

# CONSTITUTION OF THE QAWALANGIN TRIBE OF UNALASKA

## PREAMBLE

We, the Unangan people of Unalaska, descendants of the original inhabitants of Unalaska, Sedanka and Amaknak Islands, Alaska, do ordain and establish this constitution in order to perpetuate our inherent right to self government and self-determination according to our ancient traditions, and to promote the collective political, cultural, social and economic well-being of the Qawalangin Tribe of Unalaska.

## ARTICLE I - NAME

The official name of this tribe is the Qawalangin Tribe of Unalaska.

## ARTICLE II - TERRITORY

The territory of the Qawalangin Tribe of Unalaska shall extend to all lands and waters of the Aleutian Islands of Unalaska, Sedanka and Amaknak Islands, Alaska, within Indian Country as defined by federal law, including but not limited to all lands and waters customarily and traditionally used by the Qawalangin Tribe.

## ARTICLE III- JURISDICTION

The Qawalangin Tribe of Unalaska shall have jurisdiction to the fullest extent possible over all lands and people within or outside its territory to the extent such jurisdiction and does not violate federal or Qawalangin tribal law.

## ARTICLE IV - MEMBERSHIP

**Section 1: Basic Membership:** The base membership of the Qawalangin Tribe of Unalaska shall consist of all persons of Aleut descent whose names appear on the 1940 census, the World War-II Evacuee Roll and the ANCSA roll: provided that the Council may correct the basic membership roll if clerical or similar errors or mistakes are detected.

**Section 2: Qualifications for Future Membership:** Any direct lineal descendants of persons whose names are listed on the base membership roll, direct descendants of adopted members, Aleut children adopted by an enrolled member, and Aleut adults adopted by the Council, shall be eligible for membership into the Tribe; *Provided*, that they have filed an application for enrollment according to the procedures established by Section 7 of this Article and have been accepted as members in accordance with any existing tribal enrollment ordinance. Members need not reside within the tribe's

territorial boundaries.

**Section 3: Non-Voting Membership:** Any member not residing within the tribes territorial boundaries for at least one (1) continuous year immediately preceding a tribal election shall lose the right to vote or hold office but in all other respects shall remain a full member. A member who has lost the right to vote or hold office under this section shall have those rights restored upon providing satisfactory verification to the Council that they have resided within the tribe's boundaries for at least one (1) continuous year immediately preceding a tribal election. The provisions of this section shall not apply to a member who temporarily resides outside of the Tribe's boundaries because of service in the armed forces of the United States, medical necessity or to obtain an education.

**Section 4: Dual Membership:** No person who maintains membership in another Native American tribe shall remain enrolled, or be enrolled as a member of the Qawalangin tribe unless he/she relinquishes in writing his/her membership in such other tribe.

**Section 5: Honorary Membership:** The Council shall have the power to confer honorary membership to anyone. Honorary members shall have no rights or privileges.

**Section 6: Other Requirements:** There shall be no other substantive requirements added to the membership language other than that which has been approved by this Constitution.

**Section 7: Regulation of Membership:** The Council shall, when practicable, enact ordinances and resolutions not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and appeal procedures, maintaining a current membership roll, loss of membership and adoption of members.

**Section 8: Definition of "Aleut."** For the purposes of this Constitution, Aleut is defined as an Alaska Native whose ancestors were known as "Unangan" and whose culture originated in that part of Alaska defined as the "Aleut region" under the terms of the Alaska Native Claims Settlement Act (P.L. 92-203).

## ARTICLE V - GOVERNING BODY

**Section 1. Name:** The governing body of the Qawalangin Tribe of Unalaska shall be the Qawalangin Tribal Council, hereinafter referred to as the Council.

**Section 2. Eligibility:** Any adult member of the Qawalangin Tribe of Unalaska who has resided within the territorial boundaries of the Tribe for at least one (1) year immediately preceding the election shall be eligible to serve on the Council.

