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**HOH INDIAN TRIBE
ECONOMIC DEVELOPMENT ORDINANCE
TITLE 1 - ECONOMIC DEVELOPMENT AUTHORITY
Chapter 12**

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**CHAPTER 12.01
GENERAL PROVISIONS**

Section 12.01.01 Title

The Title shall be known and may be cited as the Hoh Economic Development Authority Ordinance.

Section 12.01.02 Purpose

The primary purpose of the Hoh Economic Development Authority Ordinance (“Ordinance”) is to establish and organize the Hoh Economic Development Authority (“Authority” or “Hoh, Inc.”), the principal economic development and management arm of the Hoh Indian Tribe (“Tribe”), to provide for a more efficient and effective economic development program by centralizing control and oversight of enterprises and business activities of the Tribe (“Tribal Enterprises”) over which the Authority is given jurisdiction by the Hoh Tribal Business Committee (“Business Committee”) and to delegate a portion of the oversight responsibilities exercised by the Business Committee over the designated Tribal Enterprise by:

- A. Delegating specific governmental functions and powers of the Business Committee to the Authority;
- B. Segregating Tribal business assets and liabilities from Tribal governmental assets and liabilities; and
- C. Maximizing the profitability of all Hoh Tribal economic development enterprises (“Tribal Enterprises”) through effective management and administration.

Section 12.01.03 Additional Purposes.

The additional purposes for which the Authority is established are to promote and protect the general welfare of the Tribe and its citizens by:

- A. Expanding and diversifying the Tribe’s industries to promote self-determination and financial stability;
- B. Enhancing the sovereignty of the Tribe;
- C. Safeguarding the interests of the Tribe;
- D. Exercising stewardship over the Tribe’s resources committed to the Authority by the Tribe or foreign jurisdictions or otherwise acquired by the Authority;
- E. Reducing or eliminating unemployment and underemployment of Hoh Indian Tribal citizens through the provisions of career opportunities paying a wage sufficient to support the employee and their family;
- F. Raising revenues to support the delivery of essential government services by the Tribe to its citizens, especially those too young or too old to work or those in school or training programs; and
- G. Providing training, education and mentoring opportunities, related to economic and business development, to enable citizens of the Tribe to establish their own business.

Section 12.01.04 Authority

- A. The Tribe is a federally recognized American Indian Tribe and operates under the Constitution of the Hoh Indian Tribe, dated July 1, 1969, as amended (the “Constitution”).
- B. Article IV, Section 1(g) of the Constitution authorizes the governing body to make laws, including codes, ordinances, resolutions, and statutes.
- C. The Business Committee is the duly elected governing body of the Tribe per the Constitution of the Hoh Indian Tribe, Amendment III dated July 28, 2004.
- D. Inherent in the sovereign power of the Tribe is its ability to delegate certain functions to one or more of its political subdivisions, such as the Authority created by this Ordinance and pursuant to Article IV, Section 1 of the Constitution.
- E. The legal status of the Authority is that of a subordinate economic development entity and arm of the Tribe. The Tribe’s and Business Committee’s involvement in and control over the Authority shall be exercised in accordance with this Ordinance.
- F. The U.S. Department of the Treasury, Internal Revenue Service (“IRS”) has determined that the Tribe exercises governmental functions and powers (Rev. Proc. 2002-64, 2002-42 IRB 717, 719 (Oct. 21, 2002)).

Section 12.01.05 Applicable Law

Any entity or corporation established pursuant to this Ordinance shall be bound by all applicable laws of the Tribe and of the federal government.

Section 12.01.06 Applicability to Enterprises and Corporations

The provisions of this Ordinance shall apply to all enterprises and corporations organized hereunder or under the Corporation Code of the Tribe. All pre-existing economic development, business, or corporation ordinances or resolutions of the Tribe are hereby repealed. Pre-existing businesses or corporations shall be deemed to be in valid existence and allowed a ninety (90) day grace period from the date of the adoption of this Ordinance, or until enactment of a tribal corporation code, as appropriate, to amend or to conform their articles of incorporation in order to comply with the provisions herein.

