



CENTRAL COUNCIL  
*Tlingit and Haida Indian Tribes of Alaska*  
Office of the President • Edward K. Thomas Building  
9097 Glacier Highway • Juneau, Alaska 99801

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Executive Council of the Central Council  
TLINGIT & HAIDA INDIAN TRIBES OF ALASKA

Resolution EC 23-95

Title: Limited Waiver of Sovereign Immunity Related to Real Property on Malissa Drive

WHEREAS, the Central Council of Tlingit & Haida Indian Tribes of Alaska (Tlingit & Haida) is a federally recognized tribe with more than 36,000 citizens; and

WHEREAS, under Article X of the Tlingit & Haida Constitution, the Executive Council is the governing body of Tlingit & Haida when the Tribal Assembly is not in session; and

WHEREAS, the Tribal Assembly is not in session; and

WHEREAS, Tlingit & Haida purchased real property on Malissa Drive, in Juneau, to provide non-congregate sheltering for formerly incarcerated individuals to mitigate the spread of COVID-19 (the “Property”); and

WHEREAS, the Property requires construction to continue to fulfill the purpose behind the acquisition; and

WHEREAS, First National Bank of Alaska (“FNBA”) is willing to loan monies, in the amount of \$1,872,000 (the “Loan”), to Tlingit & Haida to fund construction; and

WHEREAS, FNBA requires a limited waiver of sovereign immunity for disputes arising out of and related to the Loan (the “Limited Waiver”); and

WHEREAS, Article VII, Section 4 of Tlingit & Haida’s constitution states that waivers of sovereign immunity are “disfavored” and are only to be granted when it is “necessary to secure a substantial advantage or benefit to Tlingit & Haida”;

NOW THEREFORE BE IT RESOLVED, that the Executive Council of the Central Council of Tlingit & Haida Indian Tribes of Alaska hereby determines that the Limited Waiver, as described below, is necessary to secure a substantial benefit to Tlingit & Haida of funding the construction necessary to continue to operate the non-congregate shelter for formerly incarcerated individuals to mitigate the spread of COVID-19; and

BE IT FURTHER RESOLVED, that the Executive Council of the Central Council of Tlingit & Haida Indian Tribes of Alaska hereby determines that, in the event that Tlingit & Haida accepts the Loan, Tlingit & Haida expressly, unequivocally, and irrevocably waives its sovereign immunity from suit and will not raise sovereign immunity as a defense in a judicial action brought therein by FNBA, subject to the following limitations:

1. The Limited Waiver is strictly limited to the Loan that is the subject of this Resolution and the performance of Tlingit & Haida's obligations thereunder;
2. The Limited Waiver only applies to FNBA and not to any third-party, including, without limitation, FNBA's assigns, successors, officers, members, shareholders, or beneficiaries, direct or indirect;
3. The Limited Waiver does not waive the immunity of Tlingit & Haida's officers, employees, agents, citizens, and Community Councils;
4. The Limited Waiver is not to be construed as a waiver of or consent to the attachment, execution, levy, encumbrance, or other judicial process upon:
  - a. any real property, or interest in any real property, of Tlingit & Haida or its sub-entities, whether held in fee, in trust for the benefit of Tlingit & Haida or any tribal citizen by the United States, or as restricted fee simple land; or
  - b. any federal, state, or grant funds held, or to be received, by Tlingit & Haida, in trust or otherwise;
5. The Limited Waiver does not entitle or authorize FNBA to bring any claim or action in equity or for damages;
6. Before any action may be filed in a court of competent jurisdiction, Tlingit & Haida and FNBA agree that
  - a. the authorized representatives of Tlingit & Haida and FNBA shall meet and attempt to resolve any claim(s) through good faith negotiations; and
  - b. that if such negotiations do not resolve the claim(s), Tlingit & Haida agrees that FNBA may bring suit pursuant to this Limited Waiver in
    - i. the United States District Court for the District of Alaska (and all federal courts to which decisions of the United States District Court for the District of Alaska may be appealed); provided, however, that if for any reason that court lacks jurisdiction over the matter, the suit may be heard in the Courts of the State of Alaska;


7. Notwithstanding any applicable statute of limitations or other applicable law, the Limited Waiver shall be enforceable only for (1) year after the later of: the Tribe's release from the Loan and only as to claims and causes of action arising during the term of the Loan.

ADOPTED this 1<sup>st</sup> day of December 2023, by the Executive Council of the Central Council of Tlingit & Haida Indian Tribes of Alaska, by a vote of 5 yeas, 0 nays, 0 abstentions and 1 absence.

**CERTIFY**

  
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President Richard J. Peterson

**ATTEST**

  
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Tribal Secretary Jacqueline L. Pata