

(EXHIBIT 1)

CTUIR and UMATILLA COUNTY PUBLIC HEALTH EMERGENCY MUTUAL AID AGREEMENT

This Mutual Aid Agreement (“Agreement”), effective as of the date of its signing by all parties, is made and entered into by the Umatilla County Health Department, the Confederated Tribes of the Umatilla Indian Reservation (“CTUIR”), and is authorized by the United States Department of Interior Bureau of Indian Affairs.

PURPOSE

Both the CTUIR and Umatilla County Health Department confront threats to public health including public health incidents, emergencies, and disasters. Presently, the CTUIR does not have the capability to provide complete responses to some public health threats on the Umatilla Indian Reservation (“UIR”). This is true particularly with regard to the ability to quarantine or isolate individuals who actively pose a public health risk.

This Agreement ensures cooperation and coordination between the parties that allows the CTUIR to interact with the Umatilla County Health Department in a manner that ensures the ability quarantine, detain, or isolate those who pose a public health risk, and in addition, to coordinate on any other public health emergency that may arise on the Umatilla Indian Reservation that necessitates the assistance of the Umatilla County Health Department.

ARTICLE I: AUTHORITY

The State of Oregon lacks the inherent authority to exercise public health emergency regulatory powers on the Umatilla Indian Reservation with regard to Indians residing on the reservation. However, the Department of Interior, pursuant to 42 U.S.C. 231, 25 CFR 198 and 1621q, may allow states to enter Indian reservations to deal with public health incidents and emergencies if the effected tribe consents to such authorization. Through this Agreement the CTUIR consents to the Department of Interior authorizing the Umatilla County Health Department to assist in handling public health incidents or emergencies on the Umatilla Indian Reservation.

Pursuant to ORS 190.110, the Umatilla County Health Department can enter into an agreement with a tribal nation to cooperate in performing duties, exercising powers, or administering policies or programs.

Pursuant to Article VI §1 of the Constitution and Bylaws of the Confederated Tribes of the Umatilla Indian Reservation, the Board of Trustees has the power to enter into mutual aid agreements with state and federal agencies.

ARTICLE II: DEFINITIONS

Assistance: Assistance means personnel, equipment, materials, supplies, facilities, services, or related resources.

Authorized Representative: The CEO for Yellowhawk Tribal Health shall be the authorized representative for the CTUIR. The Administrator for the Umatilla County Health Department shall be the representative for the Umatilla County Health Department.

Health Information: Written, electronic, oral, telephonic, or visual information, identifiable or population based, that relates to an individual's or population's past, present or future physical or mental health status condition, treatment, service or products purchased, and includes, but is not limited to laboratory test data or samples.

Identifiable data or information: The exchange or sharing of identifiable data or information that is specific to an individual or that there is a reasonable basis to believe could be used to identify an individual, as governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and including, but not limited to, its public health related exceptions.

Period of Assistance: The period of time beginning with the departure of any personnel, equipment, materials, supplies, services, or related resources of a party to this Agreement from any point for the purpose of traveling to provide Assistance exclusively to the other party, and ending on the return of all of the responding party's personnel, equipment, materials, supplies, services, or related resources to their regular place of work or assignment, or otherwise terminated through written or verbal notice of the Authorized Representative of the Responding Party. With respect to facility use, the Period of Assistance shall commence on the date agreed upon between the Requesting and Responding Party and shall end when the Requesting Party returns possession of the facility to the Responding Party, or when otherwise terminated through written or verbal notice of the Authorized Representative of the Responding Party.

Public Health Incident, Emergency, or Disaster: Any occurrence, or threat thereof, whether natural or caused by man, in war or in peace, to which the Umatilla County Health Department may otherwise respond pursuant to its authority under Oregon law, or to which the CTUIR may respond, and that, in the judgment of the requesting party results or may result in circumstances sufficient to exceed the capabilities of immediate local, tribal or regional public health response.

Tribal Health Officer: The CEO of Yellowhawk Tribal Health.

ARTICLE III: PARTICIPATION

The CTUIR and Umatilla County Health Department have a desire to be of help to one another in response to a request for mutual aid and Assistance related to a public health incident.

However, this Agreement does not create a legal duty to provide the requested assistance. Any and all actions taken pursuant to this Agreement is voluntary and in each party's sole discretion. A party may elect to voluntarily furnish such mutual aid as is available, and shall take into consideration whether such actions might unreasonably diminish its capacity to provide basic public health services to its own jurisdiction.

ARTICLE IV: HOW TO INVOKE ASSISTANCE

The Authorized Representative of a party may request mutual aid Assistance by contacting the other party's Authorized Representative. The provisions of this Agreement shall only apply to requests for Assistance made by and to Authorized Representatives or their designee. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing before the Period of Assistance begins to the extent it is practical.

