

**CONSTITUTION
OF THE
IIPAY NATION
OF
SANTA YSABEL**

As Amended on November 4, 201~~8~~ (2019)

Preamble

We the People of the Sovereign Iipay Nation of Santa Ysabel, in order to preserve and protect our culture, lands, and rights, and to promote equality and justice, do hereby establish this Constitution.

Article I - Organization of the Government

Section 1. Powers of Government. The Iipay Nation of Santa Ysabel ("Nation") possesses inherent sovereign powers of government.

Section 2. Branches of Government. The power of the Nation's government shall be divided into three branches: General Council, Tribal Council and Judicial Branch.

Section 3. Separation of Functions. No official of any branch of Government shall exercise any power granted in this Constitution or properly delegated by law to any other branch of Government except as expressly permitted by the Constitution.

Section 4. Supremacy. The Constitution shall be the Supreme law of the land.

Article II - Territory and Jurisdiction

Section 1. Territory. The Territory of the Nation shall be comprised of all lands within the exterior boundaries of the Reservation including Tract One, Tract Two, and Tract Three, all lands held in trust by the United States for the benefit of the Nation or the People, and any additional lands acquired by the Nation. The lands within the Territory shall include all water, property, airspace, surface, subsurface, natural resources, and any interests therein, notwithstanding the issuance of any patent or right-of-way in fee or otherwise, held by the governments of the United States or the Nation, existing or in the future.

Section 2. Jurisdiction. The Jurisdiction of the Nation shall extend to all persons, activities, and property within the Territory based upon inherent sovereignty and outside the Territory based

upon inherent sovereignty and applicable law. Any person who enters the Territory shall, by entering, be deemed to have consented to the Jurisdiction of the Nation. Every license or permit issued under the authority of the Nation shall include a provision submitting all parties and their assigns to the Jurisdiction of the Nation. Any employee of the Nation shall, by accepting employment, be deemed to have submitted to the Jurisdiction of the Nation. The Tribal Council shall have the power to assert the Sovereignty and Jurisdiction of the Nation by law over all matters that affect the interests of the Nation. Nothing in this Article shall be construed to limit the ability of the Nation to exercise its Jurisdiction based upon its inherent sovereignty as an Indian Nation.

Article III - Membership

Section 1. Membership Requirements. The Membership of the Nation shall consist of the following persons:

- (a) all persons who are enrolled Members of the Nation as of the date of the adoption of the Constitution, which shall constitute the Base Roll; and,
- (b) all persons who were properly enrolled as Members of the Nation but are no longer enrolled for the sole purpose of allowing their lineal descendants to be eligible for Membership in the Nation pursuant to Section 1(d) below; and,
- (c) all persons who were properly enrolled as Members of the Nation but are now deceased for the sole purpose of allowing their lineal descendants to be eligible for Membership in the Nation pursuant to Section 1(d) below; and,
- (d) all lineal descendants of any person listed in subsections (a), (b), or (c) above; provided, such descendants possess at least one-eighth degree Indian blood from a Federally-recognized tribe located in the United States.

Section 2. Dual Enrollment. No person who is enrolled as a Member of any other tribe shall become a Member of the Nation. An adult who is enrolled as a Member of another tribe and who is otherwise qualified to enroll in the Nation shall be permitted to enroll as a Member of the Nation upon proof of meeting the requirements for relinquishment of membership in the other tribe; provided, that an adult person shall be permitted to apply for Membership and become a Member of the Nation once in his or her lifetime.

Section 3. Enrollment Process. Persons seeking Membership in the Nation may apply for Membership in the Nation at any time in accordance with a Membership law enacted by the Nation. Applications for Membership shall be approved or denied by the Tribal Council twice a

year by January 10th and July 10th of each year. Persons denied Membership shall be permitted to seek judicial review exclusively in the Judicial Branch.

Article IV - General Council

Section 1. Composition. There shall be a General Council. The General Council shall consist of all enrolled members of the Nation age eighteen and older.

Section 2. Inherent Powers and Delegated Powers. All inherent sovereign powers of government shall be vested in the General Council. The General Council shall be the supreme governing body of the Nation. The General Council hereby delegates to the Tribal Council the legislative power to make laws and appropriate funds in accordance with Article VI and the power to execute the laws and administer funds in accordance with Article V. The General Council hereby delegates to the Judicial Branch the judicial power to interpret and apply the laws and Constitution of the Nation in accordance with Article VII.

Section 3. Retained Powers.

- (a) The General Council retains the power to set written policy for the Nation establishing the overall direction and goals of the Nation to be implemented by the Tribal Council and Judicial Branch of government,
- (b) The General Council retains the power to repeal or modify any law or budget passed by the Tribal Council and signed by the Chair, including any treaty, compact, contract or agreement negotiated by the Chair and ratified by the Tribal Council and signed by the Chair, as follows:
 - (i) A Member of the General Council shall have the power to submit a petition to the Election Commission seeking to repeal a law or budget within thirty days of passage; and,
 - (ii) The petition shall be signed by at least twenty-five percent of the Members of the General Council and may include handwritten and electronic signatures; and,
 - (iii) For purposes of collecting signatures on a petition, the names, designated addresses and emails of the Members of the General Council shall be made available to a Member of the General Council upon request submitted to the Election Commission; and,

- (iv) Once a petition is submitted, the law or budget shall not take effect and shall be suspended, except for essential governmental functions, until the next General Council meeting; and,
 - (v) Once a valid petition is submitted, the question of whether to repeal the law or budget shall be placed on the agenda of the next properly convened Regular Meeting of the General Council and the decision by a majority vote of the Members of the General Council present at the meeting shall decide whether such law or budget is repealed, and the decision of the General Council shall be final; provided, that if the General Council fails to repeal such law or budget at the General Council meeting, then such law or budget shall become effective immediately thereafter. If a valid petition is not submitted within 10 business days of the next Regular Meeting of the General Council, the petition shall be added to the agenda of the following Regular Meeting of the General Council to afford proper notice to all Members.
- (c) The General Council retains the power to submit written proposals to the Tribal Council for consideration.

