

EXHIBIT C

Operational Plan, Amended November 3, 2011

**Pursuant to the Agreement Between the Wampanoag
Tribe of Gay Head (Aquinnah) and the Town of
Aquinnah, Massachusetts**

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The Wampanoag Tribe of Gay Head (Aquinnah)
And Town of Aquinnah, Massachusetts**

I. INTRODUCTION

Pursuant to the Agreement, the Tribe and Town have agreed to coordinate services to ensure the highest level of public services (including but not limited to police, fire, emergency medical and natural disaster) throughout the town, including Tribal lands, in the event of a disaster, fire, emergency or non-emergency situations.

A. Purpose

The purpose of the Plan is to outline the procedures to be followed by both the Town and the Tribe in the event of emergency and non-emergency response within the Town

B. General Considerations

1. Communication System: Emergency calls made to 911 and non-emergency calls to 693-1212 are received by the Dukes County Communications Center, under the direction of the Dukes County Sheriff's Department. The center takes all emergency and non-emergency calls involving police, fire, medical and other public safety issues, and directs them immediately to the appropriate service.

2. Entity with Primary Responsibility in a Given Emergency: Upon receiving an emergency or non-emergency call which requires response within the Town, including Tribal Lands, the Dukes County Communications Center shall contact the appropriate entity to respond:

- a. **Police:** Town Police Department
- b. **Fire:** Town Fire Department
- c. **Medical:** Tri-Town Ambulance Service
- d. **Natural Disaster:** Participating Agencies: Tribal Emergency Management, Town Emergency Management,

Dukes County Emergency Management, Massachusetts
Emergency Management Agency (M.E.M.A.), Federal
Emergency Management Agency (F.E.M.A.)

- e. **Emergency Management Director:** Appointed representative responsible for the planning, preparation and response to natural disasters and/or emergencies of a specific nature or threat.

II DEFINITIONS

A. As used in this Plan:

1. **Agreement:** Agreement between the Tribe and the Town, ratified on June 5, 1995.
2. **Assistant Harbor Master:** Appointed person(s) with the limited authority for supervising the operations of the town harbor and executing the regulations respecting the use of the Town harbors and waterways. Authority and scope of service is determined by the Harbor Master and Selectmen of the Town.
3. **Building Inspectors:** The Town personnel responsible for preliminary, interim and final inspections during construction and renovation of a structure.
4. **Citation:** Penalty for violations of the Town by-laws or Commonwealth of Massachusetts criminal laws.
5. **Chief of Police:** Highest ranking Officer of the police department, appointed by the Selectmen of the Town responsible for the activities and personnel of the police department.
6. **Child Welfare Social Worker:** Employee of the Tribe who has the authority to administer the Indian Child Welfare Act, 25 U.S.C. 1990 et seq., as it relates to the care, protection and custody of Tribal children.
7. **Deputy Shellfish Constable:** Appointed person(s) with the limited authority to initiate, promote and manage shellfisheries in the Town of Aquinnah waters, promote studies as necessary to enhance the value of such shellfisheries. Enforce all statutes, ordinances, by-laws, rules and regulations relative to shellfish in the Town.

Authority and scope of service is determined by the Shellfish Constable.

8. **Designee:** Tribe or Town representative empowered to carry out the responsibilities of another Tribe or Town representative.

9. **Director of Natural Resources:** Employee of the Tribe responsible for the activities, equipment and personnel of the Natural Resources Department.

10. **Emergency Management Director:** Appointed representative of either the Tribe or Town; responsible for the planning, preparation and response to natural disasters and/or emergencies of a specific nature or threat.

11. **Fire Chief:** Fire fighter, appointed by the Selectmen of the Town responsible for the activities and personnel of the fire department.

12. **Harbor Master:** Town official responsible for supervising the operations of the town harbor and executing the regulations respecting the use of the Town harbors and waterways.

13. **Highway Superintendent:** Employee of the Town of Aquinnah responsible for the maintenance and repair of town owned roads, easements and ways.

14. **Housing Authority:** Aquinnah Wampanoag Tribal Housing Authority, Inc. created by the Tribe with responsibility to develop, maintain and operate housing projects and appurtenances.

15. **Housing Authority Director:** Employee of the Housing Authority responsible for the activities, equipment and personnel of the Housing Authority.

16. **Judiciary:** Aquinnah Wampanoag Judiciary of the Wampanoag Tribe of Gay Head (Aquinnah)

17. **Natural Resources Department:** Tribe department that maintains environmental programs, including the Ranger program on Tribal Lands, as well as beyond the boundaries of Tribal land.

18. **Officer in Charge (O.I.C):** Town police or Fire officer responsible for an event or function.