ARTICLE V: LIABILITY RELATED TO DELAY OR FAILURE TO RESPOND

No Party shall be liable to another Party for, or be considered in breach of or default under this Agreement on account of, any delay in or failure to perform any obligation under this Agreement, except to make payment as specified herein.

Nothing in this Agreement creates any rights in or duties to a third party, nor liability to or standard of care with reference to a third party. This Agreement does not confer any right or remedy upon any person other than the Parties. This Agreement does not release or discharge any obligation or liability of any third party to any Party.

ARTICLE VI: WITHDRAWAL FROM ASSISTANCE

A Responding Party may withdraw mutual aid Assistance by giving verbal or written notice to the Requesting Party. A Responding Party that is providing mutual aid Assistance to a Requesting Party agrees to give reasonable notice to the Requesting Party under the circumstances as they exist at the time before withdrawing such Assistance. No Party shall be liable to another Party for, or be considered in breach of or default under this Agreement on account of, any withdrawal of assistance.

ARTICLE VII: COMMAND AND CONTROL

The parties recognize the need for a qualified and experienced person to function in the role of a public health local health officer in Party's jurisdiction, and for public health laws to govern the response. CTUIR may not have a Tribal Health Officer on staff or on contract at the time that a Public Health Incident, Emergency or Disaster occurs. CTUIR also may not have adopted public health codes, or may have adopted codes that govern certain public health issues but not others. Until such time that CTUIR hires or contracts with its own Tribal Health Officer, and adopts a public health code(s) governing the specific public health issue necessitating response, the Parties agree that in the event of a Public Health Incident, Emergency or Disaster, communicable disease outbreak, or isolation or quarantine event, Parties will choose to exercise

tribal public health authority in one of the following manners:

Option One:

1. CTUIR may decide to grant to the Umatilla County Health Department permission to exercise public health authority, in consultation with the CTUIR's health director, over the UIR.
2. In the event the CTUIR has not yet adopted a public health code that addresses the specific public health response, then the Parties agree that the Umatilla County Health Department will exercise this grant of authority in conformance with federal, state and local public health laws that address the specific public health response, and such public health laws shall be deemed applicable as if adopted as tribal code. Examples of the types of Oregon State laws that CTUIR might agree to voluntarily invoke include those related to tuberculosis control, sexually transmitted disease control, substantial exposure to bodily fluids, communicable disease control, isolation and quarantine, biomedical wastes, emergency response, or other law.
3. If the CTUIR has adopted a public health code that addresses the specific public health response, then the Parties agree that the Umatilla County Health Department will exercise this grant of authority in conformance with applicable tribal, federal, state and local public health laws. If there is a conflict between or among tribal public health code requirements, federal, state or local law, the Umatilla County Health Department may decline to accept, or withdraw its acceptance of, the authority.
4. Either the Party may withdraw, rescind, decline, or refuse this grant of authority at any time. Such withdrawal, rescission, declination or refusal of authority must be in writing directed to each respective Authorized Representative.

Option Two:

1. The CTUIR will exercise its own public health authority. The CTUIR may seek technical assistance from the Umatilla County Health Department. The parties understand and agree that in such event, the ability or willingness of the Umatilla County Health Department personnel to respond within the tribal jurisdiction may be limited. However, technical assistance may still be available.
2. Either the Party may withdraw, rescind, decline, or refuse the request for technical assistance at any time. Such withdrawal, rescission, declination or refusal of technical assistance must be in writing directed to each respective Authorized Representative.

The CTUIR will select Option One or Option Two at the time of a Public Health Incident, Emergency or Disaster, communicable disease outbreak, or isolation or quarantine event.

Under either Option One or Option Two, any resources and non-medical personnel from the Umatilla County Health Department shall be under their operational control. All medical personnel provided by the Umatilla County Health Department will be under the clinical

supervision of their Local Health Officer unless they delegate such supervision to the CTUIR's appropriately licensed medical provider. The Parties intend to follow the National Incident Management System's "Incident Command System" when such system is activated.

ARTICLE VIII: RESPONDING PARTY EMPLOYEES

Employees of a Responding Party shall at all times while performing mutual aid Assistance continue to be employees of the Responding Party for any purpose. Wages, hours and other terms and conditions of employment of Responding Party shall remain applicable to all of its employees who perform Assistance under this Agreement. Responding Party shall be solely responsible for payment of its employees' wages, any required payroll taxes and any benefits or other compensation. Requesting Party shall not be responsible for paying any wages, benefits, taxes or other compensation to Responding Party's employees.

