GOVERNOR:
MELVIN FRANCIS, SR.
LT. GOVERNOR:
KENNETH NEWELL, SR.
REPRESENTATIVE:
JOSEPH A. NICHOLAS

TRIBAL COUNCIL:
MAXWELL (CHICK) BARNES
RALPH F. DANA
RICHARD DOYLE
FREDERICK FRANCIS II
JOHN L. FRANCIS
LOUIS PAUL

Pleasant Point Reservation
PERRY, MAINE 04667
Tel. (207) 853-2551

PROCLAMATION

Be it known to all members of the Passamaquoddy Tribe listed on the Pleasant Point Reservation Census that:

As of July 20, 1990, the Pleasant Point Tribal Government has officially adopted all provisions of the June 27, 1990 draft Constitution as voted on July 10, 1990 which apply to the Pleasant Point Reservation as the governing law of the Pleasant Point Passamaquoddy Reservation

Governor _____
Melvin Francis

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DRAFT

CONSTITUTION

OF

THE SIPAYIK MEMBERS OF

THE PASSAMAQUODDY TRIBE

August 9, 1990

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CONSTITUTION

OF THE SIPAYIK MEMBERS OF THE

PASSAMAQUODDY TRIBE

PREAMBLE

WE, the SIPAYIK MEMBERS of the PASSAMAQUODDY TRIBE, People of the Dawn, adopt this Constitution in order to establish a democratic form of tribal government at the Pleasant Point Reservation; to protect our sovereignty and freedom of self-determination; to preserve our heritage and culture for our children and for our future generations; to insure equal rights for all Sipayik members of the tribe; and to create fair opportunities for the economic and domestic well-being of all Sipayik members of the Passamaquoddy Tribe.

ARTICLE I. NAME.

The Sipayik members of the Passamaquoddy Tribe are those members who are listed on the official Census at Sipayik,

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which is also known as the Pleasant Point Reservation. Except when referring to the geographically limited area that is the Pleasant Point Reservation, the terms Sipayik and Pleasant Point are used interchangably in this Constitution.

ARTICLE II. TRIBAL JURISDICTION.

Section 1. Scope.

The authority of the government established by this Constitution shall extend over all Sipayik members of the Passamaquoddy Tribe and all persons, subjects, territory and property now or hereafter included within the jurisdiction of the Pleasant Point Reservation of the Passamaquoddy Tribe, as defined by the Maine Indian Claims Settlement Act of 1980 and the Act to Implement the Maine Indian Claims Settlement, or as hereafter established.

Section 2. Sovereign Immunity.

As a recognized part of the government of a sovereign Indian Tribe in existence from time immemorial, the government of the Pleasant Point Reservation is immune from suit in all forums except as set forth herein.

(a) The government of the Pleasant Point Reservation shall be subject to suit in the federal courts of the United States or the courts of the State of Maine to the extent agreed to in the Maine Indian Claims Settlement Act or as provided by other applicable

law, and any suit which could be brought against that government in the courts of the United States or the State of Maine may be brought against it in the Passamaquoddy Tribal Court.

(b) The government of the Pleasant Point Reservation shall be subject to suit in the Passamaquoddy Tribal Court in any suit arising under Article IV, Section 1 of this Constitution or the Indian Civil Rights Act, provided that the government's immunity is waived only to the extent that damages may be awarded in an amount of not more than fifty thousand dollars for any and all claims of any one party arising out of the same course of conduct, transaction or occurrence, or any larger amount that the Sipayik Governor and Council may hereafter establish by ordinance.

(c) The government of the Pleasant Point Reservation shall otherwise be subject to suit only in the manner and to the extent expressly authorized by a Passamaquoddy tribal Constitution or by action of the Joint Tribal Council or the Sipayik Governor and Council.

Any suit for injunctive and prospective relief against a tribal official to enforce the terms of this Constitution or tribal law shall not be deemed a suit against the government, and is not barred by this Section.

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ARTICLE III. TRIBAL MEMBERSHIP.

Section 1. Requirements for Membership.