Section 4. Regular Meeting. The General Council shall hold a Regular General Council Meeting on the first Sunday of every month. The Chair shall have the authority to cancel a Regular General Council Meeting; provided, that if the regular meeting is not held on the first Sunday of the month, then it shall be held on the following Sunday.

Section 5. Special Meetings. The Chair shall have the power to call a special meeting of the General Council.

Section 6. Community Meetings. The Tribal Council shall annually hold a Community Meeting following a designated General Council Meeting to promote the health, wellness, culture and tradition of the Iipay Nation of Santa Ysabel. The Community Meeting shall be allocated for in the annual budget.

Section 7. Procedures.

- (a) All decisions of the General Council shall be recorded in the form of a written Resolution.
- (b) All members of the General Council shall be provided at least five calendar days written notice by mail or electronic mail of the date, time, and place of each General Council meeting. The notice shall include the agenda for the General

Council meeting and only those items listed on the agenda shall be considered at the General Council Meeting. The Tribal Council shall ensure that the notice and agenda is mailed or emailed to each Member of the General Council.

- (c) Any member of the General Council may request that an item be placed on an agenda for a General Council Meeting by submitting a request in writing to the Tribal Council or at a regularly scheduled Tribal Council meeting, at least 10 business days before the next General Council Meeting. The Tribal Council shall place such item on the General Council Meeting agenda
- (d) Each General Council Meeting agenda shall include an Open Discussion item to afford Members an opportunity to be heard. Open Discussion shall not include any votes by the General Council.
- (e) The Chair shall preside over each General Council meeting, or the Vice Chair in his/her absence, unless the General Council selects another Councilmember to preside over the General Council meeting.
- (f) Members of the General Council must be present at a General Council meeting in order to vote at a General Council meeting. Proxy voting is prohibited.
- (g) The Office of Records Management shall maintain a record of the decisions of the General Council and shall publish the minutes of each General Council meeting.
- (h) A quorum of the General Council shall be five (5) percent of the Members of the General Council. A quorum shall be necessary for the General Council to conduct business. If no quorum is present an informational meeting may be held.

Article V – Tribal Council

Section 1. Composition.

- (a) The Tribal Council shall be comprised of a Chair, Vice Chair, Secretary, and four (4) Council Members. The Vice Chair shall preside in the absence of the Chair and the Secretary shall preside in the absence of both the Chair and Vice Chair.
- (b) A quorum shall consist of four (4) Councilmembers.
- (c) The Tribal Council shall attend all Tribal Council and General Council meetings.

Section 2. Powers and Duties.

- (a) The Tribal Council shall have the following administrative powers and duties on behalf of the Nation:
- (i) Execute, administer, and enforce the laws of the Nation and directives of the General Council;
 - (ii) Represent the Nation in all dealings with the Federal, State, Local and Tribal Governments, their agencies and officers;
 - (iii) Enforce court orders issued by the Judicial Branch; and
 - (iv) Faithfully advise the General Council of all actions taken and of the results thereof pursuant to the Tribal Council's authority under this Constitution.
- (b) The Tribal Council shall make projections of annual revenue and expense in a budget for the Nation no later than August 15th of each year. This budget shall be included with the meeting notice and agenda sent to Members prior to the Regular General Council Meeting in September. The General Council and Tribal Council shall discuss the budget at the Regular General Council Meeting in September of each year. The budget shall be voted on at the Regular General Council Meeting in October of each year. The Nation shall operate on a fiscal year of January 1st through December 31st. If an annual budget is not in effect by the start the fiscal year, then the Tribal Council shall have the authority to continue to fund, operate, and administer essential governmental functions as determined by the Tribal Council until such time as an annual budget is approved. The annual budget shall include all revenue and funds controlled by the Nation including gaming revenue, tribal enterprises and all revenue and funds received by the Nation from any and all sources. No monies shall be drawn from the Treasury except by signature of the Chair and upon approval by the Tribal Council. Spending government revenues or drawing monies from the Treasury without authorization and/or appropriation by applicable law and without a signature by the Chair and approval by the Tribal Council shall constitute embezzlement and fraud against the Nation.
- (c) The Chair upon approval by the Tribal Council shall have the power to sign any legislative enactment passed by the Tribal Council including budgets into law, subject to any valid petition submitted by the General Council to repeal or modify any such legislative enactment.
- (d) The Tribal Council shall conduct an annual financial audit of the Nation and its businesses. The annual audit shall be made available to the General Council.

