

**INTERLOCAL AGREEMENT  
BETWEEN  
KITSAP COUNTY  
AND  
PORT GAMBLE S'KLALLAM TRIBE  
FOR SENIOR NUTRITION SERVICES  
KC-044-22**

This Interlocal Agreement between Kitsap County and the Port Gamble S'Klallam Tribe for Senior Nutrition Services (this "Agreement") is entered into by Kitsap County (the "County"), a municipal corporation and political subdivision of the State of Washington, and the Port Gamble S'Klallam Tribe (the "Tribe"), a federally recognized Indian Tribe, effective January 1, 2022.

**RECITALS**

**WHEREAS**, Kitsap County has entered into an "AAA Agreement – State/Federal" and an "Interlocal Agreement Area Agency on Aging - Older Americans Act" and "AAA Interlocal Data Share Agreement" (the "State-County Grant Contracts") with the State of Washington Department of Social and Health Services (DSHS), Aging and Disability Services Administration (the "State"), under which the State grants funds to the County for the provision of services to adults with disabilities and persons age 60 and older; and

**WHEREAS**, the State-County Grant Contracts authorizes the County to enter into subcontracts, which are defined in the State-County Grant Contracts as any separate agreements or contracts between the County and individuals or entities to perform all or a portion of the duties and obligations that the County is obligated to perform pursuant to the State-County Grant Contracts; and

**WHEREAS**, the County wishes to subcontract with the Tribe to enable the Tribe to provide nutrition services to Port Gamble S'Klallam tribal elders and other Kitsap County residents age 60 or older; and

**WHEREAS**, the Tribe is willing to comply with all applicable contractual and program requirements contained in the State-County Grant Contracts; and

**WHEREAS**, the Tribe, being a sovereign government, has requested that the subcontract be in the form of an Interlocal Agreement and the State has encouraged the County to subcontract in that form; and

**WHEREAS**, the State has reviewed the form of this Agreement and found that it satisfies the County's subcontracting obligations under the State-County Grant Contracts;

## AGREEMENT

### NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Statement of Work. The Tribe agrees to provide services in accordance with Exhibit A – Statement of Work.

2. Funding. The services to be performed will be funded by payment by the County to the Tribe as described in the attached Statement of Work, in an amount not to exceed \$20,000. This Agreement is expressly contingent throughout its term upon funding availability.

3. State-County Grant Contracts. The State-County Grant Contracts, as they may be amended from time to time, are incorporated by this reference as if set forth fully herein and this Agreement shall be subject to the provisions contained in the State-County Grant Contracts. The Tribe agrees to comply with all provisions contained in the State-County Grant Contracts applicable to subcontractors, except for those provisions, if any, that the State may expressly waive in writing, or is not applicable under federal or state law.

4. Culturally Relevant Services. In providing services, the Tribe may develop and operate programs and deliver goods, services and/or benefits in a manner that is culturally relevant and particularly suited to and/or particularly located for access by members of the Tribe, in accordance with tribal laws and policies.

5. Term. The term of this Agreement is January 1, 2022 through December 31, 2022.

6. Termination for Convenience. Either party may terminate this Agreement for convenience by providing the other party with advance written notice of at least 30 days.

7. Termination for Default. If either defaults in its obligations under this Agreement, the non-defaulting party may terminate this Agreement by written notice to the defaulting party. Before such termination, however, the defaulting party shall be given 10 days to cure its default, if the default is of a type reasonably susceptible to cure.

8. Dispute Panel. The parties may voluntarily submit any contractual dispute to a dispute panel as follows: each party will appoint one member to the panel and those two members in turn will appoint a third member. The dispute panel will review the facts, contract provisions and applicable law, and then decide the matter. This provision does not affect the right of either party to seek legal recourse in a court of competent jurisdiction.

9. Indemnification- preapproved for Human Service contracts. Indemnification by Tribe. The Tribe agrees to indemnify, defend, and hold the County and its departments and offices, elected and appointed officials, employees, agents, and volunteers, harmless from and against any and all claims, damages, losses, and expenses, including but not limited to court costs, attorney's fees, and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease, or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) that: (1) are caused in whole or in part by any act or omission, negligent or otherwise, of the Tribe, its employees, agents, or volunteers or the Tribe's subcontractors and their employees, agents, or volunteers; or (2) directly or

indirectly arise out of, result from, or occur in connection with, the performance of this Agreement; or (3) are based upon the Tribe's or its subcontractors' use of, presence upon or proximity to the property of the County. This indemnification obligation of the Tribe shall not apply in the limited circumstance where the claim, damage, loss, or expense is caused by the sole negligence of the County. This indemnification obligation of the Tribe shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the Tribe hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the Tribe are a material inducement to the County to enter into this Agreement and have been mutually negotiated by the parties.

**Participation in Defense by County —No Waiver.** The County reserves the right, but shall have no obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of the Tribe's indemnity obligations under this Agreement.

**Survival of Tribe's Indemnity Obligations.** The Tribe agrees that all of the Tribe's indemnity obligations shall survive the completion, expiration or termination of this Agreement. Indemnity by Subcontractors. In the event the Tribe enters into subcontracts to the extent allowed under this Agreement, the Tribe's subcontractors shall indemnify the County on a basis equal to or exceeding the Tribe's indemnity obligations to the County.

10. Sovereign Immunity Waiver- preapproved for Human Service contracts. The Tribe hereby expressly, unequivocally, and irrevocably waives its sovereign immunity against suit, liability, judgment, and collection solely with respect to interpretation and enforcement of its agreements, obligations, and duties under this Agreement, including any amendment hereto. This limited waiver of sovereign immunity applies only between the parties to this Agreement. It does not extend to any other person or entity. This waiver of sovereign immunity includes any and all judicial actions for money damages, injunctive relief, and/or declaratory relief, whether based upon breach of contract or tort law or otherwise. The Tribe agrees that any judicial actions against the Tribe to interpret or enforce this Agreement, including any amendment hereto, shall be brought and maintained only in the Superior Court of Washington, that Washington's substantive and procedural laws and rules shall govern all such actions, and that the Superior Court of Washington shall have jurisdiction over the Tribe. This waiver extends to the appellate courts of the State of Washington.

11. Commercial General Liability. The Tribe shall have Commercial General Liability Insurance with limits of not less than Combined Bodily Injury/Property Damage Liability of \$1,000,000 each occurrence and \$2,000,000 aggregate. The Tribe will place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-VII, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or reinsurers licensed in the State of Washington.

Coverage shall contain general requirements and endorsements with Kitsap County named as an additional insured and that in the event of a claim or suit, the insurance carrier agrees to not use sovereign immunity of the assured as defense as respects this agreement. Such insurance as carried by the Tribe is primary over any insurance carried by Kitsap County. The

Tribe will include all subcontractors as insureds under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all the requirements in these provisions.

The Tribe expressly agrees to a limited waiver of sovereign immunity as a defense up to the limits of the insurance policy in connection with the enforcement of the rights of Kitsap County.