In accordance with action of the Joint Tribal Council establishing tribal membership criteria, enrollment and recognition as a Sipayik member of the Passamaquoddy Tribe shall be extended to all persons who:

(a) possess at least one-quarter degree Passamaquoddy Indian ancestry; and

(b) are not members of any other Indian tribe; and

(c) have not relinquished their membership in the Passamaquoddy Tribe by signing a document to that effect and delivering it to the Sipayik Governor, or by maintaining membership in another tribe, provided that a former member may reapply for membership upon his or her revoking the signed resignation or forsaking membership in another tribe, and

(d) have chosen to maintain their membership exclusively at Sipayik.

Blood quantum shall be determined in accordance with the 1900 Tribal Census and all persons listed as Passamaquoddy on the 1900 Tribal Census shall be considered to be of 100% Passamaquoddy Indian ancestry.

Section 2. Membership Ordinance.

The Governor and Council shall adopt a Membership Ordinance establishing procedures for determining all questions of tribal membership at Sipayik including but not limited to:

(a) procedures for application for membership, for addition or removal of names from the Sipayik Tribal Census, for listing the degree of Passamaquoddy Indian blood possessed by members, for establishment of an annual Tribal Census for Sipayik, for verification of application or other information, including the issuance of subpoenas by the Sipayik Census Committee and their enforcement by the Tribal Court, and for such other matters as are necessary to determine questions of membership;

(b) procedures for determination of membership questions by the Sipayik Census Committee, which shall consist of three Sipayik tribal members, each elected by the eligible voters at Pleasant Point for a term of ten years.

(c) requirements for reporting of information by Sipayik members of the Tribe in order to maintain and update the Tribal Census at Pleasant Point;

(d) criteria for meeting the requirements for membership set forth in Section One of this Article, and for abandonment of membership and for restoration to membership, and for correction of any Sipayik Tribal Census;

(e) provision for appeal, within a fixed time, of decisions of the Sipayik Census Committee on questions of membership by any person whose application for Sipayik membership is denied, or by any tribal member with respect to any Sipayik

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membership application granted, to the Tribal Court for judicial review, in which the decision shall be reversed only if it is found to be arbitrary.

ARTICLE IV. INDIVIDUAL RIGHTS.

Section 1. Civil Rights.

The government of the Pleasant Point Reservation shall not:

(a) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(b) violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(c) subject any person for the same offense to be twice put in jeopardy;

(d) compel any person in any criminal case to be a witness against himself or herself;

(e) take any private property for a public use without due process of law and just compensation;

(f) deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted

with the witnesses against him or her, to have compulsory process for obtaining witnesses in his or her favor, to have the assistance of counsel for his or her defense, and to have counsel appointed for any indigent member in any action in which he or she faces possible incarceration;

(g) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, or in any event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and a fine of $5,000 or both, or such other penalties as may be provided by the Indian Civil Rights Act;

(h) deny to a person subject to its jurisdiction the equal protection of its laws or deprive any persons of liberty or property without due process of law;

(i) pass any bill of attainder or ex post facto law, or any law impairing the obligation of contracts; and

(j) deny to any person accused of an offense punishable by imprisonment, the right, upon request, to trial by jury of not less than six (6) persons.

Section 2. Banishment.

Notwithstanding any provision of this Constitution, the government of the Pleasant Point Reservation shall have no power of banishment over tribal members.

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Section 3. Protection of Contract Rights.

The validity and enforceability of contracts, agreements, notes or instruments of conveyance which have been executed on behalf of the Pleasant Point Reservation with the approval of an actual majority of the members present and voting at a meeting of the Governor and Council of the reservation while a quorum was present shall not be affected or impaired by failure to observe procedural requirements set forth in Section 1(c) or Section 4 of Article V or any rules of procedure adopted pursuant thereto, nor by any subsequent action of the Governor and Council or of the members in an initiative or referendum conducted under Article VII.

Section 4. Access to Governmental Records and Proceedings.

Records of official governmental actions shall be open to inspection by Sipayik tribal members except particular records that:

(a) are expressly made confidential by a tribal ordinance duly enacted to give reasonable protection to personal privacy or business or trade secrets of the tribe or reservation, or

(b) are expressly made confidential by applicable federal or state law, or

(c) would be confidential if such records were records of the federal government.

Meetings of official bodies of the Pleasant Point tribal government shall be open to Sipayik tribal members, provided however that discussions may be held in closed session as

authorized by this Constitution, by a tribal ordinance duly enacted or by applicable federal or state law, as long as any decision is made in open session. Any Sipayik tribal member shall be entitled to attend any meeting of the Pleasant Point Governor and Council, and of any other official committee or body of the Pleasant Point tribal government, except as otherwise provided herein. Any minutes of such meetings shall be prepared promptly and shall be open to inspection by any Sipayik tribal member.