- (e) The Tribal Council shall have the power to represent the Nation in negotiations with any other government. The Tribal Council shall not negotiate any treaty, compact, contract, or agreement with another government which has not been previously authorized by law. Any treaty, compact, or agreement with another government negotiated by the Tribal Council shall be subject to ratification by the Tribal Council through the Legislative Process.
- (f) The Chair, upon approval of the Tribal Council, shall have the power to negotiate and sign a contract which has been previously authorized by applicable law. No contract shall be valid which has not been previously authorized by applicable law.
- (g) The Tribal Council shall oversee the establishment of governmental Departments and Offices which shall account for the following governmental services as determined necessary and as funding is appropriated, to promote the health, safety and welfare of the Members of the Nation, including but not limited to Social Services, Environmental and Natural Resources, Land Use and Planning, Law Enforcement and Justice, Enrollment, Cultural Affairs, Education, Human Resources, Gaming, and any other Departments. The Tribal Council shall also oversee Departments of Finance, a Treasury, and Administration, which shall include an Office of Records Management, a Property and Supply Office, and a Procurement, Grants, and Contracts Office. Each Department shall be established as deemed necessary and proper for the effective governance of the Nation and as funding is appropriated.
- (h) The Tribal Council shall have the power to establish Commissions, Boards, Committees and other subordinate entities which shall be located within the Tribal Administration. The Tribal Council shall also have the power to appoint Members to any such Commissions, Boards, Committees and other appointments.
 - (i) Commissions. The powers and duties of all Commissions shall be regulatory. Any Commission created by the Tribal Council shall have the authority and duty to create and/or maintain written policies and procedures subject to Tribal Council guidelines and approval, and applicable law and regulation. Members of all Commissions shall be selected by nomination by the Tribal Council, subject to confirmation by the General Council.
 - (ii) Boards and Committees. Boards and Committees shall carry out and execute the duties called for in the applicable laws of the Nation. Any Boards and Committees created by the Tribal Council shall have the authority and duty to create and/or maintain written policies and

procedures subject to Tribal Council guidelines and approval, and applicable law and regulation. Members of all Boards and Committees shall be selected by nomination by the Tribal Council, subject to confirmation of the General Council.

- (iii) No Member of the Tribal Council may also be a member of any Commission, Board or Committee created by the Tribal Council, except as otherwise stated in this Constitution. The General Council reserves the right to appoint a Member of the Tribal Council as a non-voting liaison to a Commission, Board or Committee created by the Tribal Council.
Council members may serve on traditional tribal committees, such as Culture, Elders, Education, and Veterans, as determined by appointment of the General Council.
- (iv) The Tribal Council shall establish guidelines, a code of ethics and other documents deemed necessary to promote the efficient and effective operation of the Commissions, Boards and Committees established by the Tribal Council. Appointees shall diligently assume the duties of his/her position and shall be required to provide quarterly reports to the Tribal Council and General Council.
- (v) If no confirmation vote is taken on a nomination within two (2) General Council meetings of the nomination, then the nominee shall be deemed confirmed.

Section 3. Terms. The Tribal Council shall serve four year terms of office, and the Members of the Tribal Council shall remain seated until an oath of office is administered to successors or unless removed. All Tribal Council candidates shall seek office independently and their names shall appear on the ballot individually. For purposes of the first election under this Constitution see Article IX, Section 9.

Section 4. Qualifications. All Tribal Council Members shall be Members of the Nation age eighteen or older. The Chair, Vice-Chair, Secretary and two (2) Councilmembers shall be residents of the Territory at least one year immediately prior to the election and for the duration of their terms. The remaining two (2) Councilmember positions may or may not be a resident of the Territory. However, the residency requirement shall not apply in the case of any Tribal Council position where no reservation resident has duly accepted a nomination for such position.

No person who has a criminal conviction involving theft or embezzlement of funds or a felony in the last ten years preceding the election and no person convicted of a misdemeanor within the last seven years preceding the election shall be eligible to be a candidate for Tribal Council.

Section 5. Compensation. The Tribal Council may receive reasonable compensation as established by the approved annual budget. No increase or decrease in compensation for Tribal Council Members shall take effect during their terms of office except for reasonable cost of living increases established by the annual budget. Any increase or decrease in compensation for Tribal Council Members shall take effect after the next Regular Election for Tribal Council Members.

Article VI - Legislative Powers and Process

Section 1. Legislative Powers. The Legislative powers of the Nation shall be vested in the Tribal Council. The powers shall include the process, responsibilities, and duties of the respective branches of Government of the Nation regarding law making for the Nation.

- (a) The Tribal Council shall have the power to make laws and pass resolutions necessary and proper for the good of the Nation in accordance with the Legislative Process. All legislative actions of the Tribal Council shall be embodied in a written law or resolution and passed pursuant to the Legislative Process unless otherwise indicated in the Constitution.
- (b) The Tribal Council shall enact an annual budget pursuant to the Legislative Process. The annual budget shall include operating funds for the General Council, Tribal Council, and Judicial Branch. The annual budget shall include all revenue and funds controlled by the Nation including gaming revenue, tribal enterprises and all revenue and funds received by the Nation from any and all sources. No revenue or funds may be utilized or spent by the Nation unless included in a budget approved by the General Council. The Tribal Council shall provide quarterly financial reports to the General Council at designated General Council meetings.
- (c) The Tribal Council shall have the power to raise revenue and appropriate funds for expenditure in accordance with the current approved budget and applicable law. No monies shall be drawn from the Treasury except by signature of the Chair upon approval by the Tribal Council in accordance with the approved budget and applicable law.
- (d) The Tribal Council shall have the power to set its own internal legislative procedures consistent with the Constitution, and the Tribal Council may set such procedures without the need to adhere to the Legislative Process.