19. **Operational Plan Committee:** Committee composed of representatives of the Town and Tribe who meet annually to review and revise the Plan. The committee members from the Tribe are the Chairperson, Natural Resources Director, Emergency Management Director and Housing Authority Director. Representatives from the Town are the Chairman of the Board of Selectmen, Police Chief, Fire Chief, Emergency Management Director

20. **Plan:** Operational Plan which constitutes the entirety of this document.

21. **Ranger:** Conservation Ranger, employee of the Tribe, that authority to enforce the Tribe's Laws and all other criminal violations for which local enforcement is not prohibited by 18 U.S.C. 1152 and 1153.

22. **Shellfish Constable:** Town employee with the authority to initiate, promote and manage shellfisheries in the Town of Aquinnah waters, promote studies as necessary to enhance the value of such shellfisheries. Enforce all statutes, ordinances, by-laws, rules and regulations relative to shellfish in the Town.

23. **Special Officer: Tribe Employees:** Conservation Ranger(s) and/or Natural Resources Department employee(s) who have completed the minimum hours required for Reserve Intermittent Officer Training through the Municipal Police Training Committee and have been appointed Special Officer(s) by the Town Selectmen.

24. **Town:** Town of Aquinnah, Massachusetts

25. **Tribal Lands:** lands for which the Tribe has established legal title or access to, particularly those lands held in trust status. These lands include, but are not limited to: the Gay Head Cliffs and its egresses, the Common Lands, Herring Creek and other properties leased or held by the Tribe in fee simple ownership.

26. **Chairperson:** The duly elected Chairperson of the Tribe;

or, in the absence of the Chairperson, his/her appointed designee.

27. **Tribe:** Wampanoag Tribe of Gay Head (Aquinnah)

III. **LAW ENFORCEMENT ACTIVITY**

A. **Coordination of Resources/Activities between Town Police and Tribe Programs**

1. **Crime Prevention and Public Education**

a. The Town and the Tribe shall cooperatively plan and conduct crime prevention and educational programs for both tribal and non-tribal residents of the Town.

2. **Emergency Preparedness**

a. The Tribe shall make equipment, vehicles and vessels available at all times to support emergency responses to the Town at the request of the on duty police officer in charge of the Town of Aquinnah.

b. The Town shall provide a designated space at the West Basin dock for a Tribe-owned vessel. The vessel(s) shall be available at all times for operators approved by the Director of Natural Resources, Chief of Police and Town Harbor Master for patrol, research and response activities.

3. **Regular Meetings**

a. **Chief of Police and Director of Natural Resources:** The Chief of Police and Director of Natural Resources shall meet on a regular basis as appropriate to review actions taken by their respective departments and personnel pursuant to this Plan, and to develop and recommend amendments or alterations to the Plan, as necessary.

i. May - November (Summer Season and Hunting Season): Meetings shall be held weekly.

ii. December - April: Meetings shall be held as deemed

necessary by the Chief of Police and the Director of Natural Resources.

b. **Chief of Police and Human Services Director:** The Chief of Police and Director of Human Services shall meet as appropriate to review actions taken by their respective departments and personnel pursuant to this Plan; and to develop and recommend amendments to the Plan, as necessary

c. **Fire Chief and Director of Natural Resources:** The Fire Chief and Director of Natural Resources shall meet on a regular basis to review actions taken by their respective departments and personnel pursuant to this Plan, and to develop and recommend amendments to the Plan, as necessary.

4. **Town Police Activities**

A. **Town of Aquinnah Police Department**


1. Town Police Officers shall have powers to enforce all applicable Town and state laws while on Tribal Lands.
2. Town Police shall routinely patrol the roads on Tribal Lands as designated patrol areas in the same manner and frequency as they patrol municipal roads.
3. Town Police shall respond to emergency and non-emergency calls from, and provide law enforcement services to dwellings and persons on Tribal Lands of the same nature and extent as are provided to other dwellings and persons on non-Tribal Lands.
4. Town Police shall respond to incidents on Tribal Lands observed during routine patrols or otherwise in performance of their duties as authorized the Plan.
5. Following an emergency incident or exigent circumstance on Tribal Lands the Officer in Charge (O.I.C.) shall notify the Chairperson or authorized designee as soon as possible, but no later than 24 hours. The Chairperson shall

disseminate the information as appropriate. Written notice shall be made available to the Tribe within 48 hours.

5. a. For any law enforcement action on Tribal Lands, the Chief shall provide verbal or written notice to the Chairperson (or her/his authorized designee) prior to the action taking place, except where there is:
 - (i). Reasonable fear of flight by a suspect as a result of prior notice;
 - (ii). Reasonable belief that the success of the action would be jeopardized as a result of prior notice;
 - (iii). Reasonable belief that officer safety would be compromised as a result of prior notice;
 - (iv). reasonable belief of imminent danger to life or property as a result of prior notice;
 - (v). Unplanned pursuit of a suspect from non-Tribal Lands to Tribal Lands; or
 - (vi). Other emergency or exigent circumstances that would make prior notice impractical.