ARTICLE V. AUTHORITY OF THE PLEASANT POINT TRIBAL GOVERNMENT.

Section 1. Powers of the Governor and Council.

The Pleasant Point Passamaquoddy Reservation is constituted a public body corporate and a political subdivision of the Passamaquoddy Tribe, acting under the direction and control of a Governor and Council, having the following limited powers and authority to be exercised for the following purposes; provided, however, that all such powers and authority shall be exercised in conformity to the provisions of this Constitution and of the laws and ordinances adopted by the Joint Tribal Council, and provided further that no tax on real property may be imposed by the Governor and Council without approval by referendum under section 2 of Article VII:

(a) to administer Tribal government within the Pleasant Point Reservation;

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(b) to adopt local ordinances, exercise police powers, take private property when necessary for a public use, and otherwise regulate local matters which solely affect the Pleasant Point Reservation;

(c) to contract for and receive funds or other services or assistance from public or private sources, or from the Joint Tribal Council or from tribal enterprises, in order to provide public services on the reservation, and to advise the Department of the Interior or other federal agencies or representatives as to the needs of the reservation, and to expend any available funds for such purposes in accordance with an annual budget adopted as set forth in Section 4 of this Article, provided that the financial affairs of the reservation shall be subject to an annual audit.

(d) to provide for the economic development of the reservation and for that purpose to invest or lend reservation funds on such terms and conditions as the Governor and Council may determine and, in accordance with the provisions of this Article, to own in whole or in part and in any form, to operate, finance or otherwise promote, tribal or private enterprises of any type or form of organization;

(e) to acquire, by purchase, lease, gift, will or otherwise, to own, hold, use, improve and otherwise deal in, and to sell, convey, encumber, mortgage, pledge, lease, exchange or otherwise dispose of property of all kinds, real and personal, tangible

and intangible, in whole or in part, wherever situated, in the reservation's corporate name and capacity; provided, however, that all land located within Passamaquoddy Indian Territory including the reservations shall remain the sole property of the Passamaquoddy Tribe; provided further, that the Governor and Council shall have the power to lease tribal land within the Pleasant Point Reservation in accordance with applicable provisions of federal law;

(f) to sue and be sued in the reservation's corporate name and capacity to the same extent and subject to the same limitations and immunities as the Passamaquoddy Tribe may sue and be sued;

(g) to enter into contracts other than for borrowed money in the reservation's corporate name and capacity; provided, howerer, that any obligations incurred in such contracts shall be the sole obligation of the reservation and shall not obligate the Passamaquoddy Tribe nor be secured by or satisfied from the common property or income of the Passamaquoddy Tribe except as may be expressly authorized in the sole discretion of the Joint Tribal Council;

(h) to borrow money in the reservation's corporate capacity to the extent that recourse for repayment or other satisfaction of such debt is expressly and solely limited to particular property then belonging to the Pleasant Point Reservation or to the assets and income of particular tribal enterprises of that

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reservation and otherwise solely to the extent authorized by the Joint Tribal Council; and to secure any of the reservation's obligations by mortgage, pledge, or other encumbrance of all or any part of the property and income of the reservation; provided, however: (1) that debts incurred by the Pleasant Point Reservation shall be the sole obligation of the Pleasant Point Reservation and shall not obligate the Passamaquoddy Tribe nor be secured by or satisfied from the common property or income of the Passamaquoddy Tribe except as may be expressly authorized in the sole discretion of the Joint Tribal Council; (2) that no instrument evidencing the indebtedness of the Pleasant Point Reservation shall be valid unless it shall set forth expressly that the debts evidenced thereby shall not constitute debts of the Passamaquoddy Tribe nor be secured by or satisfied from the common property or income of the Passamaquoddy Tribe, but shall be payable solely from the property or income belonging exclusively to the Pleasant Point Reservation; and (3) that no resolution or other decision authorizing the borrowing of money shall be valid except after a fair opportunity for public comment to the Governor and Council has been provided, which may be provided at any regular or special meeting of the Governor and Council at which the matter was listed on the agenda, and of which at least three working days' advance notice was conspicuously posted on the reservation;

(i) to exercise all other powers which may be exercised by a body corporate and politic which are either necessary or convenient in furtherance of the powers and purposes set forth in this section; and

(j) to exercise such other powers and responsibilities as may be delegated to the Governor and Council by the Joint Tribal Council.