12. Audit Requirements. All payments under this agreement are subject to audit. The Tribe shall provide an independent audit which:

- a. Determines the fiscal integrity of the financial transactions and reports of the Tribe.
- b. Is performed by an independent auditing firm or the Washington State Auditor's Office.
- c. Is performed in accordance with generally accepted auditing standards and with Federal Standards for Audit of Governmental Organizations, Programs, Activities and Functions, and meeting all requirements of OMB Circular A-133, as applicable for agencies receiving federal funding in the amount of \$750,000 or more during their fiscal year.

13. Suspension, Debarment, and Lobbying

The Tribe shall certify, on a separate form (Exhibit F), that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency. Also, the Tribe, on a separate form (Exhibit F), will certify that it does not use Federal funds for lobbying purposes. Both forms are attached to this Agreement.

14. Notices. Any notice required or permitted under this Agreement shall be given in writing and addressed as follows:

To the County

Kitsap County Division of Aging and Long-Term Care  
614 Division Street, MS-5  
Port Orchard, WA 98366  
Attention: Stacey Smith, Administrator

To the Tribe

Port Gamble S'Klallam Tribe  
31912 Little Boston Road N.E.  
Kingston, WA 98346  
Attention: Jeromy Sullivan, Tribal Council Chairman

Either party may change its address for notices by providing written notice to the other party.

15. Independent Capacity. The officials, officers, employees and agents of each party shall continue to be officials, officers, employees and agents of that party and shall not be considered for any purpose to be officials, officers, employees and agents of the other party.

16. Waiver. Waiver of any part of this Agreement may only be made in writing executed by an authorized representative of the party to be bound.

17. Applicable Law. Each party shall comply with all applicable federal, tribal, state and local law.

18. Amendment. This Agreement may be amended only in writing executed by authorized representatives of both parties with the same formalities as this Agreement.

19. Survival. Sections 8 (Dispute Panel), and 9 (Indemnification) of this Agreement shall survive the termination or expiration of this Agreement.

20. Authority. Each party warrants that it has taken all steps necessary for this Agreement to have full legal effect and that the signatures herein are those of its authorized representatives.

21. Exhibits. The following exhibits are incorporated in this Agreement by reference:

Exhibit A: COVID American Rescue Plan Interlocal Agreement

Exhibit B: Statement of Work

Exhibit C: Budget Summary (Quarterly Spending Projection)

Exhibit D: Certificate of Liability Insurance

Exhibit E: Sovereignty Endorsement

Exhibit F: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Exhibit G: Certification Regarding Lobbying

Exhibit H: Contractor Agreement on Nondisclosure of Confidential Information

IN WITNESS WHEREOF, THE PARTIES HAVE SUBSCRIBED THEIR NAMES HERETO ON THE DATES SET FORTH BELOW.

KITSAP COUNTY BOARD OF COMMISSIONERS

*E.E. Wolfe*  
Edward E. Wolfe, Chair

*Charlotte Garrido*  
Charlotte Garrido, Commissioner

*Robert Gelder*  
Robert Gelder, Commissioner

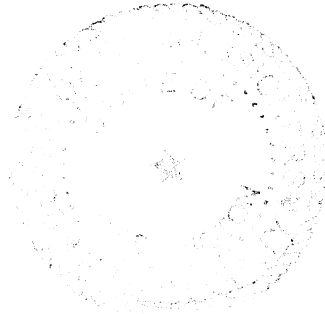
TRIBE:  
PORT GAMBLE S'KLALLAM TRIBE

*Jeromy Sullivan*  
Jeromy Sullivan, Tribal Council  
Chairman

DATED: 02/22/2022

ATTEST:  
*Dana Daniels*  
Dana Daniels, Clerk of the Board

DATED: March 14, 2022



## EXHIBIT A: COVID INTERLOCAL AGREEMENT

**ATTACHMENT A: COVID INTERLOCAL AGREEMENT AMERICAN RESCUE PLAN ACT**  
[DSHS Agreement #2169-30863] Effective April 1, 2021 – September 30, 2024. Any subcontract for the Kitsap County Area Agency on Aging is subject to the provisions of the applicable Interlocal Agreement between the Department of Social and Health Services (DSHS) and the Area Agency on Aging, unless otherwise provided for in the contract between the Kitsap County Area Agency on Aging and the Contractor. When referencing the applicable Interlocal Data Share Agreement in relation to the subcontract, the Kitsap County Area Agency on Aging replaces DSHS and subcontractor replaces AAA.

### AAA General Terms And Conditions

1. **Amendment.** This Agreement, or any term or condition, may be modified only by a written amendment signed by both parties. Only personnel authorized to bind each of the parties shall sign an amendment.
2. **Assignment.** Except as otherwise provided herein, the AAA shall not assign rights or obligations derived from this Agreement to a third party without the prior, written consent of the DSHS Contracts Administrator and the written assumption of the AAA's obligations by the third party.
3. **Client Abuse.** The AAA shall report all instances of suspected client abuse to DSHS, in accordance with RCW 74.34.
4. **Client Grievance.** The AAA shall establish a system through which applicants for and recipients of services under the approved area plans may present grievances about the activities of the AAA or any subcontractor(s) related to service delivery. Clients receiving Medicaid funded services must be informed of their right to a fair hearing regarding service eligibility specified in WAC 388-02 and under the provisions of the Administrative Procedures Act, Chapter 34.05 RCW.
5. **Compliance with Applicable Law.** At all times during the term of this Agreement, the AAA and DSHS shall comply with all applicable federal, state, and local laws, regulations, and rules, including but not limited to, nondiscrimination laws and regulations.
6. **Confidentiality.** The parties shall use Personal Information and other confidential information gained by reason of this Agreement only for the purpose of this Agreement. DSHS and the AAA shall not otherwise disclose, transfer, or sell any such information to any other party, except as provided by law or, in the case of Personal Information except as provided by law or with the prior written consent of the person to whom the Personal Information pertains. The parties shall maintain the confidentiality of all Personal Information and other confidential information gained by reason of this Agreement and shall return or certify the destruction of such information if requested in writing by the party to the Agreement that provided the information.
7. **AAA Certification Regarding Ethics.** By signing this Agreement, the AAA certifies that the AAA is in compliance with Chapter 42.23 RCW and shall comply with Chapter 42.23 RCW throughout the term of this Agreement.
8. **Debarment Certification.** The AAA, by signature to this Agreement, certifies that the AAA is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any Federal department or agency. The AAA also agrees to include the above requirement in all subcontracts into which it enters, resulting directly from the AAA's duty to provide services under this Agreement.
9. **Disputes.** In the event of a dispute between the AAA and DSHS, every effort shall be made to resolve the dispute informally and at the lowest level. If a dispute cannot be resolved informally, the AAA shall present their grievance in writing to the Assistant Secretary for Aging and Long-Term Support Administration. The Assistant Secretary shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. If the dispute remains unresolved after the Assistant Secretary's determination, either party may request intervention by the Secretary of DSHS, in which event the Secretary's process shall control. The Secretary will make a determination within 45 days. Participation in this dispute process shall precede any judicial or quasi-judicial action and shall be the final administrative remedy available to the parties. However, if the Secretary's determination is not made within 45 days, either party may proceed with judicial or quasi-judicial action without awaiting the Secretary's determination.
10. **Drug-Free Workplace.** The AAA shall maintain a work place free from alcohol and drug abuse.