Section 12.01.07 Term

The Authority shall exist perpetually or until such time the Authority is dissolved by the Business Committee. Upon dissolution, all assets and liabilities of the Authority shall revert to the Tribe.

CHAPTER 12.02 DEFINITIONS

Section 12.02.01 Definitions

- A. “Authority”** means the Hoh Economic Development Authority, the subordinate economic development entity and the political subdivision of the Tribe.
- B. “Board of Directors”** means the board of directors of the Authority.
- C. “Business Committee”** means the duly elected governing body of the Tribe per the Constitution, Amendment III.
- D. “Chief Executive Officer”** or **“CEO”** means the Authority’s senior executive officer or designee as selected and approved by the Board of Directors.
- E. “Directors of the Authority Board”** means the members of the Authority Board.
- F. “Enrolled Citizens”** means the duly enrolled adult members of the Tribe per Article II and Amendment II of the Constitution.
- G. “Federally-Chartered Corporation”** means a corporation that is organized, incorporated, and chartered under the laws of the United States under 25 U.S.C. §5124, as amended, and shall have the powers, privileges and immunities granted by that statute embodied in this Ordinance.
- H. “Hoh Indian Tribe”** means the Hoh Indian Tribe as established and organized per the Constitution.
- I. “Ordinance”** or **“Hoh Economic Development Authority Ordinance”** means the law that establishes and organizes the Hoh Economic Development Authority.
- J. “Principal Office”** means the principal office of the Authority that shall be located within the jurisdiction of the Hoh Indian Tribe per Article I of the Constitution.
- K. “Tribe”** means the Hoh Indian Tribe.
- L. “Tribal Enterprises”** means any membership or capital interest the Authority may possess in any enterprise, including but not limited to entities acquired in whole or in part, joint ventures, and partnerships.

**CHAPTER 12.03
ORGANIZATION OF THE AUTHORITY**

Section 12.03.01 Organization of the Authority

- A. The Authority shall consist of a Chief Executive Officer (“CEO”) and such enterprises, including, but not limited to a federally-chartered corporation organized under 25 U.S.C. §5124, divisions, branches and offices necessary for the execution of its mandated functions, and to achieve its annual goals, objectives and purposes stated herein.
- B. The Authority shall employ staff professionals, support personnel, and/or contract with professional services firms as the CEO shall determine consistent with the laws of the Tribe and the approval of the Business Committee, when required, and duly enacted corporate policies. The Authority may contract for services with the Tribe, as it determines appropriate and necessary.
- C. The Authority shall maintain a current organizational chart to accompany its annual budget submission to the Business Committee.
- D. The location of the “Principal Office” of the Authority shall be at such place as the Business Committee may determine from time to time but shall be legally located within tribal territory and jurisdiction. In addition, the Authority may maintain such other offices as the CEO may deem advisable at any other place or places within or outside of the State of Washington.
- E. Before the Authority conducts business in any jurisdiction, the Authority shall comply with all applicable statutory and regulatory requirements for conducting business in that jurisdiction. The Authority shall apply for and receive all required licenses and authorizations before conducting business in the jurisdiction.
- F. Before the Authority conducts business, whether in its name or through a company that it holds a majority ownership and control interest in any jurisdiction other than Nevada, the Authority shall comply with all applicable requirements necessary or appropriate under federal law to qualify the Authority as a foreign limited liability company in that jurisdiction. The Authority agrees to execute, acknowledge, swear to, and deliver all certificates and other instruments that may be reasonably necessary or appropriate to qualify, continue, or terminate the Authority as a foreign limited liability company in all jurisdictions in which the Authority may conduct business. Any such business conducted by the Authority shall not infringe upon the sovereignty and jurisdiction of the Hoh Tribe. The Authority does not have authority to waive the sovereign immunity or to pledge the separate assets of the Hoh Tribe.
- G. When in the best interests of the Authority, the Authority shall apply for 8(a) certification through the U.S. Small Business Administration (“SBA”) and operate to maintain its 8(a) eligibility through its term in the 8(a) Program.