- b. For any law enforcement action on Tribal Lands where prior notice is not provided under paragraph (a):
 - (i). The Chief shall provide verbal notice to the Chairperson (or her/his authorized designee) as soon as reasonably possible, but in no event more than 12 hours after the completion of the law enforcement action, and
 - (ii). The Chief shall provide a written report to the Chairperson (or her/his designee) within 48 hours after the completion of the law enforcement action. Such report shall describe the law enforcement action on Tribal lands and shall include an explanation and justification as to why prior notice was not provided.

- c. If, after receiving the written report described in subparagraph (b)(ii), the Tribe is not satisfied with the explanation and justification

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for the failure to provide prior notice, the Chairperson shall notify the Chief and the Board of Selectmen. A meeting between the Board, the Chief, and the Chairperson shall be held as soon thereafter as reasonably possible, at which time the Tribe's objection to the failure to provide prior notice shall be discussed in an effort to reach agreement on the matter and avoid future disputes.

6. The Tribe may formally request the assistance of Town police officers from the Chief of Police or O.I.C. to assist with Tribe functions or special events and the Officer(s) shall be paid by the event sponsor or by the Tribe.

B. Wampanoag Tribe of Gay Head (Aquinnah) Rangers

1. Rangers perform the following duties: patrol Tribal Lands, enforce Tribal laws, protect, enhance and preserve the lands, waters, air and sustenance foods of the Tribe.
2. Rangers shall receive their daily assignments from the Director of Natural Resources.
3. The Director of Natural Resources shall inform the police of the vicinity in which the Rangers will be performing their assignments.
4. Rangers shall be issued uniforms by the Tribe, which reflect their identity as employees of the Tribe.
5. Rangers shall be issued law enforcement equipment and supplies at the expense of the Tribe which meet the standards of the Aquinnah Police Department.
6. Rangers shall carry and dispense emergency medical supplies approved for use by the Tri-Town Ambulance Service.

C. Rangers as Special Officers

1. When acting as Special Officers, Rangers are performing under the supervision and direction of the Chief of Police

or Officer In Charge.

2. Rangers shall not represent themselves as Town Police Officers and shall not display a Town Officer badge unless instructed to do so by the Chief of Police or Officer in Charge.
3. Rangers in performance of their duties shall be authorized to issue citations at the discretion of the Chief of Police.
4. The Town may formally request the assistance of the Ranger(s) in writing to the Director of Natural Resources. Verbal request is acceptable in times of an emergency.
5. Special Events: When requested by the Chief of Police, or designee thereof, to assist with special events, the Special Officer shall be paid by the event sponsor or by the Town.
6. Rangers shall not carry a firearm in performance of their duties as a Special Officer unless directed by the Chief of Police.

IV. FIRE

A. Town of Aquinnah Fire Department

1. Emergency Response on Tribal Lands

- a. Fire Department personnel shall respond to emergency calls from, and provide fire emergency services to dwellings and persons on Tribal Lands.
- b. Fire Department personnel responding to requests for assistance on Tribal Lands shall be fully qualified under all applicable local, state and federal laws and regulations.
- c. Fire Department personnel shall follow the Standard Operating Procedure as adopted by the Fire Department when responding to emergencies on Tribal Lands.
- d. When responding to fire emergencies of the Housing Authority dwellings or property, the Fire Department shall utilize the fire cisterns, as appropriate.

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[Handwritten signature]

2. Emergency Response on Non-Tribal Lands

- a. The Housing Authority and the Tribe shall make available its fire cisterns to the Town as needed by the Fire Department in performing its duties.
- b. During a fire emergency on non-Tribal Lands, the Fire Department shall first utilize the cistern closest to State Road in order to maximize the safety and welfare of the Housing Authority tenants. The Fire Department shall notify the Housing Authority Director of the Fire Department's use of the fire cisterns within 24 hours.
- c. If the emergency requires additional cistern water use, the Fire Department shall work in cooperation with the Housing Authority Director in order to secure the safety and welfare of the Housing Authority tenants.
- d. The Town shall provide Police Officers to monitor and secure the area of activity.
- e. The Town shall replace any water used from cisterns of the Housing Authority in response to fire emergencies on non-Tribal Lands.
- f. The Housing Authority and the Town shall cooperate in the care and maintenance of the cisterns and shall each be responsible for any damage caused to the fire cisterns by their own personnel.