Section 2. Legislative Process.

- (a) The Tribal Council shall adopt and follow a public Legislative Process for enacting all laws and resolutions which shall include the following:
- (i) All legislative proposals shall be formally introduced as written Bills. All Bills shall include a statement identifying the specific law, if any, to be superseded, repealed, or amended. All Bills shall be introduced at a Regular General Council Meeting and included on the agenda before being read into the Legislative Record.
 - (ii) After introduced at a Regular General Council Meeting, all Bills shall be read into the Legislative Record. All Bills shall be published in a Legislative Calendar for at least thirty days prior to action on the Bill. The Legislative Calendar shall include the date the Tribal Council has scheduled to vote on a Bill or take other action. The Legislative Calendar, along with the text of any Bills to be considered during the time period indicated on the Legislative Calendar, shall be mailed or emailed to all adult Members of the Nation. All Bills shall be made the subject of a public legislative hearing to be held at a Regular General Council Meeting prior to action on a Bill.
 - (iii) All legislative decisions of the Tribal Council shall be made by a majority vote of the Tribal Council members present where a quorum has been established unless otherwise specified in this Constitution. The Tribal Council shall vote on each individual Bill or action separately by roll call vote. The names and votes of each Tribal Council member shall be recorded and published. Proxy voting shall be prohibited.
 - (iv) All Bills passed by the Tribal Council shall be signed by the Chair. All laws shall take effect no sooner than thirty days after signature by the Chair unless a Member of the General Council submits a petition signed by at least twenty-five percent of the adult Members of the General Council to the Election Commission within the thirty days of passage seeking to repeal the law by action of the General Council.
 - (vi) All laws shall be compiled and made available to the General Council during regular business hours at the Tribal Administration.
- (b) Any legislative enactment which has been determined by the Judicial Branch to not have followed the Legislative Process shall be deemed void and shall not be

implemented or enforced by the Iipay Nation, or any entity, official or employee thereof.

Article VII - Judicial Branch

Section 1. Composition.

The judicial power to interpret and apply the laws and Constitution of the Iipay Nation of Santa Ysabel shall be exercised by the Intertribal Court of Southern California unless and until such time as a separate court system is established in accordance with this Article VII.

The judicial power of the Intertribal Court of Southern California is to be established under a government to government agreement between the Nation and Intertribal Court of Southern California, the terms of which shall govern the duties, powers, qualifications, policies, procedures, practices and all other powers stated in the Constitution and others as deemed reasonable and in the interest of justice.

Section 2. Withdrawal from the Intertribal Court of Southern California and Establishment of a Judicial Commission.

(a) Members of the Nation may call an election to withdraw the Nation from the Intertribal Court of Southern California by submitting a petition to the Election Commission signed by at least twenty-five percent of the adult Members of the Nation. The Election Commission shall have ten days to verify the signatures on a petition and, if the petition is valid, the Election Commission shall hold an election to withdraw from the Intertribal Court of Southern California within sixty days. A vote of at least two-thirds of the votes cast in the election are required to withdraw from the Intertribal Court of Southern California.

(b) Upon withdrawal from the Intertribal Court of Southern California, the Judicial Branch shall be comprised of one Appellate Court, one Trial Court, Peacemakers supervised by the Trial Court, and other lower courts of special jurisdiction as deemed necessary by the Tribal Council by law. Attorneys shall not be permitted to participate in the Peacemaker process.

(i) The Appellate Court shall be comprised of one Chief Justice and two Associate Justices.

(ii) The Trial Court shall be comprised of one Chief Judge, one Associate Judge, and other Associate Judges as deemed necessary by the Tribal Council. Peacemakers shall be appointed by the Chief Judge as needed.

(c) Upon withdrawal from the Intertribal Court of Southern California, there shall be established one Judicial Commission comprised of five Members of the Nation selected as follows: three Members selected by the Tribal Council, and two Members selected by the General Council. Members of the Judicial Commission shall serve two-year terms of office.

(i) The Judicial Commission, after consultation regarding potential candidates with the Chief Justice, shall recommend candidates for Judge or Justice to the Tribal Council as set forth in Section 3 below.

(ii) The Judicial Commission shall make recommendations to the Chief Justice regarding discipline or suspension of a Chief Judge, an Associate Justice, or other Judge of the Judicial Branch, and the Chief Justice shall have the power to discipline or suspend such persons upon recommendation of the Judicial Commission, subject to applicable provisions of Article X, Section 3.

(iii) Upon request of the Chief Justice, the Judicial Commission may make recommendations to the Chief Justice to discipline or remove any Court clerk or other Court staff, and the Chief Justice shall have the power to discipline or remove such persons.

(iv) The Judicial Commission shall have the power to remove the Chief Justice and make recommendations for removal of other Judges to the Chief Justice in accordance with Article X, Section 3(b) of the Constitution. The Judicial Commission shall provide each Judge or Justice subject to discipline, suspension, or removal with due process.

Section 3. Selection of Judges and Justices.

Each Judge and Justice shall be selected as follows:

(a) The Judicial Commission shall solicit names of candidates for an office of Judge or Justice and shall recommend three candidates to the Tribal Council for each available office of Judge or Justice by designating such candidates as the First Nominee, the Second Nominee, and the Third Nominee.

(b) The Tribal Council shall select a nominee for each office of Judge or Justice from the list of three nominees recommended by the Judicial Commission, and shall present the name of the nominee to the General Council.