Section 2. Powers of the Governor.

The Governor of the Pleasant Point Reservation shall chair all meetings of the Council of that reservation, shall carry out the policy decisions of the Governor and Council for that reservation, and shall have principal administrative responsibility for the operations of tribal government on that reservation, to be exercised in accordance with this Constitution and with applicable laws, ordinances and resolutions of the Joint Tribal Council and of the Governor and Council of the respective reservation. Whenever the Governor is unable to serve due to incapacity or a conflict of interest, the Lt. Governor shall act in his or her place and exercise all powers and responsibilities vested by this Constitution in the Governor. The Lt. Governor may exercise the powers of Governor when the Governor is absent from the reservation only to the extent authorized by the Governor.

No person exercising the authority of the office of Governor shall use, or allow another to use, that authority for personal gain, or for the personal benefit of any member of the Governor and Council.

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Section 3. Powers of the Lt. Governor.

The office of Lt. Governor shall have no authority except to act for the Governor as set forth in section 2 of this Article, and such other authority as may be granted by the Joint Tribal Council or the Governor and Council, or delegated by the Governor.

Section 4. Composition and Procedures of the Governor and Council.

(a) The Governor and Council of the Pleasant Point Reservation shall consist of the Governor, Lt. Governor and six Council members. No action may be taken by the Governor and Council except at a meeting duly called and convened. The Governor may vote only to break a tie. In the Governor's absence, the Lt. Governor shall preside at any meeting of the Governor and Council. The Lt. Governor may vote except when presiding, in which case the Lt. Governor may vote only to break a tie. In the absence of both the Governor and the Lt. Governor at any regular meeting of the Governor and Council, the members present may select another member of the Council to chair the meeting, provided, however, that such member may vote only to break a tie. All votes of the Governor and Council shall be recorded, identifying the position of each member.

(b) The Governor and Council shall adopt a schedule of regular meetings and may convene in special session

at the request of the Governor or of three or more Council members. The agenda of each meeting shall be prepared by the Governor or the Clerk of the Reservation. The agenda shall include any matter requested by the Governor or any member of the Council, or by written petition of any seven adult Sipayik tribal members, and shall be made available to all Council members at least three days prior to any meeting.

(c) A quorum shall consist of four members of the Governor and Council eligible to vote, but shall not include the presiding officer.

(d) Notice of any meeting of the Governor and Council shall identify the matters on the meeting agenda, and shall be conspicuously posted on the reservation at least three working days before the meeting. The notice shall be posted at the school, the health clinic and the tribal offices, in a place commonly used for such notices, and may be posted in additional locations. In the event that one or more of the specified locations no longer exists, the required notice shall be posted at a suitable substitute location designated by the Governor of the Pleasant Point Reservation.

(e) The Governor and Council shall each year authorize the expenditure of available funds by an annual budget showing both projected sources of funds and expenditures, adopted following the conduct of a

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public hearing on the proposed budget held on the third Tuesday in September or as soon thereafter as practical, and of which seven days advance notice was conspicuously posted on the reservation stating the time, place and purpose of the hearing, provided that the said budget may be amended by the Governor and Council at any regular meeting at which public comment is allowed, provided that the meeting is held upon not less than three working days' public notice conspicuously posted on the reservation.

(f) The Governor and Council shall convene an annual meeting open to all Sipayik tribal members to present in oral and written form an accounting of the financial status of the Pleasant Point Reservation, including the tribal general funds, any enterprise and special revenue funds, and any other funds or accounts. This meeting shall be held at least once each year, at a time to be fixed by ordinance, following at least seven days public notice conspicuously posted on the reservation, stating the time, place and purpose of the meeting.

(g) All meetings of the Governor and Council shall be open to all Sipayik members of the Tribe; provided, however, that the Governor and Council by ordinance may authorize discussion to be conducted in closed executive session, but no final action may be taken on any matter in such closed session, and provided further, that any person who is the subject of an

executive session may require that matters concerning him or her be discussed in an open meeting.

