



**Little River Band of Ottawa Indians**

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

**Resolution #02-0206-03**

**Approving the Contract with Advantage Electric to Provide Primary Electrical Service to the Little River Band of Ottawa Indians' SBR Plant at a cost not to exceed \$65,600.00 and authorizing the Tribal Ogema or, in his absence, the Tribal Council Speaker, to sign the related contract for the work as described in this Resolution.**

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.); 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 Tribal Council is authorized under article IV, Section 7 to "exercise the inherent powers of the Little River Band by establishing laws and through the enactment of ordinances and adoptions of resolutions not inconsistent with this Constitution...to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members"; and

WHEREAS, the tribe has determined that the development of permanent casino/resort facilities is in the best, long-term interests of the Tribe and its members; and

WHEREAS, the Tribe has secured tax exempt financing for the overall community water and wastewater project elements which are both critical components of the overall construction effort; and

WHEREAS, the Tribe has an existing relationship with Advantage Electric as the result of the fact that Advantage is a subcontractor for the Phase II construction of the SBR (Wastewater Treatment Facility) as well as subcontracting for both the Pump House and Hydropneumatic Tank Storage Building as well as being involved with meeting the electrical requirements within the casino itself; and

WHEREAS, the Tribe has, pursuant to Resolution No. #01-0110-03, created a Construction Management Team to manage the construction of the Permanent Casino-Resort project as well as the Community Water and Waste Water Treatment facilities; and

WHEREAS, the Construction Management Team and the Owner's Representative are recommending the recognition of Advantage Electric as a sole source provider (for the sake of consistency) and the approval of a contract with Advantage Electric to bring an electrical main to the SBR plant as described in the associated bid (attached) at a cost not to exceed \$65,600.00; and

WHEREAS, pursuant to Article IV, Section 7 (i)(2) of the Tribal Constitution, the Tribal Council is authorized to manage funds within the exclusive control of the Band, pursuant to appropriations or budgets authorized by the Tribal Council; and

WHEREAS, the Construction Management Team and the Owner's Representative are recommending approval of the contract with Advantage Electric that will assure the completion of the work (and facilitate the Phase II construction of the SBR) as well as have discussed with the Casino's General Manager the need to interrupt the delivery of electrical service to the property and jointly made appropriate plans to assure that the power backup system will be adequate to support the continued operation of the casino; and


NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby approves the contract with Advantage Electric to perform the work related to providing the Little River Band SBR plant with a source of electrical power as described on their bid dated 1/29/02 at a cost not to exceed \$65,600.00.

IT IS FURTHER RESOLVED THAT the Tribal Council hereby authorizes the Tribal Ogema or, in his absence, the Tribal Council Speaker, to sign the related contract for the work as described in this Resolution.

IT IS FURTHER RESOLVED THAT the Tribal Council authorizes the related project budget increase to the tax exempt financing side of the project in an amount not to exceed \$64,500.00 for the work necessary to provide electrical service to the SBR.

#### **CERTIFICATE OF ADOPTION**

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 1 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 February 6, 2002, with a quorum being present for such vote.

  
\_\_\_\_\_  
Council Recorder

  
\_\_\_\_\_  
Attest: Council Speaker

CC: Dale Magoon, Accounting  
CMT  
Owner's Representative



1997 Edition -Electronic Format

AIA Document A101-1997

# Standard Form of Agreement Between Owner and Contractor

## where the basis of payment is a STIPULATED SUM

**AGREEMENT** made as of the 6th day of February in the year of 2002  
*(In words, indicate day, month and year)*

**BETWEEN** the Owner:

*(Name, address and other information)*

Little River Band of Ottawa Indians  
375 River Street  
Manistee, MI 49660

and the Contractor:

*(Name, address and other information)*

Advantage Electric  
2238 Traversefield Dr.  
Traverse City, MI 4949686

The Project is:

*(Name and location)*

Electrical Service to Waste Water Treatment Plant I  
Manistee, MI 49660

The Architect is:

*(Name, address and other information)*

None

The Owner and Contractor agree as follows.

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

**3.1** The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. AUTHENTICATION OF THIS ELECTRONICALLY DRAFTED AIA DOCUMENT MAY BE MADE BY USING AIA DOCUMENT D401.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.



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 1735 New York Avenue, N.W.  
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March 1, 2002

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:  
None

3.2 The Contract Time shall be measured from the date of commencement.

3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than 30 days from the date of commencement, or as follows:

*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

April 1, 2002

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

As per the Supplemental Conditions

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## ARTICLE 4 CONTRACT SUM

4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Sixty Five Thousand Six Hundred Dollars Dollars (\$ 65,500.00 ), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires)*

None

4.3 Unit prices, if any, are as follows:

None

## ARTICLE 5 PAYMENTS

### 5.1 PROGRESS PAYMENTS

5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:  
30th

5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment to the Contractor not later than the 25th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 60 days after the Architect receives the Application for Payment.

5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its



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accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

**5.1.5** Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

**5.1.6** Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten percent ( 10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Subparagraph 7.3.8 of AIA Document A201-1997.
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Ten percent ( 10 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of AIA Document A201-1997.

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**5.1.7** The progress payment amount determined in accordance with Subparagraph 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
(Subparagraph 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of AIA Document A201-1997.

**5.1.8** Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Clauses 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

None

**5.1.9** Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## **5.2 FINAL PAYMENT**

**5.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Subparagraph 12.2.2 of AIA Document



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A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

## ARTICLE 6 TERMINATION OR SUSPENSION

6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

## ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

8%

*Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

7.3 The Owner's representative is:

(Name, address and other information)

**Bayshores Construction & Land Development Inc.**  
2700 Orchid Hwy.  
Manistee, MI 49660

7.4 The Contractor's representative is:

(Name, address and other information)

**Dougals Rexroat**  
2238 Traversefield Dr  
Traverse City, MI 49686

7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

7.6 Other provisions:

This Contract shall be construed according to the laws of the Little River Band of Ottawa Indians. In the absence of controlling laws of the Little River Band of Ottawa Indians, this Contract shall be construed according to the laws of the State of Michigan. The parties further agree that the Commercial Division of the Little River Band Tribal Court shall have original and exclusive jurisdiction over any dispute which may arise under this Agreement. The parties further agree that the situs of this transaction is on Little River Band Tribal Lands ("Manistee Reservation").

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**ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS**

**8.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

**8.1.1** The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

**8.1.2** The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

**8.1.3** The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated December, 2001, and are as follows:

Document	Title	Pages
<u>Supplemental Conditions to the contract, A201 GC.</u>		<u>1-21</u>

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**8.1.4** The Specifications are those contained in the Project Manual dated as in Subparagraph 8.1.3, and are as follows:  
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
<u>By Advantage</u>		

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**8.1.5** The Drawings are as follows, and are dated unless a different date is shown below:  
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
<u>By Advantage</u>		

This document has been approved and endorsed by The Associated General Contractors of America.

**8.1.6** The Addenda, if any, are as follows:

Number	Date	Pages
<u>None</u>		

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

**8.1.7** Other documents, if any, forming part of the Contract Documents are as follows:  
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Attached Bid (exhibit "A"), attached Supplemental Conditions (exhibit "B")

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.



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**OWNER** (Signature)

**CONTRACTOR** (Signature)

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Robert Guenthardt, Ogema or Steve  
Parsons  
(Printed name and title)

Robert Guenthardt, Ogema  
(Printed name and title)

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