(c) The General Council shall confirm or deny the nominee for Judge or Justice by a vote of the General Council; provided that, if the General Council fails to approve or disapprove a nominee for Judge or Justice within sixty days of nomination by the Tribal Council, then the nominee shall be deemed confirmed.

(d) At the end of the term of office, each Judge or Justice seeking to remain in office for an additional term shall present his or her name to a vote of the General Council, and the decision of the General Council to retain or reject such Judge or Justice shall be final.

Section 4. Terms.

(a) The Chief Justice and each Associate Justice of the Appellate Court shall serve staggered four-year terms of office, and shall remain seated until an oath of office is administered to a successor or unless removed.

(b) The Chief Judge and each Associate Judge of the Trial Court shall serve staggered four-year terms of office, and shall remain seated until an oath of office is administered to a successor or unless removed.

Section 5. Qualifications.

(a) The Chief Justice and Chief Judge shall be at least thirty-five years old and be currently licensed to practice law within any of the states of the United States. The Chief Justice and Chief Judge shall never have been convicted of a felony, shall have no misdemeanor criminal convictions in the last twenty years and shall be and remain in good standing with all states to which he/she is admitted.

(b) Associate Justices and Associate Judges shall be at least thirty years old be currently licensed to practice law within any of the states of the United States. The Associate Justices and Associate Judges shall never have been convicted of a felony, shall have no misdemeanor criminal convictions in the last twenty years and shall be and remain in good standing with all states to which he/she is admitted.

(c) Peacemakers shall be persons that possess specified knowledge of the Iipay Nation culture, laws and social customs and traditions. These persons may be Iipay Nation members or members of other Tribes. No elected officials or staff of any branch, department or entity whatsoever of the Iipay Nation may also serve as a peacemaker. The Court shall maintain a list of pre-approved peacemakers.

Section 6. Jurisdiction of the Judicial Branch.

(a) The Judicial Branch shall have original jurisdiction over all cases and controversies, both criminal and civil, in law or in equity, arising under the Constitution, laws, and customs and traditions of the Nation, including cases in which the Nation or its officials and employees are a party. Any such case or controversy arising under the jurisdiction of the Nation shall be filed with the Judicial Branch before it is filed in any other court. This grant of jurisdiction shall not be construed as a waiver of the sovereign immunity of the Nation.

(b) The Judicial Branch shall have appellate jurisdiction over any case on appeal.

(c) The Judicial Branch shall have original and exclusive jurisdiction over any final determination by the Election Commission on a protest or challenge to the conduct or the results of an election.

Section 7. Powers and Duties.

(a) The Judicial Branch shall have the power to make findings of fact, to interpret the Constitution and laws of the Nation, and to make conclusions of law. The Judicial Branch shall have the power to issue all remedies in law and in equity.

(b) Decisions of the Judicial Branch shall be final. All orders, opinions, and decisions of the Judicial Branch shall be written and published.

(c) The Judicial Branch shall have the power to declare the laws of the Nation void if such laws are not in agreement with the Constitution, for those portions of laws that violate such.

(d) The Judicial Branch shall render a final disposition in all cases properly filed.

(e) The Judicial Branch shall have the power to administer funds appropriated by applicable law for the Judicial Branch.

(f) The Chief Justice shall establish and amend rules of procedure and practice for the Judicial Branch subject to the approval of the Judicial Commission.

Section 8. Compensation. Justices and Judges shall receive reasonable compensation as established by an approved budget and applicable law. No increase or decrease in compensation for Justices or Judges shall take effect during their terms of office except for reasonable cost of living increases in accordance with an approved budget or applicable law.

Article VIII - Bill of Rights

Section 1. Bill of Rights. The government of the Nation shall not make or enforce any law which:

- (a) infringes upon religious or cultural beliefs or prohibits the free exercise thereof, nor any law which establishes religion;
- (b) prohibits the freedom of speech, expression, or of the press, or the right of the People peaceably to assemble, and to petition the government for redress of grievances;
- (c) violates the right of the People to be secure in the privacy of their persons, houses, papers, electronic and telecommunications information, vehicles, and effects against unreasonable searches and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation signed by a Judge and particularly describing the place, person, house, or things to be searched, the object and scope of such search, and the person or thing to be seized, nor execute an arrest without probable cause;
- (d) subjects any persons to search or arrest without informing them of their right to remain silent, to have access to an attorney, to be informed that anything they say can be held against them in a court of law, to have these rights explained at the time of arrest, and to ask the arrested individuals if they understand these rights;
- (e) subjects any person to criminal prosecution or punishment more than once for the same offense arising out of the same incident, nor compels any person in any criminal case to be a witness against himself or herself,

- (f) discharges any person from employment without due process, or takes any private property or possessory interest in private property for public use, without due process and just compensation;
- (g) discharges any person from employment or takes any other retaliation against an employee who makes public any information of misconduct by officials or employees of the Nation;
- (h) denies 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, and to have the assistance of counsel for his or her defense subject to income guidelines;
- (i) requires excessive bail, imposes excessive fines, or inflicts cruel and unusual methods of interrogation or punishment;
- (j) denies to any person within its jurisdiction the equal protection, application, or opportunity under the law or deprive any person of liberty or property without due process of law, provided, that the Tribal Council shall have the power to enact Indian preference laws;
- (k) singles out an individual or group for punishment without trial, or punishes conduct after the fact through the enactment of laws or resolutions which criminalize such conduct;
- (l) denies to any person accused of an offense punishable by imprisonment the right upon request, to a trial by an impartial jury of not less than six persons, and all persons shall be presumed innocent until proven guilty in a court of law;
- (m) denies to any person the access to his or her own personal information maintained by the Nation;
- (n) discriminates against any Person based on age, gender, religion, disability, familial status, sexual orientation, or social or economic status;
- (o) denies to any Person the right to own and use firearms subject to regulation by the Nation by law.