(h) All minutes, ordinances, resolutions, votes of the Governor and Council, and audits performed pursuant to Section 1(c) of Article V shall be recorded in writing and shall be available to Sipayik members of the Tribe. All regulations and ordinances governing the conduct of non-members of the Tribe shall be available for public inspection.

(i) No member of the Governor and Council shall vote on any matter in which he or she or a member of his or her household or immediate family has a direct personal interest, included but not limited to employment contracts, project funding, and appointment to tribal offices or committees, nor shall any such member use, or allow another to use, his or her official authority for personal gain, or for the personal benefit of any other member of the Governor and Council. The term "immediate family" shall include a person's spouse, siblings, parents and children. No action increasing the rate of compensation for any member of the Governor and Council, including the Governor and Lt. Governor, shall take effect during that member's term of office.

Section 5. Acting as Members of the Joint Tribal Council.

When members of the Pleasant Point Governor and Council are serving in their capacity as members of the Joint Tribal

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Council of the Passamaquoddy Tribe, their actions shall be subject to the provisions of this section:

(a) no Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the approval of any regulation or ordinance of the Tribe or the Joint Tribal Council unless a public hearing on the proposed regulation or ordinance has been held prior to the adoption thereof, and unless seven days advance notice of the hearing was conspicuously posted on the Pleasant Point Reservation, stating the time, place and purpose of the hearing;

(b) no Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the approval of any ordinance which affects solely the Pleasant Point Reservation or its members without the consent of the Sipayik Governor and Council;

(c) no Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the approval of any tax imposed by the Joint Tribal Council on Sipayik tribal members (other than motor vehicle and snowmobile excise and sales taxes) unless approved pursuant to Article VII;

(d) (1) no Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the approval of the sale of any land within Passamaquoddy Indian Territory except after a fair opportunity for public comment to the Sipayik members of the Joint Tribal Council has been provided, which

may be provided at any regular or special meeting of the Sipayik Governor and Council at which the matter was listed on the agenda, and of which at least seven days advance notice was conspicuously posted on the Pleasant Point Reservation; and

(2) no Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the approval of the lease of any land within Passamaquoddy Indian Territory to a non-member or to an entity other than one in which the Tribe controls a majority interest except after a fair opportunity for public comment to the Sipayik members of the Joint Tribal Council has been provided, which may be provided at any regular or special meeting of the Sipayik Governor and Council at which the matter was listed on the agenda, and of which at least seven days advance notice was conspicuously posted on the Pleasant Point Reservation.

(e) No Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the approval of any resolution or other decision authorizing the purchase or sale of property or the borrowing of money except after a fair opportunity for public comment to the Sipayik members of the Joint Tribal Council has been provided, which may be provided at any regular or special meeting of the Sipayik Governor and Council at which the matter was listed on the agenda, and of which at least three

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working days advance notice was conspicuously posted on Pleasant Point Reservation.

(f) No Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the approval of any expenditure of tribal general funds except as authorized by an annual budget, showing both projected sources of funds and expenditures, adopted by the Joint Tribal Council following the conduct of a public hearing on the proposed budget, which shall be held on the third Tuesday in September or as soon thereafter as practical, and of which seven days advance notice was conspicuously posted on the Pleasant Point Reservation, stating the time, place and purpose of the hearing; provided, that the said budget may be amended by the Joint Tribal Council at any regular meeting at which public comment on the proposed amendment is allowed, provided the meeting is held upon not less than three working days' public notice conspicuously posted on the Pleasant Point Reservation; and provided further, that the financial affairs of the Tribe shall be subject to an annual audit. For purposes of this paragraph, the term "tribal general funds" shall include all funds controlled by the tribe except enterprise or federal trust funds of the Tribe.

(g) No Pleasant Point member of the Joint Tribal Council shall, by vote or abstention, contribute to the

approval of any increase in the compensation of any member which would take effect during his or her term of office.

(h) Whenever notice of a meeting or of a public hearing is required by this Article to be posted, the notice shall be posted at the school, the health clinic and the tribal offices on the Pleasant Point Reservation, in a place commonly used for such notices, and may be posted in additional locations. In the event that one or more of the specified locations no longer exists, the required notice shall be posted at a suitable substitute location designated by the Pleasant Point Tribal Governor.

Section 6. Annual Membership Financial Meeting.

