



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 01- 63

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 the tribal members, and with protecting and managing the lands and treaty resources and rights of the Tribe; **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 Tribe and Roglin, Inc. ("Contractor") have negotiated an agreement wherein the Contractor will provide construction services as evidenced by the following document:

1. Contract Documents for Squaxin Island Tribe Housing Site Improvements, Phase II, Project No. 9077-2.

Collectively ("Construction Documents"); and

**WHEREAS**, in order to execute the Construction Documents and perform the same, it is necessary for the Council to ratify and approve the terms of the Construction Documents; to issue a limited waiver of sovereign immunity; to authorize arbitration of certain controversies that could arise regarding the transaction; to consent that the Tribe be sued in federal, state and tribal courts pertaining to the transaction; to consent to the application of the Washington Uniform Commercial Code and other substantive laws of the State of Washington.

**NOW THEREFORE BE IT RESOLVED AND ENACTED by the Council as follows:**

**Section 1.** Construction Documents. The terms and conditions of the above-described drafts of the Construction Documents are hereby authorized and ratified. The Director of the Department of Community Development is hereby authorized to execute and deliver on behalf of the Tribe, as well as any revisions of the same prior to their execution as he shall determine, together with any and all other documents, financing statements, consents, representations and warranties in order to effect the transactions.

**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 or other transactions relating thereto, 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. The Construction Documents shall create the rights and remedies that would apply and shall be 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 Exhaustion of Tribe Remedies; Tribal Court Jurisdiction. The Council for itself and on behalf of the Tribe consents and agrees that it shall not be necessary in any litigation or arbitration or dispute resolution proceedings pertaining to the transactions described in Section 1 of this Resolution or other transactions relating thereto, that there first be any deferral to or exhaustion of remedies in the Tribal Court of the Tribe, any other tribal court or dispute resolution tribunal, or the Council. The Council agrees for itself and on behalf of the Tribe not to assert that the Tribal Court of the Tribe or any other courts or dispute resolution tribunals created by the tribe, including but not limited to the Council itself, shall have jurisdiction as an adjudicative tribunal over any case or controversy or proceeding pertaining to said transaction or the Principal Loan Documents unless the same is initiated by or consented to in writing by the Contractor.

**Section 5.** Limited Waiver of Sovereign Immunity; Consent to be Sued; Arbitration. The Council, for itself and on behalf of the Tribe, expressly and irrevocably waives its sovereign immunity from suit for claims by the Contractor with respect to the obligations and indebtedness evidenced by the Contract Documents and other documents related to this transaction, and consents to be sued in the courts of the State of Washington to compel or enforce arbitration as described and under the terms of the Contract Documents executed herewith. It is determined that he foregoing court does

not enjoy proper jurisdiction, then the Tribe consents to suit to compel or enforce arbitration in any federal or tribal court of competent jurisdiction, including the Squaxin Island Tribal Court. The Tribe hereby waives any requirement of exhaustion of tribal remedies.

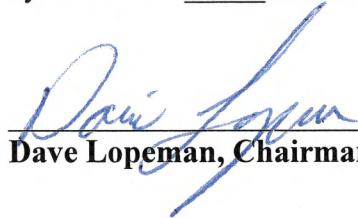
Provided, the waiver of sovereign immunity expressed herein is limited to the Contractor and its successor and assigns.

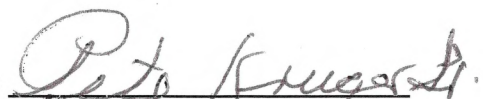
Provided further, recourse of the Contractor under this the waiver of sovereign immunity is limited to the assets described in Attachment A in an aggregate amount no greater than \$100,000 and to the extent that it is not inconsistent with any statutory, regulatory or contract limit on the use of said funds.


**Section 6. Court Jurisdiction.** The Council, for itself and on behalf of the Tribe, consents and agrees that the United States District Court for Western District of Washington, the United States Claims Court (in actions that would be within its jurisdiction where the United States is the only defendant), the federal appellate courts, and the Washington courts of general jurisdiction, including their appellate courts, shall have jurisdiction in any litigation regarding the transactions or subject matters or proceedings described in this resolution. This consent and agreement will not extend to any other transactions or subjects. However, at the Contractor's election, the Tribal Court of the Tribe or such other civil court or dispute resolution tribunal established by the Tribe shall have jurisdiction over such matters.

### CERTIFICATION

The Squaxin Island Tribal Council does hereby certify that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 26<sup>th</sup> day of July 2001, at which time a quorum was present and was passed by a vote of 6 for and 0 against with 0 abstentions.

  
Dave Lopeman, Chairman

Attested by:   
Pete Kruger, Sr., Secretary

  
Andy Whitener, Vice Chairman