Section 2. Reserved Powers. Powers not granted to the Government shall be reserved to the People.

Article IX – Elections

Section 1. Election Commission.

- (a) There shall be an Election Commission comprised of five Members of the Nation who are at least eighteen years old. Election Commission Members shall serve four year terms of office. Election Commission Members shall be selected at the Regular General Council meeting in October, or as necessary for the functioning of the Election Commission.
- (b) Election Commission Members shall be subject to removal for good cause by a majority vote of the Tribal Council. An Election Commission Member subject to removal shall be entitled to appeal such removal to the Judicial Branch.
- (c) The Election Commission shall select from among its Members a Chairperson for the Election Commission. The Election Commission shall conduct all elections in a fair and impartial manner.
- (d) The Election Commission shall make all determinations regarding the eligibility of candidates to seek elective office in accordance with the qualifications established for such offices by the Constitution and applicable laws of the Nation.
- (e) The Election Commission shall prepare and publish a list of eligible voters at least thirty days before each election.

Section 2. Regular Elections and Runoff Elections.

- (a) A Regular Election for Tribal Council Members shall be held on the first Sunday in November in even numbered years when the offices of Tribal Council Members become available, subject to the provisions of this Constitution. The candidates for Tribal Council Member seats who receive a majority of the votes cast in the Regular Election shall be seated; provided, that if no candidates for any given seat receive a majority of the votes cast, then a Runoff Election for such seat(s) of candidates who receive the two highest number of votes cast shall be held on the first Sunday in December. A tie vote in a Regular Election shall be decided in a Runoff Election on the first Sunday in December. The candidate(s) for Tribal Council seats who receive the highest number of votes cast in the Runoff Election shall be seated.

- (b) Elected candidates shall take office the first business day of January in the year following the November and/or December elections.
- (c) During the transition time between incoming and outgoing elected officials, all property of the Nation, including any electronic documentation, shall be maintained in and/or returned to the Tribal Administration office(s) and shall not be removed upon the outgoing elected officials' departure from office.

Section 3. Election Law. The Tribal Council shall have the power to enact an election law governing election procedures pursuant to the Legislative Process.

Section 4. Voters. Members of the Nation eighteen years of age or older shall be eligible to vote in an election.

Section 5. Ballots. All elections shall be conducted by secret written ballots. The Election Commission shall provide an absentee ballot to an eligible voter upon written request.

Section 6. Certification of Election Results. The Election Commission shall certify the results of an election immediately upon the close of the polls.

Section 7. Challenges to Election Results. Any adult Member of the Nation may challenge the results of an election by filing a protest with the Election Commission within three calendar days of certification. The Election Commission shall render a final determination on any protest within three days of receipt of a protest, setting forth in writing separate findings of fact and conclusions of law. If the Election Commission fails to render a final determination on an election protest within three days, then the original certification of the election results shall be deemed final for purposes of judicial review. An appeal of a final determination on an election protest must be filed with the Judicial Branch. The Judicial Branch shall hear and decide all election appeals within ten calendar days, provided that if the Judicial Branch fails to decide such appeals within ten days, then the decision of the Election Commission shall be final and no subsequent judicial review shall be permitted. The Judicial Branch may issue equitable remedies including ordering a new election which shall be held expeditiously.

Section 8. Oath of Office. The Election Commission shall administer the Oath of Office to the newly elected officials of the Nation at the next Regular General Council meeting. Each elected official shall take an oath to uphold the Constitution and laws of the Nation.

Section 9. First Election.

- (a) The First Election under the Constitution, as amended, shall take place immediately upon its passage and certification, regardless of what stage any current election proceedings are occurring under the previously adopted constitution. Timeframes for the First Election shall be modified, as necessary, to accommodate the election process in coordination with applicable law, subject to the election provisions of the Constitution, as amended.
- (b) After the approval of the Constitution, as amended by the voters of the Nation and up to and including the first Election and, if necessary, until successors are sworn into office, the current elected Chair and Vice Chair shall continue to serve as Chair and Vice Chair of the Nation with the full authority and responsibility of a Chair and Vice Chair as indicated in the Constitution, as amended.
- (c) After the approval of the Constitution by the voters of the Nation and up to and including the First Election, and if necessary, until successors are sworn into office, the current elected Legislators shall serve as the Secretary and Council Members, even if the number of Legislators exceeds the number of Council Members in this Constitution, such positions to be decided upon based on majority vote of those Legislators still in office, of the Nation with the full authority and responsibility of Secretary and Council Members as indicated in the Constitution, as amended. Such Secretary and Council Members shall appoint qualified Members of the Nation, excluding any residency requirements, to fill any vacancies on the Tribal Council until such time as the results of the First Election are certified and any election challenges are exhausted.

Article X - Removal, Recall, and Vacancies

Section 1. Removal of Tribal Council Members.

