



# SQUAXIN ISLAND TRIBE

RESOLUTION NO. 13-87

of the

## SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe (“Tribe” or “Borrower”), its members, its lands, its enterprises and its agencies by 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 with protecting and managing the lands and treaty resources and rights of the Tribe including those expressed in Section 1 (b) and (i) of the Constitution; 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 treaty land and treaty resources of the Tribe; and

**WHEREAS**, the Bank and the Borrower entered into a Business Loan Agreement dated as of May 15, 2008, as amended (and so amended the “2008 Credit Agreement”); and

**WHEREAS**, pursuant to Resolution No. 13-18 (the “Prior Authorizing Resolution”), the Tribal Council previously approved and the parties amended and restated the 2008 Credit Agreement in its entirety on May 31, 2013; and

**WHEREAS**, the parties wish to amend that Amended and Restated Loan Agreement dated May 31, 2013 to make certain additional changes related to the computation of interest and fees; and

**WHEREAS**, the Tribe and Bank of America (“Bank”) have negotiated an amendment to the loan and related documents, namely (and hereinafter, the “Transaction Documents”):

1. The First Amendment to the Amended and Restated Loan Agreement dated November 14, 2013 (the “First Amendment”); and
2. Officers’ Certificate draft dated November 14, 2013;

**WHEREAS**, capitalized terms used and not defined herein have the meaning set forth in the Transaction Documents.

**THEREFORE, BE IT RESOLVED AND ENACTED** By the Council as follows:

Section 1. Transaction Documents. The terms and conditions of the above-described Transaction Documents are hereby authorized, ratified and approved. The Chairman, David Lopeman, or in his absence the Vice-Chairman, Arnold Cooper (each an “Authorized Officer”), are hereby authorized to (1) finalize the Transaction Documents with such modifications and revisions that the Authorized Officers, in consultation with the Tribe’s legal counsel, determine are in the best interests of the Tribe;

and (2) execute and deliver on behalf of the Tribe, such final Transaction Documents, together with any and all other documents, certificates, instruments, financing statements, and any other documents necessary to carry out the obligations and transactions contemplated by the Transaction Documents (the "Related Documents") in order to effect the transactions and the making of the loans contemplated by the Transaction Documents. The Authorized Officers are hereby authorized to approve, execute and deliver such future amendments to the final Transaction Documents and Related Documents as may be in the best interests of the Tribe and as necessary to carry out the Tribe's obligations thereunder. Those persons identified as such in the Officers' Certificate are hereby severally authorized, empowered, and directed to administer the Loan Agreement, the Loan Documents, the Supplemental Indenture, and the related Bond Documents, including requesting advances or proceeds of the loans thereunder.

Section 2. Choice of Law Authorization.

A. The parties to any contract, agreement, or other like document related to the transaction described in Section 1 of this Resolution, including the Tribe and any department, program, or corporation of the Tribe, are hereby permitted and authorized to include in the document a stipulation providing that a designated body of laws will govern the interpretation and enforcement of the document(s), and

B. The Tribal Court shall, in cases brought before the Court over which it has jurisdiction and involving the document, use the designated body of laws for the interpretation and enforcement of the document.

Section 3. Choice of Law. With respect to the Transaction Documents, the Tribe hereby authorizes and approves the terms of the Transaction Documents providing that the Transaction Documents are governed by and construed in accordance with the laws of the State of Washington (without regard to principles of conflict of laws), including the Washington Uniform Commercial Code.

Section 4. Waiver of Sovereign Immunity, Consents to Court Jurisdiction, Waiver of the Exhaustion of Tribal Remedies, Limited Recourse.

A. The Tribe hereby authorizes, affirms, and approves the waiver of sovereign immunity, consent to the jurisdiction of specified courts, and waiver of the exhaustion of tribal remedies set forth in the First Amendment and the Loan Documents, and the Tribe independently, by and through this Resolution, on behalf of itself and the Gaming Enterprise, makes the following waivers and consents:

1. (a) The Tribe expressly and irrevocably waives its and the Gaming Enterprise's sovereign immunity from suit (and any defense based thereon) from any suit, action, arbitration proceeding or other proceeding or from any legal process, whether such action be brought in law or in equity, arising in contract, tort or statute, for claims arising under or with respect to the obligations and indebtedness evidenced by the Loan Agreement, Loan Documents and any related documents or to enforce and execute any order, judgment or ruling resulting from any such action or arbitration and consents to be sued in the courts of the United States District Courts located within the State of Washington and any appellate court to which any appeals therefrom are available (collectively the "Washington Federal Courts") and the courts of the State of Washington and any appellate court to which any appeals therefrom are available (collectively the "Washington State Courts" and together with the Washington Federal Courts the "Washington Courts"). If it is determined that none of the foregoing courts has jurisdiction, then the Tribe consents to the jurisdiction of the Squaxin Island Tribal Court (the "Tribal Courts" and together with the Washington Courts, the "Consented Courts"). The Tribe irrevocably and unconditionally waives any objection which it may now or hereafter have to the laying of venue of any action arising out of or relating to the Loan Documents or the transactions contemplated hereunder or thereunder in any Consented Court. The Tribe hereby irrevocably waives any requirement

of exhaustion of tribal remedies. Provided, the waiver of sovereign immunity expressed herein is limited to the Bank, its successors in interest and assigns, the indemnitee under the Loan Agreement or any of their officers, directors, agents or employees ( a "Grantee"). Provided further, that except as set forth in Section 14.5(b) of the Loan Agreement, recourse of the Bank or any Grantee under this waiver of sovereign immunity is limited to the Collateral.

(b) The obligations of the Tribe under the Loan Agreement or any Loan Document are limited recourse obligations enforceable solely against the Collateral, except in the event of a default by the Tribe under Section 11.23 of the Loan Agreement, in which case enforcement may be had against any property of the Tribe; provided however, that in no case may recourse or enforcement be made against: (i) Excluded Assets; (ii) real estate held in trust by the United States for the benefit of the Tribe; (iii) real estate subject to restrictions by the United States against alienation; (iv) any restricted federal or grant funds or other assets against which enforcement is unlawful under applicable Federal or State law; (v) the Tribe's minor's trust established under its revenue allocation plan; or (vi) the Permanent Trust.

2. Arbitration and Waiver of Jury Trial. This Paragraph A.2 is a material inducement for the parties entering into the Loan Agreement. The Tribe expressly and irrevocably waives its and the Gaming Enterprise's sovereign immunity from compulsory arbitration and judicial enforcement of the arbitration award or awards suit for Claims by the Bank with respect to the obligations and indebtedness that arise out of or relate to (i) the Loan Agreement (including any renewals, extensions or modification) or (ii) any document related to the Loan Agreement. Provided, the waiver of sovereign immunity expressed herein is limited to the Bank, its successors in interest and assigns, the indemnitee under the Loan Agreement or any of their officers, directors, agents or employees. Provided further, except as set forth in Section 14.5(b) of the Loan Agreement, recourse of the Bank under this waiver of sovereign immunity is limited to the Collateral.

(a) This Paragraph A.2 concerns the resolution of any controversies or claims between the parties, whether arising in contract, tort or by statute, including but not limited to controversies or claims that arise out of or relate to: (i) the Loan Agreement (including any renewals, extensions or modifications); or (ii) any document related to the Loan Agreement (collectively a "Claim"). For the purposes of this Dispute Resolution Provision only, the term "parties" shall include any parent corporation, subsidiary or affiliate of the Bank involved in the servicing, management or administration of any obligation described or evidenced by the Loan Agreement.

(b) At the request of any party to the Loan Agreement, any Claim shall be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Act"). The Act will apply even though the Loan Agreement provides that it is governed by the law of a specified state.

(c) Arbitration proceedings will be determined in accordance with the Act, the then-current rules and procedures for the arbitration of financial services disputes of the American Arbitration Association or any successor thereof ("AAA"), and the terms of this Dispute Resolution Provision. In the event of any inconsistency, the terms of this Dispute Resolution Provision shall control. If AAA is unwilling or unable to (i) serve as the provider of arbitration or (ii) enforce any provision of this arbitration clause, the Bank may designate another arbitration organization with similar procedures to serve as the provider of arbitration.

(d) The arbitration shall be administered by AAA and conducted, unless otherwise required by law, in Washington state. All Claims shall be determined by one arbitrator; however, if Claims exceed Five Million Dollars (\$5,000,000), upon the request of any party, the Claims shall be decided by three arbitrators. All arbitration hearings shall commence within ninety (90) days of the demand for arbitration

and close within ninety (90) days of commencement and the award of the arbitrator(s) shall be issued within thirty (30) days of the close of the hearing. However, the arbitrator(s), upon a showing of good cause, may extend the commencement of the hearing for up to an additional sixty (60) days. The arbitrator(s) shall provide a concise written statement of reasons for the award. The arbitration award may be submitted to any court having jurisdiction to be confirmed, judgment entered, enforced or set aside. An arbitration award shall not be subject to review or modification by a court for any reason other than the circumstances described in 9 U.S.C. §§ 10 and 11, and in the event the arbitration award is enforced in a forum of the Tribe, the circumstances described in the Tribe's Arbitration Code.