### AAA General Terms And Conditions

11. **Entire Agreement.** This Agreement including all documents attached to or incorporated by reference, contain all the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind the parties.
12. **Governing Law and Venue.** The laws of the State of Washington govern this Agreement. In the event of a lawsuit by the AAA against DSHS involving this Agreement, venue shall be proper only in Thurston County, Washington. In the event of a lawsuit by DSHS against a County AAA involving this Agreement, venue shall be proper only as provided in RCW 36.01.050.
13. **Independent Status.** Except as otherwise provided in Paragraph 26 herein below, for purposes of this Agreement, the AAA acknowledges that the AAA is not an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not hold out itself or any of its employees as, nor claim status as, an officer, employee, or agent of DSHS or the State of Washington. The AAA shall not claim for itself or its employees any rights, privileges, or benefits, which would accrue to an employee of the State of Washington. The AAA shall indemnify and hold harmless DSHS from all obligations to pay or withhold federal or state taxes or contributions on behalf of the AAA or the AAA's employees.
14. **Inspection.** Either party may request reasonable access to the other party's records and place of business for the limited purpose of monitoring, auditing, and evaluating the other party's compliance with this Agreement, and applicable laws and regulations. During the term of this Agreement and for one (1) year following termination or expiration of this Agreement, the parties shall, upon receiving reasonable written notice, provide the other party with access to its place of business and to its records which are relevant to its compliance with this Agreement and applicable laws and regulations. This provision shall not be construed to give either party access to the other party's records and place of business for any other purpose. Nothing herein shall be construed to authorize either party to possess or copy records of the other party.
15. **Insurance.** DSHS certifies that it is self-insured under the State's self-insurance liability program, as provided by RCW 4.92.130, and shall pay for losses for which it is found liable. The AAA certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified below and shall, prior to the execution of this Agreement by DSHS, provide certificates of insurance to that effect to the DSHS contact on page one of this Agreement.

Commercial General Liability Insurance (CGL) – to include coverage for bodily injury, property damage, and contractual liability, with the following minimum limits: Each Occurrence - \$1,000,000; General Aggregate - \$2,000,000. The policy shall include liability arising out of premises, operations, independent contractors, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract. The State of Washington, DSHS, its elected and appointed officials, agents, and employees shall be named as additional insureds.

16. **Maintenance of Records.** During the term of this Agreement and for six (6) years following termination or expiration of this Agreement, both parties shall maintain records sufficient to:
  - a. Document performance of all acts required by law, regulation, or this Agreement;
  - b. Demonstrate accounting procedures, practices, and records that sufficiently and properly document the AAA's invoices to DSHS and all expenditures made by the AAA to perform as required by this Agreement.

For the same period, the AAA shall maintain records sufficient to substantiate the AAA's statement of its organization's structure, tax status, capabilities, and performance.



### AAA General Terms And Conditions

17. **Medicaid Fraud Control Unit (MFCU).** As required by federal regulations, the Health Care Authority, the Department of Social and Health Services, and any contractors or subcontractors, shall promptly comply with all MFCU requests for records or information. Records and information includes, but is not limited to, records on micro-fiche, film, scanned or imaged documents, narratives, computer data, hard copy files, verbal information, or any other information the MFCU determines may be useful in carrying out its responsibilities.
18. **Order of Precedence.** In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:
  - a. Applicable federal CFR, CMS Waivers and Medicaid State Plan;
  - b. State of Washington statues and regulations;
  - c. ALTA Management Bulletins and policy manuals;
  - d. This Agreement; and
  - e. The AAA's Area Plan.
19. **Ownership of Client Assets.** The AAA shall ensure that any client for whom the AAA or Subcontractor is providing services under this Agreement shall have unrestricted access to the client's personal property. For purposes of this paragraph, client's personal property does not pertain to client records. The AAA or Subcontractor shall not interfere with the client's ownership, possession, or use of such property. Upon termination of this Agreement, the AAA or Subcontractor shall immediately release to the client and/or DSHS all of the client's personal property.
20. **Ownership of Material.** Material created by the AAA and paid for by DSHS as a part of this Agreement shall be owned by DSHS and shall be "work made for hire" as defined by Title 17 USCA, Section 101. This material includes, but is not limited to: books; computer programs; documents; films; pamphlets; reports; sound reproductions; studies; surveys; tapes; and/or training materials. Material which the AAA uses to perform this Agreement but is not created for or paid for by DSHS is owned by the AAA and is not "work made for hire"; however, DSHS shall have a license of perpetual duration to use, modify, and distribute this material at no charge to DSHS, provided that such license shall be limited to the extent which the AAA has a right to grant such a license.
21. **Ownership of Real Property, Equipment and Supplies Purchased by the AAA.** Title to all property, equipment and supplies purchased by the AAA with funds from this Agreement shall vest in the AAA. When real property, or equipment with a per unit fair market value over \$5000, is no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the per unit fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation. Proceeds from the sale or lease of property that was purchased with revenue accrued under the Case Management/Nursing Services unit rate must be expended in Medicaid TXIX or Aging Network programs.

When supplies with a total aggregate fair market value over \$5000 are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS. If the total aggregate fair market value of equipment is under \$5000, the AAA may retain, sell, or dispose of it with no further obligation.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

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22. **Ownership of Real Property, Equipment and Supplies Purchased by DSHS.** Title to property, equipment and supplies purchased by DSHS and provided to the AAA to carry out the activities of this Agreement shall remain with DSHS. When real property, equipment or supplies are no longer needed for the purpose of carrying out this Agreement, or this Agreement is terminated or expired and will not be renewed, the AAA shall request disposition instructions from DSHS.

Disposition and maintenance of property shall be in accordance with 45 CFR Parts 92 and 74.

23. **Responsibility.** Each party to this Agreement shall be responsible for the negligence of its officers, employees, and agents in the performance of this Agreement. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not party to this Agreement. DSHS and the AAA shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that this provision may not be feasible in all circumstances. DSHS and the AAA agree to notify the attorneys of record in any tort lawsuit where both are parties if either DSHS or the AAA enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible, and the notice may be either written or oral.

24. **Restrictions Against Lobbying.** The AAA certifies to the best of its knowledge and belief that no federal appropriated funds have been paid or will be paid, by or on behalf of the AAA, to any person for influencing or attempting to influence an officer or employee of a federal agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have or will be paid for the purposes stated above, the AAA must file a disclosure form in accordance with 45 CFR Section 93.110.

The AAA shall include a clause in all subcontracts restricting subcontractors from lobbying in accordance with this section and requiring subcontractors to certify and disclose accordingly.

25. **Severability.** The provisions of this Agreement are severable. If any court holds any provision of this Agreement, including any provision of any document incorporated by reference, invalid, that invalidity shall not affect the other provisions this Agreement.