**CHAPTER 12.04
MANAGEMENT OF THE AUTHORITY**

Section 12.04.01 Management of the Authority

- A. Board of Directors.
 - 1. The Board of Directors (“Authority Board”) shall be responsible for oversight of the business operations of the Authority, which oversight shall consist of the following

- activities: (a) recruit, interview, select, hire, set terms of hire, manage, discipline, and terminate the Chief Executive Officer (CEO), provided, that any contract for employment of a CEO and any changes in the CEO's compensation arrangements shall be reviewed and approved by the Business Committee; (b) review and discuss activities and financial information as needed and requested, and review and approve the Authority's quarterly financial statements following the end of each fiscal quarter; (c) decide and approve the major strategic and growth objectives being pursued by the Authority; (d) focus on forward-thinking and long range missions, and the Authority's conformity with its mission and achievement of expected outcomes; and (e) foster and ensure an effective working relationship with the Authority's executives and the Business Committee.
2. The Authority Board shall consist of three (3) voting members duly appointed by the Business Committee to serve staggered terms, ranging from one (1) to five (5) years, as determined by the Business Committee. When the initial terms expire, the standard appointment for all terms shall thereafter be three (3) years. At least two (2) members of the Board shall be enrolled citizens of the Tribe over the age of eighteen (18) and the other one (1) director shall be selected for their economic development or business expertise and other relevant experience. The Authority Board may also have two (2) additional non-voting directors selected for their business expertise and other relevant experience as duly appointed by the Business Committee. Tribal staff may serve as ex-officio members of the Board as appointed by the Business Committee.
 3. All Directors shall have the requisite skills, knowledge, and education or equivalent to provide professional and expert advice and recommendations to the CEO.
 4. All Directors shall maintain the authority and duty to recruit, interview, select, hire, set terms of hire, manage, discipline, and terminate the CEO, provided, that the CEO's employment contract and any changes in the CEO's compensation arrangements shall be reviewed and approved by the Business Committee.
 5. All Directors shall serve at the pleasure of the Business Committee and may be removed by the Business Committee at any time with or without cause, by an affirmative majority vote of a quorum by the Business Committee.
 6. If any duly elected Director is unable or unwilling to serve or to complete their designated term, the Business Committee shall appoint another individual to serve in their place. With approval of the Business Committee, the CEO may appoint a temporary board member until such time the Business Committee fills the board vacancy permanently.
 7. The Board shall draft, adopt and amend the bylaws and policies as defined below of the Authority, subject to final approval of the Business Committee, governing the election of officers, Board procedures and policies, and the conduct and management of the Authority's activities. As used in this Ordinance, policies and procedures requiring Business Committee review and approval refers to internal Authority procedures including but not limited to personnel, procurement, transportation and travel, etc., but shall not apply to the operational policies and procedures of the Authority's business activities or those of entities or enterprises undertaken by the Authority. Until such time as the Authority adopts its own internal operational and management policies and they are approved by the Business Committee, the Authority shall follow the relevant policies of Hoh tribal administration.