(e) The arbitrator(s) will give effect to statutes of limitation in determining any Claim and may dismiss the arbitration on the basis that the Claim is barred. For purposes of the application of any statutes of limitation, the service on AAA under applicable AAA rules of a notice of Claim is the equivalent of the filing of a lawsuit. Any dispute concerning this arbitration provision or whether a Claim is arbitrable shall be determined by the arbitrator(s), except as set forth at subsection (h) of this Dispute Resolution Provision. The arbitrator(s) shall have the power to award legal fees pursuant to the terms of the Loan Agreement.

(f) This Paragraph A.2 does not limit the right of any party to: (i) exercise self-help remedies, such as but not limited to, setoff; (ii) initiate judicial or non-judicial foreclosure against any Collateral; (iii) exercise any judicial or power of sale rights, or (iv) act in a court of law to obtain an interim remedy, such as but not limited to, injunctive relief, writ of possession or additional or supplementary remedies.

(g) The filing of a court action is not intended to constitute a waiver of the right of any party, including the suing party, thereafter to require submittal of the Claim to arbitration.

(h) Any arbitration or trial by a judge of any Claim will take place on an individual basis without resort to any form of class or representative action (the "Class Action Waiver"). Regardless of anything else in this Dispute Resolution Provision, the validity and effect of the Class Action Waiver may be determined only by a court and not by an arbitrator. The parties to the Loan Agreement acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from the agreement to arbitrate Claims. If the Class Action Waiver is limited, voided or found unenforceable, then the parties' agreement to arbitrate shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver. **The Parties acknowledge and agree that under no circumstances will a class action be arbitrated.**

(i) By agreeing to binding arbitration, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of any Claim. Furthermore, without intending in any way to limit this agreement to arbitrate, to the extent any Claim is not arbitrated, the parties irrevocably and voluntarily waive any right they may have to a trial by jury in respect of such Claim. This waiver of jury trial shall remain in effect even if the Class Action Waiver is limited, voided or found unenforceable. **WHETHER THE CLAIM IS DECIDED BY ARBITRATION OR BY TRIAL BY A JUDGE, THE PARTIES AGREE AND UNDERSTAND THAT THE EFFECT OF THIS AGREEMENT IS THAT THEY ARE GIVING UP THE RIGHT TO TRIAL BY JURY TO THE EXTENT PERMITTED BY LAW.**

B. The Tribe hereby authorizes, affirms, and approves the waiver of sovereign immunity, consent to the jurisdiction of specified courts, and waiver of the exhaustion of tribal remedies set forth in the Supplemental Indenture, and the Tribe independently, by and through this Resolution, on behalf of itself and the Gaming Enterprise, makes the following waivers and consents: [insert from Supplemental Indenture]



C. The Tribe hereby authorizes, affirms, and approves the waiver of sovereign immunity, consent to the jurisdiction of specified courts, and waiver of the exhaustion of tribal remedies set forth in the Remarketing Agreement, and the Tribe independently, by and through this Resolution, on behalf of itself and the Gaming Enterprise, makes the following waivers and consents: [insert from Remarketing Agreement]

Section 5. The Council, for itself and on behalf of the Tribe and the Gaming Enterprise, further acknowledges, affirms, and agrees that the Tribe's Arbitration Code, Title 4, Chapter 4.52, in effect as of the date hereof, applies to the Transaction Documents.

Section 6. The Council, for itself and on behalf of the Tribe and the Gaming Enterprise, further authorizes, approves, and affirms that with respect to any security interest to which the Transaction Documents, Loan Documents, Related Documents, and these Resolutions apply: (1) the rights and obligations of any person shall be governed as if the Uniform Commercial Code of the State of Washington ("Washington UCC") applied fully thereto, including those rights and obligations related to enforcement of a security interest arising after default; (2) the perfection, effect of perfection or non-perfection and priority of any security interest to which the Transaction Documents, the Related Documents, and these Resolutions apply shall be determined as if the Washington UCC applied fully thereto and as if each debtor were (for purposes of Washington UCC § 62A.9A-301 through § 62A.9A-342) located in the State of Washington and as if the Tribe's Reservation were located in the State of Washington; (3) notwithstanding any provision of the Washington UCC or these Resolutions to the contrary, a security interest granted by the Tribe in Pledged Revenues shall be created and attach upon the giving of value and the granting of such security interest in a writing executed by the Tribe, and such security interest may be perfected only by filing of an initial financing statement in the same manner and in the same location as if all such of such Pledged Revenues were accounts; (4) with respect to any security interest to which the Transaction Documents, Related Documents, and these Resolutions apply, the proper office for filing a financing statement shall be the office specified by the Washington UCC and the laws of the State of Washington as if the Tribe were located in the State of Washington. For the avoidance of doubt, no UCC financing statement is required to be filed with the Tribe or any office thereof.

