



Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 09-0429-111

Reaffirming Tribal Council's Constitutional Authority To Ratify Contracts and Agreements

WHEREAS, the status of the *Gaá Čhing Ziibi Daáwaa Anišhinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) of the Constitution, to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(b) of the Constitution, to "ratify agreements and contracts negotiated by the Tribal Ogema on behalf of the Little River Band with federal, state and local governments and other Indian tribes or their departments or political subdivisions, or with private persons;" and

WHEREAS, the Tribal Ogema is authorized under Article V, Section 5(a)(3) of the Constitution, to "consult, negotiate, and execute agreements and contracts on behalf of the Little River Band with federal, state and local agreements and other tribal governments, or with private persons or organizations, or with private persons or organizations;" and

WHEREAS, the Tribal Ogema's authority to negotiate and execute agreements and contracts is limited by the requirement in Section 5(a)(3) of the Constitution that

specifically provides that “[a]greements and contracts reached must be approved or ratified by Tribal Council to be effective; and

WHEREAS, the Budget and Appropriations Ordinance, Ordinance #04-100-04, requires that all “disbursements shall be made pursuant to applicable procurement and disbursement policies approved by the Tribal Council; and

WHEREAS, Tribal Council previously approved amendments to Budget and Appropriations Regulations, Chapter 1, which allowed for an exception to the approval process for contracts with the value of \$00.00 to \$2500.00; and

WHEREAS, Tribal Council believes that those revisions may be taken out of context and used to support a position that Agreements or contracts that bind the Tribe to non-monetary obligations do not require Tribal Council approval or ratification.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby reaffirms its Constitutional authority to ratify contracts and agreements, subject to those specific exceptions contained in Section 3-2 of the Budget and Appropriation Regulations, Chapter 1.

IT IS FURTHER RESOLVED THAT nothing contained in this Resolution or the Budget and Appropriations Regulations shall be deemed to relieve the Ogema of his Constitutional duty to bring forward for Council approval all Agreements between the Little River Band and federal, state and local governments and other tribal governments, or with private persons or organizations, that bind the Tribe to non-monetary obligations, in accordance with Article V, Section 5(a)(3) and Article IV, Section 7(b) of the Constitution.

IT IS FURTHER RESOLVED THAT any Agreements that bind the Tribe to non-monetary obligations that have not been ratified or approved by Tribal Council shall be neither effective nor enforceable.

IT IS FINALLY RESOLVED THAT except as authorized by Tribal Ordinance or Resolution, there shall be no waiver or limitation to the right of the Little River Band to be immune from suit in the courts of the United States or of any state, or to be immune from suit for damages.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on April 29, 2009, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



Kimberly Alexander, Council Recorder



Don Koon, Council Speaker

Attest:

Distribution: Tribal Ogema
Tribal Council
Tribal Court
Purchasing Department