8. Directors shall be compensated for attendance to Board meetings at a rate established by the Board and ratified by the Business Committee, however, a Director must be present at a majority of meetings to receive compensation.
- B. The business and the affairs of the Authority shall be managed by a Chief Executive Officer (“CEO”) as set forth below:
1. The Authority Board shall recruit, interview, select, hire, set terms of hire, manage, and discipline an Interim CEO, provided, that the Business Committee must review and approve any employment contract and change in compensation arrangements for the CEO. The Authority Board shall have the authority to reappoint and hire the Interim CEO as the CEO, or recruit and hire other CEO candidates, by formal resolution and consistent with the Authority's employment policies.
 2. The CEO shall be an enrolled tribal member of the Tribe, a full-time employee and paid compensation commensurate with his or her skills, education, experience, and responsibilities and within the standards of compensation established by the Authority Board. The Business Committee shall review and approve the CEO’s employment contract as drafted by the Board, and shall review and approve any increase in compensation to the CEO above and beyond base compensation.
 3. The CEO shall:
 - i. Operate within the annually appropriated budget of the Authority or modified and approved budget of the Authority;
 - ii. Oversee all other executives and staff within the Authority;
 - iii. Meet with the Board of Directors and other executives to determine if the Authority is acting in accordance with goals and policies;
 - iv. Encourage business investment;
 - v. Promote economic development within and around the Tribal community/ies;
 - vi. Direct the Authority's financial goals, objectives, and budgets;
 - vii. Implement the organization's guidelines on a day-to-day basis;
 - viii. Preside over quality control;
 - ix. Hire, train, discipline and terminate employees;
 - x. Develop and implement strategies and set the overall direction of a certain area of the Authority or company;
 - xi. Oversee the investment of funds and manage associated risks, supervise cash management activities, execute capital-raising strategies to support the Authority's expansion, and manage any mergers and acquisitions;
 - xii. Provide visionary and strategic leadership for the organization;
 - xiii. Collaborate with the Board of Directors to develop the policies and direction of the Authority;
 - xiv. Ensure members of the Board of Directors have the information necessary to perform their fiduciary duties and other governance responsibilities;
 - xv. Develop and maintain relationships with other associations, industry, and government officials that are in the best interest of the Authority;
 - xvi. Provide adequate and timely information to the Board and Business Committee to enable it to effectively execute its oversight role;

- xvii. Direct staff, including organizational structure, professional development, motivation, performance evaluation, discipline, compensation, personnel policies, and procedures;
- xviii. Have authority to waive the Authority's sovereign immunity limited transactions of \$500,000.00 or less; and
- xix. Draft and adopt Authority business policies as that term is used in Section 12.04.01.A.7 of this Ordinance.

C. The Authority CEO shall provide information to the Business Committee on the activities, projects, and substantial financial expenditures of the Authority on a quarterly basis, or more often and in such form as requested by the Business Committee, including a current profit and loss statement. The Authority shall also submit an annual report within thirty (30) days of the end of the fiscal year, consistent with the Tribe's fiscal year period to the Business Committee. The report shall include, at a minimum, the activities of the Authority, achievement of the goals and objectives, including an income and profit/loss statement of the Authority overall and for each separate enterprise or economic activity and impact, if any, of fiscal constraints on current goals and objectives. The Authority shall also abide by reporting requirements set forth in Section 12.11.01 of this Ordinance.

CHAPTER 12.05 FUNDING

Section 12.05.01 Annual Funding.

Funding for the operations of the Authority shall be authorized and appropriated through the Tribe's annual budget process consistent with the Tribe's fiscal year and consistent with applicable tribal law governing the same. The Authority shall prepare and submit the Authority's budget, along with sufficient justifications to the Business Committee for review and approval. Upon approval by the Business Committee of an annual Authority budget, the Tribe shall transfer such funding to the Authority within a reasonable period of time.

CHAPTER 12.06 GOVERNMENT FUNCTIONS AND POWERS

Section 12.06.01 Governmental Functions and Powers

The Tribe hereby delegates to the Authority certain governmental functions and powers as defined herein. These functions and powers may be exercised relative to those Tribal Enterprises and business or economic development activities over which the Authority has been given jurisdiction by the Business Committee in accordance with this Ordinance. Subject to the limitations set forth in this Ordinance, the Authority shall have the following governmental powers:

- A. To facilitate the organization, creation, or establishment of the business entities under federal, state, or Tribal law, including corporations, partnerships, joint ventures, limited liability companies, and federally-chartered corporations, for the purpose of conducting any activity or venture that furthers the economic development of the Tribe and its citizens.