**BE IT FURTHER RESOLVED AND ENACTED**, that the approval of any Transaction Document and Related Document shall be conclusively presumed from the execution thereof by an Authorized Officer in the name of the Tribe.

**BE IT FURTHER RESOLVED AND ENACTED**, that the Authorized Officers of the Tribe are authorized to furnish a certified copy of this Resolution to the Bank and to MLPFS and any other party the Authorized Officers deem appropriate, and such parties shall be entitled to rely thereon and assume conclusively that this Resolution remains in full force and effect.

**BE IT FURTHER RESOLVED AND ENACTED**, that the Tribal Council hereby determines that no laws, ordinances, resolutions or other actions of the Tribe or any of the agencies or instrumentalities of the Tribe, either written or established by custom or tradition, prohibits the Tribe from approving the execution or delivery of the Transaction Documents and Related Documents or performing the obligations of the Tribe thereunder.

**BE IT FURTHER RESOLVED AND ENACTED**, that the Tribal Council finds and determines that each of the lawful acts of the Tribe, including the Tribal Council and the General Council or any authorized representative, officer or agency of the Tribe, taken prior to the date hereof related to the Transaction Documents and Related Documents, including but not limited to all lawful acts taken in connection with the transactions and agreements contemplated by the foregoing Resolutions, is hereby

ratified, approved, adopted and confirmed as if such act had been presented to and approved by the Tribal Council prior to being taken.

**BE IT FURTHER RESOLVED AND ENACTED**, that the Tribal Council affirms that the Prior Authorizing Resolution remains in full force and effect and finds that adoption of this Resolution does not interfere with or violate the public policy or the laws of the Tribe, and any prior law of the Tribe that is contrary to or inconsistent with the provisions of this Resolution (other than the Prior Authorizing Resolution) is hereby declared to be inapplicable to the Transaction Documents to the extent of any such conflict or inconsistency.

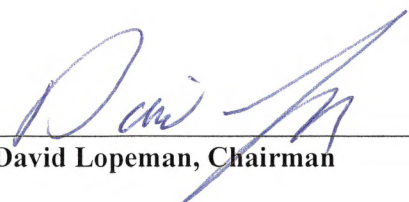
**BE IT FURTHER RESOLVED AND ENACTED**, that by authorizing the entry into the Transaction Documents, the Tribe, on behalf of itself and the Gaming Enterprise, hereby and thereby determines, acknowledges, and confirms that it and the Gaming Enterprise each agrees that it shall not take any action to abrogate, void, cancel or rescind its obligations thereto or unilaterally amend or modify the transactions contemplated thereby. Upon execution of any Transaction Document and Related Document authorized by the Prior Authorizing Resolution and this Resolution, such document shall become a valid and binding obligation of the Tribe, enforceable in accordance with its terms for purposes of tribal law and the laws of all other applicable jurisdictions.

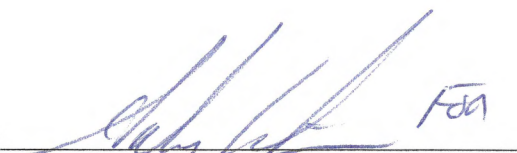
**BE IT FURTHER RESOLVED AND ENACTED**, that the provisions of this Resolution are intended to constitute a contractual and property right vested in the parties to the Transaction Documents and Loan Documents (and their successors, their permitted assigns, and indemnified parties thereunder), shall not be revoked, modified or otherwise impaired by the Tribe so long as there remains outstanding any obligation of the Tribe under the Transaction Documents and the transactions contemplated thereby, and may be enforced by such parties.

**BE IT FINALLY RESOLVED AND ENACTED**, that this Resolution shall become effective as of the date and time of its passage and approval by the Tribal Council.

#### 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 14<sup>th</sup> day of November, 2013, at which time a quorum was present and was passed by a vote of 4 for and 0 against, with 0 abstentions.

  
\_\_\_\_\_  
David Lopeman, Chairman

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

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



**FIRST AMENDMENT TO THE  
AMENDED AND RESTATED  
LOAN AGREEMENT  
SQUAXIN ISLAND TRIBE**

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED LOAN AGREEMENT SQUAXIN ISLAND TRIBE (the "Amendment"), dated as of November 14, 2013, is entered into between the SQUAXIN ISLAND TRIBE, a federally-recognized Indian tribe, (the "Borrower"), and BANK OF AMERICA, N. A. (the "Bank").

