



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 05-26

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 seeks to distribute One Million Dollars for per capita payments and special programs and projects as it may unanimously approve; and

**WHEREAS**, the Squaxin Island Tribal Council approved the FY 2005 Budget on September 30, 2004, pursuant to Resolution No. 04-64; and

**WHEREAS**, the Squaxin Island Tribal Council adopted Chapter 2.36, the Budget Ordinance as amended, wherein Section 2.36.095 details the distribution of gaming enterprise revenue, authorizing (a) up to fifteen percent (15%) to eligible tribal members as per capita payments and (b) the remainder apportioned:

- (1) fifteen percent (15%) to an interest-bearing long term account;
- (2) fifteen percent (15%) for the purchase of land not directly related to programmatic or enterprise needs;

- (3) thirty-five percent (35%) to government projects and programs; and
- (4) thirty-five percent (35%) to economic development administered by Island Enterprises, Inc.

**WHEREAS**, the Squaxin Island Tribal Council seeks to distribute gaming enterprise revenues other than as stated in Section 2.36.095 of the Squaxin Island Tribal Code; and

**WHEREAS**, the gaming enterprise revenues the Squaxin Island Tribal Council seeks to distribute were not contained in the approved FY 2005 Budget; and

**WHEREAS**, the Squaxin Island Tribal Council has approved transfer of additional monies from its wholly owned Little Creek Casino-Hotel to general government in the amount of One Million Dollars (\$1,000,000.00) and to be received on or before April 1, 2005, for subsequent distribution as follows:

- A. Five Hundred Thousand Dollars (\$500,000.00) for per capita distributions on or before April 14, 2005, consistent with the amendment to the federally approved the Revenue Allocation Plan;
- B. Two Hundred Thousand Dollars (\$200,000.00) for special purposes or programs for Health and Human Services in FY 2005 in a manner consistent with the budget process described in SITC Section 2.36.90(F), Budget Ordinance; and
- C. Three Hundred Thousand Dollars (\$300,000.00) for other special purposes or programs in FY 2005 in a manner consistent with the budget process described in SITC Section 2.36.90(F), Budget Ordinance;

**NOW THEREFORE BE IT RESOLVED**, the Squaxin Island Tribal Council adopts an amendment to the Chapter 2.36 Budget Ordinance authorizing gaming enterprise revenues of up to One Million Dollars (\$1,000,000.00) per year (including \$500,000.00 for per capita payments) to be distributed, other than as allocated in Section 2.36.095, as expressed in the attached Exhibit B; and

**WHEREAS**, the Squaxin Island Tribal Council adopted a Revenue Allocation Plan consistent with 25 U.S.C. §2701 et seq. on November 8, 2001, pursuant to Resolution No. 01-98, approved by the federal government on December 14, 2001; and

**WHEREAS**, the Squaxin Island Tribal Council approved modifications to the Revenue Allocation Plan defining a minor as an individual under twenty-one, approved distributions from the minor's trust funds and direct payment of per capita distributions for individuals between eighteen and twenty-one who obtained a high school diploma or its equivalent, and directed the Executive Director to modify and obtain federal approval of, as necessary, the Revenue Allocation Plan, pursuant to Resolution No. 04-42; and

**WHEREAS**, the Revenue Allocation Plan provides that no more than fifteen percent (15%) of net revenues from gaming enterprise operations will be used for per capita payments; and



**NOW THEREFORE BE IT RESOLVED**, that the Squaxin Island Tribal Council adopts an amendment to the Revenue Allocation Plan authorizing net gaming enterprise revenues of up to Five Hundred Thousand Dollars (\$500,000.00) per year to be distributed as per capita payments and the remainder distributed for special programs and projects, as expressed on the attached Exhibit A.

