions of this Agreement between the Grantee and Sub-Grantee, and to any dispute that may arise under or in relation to this Agreement or operations performed under this Agreement. This waiver of sovereign immunity shall not extend to, nor be used for or to the benefit of, any other person or entity of any kind or description whatsoever, including any successor or assign, of either party Tribe.

2. To the extent that jurisdiction obtains, this limited waiver of sovereign immunity shall be deemed a consent to the jurisdiction of the Tribal Courts of the waiving parties. The Chehalis Tribal Court shall have jurisdiction over actions against the Chehalis Tribe, and the **Squaxin Island Tribal Court** shall have jurisdiction over actions against the **Squaxin Island Tribe**. If jurisdiction does not exist in Tribal Court, then either party may bring an action to enforce the provisions of this Agreement in the United States District Court for the Western District of Washington. The law to be applied in any action under this Agreement shall be: first, the law of the Tribe with jurisdiction over the action, including traditional laws; second, federal law, including federal statutory and common law; and third, in the absence of applicable tribal or federal law, the law of the State of Washington.
3. Neither this Agreement nor this limited waiver of sovereign immunity shall be effective or enforceable against either party Tribe or any of its officers, agents or entities, until approved by Resolution of the governing bodies of both Tribes.
4. The terms of this Agreement shall be enforceable for a period of six years after the grant period ends or until audit is completed and all resulting questions are resolved, whichever occurs first.
5. Financial obligations imposed upon either party Tribe or any of its officers, agents or entities pursuant to this limited waiver of sovereign immunity may only be satisfied to the extent of the value of the Grant, along with any penalties that are imposed by the applicable agency of the United States government for breach of any provisions of this Agreement.
6. Nothing in this Agreement, nor any activity of either party Tribe, shall be construed to implicate or in any way involve the credit of either Tribe or any of its members.

L. NOTICE

Where notice is required by this Agreement, it shall be in writing and shall be deemed to have been given when personally delivered, delivered by overnight express courier, or three days following mailing by registered or certified mail, postage prepaid, return receipt requested. Notice shall be given to the following addresses, and must be included on all correspondence and documentation of correspondence:

To Grantee:

Confederated Tribes of the
Chehalis Reservation
ATTN: **Pat Odiorne**
Box 570
Oakville, WA 98568

To Sub-Grantee

Squaxin Island Tribe
ATTN: **Bonnie Sanchez**
Sally Selvidge Health Clinic
90 S.E. Klah-Chi-Men Drive
Shelton, Washington 98584

M. FORCE MAJEURE

Whenever either party is required or permitted to perform any act under this Agreement within a time limit, the performance thereof shall be excused for such period if the party is delayed from performing such act by force majeure, including without limitation: fire, flood, act of God, act of war, or enactment or enforcement of laws, rules, or regulations outside the party's control.

N. NO ASSIGNMENT

Neither party shall assign this Agreement, or any part thereof, without the prior written consent of the other party.

O. LIABILITY

Subject to the provisions of Section (K) of this Agreement, both parties agree that they will be responsible for any and all claims, liability, or loss of any nature arising out of their performance of this Agreement as a result of actions attributable to their employees or agents.

P. INSURANCE

Continuously throughout the life of this Agreement, Sub-Grantee shall carry and maintain, at Sub-Grantee's expense, Comprehensive Public Liability and Property Damage insurance with respect to automobiles and exposures other than automobiles as noted in Exhibit "A," "Statement of Work." Sub-Grantee shall provide Grantee with proof of such insurance. This insurance may, at Sub-Grantee's option, expressly exclude exposures neither incidental to nor arising out of Sub-Grantee's performance of this Agreement.

Q. SEVERABILITY

If any term or condition of this Agreement, or the application thereof to any particular person(s) or circumstance(s), is held invalid, such invalidity shall not affect other terms or conditions that can be given effect without the

invalid term or condition; nor shall such invalidity affect applications of this Agreement or any portion thereof to other person(s) or circumstance(s). To this end, the terms and conditions of this Agreement are declared severable.

R. WAIVER AND AMENDMENT

Waiver of any breach or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No terms or conditions of this Agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

S. ENTIRE AGREEMENT

This written Agreement represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties on the subject matter hereof.

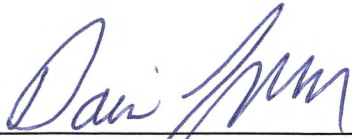
T. AUTHORITY

Only the Chehalis Business Committee and the **Squaxin Tribal Counsel**, may terminate or amend this Agreement, consent to assignment, pursue dispute resolution, or otherwise take any action described in this Agreement which requires the action or consent of the governing body of either Tribe.

THIS AGREEMENT, consisting of 31 pages, including this signature page, and Exhibits "A," "Statement of Work," "B," "Budget Addendum," and "C," "Chehalis Tribal Wellness Center Community Wellness Policies & Procedures CW-04, CW-05, and CW-14," has been reviewed and approved by the governing bodies of each Tribe. The signatories represent and warrant that they have been duly authorized by such governing bodies to execute this Agreement on behalf of their respective Tribes. This Agreement may be executed in two or more counterparts, and by facsimile, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that all parties need not sign the same counterpart.

Squaxin Island Tribe

**Confederated Tribes of the
Chehalis Reservation**



David Lopeman, Tribal Chairman
Squaxin Tribal Counsel

David Burnett, Tribal Chairman
Chehalis Business Committee

Date

Date

Approved as to form:

Approved as to form:

David Babcock
General Counsel

Robbi Kesler, General Counsel

Date

Date