ARTICLE IX: LIABILITY AND DISPUTE RESOLUTION

1. In the event local, state or federal governments or laws provide waiver, immunity, indemnification, reimbursement or other payment related to liability that would otherwise be the responsibility of a Party, then such waiver, immunity, indemnification, reimbursement or other payment shall limit a Party's liability. The Parties agree to exhaust their rights to waiver, immunity, indemnification, reimbursement or other payment from local, state, or federal governments. However, to the extent that local, state or federal governments or laws do not provide complete waiver, immunity, indemnification, reimbursement or other payment related to Party liability, then the following provisions will apply:
 - A. Each party to this Agreement shall be legally responsible for its own acts and omissions arising under this Agreement, and that of its respective appointed and elected officials, employees, officers, agents, agencies, assigns and representatives. Each party agrees to defend, indemnify, and hold harmless the other party, and its respective appointed and elected officials, employees, officers, agents, agencies, assigns and representatives from and against any and all liability, loss, cost, damage and expense arising or alleged to have arisen directly or indirectly out of or in consequence of the performance of this Agreement by the indemnitor. Any indemnification by Umatilla County Health Department is to the extent allowed and limited by the Oregon Constitution and the Oregon Tort Claims Act.
 - B. GROSS NEGLIGENCE OR WILLFUL OR WANTON MISCONDUCT. A Party shall not be required under this Agreement to release, indemnify, hold harmless or defend any other Party from any claim, loss, harm, liability, damage, cost or expense caused by or resulting from the activities of any Party's officers, employees, or agents acting in such a manner that constitutes willful misconduct, gross negligence or bad faith.

- C. **LIABILITY FOR PARTICIPATION.** In the event of any liability, claim, demand, action or proceeding, of whatever kind or nature arising out of the rendering of Assistance through this Agreement, the Requesting Party agrees to indemnify, hold harmless, and defend, to the fullest extent of the law, each signatory to this Agreement, whose only involvement in the transaction or occurrence which is the subject of such claim, action, demand, or other proceeding, is the execution and approval of this Agreement.
 - D. **LEGAL PROCEEDINGS COOPERATION.** A Party's personnel shall cooperate and participate in mediation, arbitration or other legal proceedings if so requested by another Party, or required by a court of competent jurisdiction.
 - E. **TORT CLAIMS ACT.** No provision of this Agreement shall remove from any Party any protection provided by any applicable Tort Claims Act.
 - F. **WAIVER OF RIGHTS.** Any waiver at any time by any Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay in asserting or enforcing any right, except those related to the statutes of limitations, shall not constitute or be deemed a waiver.
2. **DISPUTE RESOLUTION.** Any disputes that cannot be resolved through direct discussion shall be subject to mediation from a mutually agreeable mediator.

ARTICLE X: RECORD KEEPING AND INFORMATION SHARING

Time sheets or daily logs showing hours worked and equipment and materials used or provided by the Assisting Party will be recorded on a shift by shift basis by the Requesting Party or the loaned employee and will be provided to the Responding Party as needed. Additionally, the Responding Party will provide shipping records for materials, supplies, equipment or related resources, and the Requesting Party is responsible for any required documentation of use of materials, supplies, equipment, facilities, services, or related resources for state or federal reimbursement. Under all circumstances, the Requesting Party remains responsible for ensuring that the amount and quality of all documentation is adequate to enable state or federal reimbursement.

The Parties agree to share disease or contaminant information, including but not limited to health care information and protected health information, as permitted under Oregon Law and 45 CFR 164.512. The Parties shall maintain their own records and reports concerning the provision of any support or services under this Agreement, and patients' medical records shall be maintained at the Requesting Party's facility.

ARTICLE XI: EFFECT OF DECLARATION OF EMERGENCY

The Parties recognize that state or federal declarations of emergency, or orders related thereto, may supersede the arrangements made or actions taken for rendering Assistance pursuant to this Agreement.

ARTICLE XII: MODIFICATION/TERMINATION OF AGREEMENT

Modifications to this Agreement must be in writing and will become effective upon the signed approval of the modification by both Parties.

A Party opting to terminate this Agreement shall provide written termination notification to the Authorized Representatives. Notice of termination becomes effective upon receipt by all Authorized Representatives. Any terminating Party shall remain liable for all obligations incurred during its Period of Assistance until the obligation is satisfied.

ARTICLE XIII: ENTIRE AGREEMENT

This Agreement constitutes the entire agreement amongst the Parties.

ARTICLE XIV: GOVERNING LAW

This Agreement shall be interpreted and construed in accordance with the laws of the State of Oregon and the United States.