26. **Subcontracting.**

- a. The AAA may, without further notice to DSHS, subcontract for those services specifically defined in the Area Plan submitted to and approved by DSHS, except subcontracts with for-profit entities must have prior DSHS approval.
- b. The AAA must obtain prior written approval from DSHS to subcontract for services not specifically defined in the approved Area Plan.
- c. Any subcontracts shall be in writing and the AAA shall be responsible to ensure that all terms, conditions, assurances and certifications set forth in this Agreement are included in any and all client services Subcontracts unless an exception to including a particular term or terms has been approved in advance by DSHS.
- d. Subcontractors are prohibited from subcontracting for direct client services without the prior written approval from the AAA.
- e. When the nature of the service the subcontractor is to provide requires a certification, license or

### AAA General Terms And Conditions

approval, the AAA may only subcontract with such contractors that have and agree to maintain the appropriate license, certification or accrediting requirements/standards.

- f. In any contract or subcontract awarded to or by the AAA in which the authority to determine service recipient eligibility is delegated to the AAA or to a subcontractor, such contract or subcontract shall include a provision acceptable to DSHS that specifies how client eligibility will be determined and how service applicants and recipients will be informed of their right to a fair hearing in case of denial or termination of a service, or failure to act upon a request for services with reasonable promptness.
- g. If DSHS, the AAA, and a subcontractor of the AAA are found by a jury or trier of fact to be jointly and severally liable for damages rising from any act or omission from the contract, then DSHS shall be responsible for its proportionate share, and the AAA shall be responsible for its proportionate share. Should the subcontractor be unable to satisfy its joint and several liability, DSHS and the AAA shall share in the subcontractor's unsatisfied proportionate share in direct proportion to the respective percentage of their fault as found by the jury or trier of fact. Nothing in this term shall be construed as creating a right or remedy of any kind or nature in any person or party other than DSHS and the AAA. This term shall not apply in the event of a settlement by either DSHS or the AAA.
- h. Any subcontract shall designate subcontractor as AAA's Business Associate, as defined by HIPAA, and shall include provisions as required by HIPAA for Business Associate contract. AAA shall ensure that all client records and other PHI in possession of subcontractor are returned to AAA at the termination or expiration of the subcontract.

#### 27. Subrecipients.

- a. General. If the AAA is a subrecipient of federal awards as defined by 2 CFR Part 200 and this Agreement, the AAA shall:
  - (1) Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;
  - (2) Maintain internal controls that provide reasonable assurance that the AAA is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;
  - (3) Prepare appropriate financial statements, including a schedule of expenditures of federal awards;
  - (4) Incorporate 2 CFR Part 200, Subpart F audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;
  - (5) Comply with the applicable requirements of 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation; and
  - (6) Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go to

### AAA General Terms And Conditions

<https://oip.gov/about/offices/ocr.htm> for additional information and access to the aforementioned Federal laws and regulations.)

- b. **Single Audit Act Compliance.** If the AAA is a subrecipient and expends \$750,000 or more in federal awards from all sources in any fiscal year, the AAA shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the AAA shall:
    - (1) Submit to the DSHS contact person the data collection form and reporting package specified in 2 CFR Part 200, Subpart F, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;
    - (2) Follow-up and develop corrective action for all audit findings; in accordance with 2 CFR Part 200, Subpart F; prepare a "Summary Schedule of Prior Audit Findings" reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs.
  - c. **Overpayments.** If it is determined by DSHS, or during the course of the required audit, that the AAA has been paid unallowable costs under this Agreement, DSHS may require the AAA to reimburse DSHS in accordance with 2 CFR Part 200.
    - (1) For any identified overpayment involving a subcontract between the AAA and a tribe, DSHS agrees it will not seek reimbursement from the AAA, if the identified overpayment was not due to any failure by the AAA.
28. **Survivability.** The terms and conditions contained in this Agreement, which by their sense and context, are intended to survive the expiration of the particular agreement shall survive. Surviving terms include, but are not limited to: Confidentiality, Disputes, Inspection, Maintenance of Records, Ownership of Material, Responsibility, Termination for Default, Termination Procedure, and Title to Property.
29. **Contract Renegotiation, Suspension, or Termination Due to Change in Funding.** If the funds DSHS relied upon to establish this Contract or Program Agreement are withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding, after the effective date of this contract but prior to the normal completion of this Contract or Program Agreement:
- a. The Contract or Program Agreement may be renegotiated under the revised funding conditions.
  - b. At DSHS's discretion, DSHS may give notice to the AAA to suspend performance when DSHS determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this contract.
    - (1) During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.
    - (2) When DSHS determines that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to DSHS informing DSHS whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.
    - (3) If the AAA's proposed resumption date is not acceptable to DSHS and an acceptable date cannot be negotiated, DSHS may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. DSHS shall be liable only for payment in accordance with the terms of this

## AAA General Terms And Conditions

Contract for services rendered prior to the retroactive date of termination.

- c. DSHS may immediately terminate this Contract by providing written notice to the AAA. The termination shall be effective on the date specified in the termination notice. DSHS shall be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty shall accrue to DSHS in the event the termination option in this section is exercised.
30. **Termination for Convenience.** The Contracts Administrator may terminate this Agreement or any in whole or in part for convenience by giving the AAA at least thirty (30) calendar days' written notice. The AAA may terminate this Agreement for convenience by giving DSHS at least thirty (30) calendar days' written notice addressed to: Central Contract Services, PO Box 45811, Olympia, Washington 98504-5811.
  31. **Termination for Default.**
    - a. The Contracts Administrator may terminate this Agreement for default, in whole or in part, by written notice to the AAA, if DSHS has a reasonable basis to believe that the AAA has:
      - (1) Failed to meet or maintain any requirement for contracting with DSHS;
      - (2) Failed to perform under any provision of this Agreement;
      - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
      - (4) Otherwise breached any provision or condition of this Agreement.
    - b. Before the Contracts Administrator may terminate this Agreement for default, DSHS shall provide the AAA with written notice of the AAA's noncompliance with the agreement and provide the AAA a reasonable opportunity to correct the AAA's noncompliance. If the AAA does not correct the AAA's noncompliance within the period of time specified in the written notice of noncompliance, the Contracts Administrator may then terminate the agreement. The Contracts Administrator may terminate the agreement for default without such written notice and without opportunity for correction if DSHS has a reasonable basis to believe that a client's health or safety is in jeopardy.
    - c. The AAA may terminate this Agreement for default, in whole or in part, by written notice to DSHS, if the AAA has a reasonable basis to believe that DSHS has:
      - (1) Failed to meet or maintain any requirement for contracting with the AAA;
      - (2) Failed to perform under any provision of this Agreement;
      - (3) Violated any law, regulation, rule, or ordinance applicable to this Agreement; and/or
      - (4) Otherwise breached any provision or condition of this Agreement.
    - d. Before the AAA may terminate this Agreement for default, the AAA shall provide DSHS with written notice of DSHS' noncompliance with the Agreement and provide DSHS a reasonable opportunity to correct DSHS' noncompliance. If DSHS does not correct DSHS' noncompliance within the period of time specified in the written notice of noncompliance, the AAA may then terminate the Agreement.
  32. **Termination Procedure.** The following provisions apply in the event this Agreement is terminated:

### AAA General Terms And Conditions

- a. The AAA shall cease to perform any services required by this Agreement as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination which are related to the transfer of clients, distribution of property, and termination of services.
  - b. The AAA shall promptly deliver to the DSHS contact person (or to his or her successor) listed on the first page this Agreement, all DSHS assets (property) in the AAA's possession, including any material created under this Agreement. Upon failure to return DSHS property within ten (10) working days of the Agreement termination, the AAA shall be charged with all reasonable costs of recovery, including transportation. The AAA shall take reasonable steps to protect and preserve any property of DSHS that is in the possession of the AAA pending return to DSHS.
  - c. DSHS shall be liable for and shall pay for only those services authorized and provided through the effective date of termination. DSHS may pay an amount mutually agreed by the parties for partially completed work and services, if work products are useful to or usable by DSHS.
  - d. If the Contracts Administrator terminates this Agreement for default, DSHS may withhold a sum from the final payment to the AAA that DSHS determines is necessary to protect DSHS against loss or additional liability. DSHS shall be entitled to all remedies available at law, in equity, or under this Agreement. If it is later determined that the AAA was not in default, or if the AAA terminated this Agreement for default, the AAA shall be entitled to all remedies available at law, in equity, or under this Agreement.
33. **Treatment of Client Property.** Unless otherwise provided in the applicable Agreement, the AAA shall ensure that any adult client receiving services from the AAA under this Agreement has unrestricted access to the client's personal property. The AAA shall not interfere with any adult client's ownership, possession, or use of the client's property. The AAA shall provide clients under age eighteen (18) with reasonable access to their personal property that is appropriate to the client's age, development, and needs. Upon termination or completion of this Agreement, the AAA shall promptly release to the client and/or the client's guardian or custodian all of the client's personal property. This section does not prohibit the AAA from implementing such lawful and reasonable policies, procedures and practices as the AAA deems necessary for safe, appropriate, and effective service delivery (for example, appropriately restricting clients' access to, or possession or use of, lawful or unlawful weapons and drugs).
34. **Waiver.** Waiver of any breach or default on any occasion shall not be deemed to be a waiver of any subsequent breach or default. Any waiver shall not be construed to be a modification of the terms and conditions of this Agreement unless amended as set forth in Section 1, Amendment. Only the Contracts Administrator or designee has the authority to waive any term or condition of this Agreement on behalf of DSHS.

## Special Terms And Conditions

### 1. Definitions.

- a. "AAA" or "Contractor" shall mean the Area Agency on Aging that is a party to this agreement, and includes the AAA's officers, directors, trustees, employees and/or agents unless otherwise stated in this Agreement. For purposes of this Agreement, the AAA or agent shall not be considered an employee of DSHS
- b. "Agreement" means this Agreement, including all documents attached or incorporated by reference.
- c. "Allocable costs" are those costs which are chargeable or assignable to a particular cost objective in accordance with the relative benefits received by those costs.
- d. "Allowable costs" are those costs necessary and reasonable for proper and efficient performance of this Agreement and in conformance with this Agreement. Allowable costs under federal awards to local or tribal governments must be in conformance with Office of Management and Budget (OMB) Circular A-87, Cost Principles for State, Local and Indian Tribal Governments; allowable costs under federal awards to non-profit organizations must be in conformance with OMB Circular A-122, Cost Principles for Non-Profit Organizations.
- e. "Area Plan" means the document submitted by the AAA to DSHS for approval every four years, with updates every two years, which sets forth goals, measurable objectives, outcomes, units of service, and identifies the planning, coordination, administration, social services and evaluation of activities to be undertaken by the AAA to carry out the purposes of the Older Americans Act, the Social Security Act, the Senior Citizens Services Act, or any other statute for which the AAA receives funds.
- f. "Assignment" means the act of transferring to another the rights and obligations under this Agreement.
- g. "Business Associate" means a Business Associate as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of the Covered Entity that involves the use or disclosure of protected health information (PHI). Any reference to Business Associate under this Agreement includes Business Associate's employees, agents, officers, subcontractors, third party contractor's, volunteers, or directors.
- h. "CFR" means Code of Federal Regulations. All references in this Agreement to the CFR shall include any successor, amended, or replacement regulation.
- i. "Client" means an individual that is eligible for or receiving services provided by the AAA in connection with this Agreement.
- j. "Covered Entity" means DSHS, a Covered Entity as defined in 45 CFR 160.103.
- k. "Contracts Administrator" means the manager, or successor, of Central Contract Services or successor section or office.
- l. "Debarment" means an action taken by a Federal official to exclude a person or business entity from participating in transactions involving certain federal funds.
- m. "Designated Record Set" means a group of records maintained by or for the Covered Entity that is the medical and billing records about the individuals or the enrollment, payment, claims adjudication, and case or medical management records, used in whole or part by or for the Covered Entity to make decisions about individuals.

## Special Terms And Conditions

- n. "DSHS" or "the Department" means the state of Washington Department of Social and Health Services and its employees and authorized agents.
- o. "Data Universal Number System (DUNS) Number" means– a unique nine-digit identification number provided by Dun & Bradstreet (D&B). It is used by the Federal government to identify related organizations that are receiving funding under grants and cooperative agreements, and to provide consistent name and address data for electronic grant application systems.
- p. "Equipment" means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5000 or more per unit.
- q. "HIPAA" means the Health Information Portability and Accountability Act of 1996, as codified at 42 USCA 1320d-d8.
- r. "Individual" means the person who is the subject of PHI and includes a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- s. "Older Americans Act" refers to P.L. 106-501, 106th Congress, and any subsequent amendments or replacement statutes thereto.
- t. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- u. "PHI" means protected health information and is information created or received by Business Associate from or on behalf of Covered Entity that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present or future payment for provision of health care to an individual. 45 CFR 160 and 14. PHI includes demographic information that identifies the individual or about which there is reasonable basis to believe, can be used to identify the individual. 45 CFR 160.103. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Right and Privacy Act, as amended, 20 USCA 1232g(a)(4)(b)(iv).
- v. "RCW" means the Revised Code of Washington. All references in this Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at <http://slc.leg.wa.gov/>.
- w. "Real Property" means land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.
- x. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
- y. "Subcontract" means any separate agreement or contract between the AAA and an individual or entity ("Subcontractor") to perform all or a portion of the duties and obligations that the Contractor is obligated to perform pursuant to this Agreement.
- z. "Subcontractor" means an individual or entity (including its officers, directors, trustees, employees, and/or agents) with whom the AAA contracts to provide services that are specifically defined in the Area Plan or are otherwise approved by DSHS in accordance with this Agreement.
- aa. "Subrecipient" means a non-federal entity that expends federal awards received from a pass-



## Special Terms And Conditions

through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

- bb. "Supplies" means all tangible personal property other than equipment as defined herein.
- cc. "WAC" means the Washington Administrative Code. All references in this Agreement to WAC chapters or sections shall include any successor, amended, or replacement regulation. Pertinent WAC chapters or sections can be accessed at <http://slc.leg.wa.gov/>

2. **Statement of Work.** The AAA shall comply with all applicable state and federal statute and rules, including but not limited to the United States Code, the Code of Federal Regulations, the Revised Code of Washington, the Washington Administrative Code, and any and all DSHS/ADS standards, guidelines, policy manuals, and management bulletins, and otherwise do all things necessary for or incidental to the performance of work, as set forth below in Exhibit A, Statement of Work.
3. **Consideration.** Total consideration payable to Contractor for satisfactory performance of the work under this Agreement shall not exceed \$992,576, including any and all expenses and shall be based on the attached Exhibit B, Budget.
4. **Billing and Payment.**
  - a. **Invoice System.** The Contractor shall submit invoices using BARS form, or such other form as designated by DSHS. Consideration for services rendered shall be payable upon receipt of properly completed invoices which shall be submitted to the DSHS Project Manager, or his/her designee or successor, by the Contractor not more often than monthly. The invoices shall describe and document to DSHS' satisfaction a description of the work performed, activities accomplished, the progress of the project, and fees. The rates shall be in accordance with those set forth in Section 3, Consideration, of this Contract.