**Section 3. Composition:** The Council shall consist of seven (7) members who shall be elected by a majority vote of the qualified voters of the Tribe at an annual membership meeting. Members shall hold office until their successors are duly elected and seated.

**Section 4. Officers:** The officers shall consist of a President, a Vice President, a Secretary and a Treasurer. The office of Secretary and Treasurer may be combined if so ruled by the Council. Officers shall be selected by the Council from its members immediately following an annual meeting.

**Section 5. Terms of Office:** Except as necessary to establish and maintain the staggered terms of the Council, all Council members shall serve three (3) year terms.

**Section 6. Quorum.** A quorum shall consist of four (4) members and four (4) affirmative votes shall be required to pass a resolution, ordinance or other motion.

**Section 7. Assumption of Office:** All Council members shall take office immediately upon certification of the election.

**Section 8. Resignation and Forfeiture:** Any member of the Council who submits his/her written resignation to the Council, is absent from three (3) successive regularly scheduled Council meetings without being excused by the Council President, or dies shall automatically forfeit his/her office.

**Section 9. Removal:** Any member of the Council found guilty by the Council of neglect of duty or gross misconduct in office shall be removed from office if at least four (4) members of the Council, by secret ballot, vote in favor of such removal. The accused shall not have the right to vote. Before any vote for removal is taken, the person subject to removal shall be given a written statement of the charges against him/her at least seven (7) days before the meeting of the Council at which he/she is to appear and he/she shall be given an opportunity to answer any and all charges at the designated Council meeting. If the person subject to removal fails to appear before the Council, the Council shall proceed with the vote as scheduled. The decision of the Council shall be final. No member of the Council shall preside over the meeting at which his/her removal is being considered.

**Section 10. Recall:** Tribal members shall have the power to recall any member of the Council. The recall process shall be initiated by filing with the Council a valid petition asking for such recall, signed by at least twenty percent (20%) of the eligible voters, and setting forth the reasons for the petition. Within thirty (30) days after receipt of a valid recall petition, the Council shall call and conduct an election to consider the recall of the official(s) named in the petition. At least thirty percent (30%) of the eligible voters must vote in the recall election for it to be valid. The results of the recall election shall be made available to the affected official(s) and all tribal members. Subject to the results

of the recall election, the affected officials shall be retained or removed from office immediately following certification of the election results.

**Section 11. Vacancies:** Any office which has been vacated, whether it be by removal, recall or forfeiture, shall be filled by appointment of the remaining members of the Council regardless of whether there is a quorum present at its next meeting and such replacement shall serve the unexpired term of office. The seat of any Council member shall be declared vacant if the member leaves the Tribe's territorial boundaries without the permission of the Council, not intending to return for more than ninety (90) days.

**Section 12. Conflict of Interest:** Tribal Council members may be employed by the Tribe, provided, the Council approves employment of the Council member. No Council member shall vote on any business pertaining to him/her or to any of the member's immediate family, or on any matter in which he/she or an immediate family member has a significant financial interest. Immediate family members are defined as a member's parents, children or spouse.

#### ARTICLE VI - DUTIES OF OFFICERS

**Section 1. President:** The President shall preside at all meetings of the Council and the tribal membership and shall execute on behalf of the Tribe all contracts, leases or other documents approved by the Council. The President shall vote in all matters except on the matter of his/her removal. When the Council is not in session, the President shall be the official representative of the Tribe. The President shall have general supervision of all officers, employees and committees of the Tribe.

**Section 2. Vice President:** The Vice President shall assist the President when called upon to do so. In the absence of the President, the Vice President shall be the official representative of the Tribe and shall preside and when so presiding, shall have all the rights, privileges, duties and responsibilities of the President.

**Section 3. Secretary:** The Secretary shall keep the minutes of all meetings and shall attest to the enactment of all resolutions and ordinances. The Secretary shall issue notices of all meetings and elections and conduct all general correspondence as directed by the Council.