- B. To create, establish or otherwise acquire and hold stock in other corporations and exercise control of its operations, including, but not limited to forming any new corporation and retaining all or part of the new company's controlling interests.
- C. To impose and collect business income or franchise taxes, sales and use taxes, and other business-related taxes, as enacted and authorized by the Business Committee or as authorized or required in any compact or agreement between the Tribe and the State of Washington, on any persons, including, but not limited to certain Tribally-chartered business entities, transactions or activities within the taxing jurisdiction of the Tribe committee. The Authority shall remit or distribute such taxes to the Tribe or may retain all or part of such taxes for its operations as set out in each taxing Ordinance or as required in any compact or agreement between the Tribe and the State of Washington.
- D. To impose and collect service and licensing fees on certain Tribal Enterprises and other business enterprises operating within the regulatory jurisdiction of the Tribe, pursuant to this Ordinance.
- E. To regulate economic and business development activities through licensing of specific businesses located or conducting business activities on Tribal land, pursuant to this Ordinance and any other tribal ordinance authorizing the Authority to act.
- F. To explore economic and business development opportunities with any and all governmental entities.
- G. To draft any tribal law involving economic and business matters for review, consideration and approval by the Business Committee.

**CHAPTER 12.07
ECONOMIC AND BUSINESS DEVELOPMENT POWERS**

Section 12.07.01 Economic and Business Development Powers

Subject to the final approval of the Business Committee and the limitations set forth in Section 12.09 of this Ordinance, the Authority shall have the following economic and business development powers, subject to any applicable limitations in Tribal, state or federal law, including but not limited to IRS rulings or other applicable guidance:

- A. To promote the economic development of the Tribe;
- B. To generate revenues for use by the Tribe in providing essential government services;
- C. To engage in any type of lawful business enterprise or venture;
- D. To recommend the appointment or removal of board members for the Tribal Enterprises under its jurisdiction;
- E. To maintain communication by having at least one member of the Authority Board serve on the board of each Tribal Enterprise under its jurisdiction, with due consideration and compliance requirements imposed under Section 8(a) of the Small Business Act on any such appointments;
- F. To engage in any activity or business venture that will further the economic development of the Tribe and its citizens so long as the activity or venture is not inconsistent with federal law, applicable state laws tribal policy, or with any provisions of this Ordinance;
- G. To purchase, take by gift, bequest, or otherwise own, hold, manage, acquire, develop, operate and dispose of property of every description, real and personal; provided that no action shall be taken by or on behalf of the Tribe or the Authority which in any way operates to destroy or injure the lands or natural resources of the Tribe; however, no action should be taken on

behalf of the Tribe to hurt, lose, pledge or otherwise dispose of the Tribe's real and personal property whether in fee or in trust, except for those fee properties expressly delegated by the Tribe for use by the Authority;

- H. To borrow and loan money and incur obligations for any lawful purpose from or to any tribe, business, entity or government authority or agency and execute and deliver all documents in connection therewith;
- I. To adopt, use and alter at its discretion, a corporate seal, and to use it or a facsimile of it by impressing or affixing it or in any manner reproduce it;
- J. To enter into, make and perform contracts, leases, and agreements of every kind and description, not inconsistent with tribal law, federal law, any applicable state law, or with any provisions of this Ordinance, with any tribe, person, association, corporation or other entity, with any municipality, county, or state including the State of Washington, or the United States of America, or other governmental entity or agency, including arrangements for the provision of services, provided that any action must not be inconsistent with tribal policy set forth by the Business Committee nor shall such action conflict with government-to-government consultations and negotiations with any entity, government or otherwise, unless the Business Committee consents to the Authority's proposed action by an affirmative majority vote by a quorum of the Business Committee;
- K. To pledge or assign personal property or future income due or to become due to the Authority to the extent not prohibited by law, and only to the extent consistent with any obligations of the Authority to return funds or revenues to the Tribe.
- L. To grant security interest in any property of the Authority to the extent not prohibited by law, however, the Authority may not waive the sovereign immunity of the Tribe or pledge any assets or property of the Tribe except as specifically authorized by the Business Committee;
- M. To hire and employ agents, professional advisors and employees;
- N. To deposit funds, from whatever source derived, in any national, savings, tribal or state bank that is insured by the Federal Deposit Insurance Corporation or a member bank of the Federal Reserve provided that whenever funds deposited with a bank exceed the amount of federal deposit insurance coverage, a bond or pledged securities shall be obtained;
- O. To exercise such further incidental powers, consistent with applicable federal or tribal law, or applicable state law, as may be necessary to the conduct of business;
- P. To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with real or personal property, or any interest in property wherever located to meet the purposes of the Authority. This authority does not extend to the Tribe's trust property or to tribal fee property except as specifically authorized by the Business Committee.
- Q. To seek out and secure any advantageous business entity designation or status that allows for maximized profits;
- R. To exist perpetually;
- S. To sue and be sued and to complain or defend in its corporate name or names, except that the extent of the corporation's liability shall be limited to the assets of any such corporation and the assets specifically pledged in any transaction, shall be stated in an explicit waiver of the Authority's or business' waiver of sovereign immunity, and shall be subject to the limitations pursuant to this Ordinance;
- T. To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property subject to the limitations pursuant to this Ordinance;