RECITALS

A. The Bank and the Borrower have entered into an Amended and Restated Loan Agreement dated as of May 31, 2013, (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Loan Agreement"), amending and restating certain existing loan agreements in their entirety, refinancing certain credit facilities, and providing three separate new credit and loan facilities.

B. The Borrower has requested that the repayment schedules on the Term Loan and the Line of Credit under the Loan Agreement be modified from quarterly to monthly and the Bank and the Borrower have agreed to amend certain other provisions of the Loan Agreement.

C. The parties desire to amend certain provisions of the Loan Agreement, subject to the terms and conditions set forth in this Amendment.

**AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby covenant and agree to be bound as follows:

Section 1. Capitalized Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement, unless the context shall otherwise require.

Section 2. Amendments.

(a) Section 1.1(a) of the Loan Agreement is hereby amended by deleting the existing third sentence of Section 1.1(a) in its entirety and replacing it with the following sentence:

1.1 Line of Credit Amount.



(a) On the last day of the first full calendar month after the third anniversary of the Closing Date (the “Reduction Date”) and on the last day of each following calendar month thereafter, the Line of Credit Commitment will reduce by the amount of \$119,048.

(b) Section 1.3(b) of the Loan Agreement is hereby amended by deleting the word “quarterly” from the first sentence and replacing it with the word “monthly” such that the sentence will now read:

(b) Commencing on the Reduction Date, the Borrower will pay monthly principal reduction payments to the extent necessary to reduce the outstanding principal balance of the Line of Credit to the applicable maximum Line of Credit Commitment set forth in Section 1.1(a).

(c) Section 2.3(b) of the Loan Agreement is hereby amended by deleting the first sentence of 2.3(b) in its entirety and replacing it with the following sentence:

(b) The Borrower will repay principal on the Term Loan in equal installments of \$130,952 beginning on June 30, 2013 and on the last day of each month thereafter, and ending on May 31, 2018 (the “Term Loan Maturity Date”).

(d) Section 4.1 of the Loan Agreement is hereby amended by deleting the last sentence of 4.1 in its entirety and replacing it with the following sentence:

All interest on Portions will be computed on the basis of a 365/366-day year and the actual number of days elapsed; provided however, that any Portion selected with respect to the Golf Course Loan will be computed on the basis of a 360-day year and the actual number of days elapsed.

(e) Section 6.1(b) of the Loan Agreement is hereby amended by deleting the first sentence of 6.1(b) in its entirety and replacing it with the following sentence:

(b) Unused Line of Credit Commitment Fee. The Borrower agrees to pay a fee on any difference between the Line of Credit Commitment and the principal amount of the Advances outstanding under the Line of Credit, determined by the daily amount of credit outstanding (including outstanding advances, outstanding letters of credit, and amounts drawn on any letters of credit and not yet reimbursed) during the specified period.

(f) Section 8.2(b) of the Loan Agreement is hereby amended by deleting the stated account number of “55377006” and replacing it with “69660710” such that the sentence will now read:

(b) Advances will be deposited in and repayments will be withdrawn from account number 69660710 owned by the Borrower, or such other of the Borrower's accounts with the Bank as designated in writing by the Borrower (the "Designated Account").

(g) Section 8.6 of the Loan Agreement is hereby amended in its entirety to read as follows:

Except as otherwise stated in this Agreement, all interest and fees, if any, with respect to the Line of Credit and Term Loan will be computed on the basis of 365/366-day year and the actual number of days elapsed. Installments of principal which are not paid when due under this Agreement shall continue to bear interest until paid.

Section 3. Effectiveness of Amendment. This Amendment shall become effective upon the date (the "Effective Date") of delivery of, and compliance by the Borrower (or such other party specified below) with, the following:

(a) This Amendment duly executed by the Borrower and the Bank.

(b) A copy of the resolutions of the Tribal Council of the Tribe authorizing the Tribal Council to negotiate and enter into, on behalf of the Tribe, and perform the Amendment and related documents (collectively, the "Amendment Documents") to amend the Loan Agreement.

(c) An incumbency certificate showing the names and titles and bearing the signatures of the officers of the Borrower authorized to execute this Amendment and to request advances under the line of credit, certified by the Secretary of the Tribal Council of the Borrower.

(d) All accrued, invoiced and reasonable fees and expenses of Bank then due and owing (including the fees and reasonable expenses of counsel for Bank) shall have been paid.

(e) No default, nor any event which, with the giving of notice or the passage of time or both, would constitute a default under the Loan Agreement, shall have occurred or be continuing.