The DSHS Project Manager (ADSA NCOA Choices for Self Care Challenges Grant Project Manager) for this Agreement is Aime Fink, State Unit on Aging, PO Box 45600, Olympia WA 98504-5600.
  - b. **Payment.** Payment shall be considered timely if made by DSHS within thirty (30) days after receipt and acceptance by the DSHS Project Manager, or his/her designee or successor, of the properly completed invoices. Payment shall be sent to the address designated by the Contractor on page one (1) of this Contract. DSHS may, at its sole discretion, withhold payment claimed by the Contractor for services rendered if Contractor fails to satisfactorily comply with any term or condition of this Contract.
5. **Confidentiality.** In addition to General Terms and Conditions Confidentiality language, the AAA or its Subcontractors may disclose information to each other, to DSHS, or to appropriate authorities, for purposes directly connected with the services provided to the client. This includes, but is not limited to, determining eligibility, providing services, and participation in disputes, fair hearings or audits. The AAA and its Subcontractors shall disclose information for research, statistical, monitoring and evaluation purposes conducted by appropriate federal agencies and DSHS.
6. **DUNS Number.** In accordance with the Federal Funding Accountability and Transparency Act (FFATA, Public Law 109-282) implemented on October 1, 2010, the Contractor must provide their DUNS Number for this Agreement. The Contractor's DUNS Number is 071855191. If the DUNS Number changes, the Contractor must immediately notify the DSHS Contact listed on Page 1 of this Agreement and provide the correct DUNS Number.

**Exhibit A  
Statement of Work**

**1. Funding Purpose.**

- a. The American Rescue Plan (ARP) Act, P.L. 117-2, grant is funding for activities authorized under Title III Part B of the Older Americans Act of 1965, as amended through P.L. 116-131, enacted March 25, 2020. The intent of this funding is support home and community-based services—ensuring that the needs of older adults could be met in their local communities during and in the aftermath of the COVID-19 pandemic.
- b. Allowable expenditures under this grant include:
  - (1) All allowable activities under the OAA Titles:
    - (a) Title IIIB—Supportive Services;
    - (b) Title III C-1—Congregate Meals;
    - (c) Title III C-2—Home Delivered Meals;
    - (d) Title IIID—Preventative Health; and
    - (e) Title IIIE—Family Caregiver Programs;
  - (2) Title IIIB—other allowable Supportive Services include:
    - (a) Efforts related to COVID-19 vaccination outreach, including education, communication, transportation, and other activities to facilitate vaccination of older individuals; and
    - (b) Prevention and mitigation activities related to COVID-19 focused on addressing extended social isolation among older individuals, including activities for investments in technological equipment and solutions or other strategies aimed at alleviating negative health effects of social isolation due to long-term stay-at-home recommendations for older individuals for the duration of the COVID-19 public health emergency.
  - (3) The legislation provides for the following flexibilities:
    - (a) With notice to SUA, 100% of funds may be transferred between Title III C-1 and Title III C-2 until the Public Health Emergency (PHE) ends or 8/15/2022, whichever is sooner; and
    - (b) Additional flexibilities during a Major Disaster Declaration as provided for OAA funding through P.L. 116-131 enacted March 25, 2020.

**2. Reporting and Area Plan Amendments.**

- a. Response efforts provided under this funding shall be updated in the 2022-23 Area Plan Update in the Budget Section and in the new section for COVID-19 service provision. The entire amount of ARP funding allocation for each AAA may be reflected in their Area Plan Budget, if the AAA believes they will spend more funding earlier in the project period.
- b. The AAA will report OAA service provision utilizing the NAPIS reporting guidance provided in MB

H19-055. Beginning, October 1, 2021 data reporting requirements will be provided in the Older Americans Act Reporting System (OAAPS) guidance MB.

c. The AAA will report Support Services utilizing the guidance provided in the ARP Act funding MB.

**3. Administration and Matching Fund Requirements.**

a. Up to 10% of funding can be spent on administration.

b. 25% match is required for all administration expenditures.

c. Service Match for Support Services, Congregate Meals, and Home Delivered Meals is 15%. Program Income may be used for match.

d. Service Match for Family Caregiver Support Program/Kinship Caregiver Support Program Services is 25%.

e. At least 33% (1/3) of the 15% match for services for TIII-B, TIII C-1, and TIII C-2 must come from state sources.

f. If any 2021 T3B is charged to Coordination, administration charges must be exactly 10% of all 2021 OAA funding. The 10% admin will be calculated based on funding from the regular 2021 Title 3, the Consolidated Appropriations Act Supplemental Nutrition, the Consolidated Appropriations Act Expanding Access to COVID-19 Vaccines grants, and ARP grants.

## **EXHIBIT B: STATEMENT OF WORK**

### **PORT GAMBLE S'KLALLAM TRIBE ELDER NUTRITION PROGRAM-COVID-19 RESPONSE**

#### **1.01 General Statement of Work-Nutrition Program**

The Port Gamble S'Klallam Tribe (hereinafter Tribe) shall provide Congregate Nutrition Services, as defined and in the manner prescribed by the Congregate Nutrition Program Guidelines and Senior Nutrition Program Standards published by the Aging and Long-Term Support Administration of the Washington State Department of Social and Health Services and in accordance with the Interlocal Agreement of which this document is a part, to Port Gamble S'Klallam Tribal elders and other Kitsap County residents who are age 60 or over and otherwise eligible for the program.

If the Congregate Meal Site reopens, hot, pre-plated COVID-19 emergency meals may be provided to all Congregate participants on scheduled congregate meal site days at the Port Gamble S'Klallam Tribal center. COVID-19 response emergency meals shall be tracked separately from Congregate Meal Site meals.

The Congregate Meal Site shall be open to all eligible persons on a reservation basis. Reservations will be taken at the meal site or can be made by calling the Tribe's office at the Port Gamble S'Klallam Tribal Center. In the event participant demand exceeds program capacity, the Tribe shall negotiate with the Division of Aging and Long-Term Care to develop a method of determining who should receive service.

#### **Congregate Meals-Alternative Delivery Method:**

This contract provides flexible funding to the established congregate meal site for meals that are available for alternative meal delivery or meal pick-up for program participants as a result of COVID-19 outbreak.

