



Little River Band of Ottawa Indians

1762 U.S. 31 South
Manistee, MI 49660
(231) 723-8288

Resolution No. # 01011003

Creating the Construction Management Team for the New Casino

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.)(hereinafter "Little River Act"); 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 had determined that developing and constructing a new casino will benefit the Tribe and result in increased revenue; and

WHEREAS, the Tribe has determined that increased revenue will result in additional funding for government programs protecting and enhancing the health, safety and welfare of the Tribe and its membership; and

WHEREAS, the Tribe has determined that a Construction Management Team is necessary to manage the New Casino construction project to allow for the project to be completed in a timely and financially responsible manner; and

WHEREAS, the Construction Management Team will be responsible for monitor the construction project in accordance with Development and Construction Agreement being negotiated between Manistee Gaming, LLC and the Tribe; and

WHEREAS, the Construction Management Team will have the responsibilities as set forth in the Development and Construction Agreement, and be made of the members identified in this resolution;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby creates the Construction Management Team to be made up of the following representatives as voting members:

Tribal Ogema

Tribal Member Representative: Don Koon, Sr.

Tribal Member Representative: Bill Willis

Manistee Gaming LLC Representative; and

Owners Representative, as an advisory member; and

IT IS FURTHER RESOLVED THAT vacancies on the Construction Management Team shall be

filled by appointment of the Tribal Council without requirement of posting for interested members;
and

IT IS FURTHER RESOLVED THAT the Tribal Council hereby delegates the following duties, responsibilities and authorities to the Construction Management Team (CMT):

A. Meetings of the CMT

1. The CMT shall establish its own procedures for meeting and conducting its activities and shall meet at least one time per week, or otherwise confer, as often as is necessary in order for it to carry out its responsibilities.
2. The schedule of meetings for the CMT shall be coordinated with the Owner's Representative and the Design/Builder.
3. The schedule meetings shall be proposed by the Owner's Representative based upon the design and construction schedule proposed by the Design/Builder and approved by the CMT.

B. Approval of Actions by CMT

1. The CMT shall act only by vote of its members.
2. Any action of the CMT that one of the contract document requires or provides for approval by the CMT shall require the affirmative vote of at least three members of the CMT.

C. Reporting by the CMT

1. The CMT shall report to the Tribal Council on a monthly basis, unless the CMT or Tribal Council determine that more frequent reports are necessary.
2. The CMT's reports shall include the following information.
 - a. Copies of the last Application for Payment from the Design/Builder that was approved by the CMT;
 - b. Minutes of meetings with Owner's Representative and Design/Builder;
 - c. Updates on the Project Schedule prepared by the Owner's Representative; and
 - d. Written progress reports on project work prepared by the Owner's Representative.

D. Tasks and Responsibilities of the CMT; Proposed Project Guidelines

1. *Project Budgeting; Establishment*
 - a. The Design/Builder will present the Construction Budget to the Tribal Council that is the basis for the Guaranteed Maximum Price proposed for the contract.
 - b. The Construction Budget will be broken down into portions or phases such as the RV Park, Casino/Restaurants, Hotel, Pool House/Day Care, and Conference Center.
 - c. The Owner's Representative advises the Tribal Council as to the appropriateness of the Guaranteed Maximum Price contained in the Design/Build Contract. A preliminary report is due on January 9, 2001 and a Final Report is due on or before January 15, 2001.
 - d. The Design/Builder establishes a Schedule of Values including line item references, allocated to the various portions or phases of the work, which in the aggregate equals the Guaranteed Maximum Price, divided so as to facilitate payments to subcontractors.

- e. The Schedule of Values is approved by the CMT after consultation with the Owner's Representative before the First Application for Payment is submitted by the Design/Builder.
- f. The CMT will utilize the Construction Budget and the Schedule of Values to determine the budget and finance authority being delegated to the CMT to approve applications for payment, and approve change orders.

2. *Design Phase; Tasks.*

- a. The Design/Builder prepares Schematic Design Documents consisting of drawings illustrative the scale and relationship of project components and a preliminary estimate of project costs based on proposed areas, size and scope of the Project. These documents shall include the floor plans, elevations and specifications documents prepared by the Design/Builder.
- b. The Owner's Representative will review the Design-Build Contract and related schematic designs and specifications prepared by the Design/Builder, and advise the CMT on any appropriate changes to such designs and specifications. The Preliminary Report is due on January 9, 2001 and a Final Report is due on or before January 15, 2001.
- c. The CMT approves, and forwards for Tribal Council approval, the Schematic Design Documents and Specifications. Both the Schematic Design Documents, which fix the project scope, and the Construction Budget, which fixes the guaranteed maximum price, must be approved before the Design/Build Agreement can be executed.
- d. The Design/Builder prepares for the CMT's approves, and forwards for Tribal Council's approval the design development documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, civil, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.
- e. The Design/Builder should prepare a project schedule detailing when various design development documents will be prepared to schedule appropriate review by CMT with the Owner's Representative and the Tribal Council.
- f. The CMT will schedule meetings obtain approvals of key Design Development Documents identified in subsection (e) above.
- g. The CMT should provide copies of documents, together with reports from its review/approval meetings with the Owner's Representative to the Tribal Council. The CMT shall provide a list of design development documents, in consultation with the Owner's Representative, which should be approved by the Tribal Council.
- h. Based upon the approved design Development Documents the Design/Builder shall prepare for approval by CMT in consultation with the Owner's Representative, construction documents consisting of drawings and specifications setting forth in detail the requirements for construction of the Project. The Owner's Representative shall notify the Design/Builder and the CMT as soon as reasonably possible if there are concerns or changes with regard to the Construction Documents.
- i. The CMT shall make all decisions related to the interior design, including floor and wall coverings, window treatments, colors, furniture, and other related interior design aspects) and choice of materials for constrictions and interior design materials. The CMT decisions under this section shall be within the allowances established for those items in the

Design/Build Agreement Specifications. The CMT shall also report, and if necessary, get input from the Tribal Council to assure that finishes are consistent with the level of quality and character for the project that is contemplated.

