



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 05-06

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 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, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government; 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; 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 directed staff to negotiate for a construction proposal for the purpose of new construction of the Inter-Tribal Professional Center Building; and

WHEREAS, staff has negotiated the terms of a construction contract with John Korsmo Construction, Inc., (Contractor), as is evidenced by the following Principal Construction Documents:

1. Standard Form Agreement Between Owner and Design/Builder (Construction Contract – AIA A191, Part 2);
2. FmHA Instruction 1942-A;
3. June 15, 2004 letter with attachments; and
4. Agreement.

1. Construction Contract (AIA A191);
2. Addendum to AIA A191 Contract; and
3. Agreement.

WHEREAS, in order to induce Contractor to complete and execute the Principal Construction Documents and perform the same, it is necessary for the Tribal Council to ratify and approve the terms of the Principal Construction Documents; to authorize execution of any and all documents required; to issue a limited waiver of sovereign immunity; to consent that the Tribe be sued in state, federal and tribal courts pertaining to the transaction; and to consent to the application of the substantive laws of the State of Washington.

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

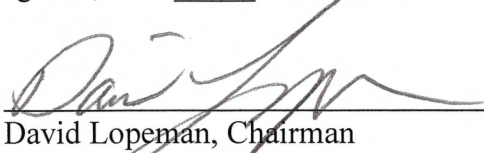
Section 1. Principal Construction Documents. The terms and conditions of the above-described drafts of the Principal Construction Documents are hereby authorized and ratified. The Chairman, or in his absence the Vice-Chairman, Executive Director or the Director of the Community Development Department, is hereby authorized to execute and deliver on behalf of the Tribe the Construction Contract, Addendum to Contract and Agreement as well as any non-material revisions of the same prior to their execution as they shall determine.

Section 2. Choice of Venue; Submission to Jurisdiction. The Council, for itself and on behalf of the Tribe, consents and agrees that the United States District Court for the Western District of Washington, the federal appellate courts, and the Washington courts of general jurisdiction, including their appellate courts, shall have jurisdiction in any dispute regarding the transactions or subject matter or proceedings described in the Principal Construction Documents. This consent and agreement will not extend to any other transactions or subjects. If it is determined that the 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.

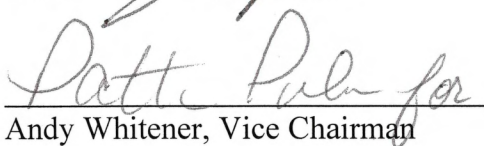
Section 3. Waiver of Sovereign Immunity and Waiver of Jury Trial. The Council, for itself and on behalf of the Tribe, expressly and irrevocably waives its sovereign immunity from suit or claims by the Contractor with respect to the obligations and indebtedness evidenced by the Principal Construction Documents, which include but are not limited to the AIA Document A191 standard form of agreement between the owner and design builder. The tribe consents to be sued consistent with the terms of Article 10. The waiver of sovereign immunity expressed herein is specifically limited to the Advanced Native Construction/John Korsmo Construction Joint Venture, and its successors, and further limited to the proceeds from the Tribe's Annual Indian Housing Block grants.

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 13th day of January, 2005 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



Andy Whitener, Vice Chairman

Attested by: 

Vince Henry, Sr., Secretary