Section 4. Representations, Warranties, Authority, No Adverse Claim, Notice.

(a) Reassertion of Representations and Warranties, No Default. The Borrower hereby represents that on and as of the date hereof and after giving effect to this Amendment (a) all of the representations and warranties contained in the Loan Agreement are true, correct and complete in all respects as of the date hereof as though made on and as of such date, except to the extent that such representations and warranties are qualified by materiality or Material Adverse Effect, in which case such representations and warranties shall be true and correct in all respects, and except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as

of such earlier date, and (b) there will exist no default or event of default that has not been waived by the Bank under the Loan Agreement as amended by this Amendment on such date.

(b) Authority, No Conflict, No Consent Required. The execution, delivery and performance by Borrower of this Amendment have been duly authorized by all necessary action of the Borrower and other action, and do not:

- i. require any consent or approval not heretofore obtained of the Borrower, the membership of the Borrower or of any security holder or creditor;
- ii. violate or conflict with any provision of any ordinance or other laws of the Borrower;
- iii. result in or require the creation or imposition of any lien upon or with respect to any property now owned or leased or hereafter acquired, other than as permitted by the Loan Documents;
- iv. violate any law applicable to Borrower; or
- v. result in a breach of or default under, or would, with the giving of notice or the lapse of time or both, constitute a material breach of or default under, or cause or permit the acceleration of any obligation owed under, any mortgage, indenture or loan agreement or any other contractual obligation to which Borrower is a party or by which Borrower or any of its property is bound or affected.

(c) No Adverse Claim. The Borrower warrants, acknowledges and agrees that no events have taken place and no circumstances exist at the date hereof which would give the Borrower a basis to assert a defense, offset or counterclaim to any claim of the Bank with respect to the obligations of the Borrower under the Loan Agreement.

Section 5. Affirmation of Loan Agreement, Further References, Affirmation of Security Interest. The Bank and the Borrower each acknowledge and affirm that the Loan Agreement, as hereby amended, is hereby ratified and confirmed in all respects and all terms, conditions and provisions of the Loan Agreement, except as amended by this Amendment, shall remain unmodified and in full force and effect. All references in any document or instrument to the Loan Agreement are hereby amended and shall refer to the Loan Agreement as amended by this Amendment. The Borrower confirms to the Bank that the obligations of the Borrower under the Loan Agreement, as amended hereby, are and continue to be secured by the security interests granted by the Borrower in favor of the Bank under the Amended and Restated Security Agreement dated as of May 31, 2013, given by the Borrower in favor of the Bank and related security documents, and all of the terms, conditions, provisions, agreements, requirements, promises, obligations, duties, covenants and representations of the Borrower under the Loan Documents are incorporated herein by reference and are hereby ratified and affirmed in all respects by the Borrower.

Section 6. Merger and Integration, Superseding Effect. This Amendment, from and after the date hereof, embodies the entire agreement and understanding between the parties hereto and supersedes and has merged into this Amendment all prior oral and written agreements on the same subjects by and between the parties hereto with the effect that this Amendment, shall control with respect to the specific subjects hereof and thereof.

Section 7. Severability. If any part of this Amendment is not enforceable, the rest of this Amendment may be enforced.

Section 8. Successors. This Amendment shall be binding upon the Borrower and the Bank and their respective successors and assigns, and shall inure to the benefit of the Borrower and the Bank and the successors and assigns of the Bank.

Section 9. Legal Expenses. As provided in Section 14.8 of the Loan Agreement, the Borrower agrees to reimburse the Bank, upon execution of this Amendment, for all costs and attorney's fees (including the allocated costs of the Bank's in-house counsel and the fees and expenses of outside counsel for the Bank) incurred in connection with this Amendment.

Section 10. Headings. The headings of various sections of this Amendment have been inserted for reference only and shall not be deemed to be a part of this Amendment.

Section 11. Counterparts. This Amendment may be executed in several counterparts as deemed necessary or convenient, each of which, when so executed, shall be deemed an original, provided that all such counterparts shall be regarded as one and the same document, and either party to this Amendment may execute this Amendment by executing a counterpart thereof.

Section 12. Governing Law. The provisions of the Loan Agreement relating to the Governing Law (Section 14.2) are hereby expressly incorporated into this Amendment as though fully set forth herein.

Section 13. Arbitration; Waiver of Sovereign Immunity; Consent to Jurisdiction. The provisions of the Loan Agreement relating to the waiver of the sovereign immunity of the Borrower (Section 14.5), the consent by the Borrower to arbitration and the waiver of jury trial (Section 14.4) and the jurisdiction of the courts specified in the Loan Agreement (Section 14.5) are hereby expressly incorporated into this Amendment as though fully set forth herein.