The Pleasant Point members of the Joint Tribal Council shall convene an annual meeting open to all Sipayik tribal members to present in oral and written form an accounting of the financial status of the Tribe, including the tribal gereral funds, any enterprise and special revenue funds, and any other funds or accounts. This meeting shall be held on the Pleasant Point Reservation at least once each year, at a time to be fixed by ordinance, following at least seven days public notice conspicuously posted on the Pleasant Point Reservation, stating the time, place and purpose of the meeting.

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ARTICLE VI. ELECTIONS.

Section 1. Qualification of Voters and Candidates.

Any Sipayik member of the Passamaquoddy Tribe who is at least eighteen years of age shall be eligible to be a candidate for office and to vote in all elections at the Pleasant Point Reservation, provided:

(a) that such member has complied with any voter registration requirement established by an ordinance duly enacted; and

(b) that the right to vote may be limited by an ordinance establishing residency requirements for persons holding office, or as voter qualifications in elections for tribal officers or on referendum issues presented under Article VII, Section 1 or 2, as long as no such ordinance deprives any otherwise qualified voter residing in Indian Territory of the right to vote; and

(c) that there shall be no right to vote by absentee ballot except for eligible voters who satisfy any applicable residency requirement, and who are unable to vote in person solely by reason of their status as full-time students or military personnel or by their physical incapacity; and

(d) that no person convicted of a crime punishable by imprisonment for a term of one year or more shall be eligible to be a candidate for or hold elective tribal office, unless a pardon has been granted.

Notwithstanding any other provision of this Section or any tribal ordinance, no Sipayik member of the Passamaquoddy Tribe aged eighteen or older shall be denied the right to vote on the adoption, amendment or repeal of this Constitution.

No member shall be eligible to be a candidate for or to hold more than one elected office of the Tribe, including school committee member, at the same time.

Section 2. General Elections.

The Governor, Lt. Governor, and members of the Council of the Pleasant Point Reservation shall be elected to 4 year terms, with those of the Council members staggered so that three shall be elected at each General Election. The Governor and Council shall schedule special elections for the purpose of filling vacancies or for voting on initiative, referendum or recall proposals. All elected officials shall serve until the certification of the results of the election of their successors, unless removed by recall, resignation or death. General Elections shall be held on the first Tuesday following Labor Day in September of each even-numbered year.

Section 3. Tribal Election Ordinance.

The Governor and Council shall adopt and may subsequently amend an Election Ordinance consistent with the provisions of this Constitution to regulate the procedure in all elections, following a public hearing on such ordinance held upon not less than seven days public notice, to be posted conspicuously on the reservation, including at least at the school, the

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health clinic and the tribal offices, stating the time, place and purpose of the hearing. The ordinance shall include but need not be limited to the following matters:

(a) the procedures for the nomination of candidates, the notice to be given to the voters of upcoming elections, the conduct of primary elections so that no more than two candidates for each available office or position appear on the general election ballot, the conduct of general elections and all other elections, including referendum, initiative, and recall elections, absentee voting, and the resolution of election disputes;

(c) a provision for appeal of election decisions to the Tribal Court for violations of the Indian Civil Rights Act or of Article IV of this Constitution; provided, however, that in all other respects the decisions respecting election disputes shall not be subject to appeal to the Tribal Court;

(d) a provision requiring each Governor and Lt. Governor to live on the Pleasant Point Reservation during their terms of office; and

(f) a provision requiring each elected tribal official to swear an oath of office to uphold this Constitution and the laws of the Passamaquoddy Tribe and to honor orders of the Tribal Court.

Section 4. Vacancies in Office.

If the Governor dies, resigns, or is recalled from office, the Tribal Council shall declare the office vacant and appoint the Lt. Governor to fill out the unexpired term of the Governor. If the Lt. Governor is appointed to fill out an unexpired term of the Governor, or if the Lt. Governor dies, resigns or is recalled from office, the Governor and Council shall declare the position vacant and shall call and hold a special election to fill the vacancy. In the event that the offices of Governor and Lt. Governor are vacant at the same time, the member of the Council who was elected by the largest number of votes shall serve as interim Governor, temporarily vacating his or her position on the Council, until the offices are filled by special election.

If a Tribal Council member dies, resigns or is recalled from office, the Tribal Council shall declare the position vacant and shall call and hold a special election to fill such vacancy. In the event that recall would make it impossible to achieve a quorum because of vacancies on the Tribal Council, those officials who received the least number of recall votes shall remain in office until such time as successors are elected to fill their positions.