- U. To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of and deal in and with shares or other interests in or obligations of any other entity, *provided*, that such authority does not extend to the Hoh Tribe or its assets;
- V. To make contracts and incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, and income;
- W. To lend money, invest its funds or establish any investment fund, and receive and hold real and personal property as security for repayment;
- X. To be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- Y. To conduct its business, locate offices, and exercise the powers granted by this Ordinance within or without land held in trust for the Tribe, provided, that the head office of the Authority shall be legally located within tribal territory and jurisdiction;
- Z. To elect or appoint officers, Board members and agents of the Authority or any of its companies, define their duties and fix their compensation, with the exception of the Authority's CEO position and the Authority's Board of Directors pursuant to Chapters 12.03 and 12.04 of this Ordinance;
- AA. To pay pensions and establish pension plans, trusts, profit sharing plans, share bonus plans, and benefit or incentive plans for any or all of its current or former directors, officers, and employees, subject to Chapters 12.03 and 12.04 of this Ordinance;
- BB. To indemnify any director or officer against their expenses incurred in connection with the defense of any action suit or proceeding in which they are a party by reason of their service with the corporation, except in cases where the director or officer is adjudged liable for negligence or misconduct in the performance of duty;
- CC. To make and amend bylaws and policies as that term is used in Section 12.04.01.A.7, not inconsistent with this Ordinance or with the laws of the Tribe, for managing the business and regulating the affairs of the Authority, subject to review and approval as appropriate by the Business Committee;
- DD. To make donations for the public welfare or for charitable, scientific, or educational purposes;
- EE. To transact any lawful business that will aid governmental policy, provided that the Authority shall consult the Business Committee for review and approval of the same; and
- FF. To have and exercise all powers necessary or convenient to effect its purposes.

CHAPTER 12.08 PRIVILEGES AND IMMUNITIES

Sections 12.08.01 Privileges and Immunities

In the exercise of its powers, the Authority shall have all of the rights, privileges and immunities of the Tribe as a federally recognized American Indian Tribal Government including, but not limited to, sovereign immunity from suit, to the same extent that the Tribe would have such rights, privileges, and immunities if the engaged in the activities undertaken by the Authority in the Tribe's own name, subject to the following:

- A. No waiver of the Authority's immunity shall be implied; rather, the Authority's sovereign immunity shall only be waived by express action of the Board, subject to assets specifically pledged for any business enterprise and any specific transaction;
- B. The Authority shall have the powers, privileges and immunities granted by federal law and the laws of the Tribe and embodied in this Ordinance;
- C. The Authority shall maintain the Nation's tax exemption status and shall enjoy any tax advantages available to the Authority or its subordinate entities;
- D. Except as otherwise provided by this Ordinance or by any corporate charter or articles of incorporation, the Authority, its directors, officers and employees shall be entitled to all of the privileges and immunities enjoyed by the Tribe, including but not limited to immunities from suit in federal, state or Tribal courts, and exemption from federal and state taxation or regulation. The right to consent to suit may be delegated by charter to corporations and other like entities;
- E. Jurisdictional and tax immunities.
 - 1. All of the rights, privileges and immunities of the Tribe concerning federal, state, or local taxes, regulations and jurisdiction are hereby conferred onto the Authority to the same extent that the Tribe would have such rights, privileges and immunities if it engaged in the activities undertaken by the Authority.
 - 2. Absent consent by the Authority, a company wholly owned, directly or indirectly by the Tribe shall not be subject to taxation by the Tribe, except to the extent that such taxation is necessary and reasonably appropriate to compensate the Tribe for services provided to the Authority by the Tribe and/or if, authorized by the Business Committee, the Tribe's law elects to apply tax liability to the Authority and/or any of its Subsidiaries.
 - 3. No valid legal contract between the Authority and any person who is not a member of the Tribe or any Entity, and no person who is not a member of the Tribe or any Entity which enters into any such contract with the Authority, shall be subject to any of the Tribe's law enacted after the execution of such contract to the extent such subsequent Tribe's law is held by the Court to effect a material impairment of such contract and to have a primary purpose other than protecting the health or safety within the jurisdiction of the Tribe.
- F. Sovereign immunity. The sovereign immunity of the Tribe is hereby delegated to the Corporation and/or any of its Subsidiaries. The Authority shall have the power to sue and is authorized to consent to be sued in the Court, and in all other courts of competent jurisdiction; provided, however, that no such consent to suit shall be effective against the Authority unless such consent is:
 - 1. Explicit in scope and assets pledged;
 - 2. Contained in a written contract or commercial document to which the corporation is a party; and
 - 3. Specifically approved by the Board of Directors of the Authority.
- G. Any recovery against the Authority or any of its respective Subsidiaries shall be limited to the assets of the Authority or its Subsidiary as may be further limited by the explicit consent to suit by the Authority.
- H. Any consent to suit may be limited to the court or courts in which suit may be brought, to the matters that may be made the subject of the suit and to the assets or revenues of the Authority against which any judgment may be executed.
- I. The Business Committee shall be provided written notice of a consent to suit within five (5) days that the Board of Directors approves the consent.

- J. The Authority shall have no immunity in connection with any action against it by the Tribe.
- K. All activities of the corporation and their subsidiaries are not subject to laws of general applicability from outside jurisdictions including but not limited to the Occupational Safety and Health Act and National Labor Relations Act, except as determined by law.

CHAPTER 12.09 LIMITATIONS ON POWERS

Section 12.09.01 Limitations on Powers

- A. The Business Committee hereby reserves and the Authority shall have no power to:
 - 1. Expressly or by implication enter into any agreement of any kind on behalf of the Tribe or any citizen of the Tribe;
 - 2. Pledge the credit or assets of the Tribe;
 - 3. Dispose of, pledge, or otherwise encumber real or personal property of the Tribe, except that the Authority shall have the power to encumber real property not held in trust status pursuant to the terms of written lease agreements between the Tribe and the Authority;
 - 4. Waive any right, privilege, or immunity of, or release any obligation owed to the Tribe; or
 - 5. Enter into any sublease or other encumbrance or instrument respecting lands leased to the Authority by the Tribe without the express written approval of the Business Committee unless such power is reflected in the written lease agreements between the Tribe and the Authority.
- B. The Authority must secure the prior written consent of the Business Committee in order to take any of the following actions:
 - 1. Merge into another entity;
 - 2. Dissolve the Authority;
 - 3. Sell or otherwise dispose of all or substantially all of the Authority's assets, other than in the usual and regular course of its business;
 - 4. Make any expenditure or incur any debt in excess of Five Hundred Thousand Dollars (\$500,000.00); or
 - 5. Grant any limited or transaction-specific waiver of the Authority's sovereign immunity, except that the CEO is authorized to waive the Authority's sovereign immunity limited transactions of \$500,000.00 or less.
 - 6. Contract with other governmental entities that reduce conflict, competition or are inconsistent Hoh tribal government initiatives.
- C. The following actions by the Authority must be ratified by the Business Committee before they become effective:
 - 1. Adoption or amendment of a business development plan;
 - 2. Adoption or amendment of the Authority's capital and operating budgets;
 - 3. Adoption or amendment of By-laws for the Authority; or
 - 4. Adoption or amendment of this Ordinance.