3. *Sub-Contracting by Design/Builder.*

- a. The Design/Builder shall furnish in writing the names of the persons or entities the Design/Builder will engage as contractors for the Project.
- b. The Owner's Representative shall review the bidding schedule and bid documents prepared by the Design/Builder and can review bids received by the Design/Builder, prepare bid analysis and make recommendations to the CMT regarding the award or rejection of bid.
- c. The Owner's Representative may review proposed subcontracts to assure that work and materials proposed are acceptable.

4. *Change Orders.*

- a. The Design/Builder will submit requests to substitute materials, equipment or products for those specified in contract documents to the Owner's Representative. The Owner's Representative will advise the CMT as to whether the CMT should approve any or all substitutions.
- b. The Design/Builder submits requests for Change Orders from the Tribe to the CMT. Change Orders must describe:
 1. work covered by the change order, whether it is a change in project scope, approved design documents and/or specifications;
 2. a detailed cost breakdown for the change, whether a change in the Guaranteed Maximum Prices is requested; and
 3. any adjustment of the Contract Time is requested.
- c. The Owner's Representative should review all requests for Change Orders requested by the Design/Builder and submit recommendations to the CMT. The Owner's Representative will assist the CMT in negotiating the terms of the change order, including:
 1. assessing whether the change order is a change of the Contract Documents, or description work;
 2. assessing whether the change requires adjustment of the Guaranteed Maximum Price;
 3. determining how to effectuate change without adjusting the Guaranteed Maximum Price; and
 4. identifying any adjustment of Contract Time or Milestone Dates.
- d. The Owner's Representative assist the CMT in submitting, for Tribal Council approval, any Change Order request that:
 1. would require the Design/Builder to use any portion of the Contingency Allowance provided for in the contract;
 2. would cause the Construction Budget to exceed the Guaranteed Maximum Price;or
 3. would, either individually or in the aggregate with all other Change Orders, exceed 1 1/2 percent of the Construction Budget.
- e. Any Change Order that would involve reallocating more than 10% from the Construction

Budget approved above; or from any line item of the Schedule of Values approved by the CMT for the Project will require Tribal Council approval before the Change Order can be signed on behalf of the Tribe.

f. The CMT, in consultation with the Owner's Representative, to may approve other Change Orders, which might change the approved Design/Construction Documents, so long as the change does not require dipping into the Contingency Line, alter the Approved Construction Budget or increase the Guaranteed Maximum Price. The CMT will be required to use verify decision determining if requested changes to design/construction documents, or substitutions of materials should be approved by the Tribal Council.

5. *Budget Management.*

a. *Progress Payments Under Design/Build Agreement.*

1. The Owner's Representative will assist the CMT and Project Accountant in monitoring the Cost of Work in comparison with the Guaranteed Maximum Price.
2. The Owner's Representative will work with the Project Accountant to develop monthly cash flow reports and forecasts for the Project and advise the CMT, who will advise the Tribal Council, and Design/Builder of variances between actual and budgeted costs and the Guaranteed Maximum Price.
3. The Owner's Representative will develop and implement procedures for the review and processing of Applications for Progress Payments and Final Payment.
4. The owner's Representative will review Applications for Payment to compare work completed to the Schedule of Values and recommend payment be approved and made by the CMT.
5. The CMT approves applications for payment and forwards information to the Project Accountant. Review by the Owner's Representative and approval by the CMT must be completed within 20 days after receipt.

b. *Purchase of Materials.*

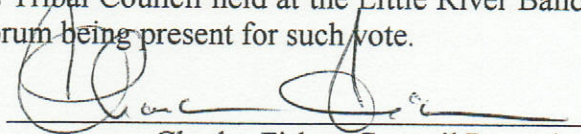
1. The Design/Builder prepares, as part of the Project Schedule, a schedule of material or equipment that have long lead times.
2. The Design/Builder also prepares a schedule of proposed purchases of other materials and equipment for purposes of implementing the Owner (Tribe) Purchase procedures to allow the Tribe to act as its own purchasing agent to realize sales tax savings. The Design/Builder should coordinate with the Owner's Representative to identify other materials and equipment that can be purchased directly by the Tribe under the Design/Build Agreement.
4. Materials and/or equipment vendors will submit purchase orders to the Tribe, and the purchase orders will be executed by CMT members on behalf of the Tribe.

IT IS FINALLY RESOLVED THAT, until such time as the resolution is adopted, the Tribal Council shall act in place of the Construction Management Team and shall promptly transfer information and responsibilities to the Construction Management Team upon adoption of this resolution.

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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, 1 ABSENT, and 0 ABSTAINING, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held at the Little River Band Community Center on January 10, 2001, with a quorum being present for such vote.


Charles Fisher, Council Recorder

Attest: _____
Joan Spalding, Council Speaker