Section 5. Secret Ballot.

All tribal elections, whether conducted under this Article or Article VII, shall be conducted by secret ballot.

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ARTICLE VII. INITIATIVE, REFERENDUM AND RECALL.

Section 1. Initiative.

Upon receipt and verification by the Tribal Clerk of a petition bearing the signatures of adult members listed on the census of the Pleasant Point Reservation equal to at least twenty-five percent of the number voting at the last Gubernatorial Election of the Pleasant Point Reservation, a proposed ordinance or resolution made by the people concerning a matter, other than an appropriation of funds, which could be acted upon by the Governor and Council alone shall be submitted to the voters of that reservation at a general or special election to be called by the Governor and Council and held within sixty days following verification of the petition. The date each signature was made shall be written next to the signature on the petition, and no signature older than one year from the date the petition is submitted shall be valid. A vote of at least two-thirds of those actually voting shall be conclusive and binding upon the Governor and Council.

Section 2. Referendum.

Upon receipt and verification by the Tribal Clerk of a petition bearing the signatures of adult members listed on the census of the Pleasant Point Reservation equal to at least twenty-five percent of the number of votes cast at the last Gubernatorial Election of the Pleasant Point Reservation, or upon the request of the Governor and Council approved by a majority of its total membership eligible to vote (i.e., all

members except the Governor), any proposed or previously enacted ordinance or resolution of the Governor and Council of the reservation shall be submitted to the voters of the reservation at a regular or special election to be called by the Governor and Council and held within thirty days following the request or the verification of the petition; provided, however, that no such referendum shall be conducted upon an enacted ordinance or resolution unless the petition or the request of the Governor and Council is received within thirty days of such enactment. A vote of at least two-thirds of those actually voting in a referendum submitted by petition is necessary to be conclusive and binding upon the Governor and Council, but when referendum approval is requested by the Governor and Council, approval by a majority vote is binding unless a greater majority is specified by the Council vote requesting the referendum.

Section 3. Recall.

(a) Any member of the Pleasant Point Governor and Council shall be recalled from office by a majority vote of the eligible voters of the Pleasant Point Reservation voting in a special election.

(b) The Governor and Council shall call and hold a special election to recall any member of the Governor and Council upon a written petition from the eligible voters of Sipayik to the Tribal Clerk signed by at least fifty per cent of the number of persons voting at the last Pleasant Point Gubernatorial Election.

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The date each signature was made shall be written next to the signature on the petition, and no signature older than forty-five days from the date the petition is submitted shall be valid. A special election required by a recall petition shall be called within ten days of the submission of the petition, and if the Governor and Council fail to call the election within that time, the Tribal Clerk shall promptly call the election. In either event, the special election required by a recall petition shall be held within thirty days of the submission of the petition.

(c) A separate petition for recall shall be drawn for each official to be considered for recall and shall contain a statement of the specific charges against that official.

(d) The Governor and Council shall set a date, time and place for a public hearing on the matters set forth in a petition or petitions and shall provide written notice to each official to be considered for recall. The notice shall contain a copy of the written petition which has named that official, and shall be provided at least seven days prior to the time set for the public hearing. The Tribal Clerk shall carry out the provisions of this subsection if the Governor and Council fail to do so within ten days of the submission of a recall petition.

(e) Notwithstanding any other provision of this Constitution, any tribal official recalled from

office shall be ineligible to be a candidate in any special election to fill the vacancy created by the recall, and in the next general election for the same office.

ARTICLE VIII. TRIBAL COURT.

Section 1. Powers of the Tribal Court.

The Passamaquoddy Tribal Court, including any appellate branch, shall exercise the powers of the judicial branch of the Pleasant Point tribal government and shall have jurisdiction of all cases and controversies arising at Pleasant Point which are within the jurisdiction of the Passamaquoddy Tribe, including without limitation the following:

(a) exclusive jurisdiction over all civil disputes which pertain to internal tribal matters, including review of governmental actions, all other matters affecting tribal government, rights of membership, and ownership, descent, or possession of land within Passamaquoddy Indian Territory, and which are not by provisions of this Constitution reserved to the exclusive jurisdiction of the tribal councils or to another body of tribal government;

(b) exclusive jurisdiction over all other civil or criminal matters which are committed by law to the exclusive jurisdiction of the Passamquoddy Tribe;

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(c) jurisdiction over all other civil matters arising within the Territory of the Tribe and not committed by law to the exclusive jurisdiction of the courts of the United States or the State of Maine.