V. EMERGENCY MEDICAL SERVICES

A. Town Emergency Medical Personnel

1. The Town has entered into an agreement with the towns of Chilmark and West Tisbury, Massachusetts to provide ambulatory services, referred to as Tri-Town Ambulance for emergency medical services within the respective towns, and a portion of Tribal Lands are located within the Town; Tri-Town Ambulance shall respond to emergency calls from, and provide emergency medical services to persons on Tribal Lands.

**B. Utilization of Tribal Personnel in Cooperation with Town
Emergency Medical Services**

1. Upon completion of the requisite certification requirements to achieve status as an EMT for the Commonwealth of Massachusetts a Ranger responding to a medical emergency call does so as a volunteer EMT for the Tri-Town Ambulance and shall follow Region 5 Policies as adopted by Cape & Islands E.M.S. and the Standard Operating Procedure for medical emergencies as adopted by the Tri-Town Ambulance.

C. Communication/Radio

1. The Natural Resources Department shall maintain Tribal communication equipment. Department staff, when authorized by Town and/or state officials, shall utilize the communications center and direct radio contact with Town personnel.

VI. NATURAL DISASTER ASSISTANCE

A. Emergency Management

1. In the event of a natural disaster in the Town, which includes Tribal Lands, the Town Emergency Management Director or designee shall follow procedures as assigned by the responsible State or Federal Agency.
2. The Town Emergency Management Director shall respond to emergency calls and provide emergency services to Tribal Lands.
3. The Tribe's Emergency Management Director shall assign the use of any available personnel, equipment or facilities to support Tribe and Town protection of life and property in the event of a natural disaster.
4. The Town may seek reimbursement for services provided during a natural disaster or emergency event. The Tribe Emergency Management Director shall seek reimbursement for any allowable costs incurred by the Town, Tribe, and/or Housing Authority through the appropriate State or Federal Agencies

5. Shelter - The Tribe shall make available any suitable structure for the shelter of both Tribe and Town members.

VII. Public Safety

A. Roadway Maintenance

1. The Tribe shall make equipment used for road maintenance available to the Town, if available, upon request.
2. The Town shall make equipment used for road maintenance available to the Tribe, if available, upon request.
3. A log shall be maintained by the Director of Natural Resources indicating equipment used, duration of use and maintenance performed.
4. Requests for equipment use shall be made directly between the Director of Natural Resources and Highway Superintendent. Employees shall be responsible for securing approval from their respective employer.

B. Resource Protection

1. The Town shall annually review and consider Tribe Natural Resources Department staff for appointments as Deputy Shellfish Constables to assist with the propagation and protection of fish and shellfish resources in the Town.
2. The Tribe shall make Natural Resources Department staff available, when possible, to support the propagation, restoration and enhancement of fish and shellfish resources in Town waters.
3. The Town shall annually review and consider Tribe Natural Resources Department staff for appointments as Assistant Harbormasters.
4. The Tribe shall make Natural Resources Department staff and equipment available, when possible, to assist with the management of the harbor and vessels in the Town.



C. Inspection Services & Enforcement

1. The Tribe shall utilize permit and inspection services as provided by the Town Building Inspector's office for new construction and renovation projects that would generally require a building permit under applicable law. Utilization of such services shall not preclude the Tribe from establishing its own inspection office in the future.
2. Building Inspectors are granted the power to enforce applicable laws and codes on Tribal Lands
3. The Town recognizes the primacy of the Land Use Commission for overall land use permitting on the Tribe's Trust Lands and shall not require that Projects be reviewed by the Town Permitting/Review Boards (including, but not limited to, the Conservation Commission, Planning Board, Board of Health and Zoning Board of Appeals), except as provided for in this Agreement or any other agreement between the Town and Tribe.

IX. Judiciary and Town of Aquinnah

1. The Chief of Police and/or his designees shall assist the Tribe's Judiciary to process fingerprint identification and other services in accordance with Tribal, state and federal laws and statutes.

X. AMENDMENT TO OPERATIONAL PLAN

1. This Plan shall be amended from time to time as deemed necessary by the Operational Plan Committee.
2. The Operational Plan Committee shall meet as necessary to review actions taken by their respective departments and personnel pursuant to the Plan.
3. The Operational Plan Committee shall draft the recommended amendments to the Plan and submit them to their respective government officials for their review.

IN WITNESS WHEREOF, the parties have executed the Agreement on the date and year first written by authority of the Wampanoag Tribe of Gay Head (Aquinnah) and the Town of Aquinnah, Massachusetts.

TOWN OF AQUINNAH



Jim Newman
Chairman
Board of Selectmen

11/03/11
Date:

WAMPANOAG TRIBE OF
GAY HEAD (AQUINNAH)



Cheryl Andrews-Maltais
Chairwoman

11/03/11
Date: