Resolution # 09-0603-146

Approval of Authorization to increase Contract Payments to the Contract with Barry L. Levine & Associates, PLC

WHEREAS, the status of the Gaá Čhíng Ziibi Daáwaa Aníshinaábek (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) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Little River Band Election Board requires legal assistance that cannot be provided by the Tribe’s legislative or executive legal departments; and

WHEREAS, the Trial Council, on behalf of the Election Board entered into a contract, attached hereto, as (Exhibit 1), for legal services for the Election Board with Barry L. Levine on November 30, 2006 for services to be rendered from December 1, 2006 to November 30, 2007; and such contract was extended for one (1) year by Addendum from December 1, 2007 to November 30, 2008 and subsequently by Second Addendum from December 1, 2008 to November 30, 2009 (Exhibit 2); and
WHEREAS, during the previous general election fiscal year, December 2006 -- November 2007, the Tribal Council initially approved the contract for $30,000 and then approved as Addendum an additional $7,500 to a total of $37,500 to cover the costs of “extraordinary fees” the costs of defending disputes, challenges and litigation, costs the Election Board cannot control; and

WHEREAS, Resolution 08-1217-432 approved all terms but reduced the contract payment from $30,000 to $20,000. (Exhibit 2) The contract required additional authorization for the Tribal Council for approval in excess of the contract amount; and

WHEREAS, this contract period includes a General Election and Barry L. Levine originally estimated that the amount for extraordinary fees, for representing the Election Board in all election disputes and claims at a rate of $150 per hour, would be approximately 50 hours for fees of $7,500, although such costs exceeded $15,000 during the last general election; and

WHEREAS, the Election Board was required to and did successfully defend numerous matters as outlined in the letter of Barry L. Levine, attached hereto, as (Exhibit 3), for a current total to date of $8,928.50 (Exhibit 4); and

WHEREAS, the total amount expended as provided for general advisement, additional meetings, travel and extraordinary fees will exceed $20,000 (Exhibit 4 and Exhibit 5); and

WHEREAS, Attorney Levine has indicated that additional services to be rendered from May 2009 to November 2009 is dependent upon the disposition of pending litigation, as well as any additional election challenges and litigation that may yet be filed, but it is anticipated that additional time necessary should not likely exceed an additional fifty (50) hours at a cost of $7,500 and that the additional cost of monthly meetings and advisement will be $7,500; and

WHEREAS, the Little River Band Election Board has reviewed all of Barry L. Levine & Associates, PLC, services performed under this contract, and has determined that the services performed were necessary, proper and effective in meeting the Election Board’s constitutional requirements in the conduct of the Primary and the General Election and resolution of matters related thereto.

IT IS THEREFORE RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby approves the request for the modification of Paragraph 9, Limit of Contract Payment by $10,000 to an annual payment not to exceed $30,000.
CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 2 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on June 3, 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: Council Records
Tribal Ogema
Tribal Court