



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 13-79

of the

### SQUAXIN ISLAND TRIBAL COUNCIL

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

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

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

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

**WHEREAS**, the Squaxin Island Tribal Council previously passed Resolution 05-99, which approved a Contract for Services with Anita Estupiñan Neal, attorney at law; and

**WHEREAS**, it has come to the attention of the Squaxin Island Tribes Legal Department that the Independent Contractor Agreement for Judicial Services has expired and a new contract was negotiated;

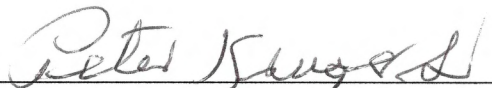
**NOW THEREFORE BE IT RESOLVED**, that the Squaxin Island Tribal Council hereby approves the Anita Estupiñan Neal, attorney at law, Independent Contractor Agreement for Judicial Services (attached).


**NOW THEREFORE BE IT RESOLVED**, that the Squaxin Island Tribal Council does hereby approve the agreement and authorizes the Executive Director to sign the Independent Contractor Agreement for Judicial Services.

**CERTIFICATION**

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 24<sup>th</sup> day of October, 2013, at which time a quorum was present and was passed by a vote of 6 for and 0 against, with 0 abstentions.

  
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**David Lopeman, Chairman**

Attested by:   
\_\_\_\_\_  
**Peter Kruger, Sr., Secretary**

  
\_\_\_\_\_  
**Arnold Cooper, Vice Chairman**

## **Independent Contractor Agreement For Judicial Services**

This Agreement is made between the SQUAXIN ISLAND TRIBE, a federally recognized Indian tribe (Tribe), with a principal place of business at SE 10 Squaxin Lane, Shelton, Washington 98584, and NEAL & NEAL, LLC, Attorneys at Law (Independent Contractor), with a principal place of business at 112 East 4<sup>th</sup> Avenue, Suite 200, Olympia, Washington 98501. This Agreement will become effective on October 1, 2013, and will end no later than September 30, 2016.

### ***1. Services to be Performed***

Independent Contractor, as attorneys at law, are licensed to practice in the State of Washington and admitted to practice before the Squaxin Island Tribal Court, with experience in civil, criminal, and child welfare proceedings, agrees to perform the following services on behalf of the Tribe:

To preside as a sitting judge in the Squaxin Island Tribal Court, primarily in the family law court, including Indian Child Welfare, domestic violence and Youth Code matters, when called upon to do so. These services include, but are not limited to, presiding at adjudicative and other contested hearings, pre-trial and settlement conferences, participating in the further development of the trial court and its rules and procedures, strategic development and planning, and preparing written opinions and orders, including research, and travel.

The Independent Contractor agrees to perform the following judicial and court administration services:

- a. Act as trial and/or appellate judge(s) to hear case(s) before the Tribal Court.
- b. Be reasonably available for hearing and deciding such unscheduled matters as may arise.
- c. Prepare and issue all necessary and appropriate orders, findings of fact, conclusions of law, judgments or opinions in a timely manner.
- d. Provide legal research and writing when necessary for the decision in a case.
- e. Assist the Tribe's Clerk of the Court in efficiently maintaining and improving court files and procedures.
- f. Produce itemized billing statements for the Tribe no less than monthly.

### ***2. Payment***

In consideration for the services to be performed by Independent Contractor in Section (1) above, the Tribe agrees to pay Independent Contractor at the flat rate of \$1,000.00 per month according to the terms of payment set out below.

### ***3. Terms of Payment***

Independent Contractor shall submit an invoice to the Squaxin Island Legal Department, at 3711 SE Old Olympic Highway, Shelton, WA 98584, within 10 days of the last day of each month for



the work performed during that month. The invoice should include: an invoice number, the dates covered by the invoice, the hours expended and a summary of the work performed. The Tribe shall pay Independent Contractor's fee within 30 days of the invoice date.

If the demand for judicial services is extraordinary, for example, exceeds the norm by fifteen (15) percent or more, the parties will reform the contract to provide for an effective rate equal to the norm for these extra ordinary services. Extra ordinary services shall be approved in advance.

#### **4. *Expenses***

Independent Contractor shall be responsible for all expenses incurred relating to: license fees, memberships and dues, automobile expenses; insurance premiums; and all salary, expenses and other compensation paid to employees or contract personnel the Independent Contractor hires to complete the work under this Agreement. Independent Contractor may submit costs to be reimbursed, such as photocopying, long distance telephone, postage, special mailing or courier services.

At the discretion of the Director of the Squaxin Island Legal Department, the Tribe shall pay any costs or expenses for continuing legal education or judicial training related to Indian Country. Requests for such costs shall be supported by appropriate documentation and be consistent with Tribal expense and travel policies.

#### **5. *Independent Contractor Status***

Independent Contractor is not the Tribe's or Legal Department's employee. Independent Contractor's employees or contract personnel are not the Tribe's or Legal Department's employees. Independent Contractor and the Tribe agree to the following rights consistent with an independent contractor relationship:

- Independent Contractor has the right to perform services for others during the term of this Agreement.
- Independent Contractor has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed.
- Independent Contractor has the right to perform the services required by this Agreement at any place, location or time.
- Independent Contractor will furnish all equipment and materials used to provide the services required by this Agreement.
- Independent Contractor has the right to hire assistants as subcontractors, or to use employees to provide the services required by this Agreement.