**Section 4. Treasurer:** The Treasurer shall carry out the financial directives of the Council, properly safeguard the Tribe's funds and keep an accurate account of all receipts and disbursements. Funds shall be deposited in a bank approved by the Council where depositor's funds are insured by the Federal Deposit Insurance Corporation. All disbursements shall be made by check in accordance with resolutions of the Council. The Council may direct the Treasurer to file an annual bond, satisfactory to the Council, to protect tribal accounts. The Treasurer shall give a financial report to the Council once a month, and all financial reports shall be available for inspection by

any member of the Tribe.

**Section 5. Records and Papers:** All records and papers compiled by, or in the possession of, all officers, including the Secretary and Treasurer, are the property of the Qawalangin Tribe of Unalaska and shall be turned over to the Council immediately upon vacating their seat on the Council.

## ARTICLE VII - ELECTIONS

**Section 1. Voter Qualification:** Any duly enrolled member of the Qawalangin Tribe of Unalaska who is eighteen (18) years of age or older and has resided within the tribe's territorial boundaries for one (1) year immediately preceding the election, shall be entitled to vote in all tribal elections.

**Section 2. Elections:** Election of Council members and routine questions requiring voter approval shall take place at the annual membership meeting. Members shall hold office until their successors are duly elected and seated.

**Section 3. Election Ordinance:** As soon as practicable after the adoption of this Constitution the Council shall adopt an election ordinance which is consistent with this Constitution. The ordinance shall include provisions for conducting elections by secret ballot, absentee balloting, qualifications of candidates, candidate petitions, maintenance of a current list of eligible voters, certification of election, assumption of office and the settling of disputes. The ordinance shall spell out the procedure and format to be used whenever it is necessary to submit petitions for any purpose to the Council and set forth a procedure for determining the validity of such petitions.

**Section 4. Election Board:** There shall be an election board consisting of at least three (3) tribal members appointed by the Council for each tribal election meeting, whose duties shall be to supervise, administer and conduct the election. The election board shall certify the election of tribal officials immediately after the election. No member of the election board shall at the same time be a member of the council or a candidate for a position on the Council.

**Section 5. Voting by Proxy:** Voting by proxy, without exception, is prohibited.

**Section 6. Secret Balloting:** All elections of officials and on issues before the Tribe's members by initiative or referendum shall be by secret ballot.

**Section 7. Absentee Ballot:** Upon request, any qualified voter will be permitted to vote on those matters referred to in Section 6 above by absentee ballot, *provided*, that he/she has resided within the Tribes territorial boundaries for one (1) year immediately preceding the election.

Section 8. Notice: The Council shall give all qualified voters written notice of a pending election at least fifteen (15) days before the election.

Section 9. Candidates: Candidates for election shall file a petition of candidacy according to the procedures and time frames set forth in the election ordinance.

## ARTICLE VIII - MEETINGS

Section 1. Council Meetings: Regular meetings of the Council shall be held monthly, the time, place and date to be designated by the Council. Special meetings of the Council may be called by the President and shall be called by him/her upon written request of at least four (4) members of the Council, and when so called, the Council shall have the power to transact business as in regular meetings, provided that a quorum is present. All meetings of the Council shall be open to the general membership of the Qawalangin Tribe of Unalaska, provided, however, that the Council may recess at its discretion to discuss matters of a sensitive nature if the subject matter to be discussed is expressed in a motion calling for such closed or executive session and no final or official action is taken in the closed or executive session.

Section 2. Quorum: A quorum of the Council shall consist of at least four (4) members of the Council. No business shall be transacted unless a quorum is present.

Section 3. Tribal Membership Meetings: A regular meeting of the membership of the Qawalangin Tribe of Unalaska shall be held at least once annually in Unalaska. The date, time and place of such meetings shall be determined by the Council. Special meetings or elections shall be called by the Council or by the Chairperson upon the receipt of a petition signed by at least ten (10) eligible voting members. A quorum of the voting members shall consist of twenty percent (20%) of the eligible voters voting either in person or by absentee ballot. No action may be taken at a membership meeting unless a quorum is established. An action is effective when adopted by a majority vote of those attending, in person or by absentee ballot. The Tribe's eligible voters, acting at any regular or special membership meeting and within the provisions of this Constitution, shall have the power to void any actions of the Council or prior membership actions, to initiate and approve ordinances and resolutions, or to call a special meeting.