Congregate Meals and alternative meal delivery or meal pick-up shall be open to all eligible persons.

In the event participant demand exceeds program capacity, the Tribe shall negotiate a method of determining who should receive service with the County and request additional funding to meet the demand.

#### **Shelf-Stable Meals**

For emergency use, a package of 5 shelf-stable meals, or groceries equivalent to prepare 5 meals, may be provided to participants to be used when disaster or inclement weather disrupts normal congregate meal site dining or meal delivery.

Shelf-stable meals shall be provided under the following guidelines:

- a. All shelf-stable meals meet the 1/3 RDA requirement to qualify as an approved meal; or, during COVID-19 emergency conditions the 1/3 RDA requirement may be waived; and
- b. Shelf-stable meals and associated supplies may be funded from sources other than County grants or client contributions; and
- c. Clients and caregivers shall be instructed that the purpose of shelf-stable meals shall be for use during an emergency situation when the normal source of nutritional services is unavailable; and
- d. Shelf-stable meals shall not be provided to any person other than the registered client or his/her caregiver for use by the client, or as authorized; and;
- e. In the event that insufficient supplies are available to provide all-clients with adequate shelf-stable meals, available supplies shall be distributed to those clients determined to be at greatest nutritional risk during emergency interruption of their regular nutritional service.

It is preferred, but not required, that all COVID-19 emergency meals meet the dietary reference intake (RDI) standards of the Senior Nutrition Program Standards.

## **1.02 Eligibility**

Participants in the Congregate Nutrition program shall be members of the Congregate Nutrition Target Population and, as such, are unable to prepare meals for themselves because of:

- a. A disabling condition, such as limited physical mobility, cognitive or psychological impairment, sight impairment or
- b. Lack of knowledge or skills to select and prepare nourishing and well-balanced meals; or
- c. Lack of means to obtain or prepare nourishing meals; or
- d. Lack of incentive to prepare and eat a meal alone.

**Individuals who are homebound for social distancing purposes may be considered eligible for COVID-19 emergency response home delivered meals regardless of state or local policies.**

### **1.03 Nutritional/Diabetes Risk Assessments and Nutrition Education**

The Tribe may conduct nutritional/diabetes risk assessments for Congregate Meal Site participants in accordance with the Federal Older Americans Act Performance System program reporting requirements. The number of participants determined to be at high risk must be included in the data submitted to The County. A participant is defined as high risk if they score comparable to six (6) or higher on the nutritional risk assessment. The County shall supply assessment forms.

Per Department of Social and Health Services Management Bulletin H20-015 or hereafter, for COVID-19 emergency meals, an initial or subsequent assessment is not required. This does not waive the requirements in place for assessments and reassessments that are not COVID-19 emergency meals.

#### **Optional Nutrition Education:**

If Nutrition Education is provided, it shall be overseen by a Registered Dietician Nutritionist (RDN) and may be available to participants in both segments of the program in a manner determined by the Contractor and approved by the County. However, priority shall be given to providing dietary advice to participants with identified dietary limitations.

### **1.04 Reimbursement**

Reimbursement for emergency meals funded under American Rescue Plan Act, Older Americans Act Title IIIC, shall be on a Unit Rate basis until otherwise revised as per state and federal requirements, and shall be limited to the following per-meal maximums:

\$13.19	Emergency Meals prepared and delivered.
\$10.00	Emergency Shelf-Stable meals or groceries for meal equivalent.

Payment shall be made on the basis of monthly Reimbursement Request to be submitted by the Tribe. All requests for reimbursement shall be accompanied by monthly Participation Reports as described in 1.10, below. Invoices shall be submitted by the Contractor no later than the tenth (10<sup>th</sup>) day of the month for services provided the previous month.

This Agreement is funded in part by federal sources, catalogued under American Rescue Plan (no CFDA number). Maximum consideration for purposes of this Contract period shall be \$20,000.

Reimbursement of audit expenses shall be in accordance with Part III, Subpart B (4) of this Agreement, "Allowable Costs."

### **1.05 Client Characteristics**

Sufficient outreach shall be conducted to assure the service is made known and available to all segments of the population in need. The population of the Port Gamble S'Klallam reservation is unique and specific percentages for various population characteristics applicable in the county are not necessarily applicable on the reservation.

### **1.06 Project Performance Standards**

For the period from January 1, 2022 through December 31, 2022 the Tribe shall provide the following level of service:

Delivery of prepared fresh or frozen meals, shelf-stable meals, or groceries for meal equivalents to approximately 100 older adults.

Based on need, available supplies for meals and meal type, there is flexibility to provide up to approximately 1,758 Total Emergency Response Meals.

Meals may be provided in congregate setting if the site re-opens.

### **1.07 Match**

American Rescue Plan funds do not require match for services expenditures. There is also no 25% match required for administration expenditures in this contract.

### **1.08 Participation Reports**

The Tribe shall report units of service on a monthly basis.

For tracking purposes, the following Congregate categories shall apply:

Congregate regular - pre-plated congregate meal(s) consumed on site; site-packaged congregate meals sent home from the site.

Congregate other - frozen meal(s) sent home from the site; shelf-stable meals sent home from the site.

COVID-19 Emergency Meals

Technical assistance and support will be available through the Division, in coordination with the Tribe.

For COVID-19 Response, the Tribe will report the information on services delivered to the AAA. At minimum, the Tribe will report aggregate # of clients and # units provided by month for each service provided.

Whenever possible, standard data elements will be provided for the County to be entered into GetCare per MB H19-005 NAPIS Reporting, unless an exception exists, including:

- (1) Basic client demographics;
- (2) Scope of work: Emergency Meals, COVID-19 Response program code, service detail- meal;
- (3) Start and end date of service enrollment; and
- (4) Units of service by month.

COVID-19 Response meals will be recorded by the Division in the new GetCare Service Set, according to funding and program requirements.

### **1.09 Expenditure of Funds**

Funds awarded to the Tribe under this agreement are contingent upon the ability of the Tribe to spend the funds in accordance with Exhibit B: Budget Summary (Quarterly Spending Projection). The "Budget Summary" shall be a rate of spending for the funds during the period of this agreement, which shall be in a manner as defined in this agreement for both parties. PROVIDED, if the Tribe fails to meet the "Budget Summary," the total amount of the award may be reduced by an amount not to exceed the difference between the "Budget Summary" and the actual spending for the period.

Unearned funds from one project period will not be carried over into any succeeding period, unless approved by the County.

Contributions by participants shall be reported to the County's Aging and Long-Term Care Division separately from all other project income.