**CHAPTER 12.10
OWNERSHIP AND TRANSFERS OF INCOME**

Section 12.10.01 Ownership and Transfers of Income

The Tribe has the sole proprietary interest in the Authority's activities. Upon request or authorization of the Business Committee, the Authority shall transfer a portion of its surplus revenues or funds to the Tribe, consistent with tribal tax or other regulatory ordinances or authorities, including tribal compacts and in compliance with its capital and operating budgets.

The Authority shall develop a Strategic Financial Plan to identify when surplus revenues exist. This plan must be approved by the Board of Directors and reviewed and adopted by the Business Committee. The Authority shall reinvest any and all revenues or funds, not transferred to the Tribe, in the Authority's businesses, growth opportunities, and facilities provided if such funds cannot be so invested from time-to-time, then they may be held in interest bearing bank accounts.

**CHAPTER 12.11
ACCOUNTS**

Section 12.11.01 Accounts

The Authority shall maintain accurate and complete accounts of its financial affairs (accounting and financial records), which shall clearly show all assets and liabilities, credits, debts, pledges, and assignments of the Authority. The Authority shall furnish an annual balance sheet, income or loss statement, and quarterly reports of the financial affairs of the Authority to the Business Committee. The Business Committee may ask the Authority to provide additional or more frequent financial reports or details at any time throughout the fiscal year. In addition, the Authority shall have an annual independent financial audit conducted, which shall be submitted to the Tribal Chief Financial Officer and Business Committee Chairperson.

**CHAPTER 12.12
AMENDING THE TITLE**

Section 12.12.01 Amending the Title

From time to time, amendments may be proposed by the Authority's Board to the Business Committee; however, such proposed amendments must be approved by a majority vote of the Business Committee and subject to applicable tribal law, including Title 21 – Code Enactment Process (the "Legislative Organization Act") before any such amendment becomes effective.

**CHAPTER 12.13
EFFECTIVE DATE**

Section 12.13.01 Effective Date

This Title shall be effective from and after the date of its approval and certification by the Business Committee, to include affirmative action to seat the Authority's initial Board of Directors on the same date.

CHAPTER 12.14

ACKNOWLEDGMENT OF AUTHORITY'S STATUS BY FEDERAL GOVERNMENT

Section 12.14.01 Acknowledgement of Authority's Status by Federal Government

In coordination with the Business Committee, the Authority shall request a private letter ruling from the IRS in order to confirm the status of the Authority as a political subdivision of the Tribe to ensure that the Authority is entitled to the same tax treatment as a political subdivision of a state as specified under Internal Revenue Code Section 7871. The Authority shall, in coordination with the Business Committee, secure any requisite determinations by the Department of Interior, Bureau of Indian Affairs, to confirm the proper delegation of powers to the Authority by the Tribe pursuant to this Ordinance.

CHAPTER 12.15 CODIFICATION

Section 12.15.01 Date of Codification

The Business Committee hereby ratifies the actions of predecessor versions of this Economic Development Authority of the Tribe taken from January 1, 2017 to the date of official enactment of this Ordinance, provided, that the Authority shall provide to the Business Committee a report on its activities and substantial expenditures from that date to the date of official enactment of this Ordinance within 30 days after such enactment. This code shall continue in effect until the Hoh Tribal Business Committee supersedes it.

CHAPTER 12.16 AMENDMENTS

Section 12.16.01 Amendments

Amendments to this title may be made by resolution of the Hoh Tribal Business Committee.