Section 14. IGRA Enforcement Limitations. Notwithstanding any provision in this Amendment or in any document evidencing the Facilities (a "Loan Document"), the Bank shall not engage in any of the following: planning, organizing, directing, coordinating, or controlling all or any portion of the Borrower's gaming operations (collectively, "Management Activities"), including, but not limited to:

- (a) The training, supervision, direction, hiring, firing, retention, compensation (including benefits) of any employee (whether or not a management employee) or contractor.
- (b) Any employment policies or practices.

- (c) The hours or days of operation.
- (d) Any accounting systems or procedures.
- (e) Any advertising, promotions or other marketing activities.
- (f) Any advertising, promotions or other marketing activities;.
- (g) The vendor, type, theme, percentage of pay-out, display or placement of any gaming device or equipment.
- (h) Budgeting, allocating, or conditioning payments of the Borrower's operating expenses

provided, however, that the Bank will not be in violation of the foregoing restriction solely because the Bank:

- (i) Enforces compliance with any term in any Loan Document that does not require the Borrower's gaming operation to be subject to any third-party decision-making as to any Management Activities.

- (ii) Requires that all or any portion of the revenues securing the obligations be applied to satisfy valid terms of the Loan Documents.

- (ii) Otherwise forecloses on all or any portion of the property securing the obligations.

Section 15. No Management Contract; No Interest in Real Property.

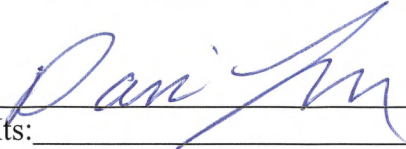
NOTWITHSTANDING ANY OTHER POSSIBLE CONSTRUCTION OF ANY PROVISION(S) CONTAINED IN THIS AMENDMENT OR IN ANY OTHER LOAN DOCUMENT, THE PARTIES HERETO AGREE THAT WITHIN THE MEANING OF THE INDIAN GAMING REGULATORY ACT: (A) THE LOAN DOCUMENTS, INDIVIDUALLY AND COLLECTIVELY, DO NOT AND SHALL NOT PROVIDE FOR THE MANAGEMENT OF ALL OR ANY PART OF BORROWER'S GAMING OPERATIONS BY ANY PERSON OTHER THAN BORROWER OR DEPRIVE BORROWER OF THE SOLE PROPRIETARY INTEREST AND RESPONSIBILITY FOR THE CONDUCT OF THE GAMING OPERATIONS; (B) NONE OF THE BANK OR ANY OF ITS SUCCESSORS, ASSIGNS OR AGENTS WILL EXERCISE ANY REMEDY OR OTHERWISE TAKE ANY ACTION UNDER OR IN CONNECTION WITH ANY LOAN DOCUMENT IN A MANNER THAT WOULD CONSTITUTE MANAGEMENT OF ALL OR ANY PART OF THE GAMING OPERATIONS OR THAT WOULD DEPRIVE THE BORROWER OF THE SOLE PROPRIETARY INTEREST AND RESPONSIBILITY FOR THE CONDUCT OF THE GAMING OPERATIONS; AND (C) NONE OF THE LOAN DOCUMENTS CREATES ANY LIEN ON, INTEREST IN OR RECOURSE AGAINST ANY REAL PROPERTY OR FIXTURES OF THE BORROWER OR THE BORROWER WHATSOEVER.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date and year first above written.

SQUAXIN ISLAND TRIBE

By:   
Its: \_\_\_\_\_

BANK OF AMERICA, N.A.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**CERTIFICATE OF RESPONSIBLE OFFICER  
OF THE SQUAXIN ISLAND TRIBE**

**November 14, 2013**

This Certificate is delivered to Bank of America, N.A. in connection with that First Amendment (the "First Amendment") to the Amended and Restated Loan Agreement (as amended, the "Agreement"), dated as of November 14, 2013, between the Squaxin Island Tribe, a federally recognized Indian tribe (the "Borrower" or "Tribe"), and Bank of America, N.A. (the "Bank"). Capitalized terms used and not otherwise defined in this Certificate are used with the meanings set forth in the Agreement.