Section 4. Ordinances and Resolutions: All final decisions of the Council on matters of temporary interest shall be embodied in resolutions. All final decisions of the Council on matters of general or permanent interest to members shall be embodied in ordinances. All ordinances and resolutions shall be made available to members of the Qawalangin Tribe of Unalaska upon reasonable request.

Section 5. Notice: All membership meetings are to be publicized by the Council at least fifteen (15) days in advance of the meeting.

Section 6. Parliamentary Procedures: The use of Roberts Rules of Order is preferred in order to conduct meeting in an orderly and equitable manner.

#### ARTICLE IX - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative: The eligible voters of the Tribe shall have the right to propose legislation and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition signed by at least thirty percent (30%) of the eligible voters voting in the last election, the Council shall call an election to be conducted by the election board no later than sixty (60) days after receipt of the petition. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issues or questions submitted by the voters.

Section 2. Referendum: The Council, by an affirmative vote of at least four (4) members, shall call an election to be conducted by the election board no later than sixty (60) days of such Council decision for the purpose of deciding by secret ballot issues or questions that are within the authority of the Council. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issues or questions submitted by the voters.

#### ARTICLE X - POWERS

Section 1. General Powers: Except as specifically limited by this Constitution, the powers of the Qawalangin Tribe of Unalaska shall be exercised by the Council and shall include all the inherent powers of a federally recognized tribal government, including but not limited to those specified in this Article, which do not violate federal or Qawalangin tribal law.

Section 2. Internal Procedures: Consistent with this Constitution, the Council may enact rules to govern its internal procedures and organization and to further define the duties of tribal officers by ordinance.

Section 3. Other Council Powers: In addition to all powers vested in the Tribe or the Council by existing law, and this Constitution, the Tribe, acting through the Council, shall have the following powers:

- (A) To negotiate with federal, state or local governments and others on behalf of the Tribe and to advise and consult with the representatives of the Secretary of the Interior on all activities which may affect the Tribe.
- (B) To promote and protect the health, education and general welfare of the members of the Tribe, and to administer charity and such other services

as may contribute to the social and economic development of the Tribe and its members.

- © To raise revenue.
- (D) To encourage, guard and foster traditional cultural practices of the Qawalangin people, including the arts, crafts, language and customs of the Qawalangin Tribe of Unalaska.
- (E) To authorize or direct subordinate boards, committees or officials to administer the affairs of the Tribe and to carry out the directives of the Council.
- (F) Except as limited by this Constitution, to manage, lease, exchange, acquire, or otherwise deal with tribal or other property, and to protect and preserve tribal property and the wildlife and natural resources within those areas under jurisdiction of the Tribe.
- (G) To administer any funds within the control of the Tribe.
- (H) To engage in economic development enterprises for the benefit of the Tribe or its members.
- (I) To regulate child custody and adoption and other domestic relations among members, including the establishment of tribal courts or other judicial bodies.
- (J) To negotiate agreements with other governments and international agencies not inconsistent with federal law.
- (K) To safeguard and promote the peace, safety, morals, physical and general welfare of the members of the Tribe.
- (L) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior so long as such approval is required by federal law.
- (M) To charter enterprises, corporations and associations and to join or charter housing authorities.
- (N) To exercise any and all powers heretofore or hereafter delegated by the federal or state governments.
- (O) To enact ordinances, procedures and regulations necessary to give effect

to any provision of this Constitution and to exercise any power not prohibited by federal law.

- (P) To prescribe rules and regulations governing future membership, loss of membership, and the adoption of members subject to the provisions of this Constitution.
- (Q) To exercise its judicial powers through the creation of tribal courts or other judicial bodies, the function, duties and jurisdiction to be established by ordinance.
- (R) To regulate inheritance among members whether by intestacy or otherwise.
- (S) To zone, exercise the power of eminent domain and otherwise regulate all land use within those areas under the jurisdiction of the Tribe.
- (T) To regulate and control the use of natural resources within those areas under the jurisdiction of the Tribe.