- (a) Any person serving as a Tribal Council Member who is convicted of a felony in any jurisdiction while in office or convicted of theft or embezzlement while in office shall be immediately removed from office and such office shall be deemed vacant.
- (b) Any person serving as a Tribal Council Member who negligently or intentionally fails to participate in his/her role as a Council Member, regularly fails to attend Tribal Council, General Council and/or other meetings requiring his/her attendance, conducts self in a manner that reflects poorly on the Nation or the his/her position, or fails to fulfill any further duties or obligations as required by his/her position shall be subject to removal from office.

- (c) The Tribal Council shall have the power to initiate the process for removal of a Tribal Council Member for gross misconduct or failure to fulfill his/her role as a Council Member, by majority vote of the Tribal Council, excluding the Councilmember that is the subject of the removal, as follows:
- (i) Grievance Process. Once the Tribal Council certifies the petition for removal, a public hearing, in the form of a Special Meeting shall be called to hear the grievance. The Tribal Council shall provide the Councilmember subject to removal with due process including:
- (1) written notice of the charges;
 - (2) an opportunity to prepare and present a defense including presenting witnesses and other evidence and an opportunity to respond at a public hearing, which shall be held thirty days after providing written notice of the charges; and
 - (3) After the conclusion of the public hearing, the Tribal Council shall deliberate and issue a decision. The decision shall be provided to the Councilmember subject to removal a written notice of the decision. The decision shall include appeal rights. If subject Council member appeals, the final decision to remove the Councilmember shall be placed on the agenda of the next Regular General Council meeting where a vote utilizing secret written ballots by a majority of the Members in attendance at such meeting, where a quorum is present, shall determine whether the Councilmember is removed. The decision of the General Council shall be final.
- (d) A Council Member who is removed shall be prohibited from becoming a candidate for any elected or appointed office until the original term of office for such Council Member expires, plus two additional terms additional; provided, that such person is qualified for the position of a Tribal Council Member in the future. However, if the Council Member's removal is for a misdemeanor or felony crime against the Nation, his/her disqualification from service as a Tribal Council Member shall be for a period of twenty years.

Section 3. Removal of a Judge or Justice. In accordance with Article VII of this Constitution, the following removal provisions shall apply to the Judiciary.

- (a) Any person serving as a Judge or Justice who is convicted of a felony in any jurisdiction while in office, or who is convicted of a lesser crime involving moral turpitude, as determined by the Judicial Commission, while in office, shall be subject to immediate removal from office and such office shall be deemed vacant.

(b) The Judicial Commission, pursuant to adopted policies and procedures, shall have the power to remove a Judge or Justice for good cause by a 2/3 majority vote of the Commission Members present at a duly called meeting where a quorum has been established.

(c) In accordance with established due process procedures, any Judge or Justice subject to removal shall be informed of the charges in writing, be given adequate notice of the pending removal action, and given an opportunity to prepare and present a defense including presenting witnesses and other evidence at a public hearing conducted by the Judicial Commission.

(d) A Judge or Justice properly removed from office shall not be eligible for reappointment to the Trial Court or Appellate Court.

Section 4. Recall.

(a) Tribal Councilmembers shall be removable by recall vote of the General Council. Any Member or Members of the General Council may initiate the recall of a Tribal Council Member by requesting a recall petition from the Election Commission. Upon request, the Election Commission shall provide the names, addresses and emails of all eligible voters of the Nation to the petitioners along with an official recall petition.

(b) A Member or Members of the General Council shall have thirty days to collect the signatures of at least twenty-five percent of the adult Members of the General Council on the recall petition. A separate recall petition shall be utilized for each person subject to recall. No more than three officials shall be subject to recall at the same time.

(c) A completed recall petition shall be submitted to the Election Commission. The Election Commission shall have ten days to verify the signatures on the recall petition, and, if the petition is valid, it shall notify in writing the petitioners and the Tribal Council.

The decision on whether to recall the official or officials shall be placed on the agenda of the next Regular General Council meeting which is at least thirty days after the date of the verification of the recall petition.

(d) A majority vote of the voters in attendance at a properly convened meeting of the General Council shall decide whether the official or officials shall be recalled. The voters shall utilize a secret written ballot at the Regular General Council meeting. The Election Commission shall provide absentee ballots upon written request to voters who are unable to attend the Regular General Council meeting

so long as such absentee ballots are returned to the Election Commission before the date of the meeting.

- (e) No elected official shall be subject to recall until four months has passed since the Oath of Office.

Section 5. Vacancy in the Seat of Chair or Vice Chair.

- (a) A vacancy in the seat of Chair shall be filled by the Vice Chair for the remainder of the unexpired term.
- (b) A vacancy in the seat of Vice Chair shall be filled by appointment of a qualified current Council Member by the Chair for the remainder of the unexpired term.

Section 6. Vacancy in the Seat of the Secretary or Council Member. A vacancy in a seat of the Secretary or a Council Member shall be filled by Special Election which shall be held within sixty days of the vacancy; provided, that if less than one hundred twenty days remain in the term of office, such seat shall remain vacant. The candidate who receives a majority of the votes cast in the Special Election shall be seated; provided, that if no candidate receives a majority of the votes cast, then a Runoff Election for the candidates who receive the two highest number of votes cast in Special Election shall be held. A tie vote in the Special Election shall be decided in the Runoff Election. The candidate who receives the highest number of votes cast in the Runoff Election shall be seated and shall serve for the remainder of the unexpired term.