We, the undersigned, hereby certify that we are the duly qualified Tribal Chairman and Secretary of the Squaxin Island Tribal Council (the "Tribal Council"), the governing body of the Squaxin Island Tribe, and that we are the officers of the Tribe charged with approving and authorizing the Loan Documents (as defined below). In such capacity, we further certify to the Bank as follows:

1. The Tribe is a federally recognized Indian tribe organized under the Constitution and Bylaws approved by the Secretary of the Interior on July 8, 1965 (the "Constitution"). The federal tax identification number of the Tribe is: 91-0922254.
2. The Tribal Council is the governing body of the Tribe as specified in Article III, Section I of the Tribal Constitution. The following persons are the duly elected members of the Tribal Council established under Article III of the Tribal Constitution. Such persons hold the offices set forth opposite their names, and the dates on which their current terms of office will expire are:

<u>Name</u>	<u>Office</u>	<u>Term Expires</u>
David Lopeman	Tribal Chairman	May 2014
Arnold Cooper	Vice Chairman	May 2016
Pete Kruger	Secretary	May 2015
Andrew Whitener	Treasurer	May 2015
Ray Peters	Council Member	May 2014
Jim Peters	Council Member	May 2014
Vince Henry, Sr.	Council Member	May 2016

3. Tribal Council Resolution No. 13-\_\_, Authorizing Execution of that First Amendment to the Amended and Restated Loan Agreement Dated as of November 14, 2013, between the Squaxin Island Tribe and Bank of America, N.A. and Related Loan Documents (the "Authorizing Resolution") attached hereto as Exhibit A, affirmed the waiver of sovereign



immunity and dispute resolution provisions incorporated into the First Amendment and recited the Tribe's waiver of sovereign immunity in the Loan Documents, and such waiver of sovereign immunity was duly authorized and approved by Tribe.

4. The representations and warranties made by the Tribe in each of the Loan Documents are true and correct in all material respects as of today's date, except to the extent that such representations and warranties are qualified by materiality or material adverse change, in which case such representations and warranties shall be true and correct in all respects, and except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct of such earlier date. The individuals who executed and delivered the Loan Documents are the individuals specifically authorized by the Tribal Council to execute, deliver and perform such documents.

5. The Tribe has previously delivered to the Bank the following documents:

- a. Constitution and Bylaws of the Squaxin Island Tribe;
- b. Resolution No. 04-48, Resolution Duly Adopted by the Squaxin Island Tribal Council Approving Amended Gaming Ordinance and Chapter 6.08 the Amended Gaming Ordinance;
- c. Tribal-State Compact for Class III Gaming between the Squaxin Island Tribe and the State of Washington including Appendix X and Appendix X2;
- d. Liquor Ordinance and Liquor License;
- e. Gaming Facility License;
- f. Squaxin Island Tribe Arbitration Code, Squaxin Island Tribe, Chapter 4.52, Arbitration Code;
- g. Squaxin Island Tribe Revenue Allocation Plan; and
- h. Resolution No. 13-18, enacted March 27, 2013.

6. Each of the above documents delivered to the Bank remains in full force and effect in the form delivered and has not been amended, restated, repealed, terminated, supplemented, or otherwise modified since the date of such delivery.

7. Pursuant to proper authorization, the undersigned Tribal Chairman or Vice-Chairman has executed on behalf of the Tribe the following documents (the "Loan Documents"):

- a. the Amended and Restated Loan Agreement dated May 31, 2013;
- b. the Amended and Restated Security Agreement dated May 31, 2013;
- c. the Bank of America Letter of Credit Applications dated May 31, 2013;
- d. the Pledge and Security Agreement dated May 31, 2013;

e. the First Amendment.

8. The Tribe is in compliance with all terms and provisions of the Loan Documents, no event of default described in Article 13 of the Loan Agreement has occurred and is continuing as of the date hereof, and the issuance of the Letters of Credit will not result in a breach of any covenant of the Loan Agreement nor cause an event of default described in Article 13 of the Loan Agreement.

9. Pursuant to the terms of the Authorizing Resolution, Exhibit B hereto contains the names of the persons and their specimen signatures who are authorized to administer the Loan Agreement, including requesting advances thereunder.

[Remainder of page intentionally left blank]

WITNESS our hands as such Tribal Chairman and Secretary of the Squaxin Island Tribal Council, as of the date appearing on the first page of this Certificate.

SQUAXIN ISLAND TRIBE

By: \_\_\_\_\_  
David Lopeman, Tribal Chairman

By: \_\_\_\_\_  
Pete Kruger, Secretary

Exhibit A  
Authorizing Resolution

Exhibit B

Incumbency

Pursuant to the terms of the Authorizing Resolution, the following named persons are authorized to request an advance under the Loan Documents and otherwise administer the loans on behalf of the Tribe:

<u>Name</u>	<u>Title</u>	<u>Signature</u>
David Lopeman	Tribal Chairman	
Arnold Cooper	Vice Chairman	_____
Andrew Whitener	Treasurer	
Mark Chandler	Chief Financial Officer	_____