ARTICLE XV: INVALID PROVISION

The provisions of this Agreement are severable. If any portion of this Agreement is determined by a court to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

ARTICLE XVI: NOTICES

Except as otherwise provided herein, any notice, demand, information, report, or item otherwise required, authorized or provided for in this Agreement shall be given in writing and shall be deemed properly given if (i) delivered personally, (ii) transmitted and received by telephone facsimile device and confirmed by telephone, (iii) sent by United States Mail, postage prepaid, to the Authorized Representatives of all affected Parties at the address designated by such Authorized Representative, or (iv) sent by email with electronic signature of the Party's Authorized Representative.

THIS AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes hereof, a facsimile copy of this Agreement, including the signature pages hereto, shall

be deemed to be an original.

IN WITNESS WHEREOF, this Agreement has been executed and approved and is effective and operative as to each of the Parties as herein provided.

By: _____

Its: _____

Date: _____

C E R T I F I C A T E

The undersigned, Gary Burke and N. Kathryn Brigham hereby certify that they are the Chairman and Secretary, respectively, of the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation, and at a regular meeting of said Board of Trustees at the Board Chambers of the Nixyáawii Governance Center, Mission, Oregon, on the 22nd day of January, 2018, a quorum of said Board was present and the following Resolution was regularly moved, seconded, and adopted by a vote of 4 for, 0 against, and 0 abstaining.

R E S O L U T I O N

WHEREAS, the Board of Trustees is the governing body of the Confederated Tribes of the Umatilla Indian Reservation (Confederated Tribes) by the authority of Article VI, Section 1 of the Constitution and Bylaws of the Confederated Tribes, adopted on November 4, 1949 and approved on December 7, 1949, as amended; **AND**

WHEREAS, pursuant to Article VI, Section 1(a) of the Constitution and Bylaws, the powers of the Board of Trustees include the authority “to represent the Tribes and to negotiate with Federal, State and local governments”; **AND**

WHEREAS, both the Confederated Tribes and the Umatilla County Health Department confront threats to public health including public health incidents, emergencies, and disasters; **AND**

WHEREAS, the Confederated Tribes does not presently have the capacity to provide complete responses to public health emergencies and disasters occurring on the Umatilla Indian Reservation; **AND**

WHEREAS, a Mutual Aid Agreement between the Umatilla County Health Department and the Confederated Tribes would ensure cooperation and coordination in dealing with serious public health emergencies that occur on the Umatilla Indian Reservation; **AND**

WHEREAS, a Mutual Aid Agreement would ensure there are resources and mechanisms available to both Confederated Tribes and Umatilla County that address the ability to quarantine, detain, or isolate individuals who pose a public health risk on the Umatilla Indian Reservation; **AND**

WHEREAS, the Mutual Aid Agreement does not bind either party to take a particular action and does not diminish the Confederated Tribes’ inherent sovereignty to deal with public health emergencies on the Umatilla Indian Reservation as all actions taken under the Mutual Aid Agreement are voluntary and in each party’s sole discretion; **AND**

TOPIC: Public Health Emergency Mutual Aid Agreement w/Umatilla County Health Dept.

Department: Yellowhawk

Exhibits: 1

Page 2 of 2

WHEREAS, the Mutual Aid Agreement was reviewed and approved by the CTUIR Health Commission on November 14, 2017; **AND**

WHEREAS, the Board of Trustees met in a work session on January 17, 2018 to discuss the need for a Mutual Aid Agreement with Umatilla County Health Department in order to ensure complete services on the Umatilla Indian Reservations if and when a public health emergency arises; **NOW, THEREFORE, BE IT**

RESOLVED, that the Board of Trustees authorizes the Chairman of the Board of Trustees to sign the attached Mutual Aid Agreement (Exhibit 1) with the Umatilla County Health Department to ensure there are resources and mechanisms in place to deal with public health emergencies on the Umatilla Indian Reservation;

AND, that said Resolution has not been modified amended or repealed and is still in full force and effect.

DATED this 22nd day of January, 2018.


for Gary Burke, Chairman
Board of Trustees

A T T E S T:

for 
N. Kathryn Brigham, Secretary
Board of Trustees

Exhibit: Mutual Aid Agreement

NAME	YES	NO	ABSTAIN	LEAVE
Gary Burke, BOT Chairman				Travel
Jeremy Wolf, BOT Vice Chairman				
Doris Wheeler, BOT Treasurer				Travel
N. Kathryn Brigham, BOT Secretary	X			
Aaron Ashley, BOT Member				Travel
Rosenda Shippentower, BOT Member	X			
Woodrow Star, BOT Member	X			
Sally Kosey, BOT Member	X			
William Sigo IV, General Council Chairman				Travel