**NOW BE FURTHER RESOLVED**, that the Squaxin Island Tribal Council authorizes net gaming revenues to be distributed by the Little Creek Casino-Hotel in the amount of One Million Dollars (\$1,000,000.00) to be received by general government on or before April 1, 2005, to be further distributed as follows:

- A. Five Hundred Thousand Dollars (\$500,000.00) in per capita distributions on or before April 14, 2005, consistent with the federally approved Revenue Allocation Plan, and any amendment thereto necessary to distribute the monies as described herein;
- B. Two Hundred Thousand Dollars (\$200,000.00) for Health and Human Services in FY 2005 in a manner consistent with the budget process described in SITC Section 2.36.90(F), Budget Ordinance; and
- C. Three Hundred Thousand Dollars (\$300,000.00) for government projects and programs in FY 2005 in a manner consistent with the budget process described in SITC Section 2.36.90(F), Budget Ordinance;

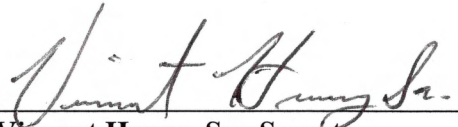
**NOW BE FINALLY RESOLVED**, the Tribal Council authorizes its Executive Director to obtain federal approval of any amendment to its Revenue Allocation Plan that may be required, consistent with IGRA and its implementing regulations in 25 CFR Part 290, and to do any and all acts necessary to otherwise implement the authorizations expressed herein.

#### 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 February, 2005, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.

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

Attested by:

  
\_\_\_\_\_  
Vincent Henry, Sr., Secretary

  
\_\_\_\_\_  
Andy Whitener, Vice Chairman

## EXHIBIT A

### Squaxin Island Tribe REVENUE ALLOCATION PLAN

The Revenue Allocation Plan is established to provide enhanced governmental and social services, and permit per capita payments to all enrolled Squaxin Island Tribal members. The plan will provide that at least 85% of the Tribe's net revenues from enterprise operations including revenues distributed from gaming enterprise, will be used for enhanced services, except as provided herein. The Tribe may adopt implementing regulations consistent with the terms of this Revenue Allocation Plan.

The Tribe shall ensure that not more than 15% of net revenues from enterprise operations including revenues distributed from gaming enterprises will be used for per capita payments to its members, except as further provided herein. Per capita distributions shall be payable to individuals who are enrolled members of the Tribe as of the end of the fiscal year ending immediately prior to the date of distribution.

Up to \$1,000,000.00 each fiscal year shall be exempt from the allocations herein with up to \$500,000.00 distributed as per capita payments and the remainder distributed for special projects and programs, in amounts determined by the Tribal Council.

For Tribal members who are under age 18 (minors), the Tribe will deposit the per capita distribution into an investment account held in the member's name, such distribution shall vest immediately in the beneficiary until the beneficiary attains the age of Eighteen (18). Any income shall be accumulated and added to principal. A Tribal member may request up to 100% of funds available in his/her account on or after but not before their 18<sup>th</sup> birthday. The request must be presented in written form to the account custodian and will be processed for disbursement.

For Tribal members who are considered, by a court of competent jurisdiction, to be legally incompetent or incapacitated, the Tribe will deposit per capita payments into an investment account held in the member's name, such distribution shall vest immediately in the beneficiary. Any income shall be accumulated and added to principal. Disbursements may be made to an incompetent or incapacitated person or to his or her legal guardian under such conditions as the Squaxin Island Tribal Council or a court of competent jurisdiction prescribes, including a full accounting of all expenditures. Expenditures from this account will be used solely for the health, education or welfare of the Tribal member.



With respect to incompetent or incapacitated Tribal members, payments for the health, safety or welfare of such individuals shall be requested by the individual's legal guardian on an as needed basis. Such request shall be made to the Squaxin Island Tribal Council, and the burden shall be upon the requesting party to show the need for such payment. If the Tribal Council shall deny the request, then the individual's legal guardian may appeal the issue to the Squaxin Island Tribal Court.

To prevail in the Squaxin Island Tribal Court, the petitioner must prove, by a preponderance of the evidence, that the Tribal Council acted arbitrarily or capriciously. The decision of the Squaxin Island Tribal Court shall be final and there shall be no appeal therefrom. In any such appeal, remedies shall be limited to equitable remedies, and in no case shall monetary damages or costs be awarded against the Tribe, its officers, employees or agents. Denial of a request for funds for an incompetent or incapacitated person shall be based upon the determination that the requester failed to meet his/her burden of proof, that such a request is not in the best interest of the incompetent or incapacitated member, or that the funds may be needed for future uses which outweigh the current request and therefore the funds should remain unspent.

Proof of the need requested shall be submitted by the proposed recipient in writing and may include a written statement by the requesting party and any other written documentation supporting the request.