**Section 4. Powers Reserved to Membership:** The following powers are specifically reserved to the tribal membership acting through a general membership meeting or a properly called election:

- (A) No lands or interests in lands owned by the Tribe may be sold, encumbered or disposed of without the favorable vote of at least a majority of the entire tribal membership.

**Section 5. Sovereign Immunity of the Qawalangin Tribe of Unalaska:** Nothing in this Constitution shall be deemed or construed to be a waiver of the sovereign immunity or jurisdiction of the Qawalangin Tribe of Unalaska which may only be waived by express resolution of the tribal Council, after receiving an affirmative vote of the majority of the entire tribal membership eligible to vote, and only to the extent specified in such resolution and permitted by this Constitution and federal law, provided, however, that the tribal Council shall have the authority to waive the sovereign immunity of the Qawalangin Tribe of Unalaska solely for the purposes of satisfying the conditions or requirements of federal or state grants or contracts. Waivers of sovereign immunity shall not be general but must be specific and limited as to duration, grantee, transaction, property or funds, if any of the Tribe subject to the waiver, as well as specific to the court having jurisdiction and applicable law.

Waiver of sovereign immunity of the Tribe shall not be deemed a general consent to the levy of any judgement, lien or attachment upon property of the Tribe other than property specifically pledged, assigned or otherwise explicitly subject to levy in the waiver

resolution.

Section 6. **Retained Powers:** The retained powers of the Qawalangin Tribe of Unalaska not expressed in this Constitution shall not be lost by reason of their omission, but may be exercised in accordance with this Constitution by majority vote of the eligible voting members or the Council.

Section 7. **Lease of Tribal Lands:** Except as required by federal law, tribal lands or interests in lands may not be disposed of for community expansion, rights-of-way for public use, other community needs or airports and related facilities except by lease.

#### ARTICLE XI - RIGHTS OF MEMBERS

Section 1. **Civil Rights:** Consistent with the customs, laws and traditions of the Qawalangin Tribe of Unalaska, the Tribe in exercising its powers of self-government shall not deny to any person within its jurisdiction freedom of speech, press, or religion or the right to assemble peacefully. The Tribe shall not deny to any person the equal protection of tribal laws or deprive any person of liberty or property without due process of law. The Tribe shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968.

Section 2. **Rights and Privileges:** This Constitution shall not in any way alter, abridge or otherwise jeopardize the rights and privileges of the members of the Tribe as citizens of the United States or of any state, including the State of Alaska.

Section 3. **Freedom of Information:** Except as specifically limited by tribal ordinance, tribal members shall have the right to review all tribal records, including financial records, at any reasonable time in accordance with procedures established by the Council.

#### ARTICLE XII - SAVINGS CLAUSE

Section 1. All resolutions and ordinances of the Qawalangin Tribe of Unalaska passed prior to the adoption of this Constitution shall remain in full force and effect to the extent that they are not inconsistent with this Constitution or future amendments.

#### ARTICLE XIII - SEVERABILITY

Section 1. If any provision of this Constitution shall be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

#### ARTICLE XIV - AMENDMENTS AND ADOPTION

Approval of this Constitution and any amendments hereto require an election in which a total of thirty percent (30%) of those entitled to vote in the election approve the Constitution by majority vote.

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### CERTIFICATION OF RESULTS OF ELECTION

This Constitution of the Qawalangin Tribe of Unalaska was submitted to the qualified voters of the Qawalangin Tribe of Unalaska on May 3, 1997, and was duly adopted by a vote of 49 for, 0 against, 0 abstaining, and 0 ballots found spoiled or mutilated, in an election dully called and noticed.

Shane Tracy-Lampton  
Chairperson, Election Board

Irene McAlaska  
Election Board Member

Wida Kudrin  
Election Board Member