Section 7. Vacancy in an Office of Judge or Justice. A vacancy in an office of Judge or Justice shall be filled in accordance with the terms of the Constitution for the remainder of the unexpired term.

Article XI - Sovereign Immunity

Section 1. Sovereign Immunity. The Nation shall possess sovereign immunity. Nothing in this Constitution shall be deemed to waive the Nation's Sovereign Immunity from suit. Only the Tribal Council may authorize a waiver of sovereign immunity by law in accordance with the Legislative Process. Any authorization by the Tribal Council to waive Sovereign immunity shall be specific, for a limited scope and duration, and in writing.

Section 2. Immunity from Suit by Parties Outside the Jurisdiction of the Nation. The Nation and its Officials and Employees acting in their official capacity or within the scope of their authority shall be immune from suit brought by any party not subject to the Jurisdiction of the Nation except to the extent waived in accordance with applicable law.

Section 3. Immunity from Suit by Parties Within the Jurisdiction of the Nation. The Nation and its Officials and Employees acting in their official capacity or within the scope of their authority shall be immune from suit except for suits in equity filed exclusively with the Judicial Branch by any party subject to the Jurisdiction of the Nation to enforce rights and duties established by law or the Constitution. Any Member of the Nation may bring a suit exclusively with the Judicial Branch to enforce the terms of the Constitution regardless of any requirements to demonstrate standing. Sovereign Immunity shall not extend to Officials and Employees acting outside their official capacity or beyond the scope of their authority.

Article XII - Records

Section 1. Records. All records of the Nation shall be considered the property of the Nation. An elected official who has completed a term of office shall not remove or take any files, records or documents whatsoever from the Nation.

Section 2. Records Management. The Office of Records Management shall be established within the Department of Administration and located at the government headquarters within the Territory of the Nation. The Office of Records Management shall secure and maintain at a minimum originals or copies of the following records of the Nation: constitution, codes, resolutions, laws, ordinances, compacts, contracts, court opinions, election documents, executive orders, memos, letters, rules, regulations, policies, bills, financial records, audits, audit letters and reports, budgets, salaries, travel records, grant proposals, grant awards, grant reports, maps, land records, patents, newspapers, reports, studies, and any other documentary, audio, or written records. The Office of Records Management shall develop systems to index and access all records maintained in the Office of Records Management or any other office. The public shall have the right to inspect any record maintained by the Office of Records Management and shall have the right to obtain copies of any record for a reasonable fee; provided, that personal information maintained by the Nation including but not limited to personnel files, medical records, enrollment records, and social services records, shall not be available for public inspection. The Office of Records Management shall maintain a proper backup system for all records in its possession.

Article XIII - Lands

Section 1. Land Department. There shall be a Land Department located within the Executive Branch, upon enactment of law and appropriated funding.

Section 2. Land Laws. The Tribal Council shall, pursuant to the Legislative Process, enact land laws to regulate and govern all lands within the Territory including the establishment of a system of private property for all lands within the Territory. The land laws may allow for the formal recognition of traditional family holdings of lands within the Territory. The land laws shall

include the establishment of a Land Recorders Office which shall register and record interests in land within the Territory.

Section 3. Transfer of Property Interests. Property interests shall not be conveyed or otherwise transferred to any person who is not a Member of the Nation, and any such conveyance or transfer shall be deemed void and such land shall revert to the Nation; provided, that a non-Member spouse of a Member of the Tribe or the children of the Member shall be eligible to acquire a life estate of a property interest as permitted by law.

Article XIV - Amendments

Section 1. Requests for an Election. Members of the Nation may call an election to amend the Constitution by submitting a petition along with the text of the proposed amendment or amendments to the Election Commission signed by at least twenty-five percent of the adult Members of the Nation. The Election Commission shall have ten calendar days to verify the signatures on a petition, and if the petition is valid, the Election Commission shall hold an election to amend the Constitution within sixty days.

Section 2. Requirements. The Constitution may be amended by a two-thirds vote of the Members of the Nation who vote in an election to approve an amendment or amendments to the Constitution.

Article XV - Savings Clause

Section 1. Savings Clause. All actions of the Nation including all resolutions, ordinances, and laws made or enacted prior to the effective date of the Constitution, as amended, shall remain in full force and effect to the extent they are consistent with the Constitution, as amended. Upon approval of the Constitution, as amended by the voters of the Nation, the current fiscal year budget shall remain in effect and the Chair, with approval of the Tribal Council, shall be authorized to continue expenditures until the beginning of the next fiscal year, subject to applicable law, and authorize and appropriate funds in accordance with the terms of the Constitution. The Constitution, as amended, shall supersede and repeal the Constitution including all amendments thereto enacted by the Tribe in 2007.

CERTIFICATION

We, the undersigned, duly elected members of the Tribal Council of the Iipay Nation of Santa Ysabel, do hereby certify that the foregoing Amended Constitution of the Iipay Nation of Santa Ysabel was adopted on November 4, 2019 by a majority vote of the General Council of the Iipay Nation of Santa Ysabel.

Virgil Perez
Tribal Chairman



Paul Gonzalez
Tribal Vice Chairman



Bonnie Salgado
Tribal Council



Brandie Taylor
Tribal Council




Sunni Dominguez
Tribal Council



Misty Taylor
Tribal Council

Tony Baay
Tribal Council

Max Baay
Tribal Council



Stanley Rodriguez
Tribal Council