Proof of expenditure of the requested funds, if disbursed, shall be provided by the recipient to the Tribal Council. Failure to use the funds as approved may lead to a Squaxin Tribal Court action brought by the Tribal Council to recover the funds for the account of the incompetent person, the removal of the party misusing the funds as the legal representative, and/or the denial of future requests.

Any disputes with respect to the Allocation Plan and the per capita distribution program shall be presented to the Tribal Council. If the complaining party remains unsatisfied by the determination of the Tribal Council then the matter may be appealed to the Squaxin Tribal Court. The standard for review and limitation on remedies shall be as set forth above.

The Tribe will inform each Tribal member and/or guardian regarding tax liability. In addition, the Tribe may withhold from a distribution sufficient funds to pay any tax liability created by the payment.

The Squaxin Island Tribal Council may designate a trustee and/or delegate the responsibilities necessary to implement this Revenue Allocation Plan.

All revenues allocated shall be used for one or more of the following:

- a) fund government operations or program;
- b) fund the general welfare of the tribe or its members;

- c) fund tribal economic development;
- d) fund charitable donations;
- e) fund operations of local government; and/or
- f) fund per capita payments as provided herein.

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*CERTIFICATION OF GOVERNMENTAL ACTION*

*The undersigned, Superintendent of the Olympic Peninsula Agency, hereby certifies that this Revenue Allocation Plan of the Squaxin Island Tribe was duly adopted by the governing body of the Tribe and constitutes an enforceable Resolution of the Tribe duly adopted.*

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*Superintendent Ray Maldonado*

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*Date*



## EXHIBIT B

2.36.095 Enterprise revenue distribution.

A. Gaming Revenue Distribution. Revenues distributed from gaming enterprise revenues will be distributed, except as provided in (B) below, as follows:

1. Up to the first fifteen percent (15%) as determined by the Squaxin Island Tribal Council will be set aside for distribution to eligible Tribal Members as per capita payments.

2. The remainder at a minimum of eighty-five percent (85%) will be apportioned with the following formula:

a. Fifteen percent (15%) of the revenue will be deposited into interest bearing account(s) to create a long-term account from which the interest income can be utilized for tribal needs. The account will be managed based on the prudent investment standard and managed by the Tribal Finance Department.

b. Fifteen percent (15%) of the revenue will be used for purchase of land that is not directly related to programmatic or enterprise needs. Fifty percent (50%) of these funds are earmarked for Squaxin Island properties. Off Island properties would include purchases in the "Kamilche corridor," habitat conservation areas, and culturally sensitive sites. These properties could be managed properties with rents applied back to the fund or allowed to remain as purchased.

c. Thirty-five percent (35%) of the revenue will be used for government projects and programs. An approximate equal proportion of funds will be for projects and programs. Allocations for these expenditures will be developed by the Budget process for adoption by the Tribal Council on an annual basis.

d. Thirty-five percent (35%) of the revenue will be used for economic development administered by Island Enterprises, Inc. (IEI). Expenditures for economic development will require Tribal Council approval through an annual operating plan developed by IEI.

B. Up to \$1,000,000.00 per year in net gaming revenues distributed from gaming enterprises shall be exempt from the allocation herein with up to \$500,000.00 distributed as per capita payments and the remainder distributed for special projects and programs, in amounts determined by the Tribal Council.

C. Other Economic Enterprise Distributions. Revenues distributed from economic enterprises coordinated by Island Enterprises, Inc. (IEI) will be distributed as follows:

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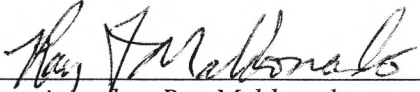
- a) fund government operations or program;
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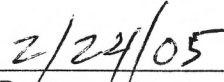
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*CERTIFICATION OF GOVERNMENTAL ACTION*

*The undersigned, Superintendent of the Olympic Peninsula Agency, hereby certifies that this Revenue Allocation Plan of the Squaxin Island Tribe was duly adopted by the governing body of the Tribe and constitutes an enforceable Resolution of the Tribe duly adopted.*

  
\_\_\_\_\_  
Superintendent Ray Maldonado

  
\_\_\_\_\_  
Date



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