Resolution #14-1203-381

Authorizing the Executive Director of the Chippewa-Ottawa Resource Authority to Take Action Necessary to Obtain Approval for Litigation Funding and to Execute Any Resulting Contract Documents Pursuant to P.L. 93-638, As Amended

WHEREAS, the status of the Gaá Čhíng Zííbi Daáwaa Aníšinaábek (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 Tribe maintains the right, among others, to harvest fish in the Michigan waters of Lakes Superior, Michigan and Huron, which was reserved in the Treaty of March 28, 1836 (7 Stat. 491); and

WHEREAS, the nature, scope and extent of the Tribe’s rights have been the subject of litigation in United States, et al., v. State of Michigan, case number 2:73 CV 26, (WD Mich) and resulted in a 15-year management and allocation order of the Court entered in 1985 and a 20-year management and allocation order entered in 2000; and

WHEREAS, the Chippewa / Ottawa Treaty Fisher Management Authority (COTFMA) was established in 1981 to regulate the fishing of Tribal Members under the rights reserved in the 1836 Treaty, and to act on behalf of its three member Tribes to preserve, protect and manage the fishery resources and to facilitate Members’ utilization of them; and
WHEREAS, in furtherance of these purposes, COTFMA served as administrator of a parcel of shoreline on the McKay Bay of Lake Huron in Mackinac County in the State of Michigan, used as an access site by tribally-licensed fishermen upon its being taken into trust in 1995 on behalf of COTFMA’s member Tribes; and

WHEREAS, the Chippewa Ottawa Resource Authority (CORA) was established in 2000 by the five plaintiff Tribes in United States v. Michigan as the successors-in-interest to COTFMA, and thereby assumed all the rights and obligations of the predecessor entity; and

WHEREAS, litigation against CORA was commenced in 2010 by Ronald and Beverly Nelson, who acquired the parcel on McKay to the south of the trust parcel, claiming that the property line of record is inaccurate and that the Nelsons own property administered by CORA as an access site for fishermen of its member Tribes; and

WHEREAS, the Nelsons’ efforts to raise claims against the United States’ ownership of the trust parcel have been unsuccessful due to the order dismissing claims against the United States regarding the property in any forum, entered by the United States District Court in 2012, but which did not dismiss CORA as a defendant; and

WHEREAS, CORA’s efforts to obtain dismissal of claims by the Nelsons against it have been unavailing since that time, and the case is scheduled for trial in 2015 in the Mackinac County Circuit Court, creating uncertainty as to the continued use of the property by members of this and other member Tribes and putting the financial resources of CORA intended for the protection and promotion of treaty rights at risk.

NOW THEREFORE IT IS RESOLVED, that the Little River Band of Ottawa Indians hereby approves and supports submission of the attached request for FY 2015 Litigation Support Funds by the Chippewa-Ottawa Resource Authority to the Bureau of Indian Affairs.

IT IS FURTHER RESOLVED, that the Executive Director of the Chippewa-Ottawa Resource Authority is hereby authorized to undertake any and all actions necessary to obtain approval of this request for litigation support funding, and to sign any resulting contract documents for approved funding pursuant to the provisions of P.L. 93-638, as amended.

IT IS FINALLY RESOLVED, that nothing about this resolution or any request for litigation support funding or any participating in litigation by the Chippewa-Ottawa Resource Authority is intended to nor is to be construed as operating to waive or limit the inherent sovereign immunity of the Little River Band of Ottawa Indians.
CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 0 AGAINST, 0 ABSTAINING, and 2 ABSENT, at a Closed Session of the Little River Band of Ottawa Indians Tribal Council held on December 3, 2014, at the Little River Band’s Conference Room in Manistee, Michigan, with a quorum being present for such vote.

Gary DiPiazza, Acting Council Recorder

Sandy Mezeske, Acting Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Chippewa Ottawa Resource Authority