**EXHIBIT C: BUDGET TABLE**

**PORT GAMBLE S'KLALLAM TRIBE  
January 1, 2022 – December 31, 2022**

<b>Program/Funding Source</b>	<b>Total</b>	<b>1st Quarter</b>	<b>2nd Quarter</b>	<b>3rd Quarter</b>	<b>4th Quarter</b>
<b>American Rescue Plan Act (ARP)</b>					
<b>Congregate/Emergency Meals</b>	<b>20,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>
ARP (COVID MDD flexibility)	20,000	5,000	5,000	5,000	5,000
NSIP	0	0	0	0	0
<b>Total</b>	<b>20,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>
<b>Match</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
ARP (No match required for service or administrative expenditures.)	0	0	0	0	0
<b>Total Project</b>	<b>20,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>	<b>5,000</b>
<i>*Funding amount per quarter is flexible within the total budget amount.</i>					
<b>Funding Source</b>	<b>CFDA #</b>	<b>Amount</b>			
ARP (COVID MDD flexibility)		20,000			
NSIP	93.053	0			



# EXHIBIT E: SOVEREIGNTY ENDORSEMENT



Endorsement No.:	
This Endorsement attaches to and forms part of Policy No.:	NACL00267-08
In the name of:	Port Gamble S'Klallam Tribe (See Schedule of Named Assureds)
Effective date of this Endorsement is 12:01 a.m.,	December 15, 2013

## SOVEREIGNTY ENDORSEMENT

In the event of a claim or suit, the company agrees to not use the Sovereign Immunity of the **Assured** as a defense, unless the **Assured** authorizes the company to raise such a defense by written notice to the company. Any such notice will be sent not less than 10 days prior to the time required to answer any suit. Any use of the Sovereign Immunity defense will only apply to coverage and limits of this insurance policy.

The company is not authorized or empowered to waive or otherwise limit the Assured's Sovereign Immunity outside or beyond the scope of coverage or limits of this insurance policy.

Further, the **Assured**, by accepting this policy, agrees to release the company from any and all liability to them or their members because of the failure on the part of the company to raise the defense of Sovereign Immunity, except in cases where the **Assured** specifically requests the company to do so in the manner provided herein.

**EXHIBIT F: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

Primary Covered Transactions 45 CFR 76

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connections with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charges by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1.b. of this certification, and
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
  
2. Where the prospective primary participants are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal

This Certification is executed by the person(s) signing below who warrant they have authority to execute this Certification.

CONTRACTOR: Port Gamble S Klallam Tribe

Signature: 

Title: Chairman

Date: 02/22/2022

## EXHIBIT G: CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and believe, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### Port Gamble S'Klallam Tribe

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Contractor Organization



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Signature of Certifying Official

02/22/2022  
Date

# EXHIBIT F: CONTRACTOR AGREEMENT ON NONDISCLOSURE OF CONFIDENTIAL INFORMATION

This form shall be signed by each agency paid and un-paid staff that interact with this Interlocal Agreement.



## Agreement on Nondisclosure of Confidential Information – Non Employee

This form is for contractors and other non-DSHS employees.

<b>CONFIDENTIAL INFORMATION</b>		
<p>"Confidential Information" means information that is exempt from disclosure to the public or other unauthorized persons under Chapter 42.56 RCW or other federal or state laws. Confidential Information includes, but is not limited to, protected health information as defined by the federal rules adopted to implement the Health Insurance Portability and Accountability Act of 1996, 42 USC §1320d (HIPAA), and Personal Information.</p> <p>"Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers or as otherwise identified in RCW 42.56.230.</p>		
<b>REGULATORY REQUIREMENTS AND PENALTIES</b>		
<p>State laws (including RCW 74.04.060 and RCW 70.02.020) and federal regulations (including HIPAA Privacy and Security Rules; 42 CFR, Part 2; 42 CFR Part 431) prohibit unauthorized access, use, or disclosure of Confidential Information. Violation of these laws may result in criminal or civil penalties or fines. You may face civil penalties for violating HIPAA Privacy and Security Rules up to \$50,000 per violation and up to \$1,500,000 per calendar year as well as criminal penalties up to \$250,000 and ten years imprisonment.</p>		
<b>ASSURANCE OF CONFIDENTIALITY</b>		
<p>In consideration for the Department of Social and Health Services (DSHS) granting me access to DSHS property, systems, and Confidential Information, I agree that I:</p> <ol style="list-style-type: none"> <li>1. Will not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this agreement for any purpose that is not directly connected with the performance of the contracted services except as allowed by law.</li> <li>2. Will protect and maintain all Confidential Information gained by reason this agreement against unauthorized use, access, disclosure, modification or loss.</li> <li>3. Will employ reasonable security measures, including restricting access to Confidential Information by physically securing any computers, documents, or other media containing Confidential Information.</li> <li>4. Have an authorized business requirement to access and use DSHS systems or property, and view its data and Confidential Information if necessary.</li> <li>5. Will access, use and/or disclose only the "minimum necessary" Confidential Information required to perform my assigned job duties.</li> <li>6. Will not share DSHS system passwords with anyone or allow others to use the DSHS systems logged in as me.</li> <li>7. Will not distribute, transfer, or otherwise share any DSHS software with anyone.</li> <li>8. Understand the penalties and sanctions associated with unauthorized access or disclosure of Confidential Information.</li> <li>9. Will forward all requests that I may receive to disclose Confidential Information to my supervisor for resolution.</li> <li>10. Understand that my assurance of confidentiality and these requirements do not cease at the time I terminate my relationship with my employer or DSHS.</li> </ol>		
<b>FREQUENCY OF EXECUTION AND DISPOSITION INSTRUCTIONS</b>		
<p>This form will be read and signed by each non-DSHS employee who has access to Confidential information, and updated at least annually. Provide the non-DSHS employee signor with a copy of this Agreement and retain the original of each signed form on file for a minimum of six years.</p>		
<b>SIGNATURE</b>		
PRINT/TYPE NAME	NON-DSHS EMPLOYEE'S SIGNATURE	DATE

NONDISCLOSURE OF CONFIDENTIAL INFORMATION – NON EMPLOYEE  
DSHS 03-374B (REV. 09/2014)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
2/26/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

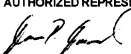
<b>PRODUCER</b> Brown & Brown of Washington, Inc. 800 5th Ave Suite 2400 Seattle WA 98104	<b>CONTACT NAME:</b> Leah Shaw <b>PHONE (A/C, No, Ext):</b> 206-956-1641 <b>E-MAIL ADDRESS:</b> lshaw@bbseattle.com	<b>FAX (A/C, No):</b> 206-956-9604
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Port Gamble S'Klallam Tribe 31912 Little Boston Rd NE Kingston WA 98346	<b>INSURER A:</b> HUDSON INSURANCE COMPANY <b>NAIC#</b> 25054	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:** 1935071220      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD, WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC OTHER:	Y	NACL00267-14	1/1/2021	1/1/2022	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 10,000,000 GENERAL AGGREGATE \$ 12,000,000 PRODUCTS - COMP/OP AGG \$ 10,000,000 \$
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY		NACL00267-14	1/1/2021	1/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 10,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
RE: Division of Aging & Long Term Care Nutrition Program.  
  
Kitsap County and its officials, officers, employees, and agents are additional insured as required by written contract and/or agreement with the named insured.

<b>CERTIFICATE HOLDER</b>  Kitsap County Dept of Personnel & Human Services 614 Division Street, MS 23 Port Orchard WA 98366-4676	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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Department of Health and Human Services

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> Port Gamble S'Klallam Tribe

If no results are found, this individual or entity (if it is an entity search) is not currently excluded. Print this Web page for your documentation

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