- The Independent Contractor or Independent Contractor's employees or contract personnel shall perform the services required by this Agreement; Tribe shall not hire, supervise or pay any assistants to help Independent Contractor.
- Neither Independent Contractor nor Independent Contractor's employees or contract personnel shall receive any training from Tribe in the skills necessary to perform the services required by this Agreement.
- The Tribe shall not require Independent Contractor or Independent Contractor's employees or contract personnel to devote full time to performing the services required by this Agreement.

#### **6. *State and Federal Taxes***

Tribe will not:

- Withhold FICA (Social Security and Medicare taxes) from Independent Contractor's payment or make FICA payments on Independent Contractor's behalf;
- Make state or federal unemployment compensation contributions on Independent Contractor's behalf; or
- Withhold state or federal income tax from Independent Contractor's payments.

Independent Contractor shall pay all taxes incurred while performing services under this Agreement, including all applicable income taxes and, if Independent Contractor is not a corporation, self-employment (Social Security) taxes. Upon demand, Independent Contractor shall provide the Tribe with proof that such payments have been made.

#### **7. *Fringe Benefits***

Independent Contractor understands that neither Independent Contractor nor Independent Contractor's employees or contract personnel are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of the Tribe.

#### **8. *Workers' Compensation***

The Tribe shall not obtain workers' compensation insurance on behalf of Independent Contractor or Independent Contractor's employees. If Independent Contractor hires employees to perform any work under this Agreement, Independent Contractor will cover them with workers' compensation insurance and provide the Tribe with a certificate of workers' compensation insurance before the employees begin work.

#### **9. *Unemployment Compensation***

The Tribe shall make no state or federal unemployment compensation payments on behalf of Independent Contractor or Independent Contractor's employees or contract personnel.



Independent Contractor will not be entitled to these benefits in connection with work performed under this Agreement.

**10. Insurance**

The Tribe shall not provide insurance coverage of any kind for Independent Contractor or Independent Contractor's employees or contract personnel. Independent Contractor agrees to maintain standard professional insurance.

Independent Contractor shall indemnify and hold the Tribe harmless from any loss or liability arising from performing services under this Agreement.

**11. Terminating the Agreement**

Either party may terminate this Agreement any time by giving thirty (30) days' written notice to the other party of the intent to terminate. Independent Contractor retains the right to cease performing, and the Tribe retains the right to terminate, services under this Agreement for any reason consistent with the applicable ethical rules, including unanticipated conflicts of interest or delinquent payments and expenses. Parties agree that if this Agreement is terminated, the Tribe will promptly pay all outstanding charges.

**12. Entire Agreement; Amendments**

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, between the parties hereto with respect to the subject matter hereof. This Agreement may not be amended orally, but only by an agreement in writing signed by the parties hereto.

**13. Severability**

If any part of this Agreement is held unenforceable, the rest of the Agreement will continue in effect.

**14. Applicable Law**

This Agreement will be governed by the laws of the Squaxin Island Tribe.

**15. Jurisdiction**

Exclusive jurisdiction for any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement shall be in the Employment Court of the Squaxin Island Tribe and each of the parties consents to the jurisdiction of such court (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein, except that nothing in this Agreement shall be construed as a waiver of the Tribe's sovereign immunity except as to the jurisdiction of the Squaxin Island Employment Court. Process in any action or proceeding referred to in the previous sentence may be served on either party anywhere in the world.

**16. Notices**

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- When delivered personally to the recipient’s address as stated on this Agreement;
- Three (3) days after being deposited in the United States mail, with first class postage prepaid, to the recipient’s address as stated on this Agreement; or
- When sent by fax to the last fax number of the recipient known to the person giving notice. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first class mail, or the recipient delivers a written confirmation of the receipt.

**17. No Partnership**

This Agreement does not create a partnership relationship. Independent Contractor does not have authority to enter into contracts on behalf of the Tribe.

**18. Assignment**

Contractor may not assign or subcontract any rights or obligations under this Agreement without prior written approval of the Tribe.

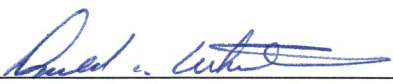
**19. If Agreement is Faxed**

Independent Contractor and the Squaxin Island Tribe agree that this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission. Signatures transmitted by facsimile shall have the same effect as original signatures.

**20. Signatures**

SQUAXIN ISLAND TRIBE  
 Don Whitener, Tribal Administrator  
 10 SE Squaxin Lane  
 Shelton, WA 98584  
 Phone: 360.426.9781

NEAL & NEAL, LLC  
 Anita Estupiñan Neal, Attorney at Law  
 112 E 4<sup>th</sup> Ave, Suite 200  
 Olympia, WA 98501  
 Phone: 360.754.1104

  
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 By: Don Whitener, Tribal Administrator  
 Date: \_\_\_\_\_, 2013

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 By: Anita Estupiñan Neal, WSBA #16821  
 Date: \_\_\_\_\_, 2013