Civil disputes which are within the jurisdiction of the Passamaquoddy Tribal Court shall, to the extent consistent with applicable tribal laws, ordinances, customs, and usages, as well as applicable provisions of federal Indian law, be resolved by the Tribal Court in accordance with any corresponding provisions of the applicable civil laws and remedies of the State of Maine, and such laws and remedies shall to that extent be deemed adopted as the law of the Pleasant Point Reservation of the Passamaquoddy Tribe.

Section 2. Rules of the Tribal Court.

The Passamaquoddy Tribal Court shall adopt Rules for the Passamaquoddy Tribal Court to govern procedures before the Court which shall be designed to ensure fair, convenient, simplified and prompt resolution of disputes. The Tribal Judge shall also supervise the judicial business of the Tribal Court, including assignment of cases, hiring and supervision of court personnel, and other administrative affairs of the court.

ARTICLE IX. ADOPTION OF CONSTITUTION AND INITIAL ELECTION.

Section 1. Adoption.

This Constitution shall become supreme law of the Pleasant Point Reservation of the Passamaquoddy Tribe when adopted by a simple majority of the adult Sipayik members of the Tribe who vote at a plebiscite called for that purpose by the Governor and Council. The said plebiscite shall be supervised by the Tribal Clerk of the Pleasant Point Reservation, who shall certify the results within forty-eight hours of the vote.

Section 2. Interim Officers and Initial Election.

Notwithstanding any other provision of this Constitution, upon adoption of this Constitution the existing Governor, Lt.Governor, and Council Members of the Pleasant Point Reservation shall assume all of the powers and duties of such officers as set forth in this Constitution, and shall exercise those powers and duties until their successors are duly elected and qualified. The term of office of any tribal official serving at the time of the adoption of this Constitution shall not be extended or otherwise affected by this provision.

Section 3. Interim Ordinances.

Notwithstanding any other provision of this Constitution, any ordinance previously adopted by the Joint Tribal Council or by the Pleasant Point Governor and Council and in effect at the time of the adoption of this Constitution, shall remain in

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full force and effect according to its terms until it is amended or repealed in accordance herewith, except to the extent that it may be inconsistent with the rights and privileges secured by this Constitution.

Section 4. Tribal Court Judge.

Notwithstanding any other provision of this Constitution, any Judge of the Passamaquoddy Tribal Court who holds that office at the time this Constitution is adopted shall immediately assume all powers and duties of that office as set forth in this Constitution.

ARTICLE X. AMENDMENT.

A proposed amendment to this Constitution shall be placed upon the ballot at a general or special election upon passage of a resolution of the Governor and Council adopted by an affirmative vote of seventy-five percent of all of the members of the Council eligible to vote, or of any resolution adopted by the initiative process, and the amendment shall become a part of this Constitution upon the affirmative vote of seventy-five percent of those voting on the amendment, provided, however, that this Constitution can be amended during the first two years following its adoption by a resolution adopted pursuant to Article VII.

ARTICLE XI. RESERVED POWERS.

The powers enumerated in this Constitution are not exclusive and the remaining sovereign powers of the Tribe are reserved to the members of the Tribe. Adoption of this Constitution does not constitute an agreement on the part of the Tribe to limit the exercise by the Tribe of any right or power it may otherwise be entitled to exercise.

ARTICLE XIII. SEVERABILITY.

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

/2141m

08/09/90

Pleasant Point Reservation
P.O. Box 343 • Perry, Maine 04667
Tel. (207) 853-2600

CERTIFIED RESULTS OF A REFERENDUM

Pursuant to a referendum vote held Tuesday, September 4, 1990, by the people of the Passamaquoddy Tribe at the Pleasant Point Reservation, IT IS HEREBY CERTIFIED from the official tally of said vote, that the people of the Pleasant Point Census wishes to adopt the Constitution for the Sipayik members of the Passamaquoddy Tribe dated August 9, 1990.

Total votes Cast.....328 votes.

Yes.....240
No.....87
Blank..... 1

RESULTS OF VOTE CERTIFIED ON:

Signed and sealed at Pleasant Point by: Mary J. Lola

Mary J. Lola/Tribal Clerk

Jan 12, 2015

Date