



Little River Band of Ottawa Indians

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

Resolution No. #02-0717-07

Authorizing the Tribal Ogema, or in his absence, the Tribal Council Speaker to Execute a Professional Services Agreement with Domres Construction Co. for Demolition and Disposal Services Related to Demolition of Buildings Located on the Band's Property in the Band's 1855 Reservation in an Amount Not to Exceed \$8,480.00 and Consenting to Have Disputes Resolved in the Commercial Division of the Tribal Court

WHEREAS, the Band'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 Band adopted a 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, pursuant to Article IV, Section 5 (a)(4) and Article V, Section 5(a)(3) and (8) of the Band's Constitution, the Tribal Ogema, or in his/her absence, the Tribal Council Speaker, is authorized to represent the Band in its relations with other organizations and manage the economic affairs/enterprises of the Band, in a manner consistent with the Band's Constitution and resolutions of the Tribal Council; and

WHEREAS, the Tribal Council, pursuant to Article IV, Section 7 (b) of the Constitution, has the power to authorize and ratify agreements and contracts negotiated by the Tribal Ogema; and

WHEREAS, the Band's Planner has recommend retention of a contractor to complete the demolition of old farm buildings located on the Band's "Custer Property" in accordance with the Domres Construction Co.'s June 26, 2002 Proposal; and

WHEREAS, the Tribal Planner, in consultation with the Legal Department, has presented a Professional Services Agreement, which incorporates the Scope of Work described in Domres' June 2002 Proposal and which would further provide that any dispute arising under the Agreement would be resolved in the Commercial Division of the Tribal Courts; and

WHEREAS, Article IX, Section 1 of the Constitution preserves the Tribe's immunity from suit except as authorized by resolution or in furtherance of tribal business enterprises; and


WHEREAS, the Tribal Council has determined that execution of a contract with Domres Construction Co. will advance important Tribal purposes.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes the Tribal Ogema, or in his absence, the Tribal Council Speaker, to execute a Professional Services Agreement with Domres Construction Co. for services related to the demolition of the old farm buildings on the Band's property near Custer, Michigan, disposal of wood and metal removed from those buildings, burying foundations and site reclamation for a cost not to exceed \$8,480.00.

IT IS FINALLY RESOLVED THAT the Tribal Council consents to the jurisdiction of the Commercial Division of the Tribal Court to resolve disputes with Domres Construction Co., arising under the Agreement, as provided in Professional Services Agreement.

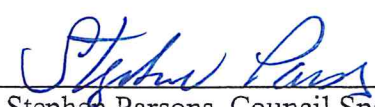
CERTIFICATE OF ADOPTION

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 July 17, 2002, in Manistee, Michigan. A quorum of the Tribal Council being present for such vote.



Janine M. Sam, Council Recorder

Attest:



Stephen Parsons, Council Speaker

Distribution: Council Record
Tribal Ogema
Domres Construction Co.
Legal Department

PROFESSIONAL SERVICES CONTRACT

This contract is a professional services agreement (Agreement) between the Little River Band of Ottawa Indians, a federally recognized Indian tribal government, 375 River Street, Manistee, Michigan 49660 (the "Band") and Domres Construction Co. ("Contractor"), 6520 Chippewa Hwy., Manistee, Michigan 49660.

Description of Services: On or beginning before July 19, 2002, the Contractor shall perform the following professional services (Services) for the benefit of the Band:

Complete the demolition of the old farm buildings on the Band's Reservation property east of Custer, Michigan in accordance with Contractor's Proposal dated 06/27/02.

It is understood that Contractor will burn the wood from the demolished buildings on site. The Band's Tribal Ogema will authorize the issuance of a Burn Permit for the Services and a copy will be provided to the Contractor. Following completion of the burning of wood from the buildings, Contractor shall be responsible for ensuring that all fires are completely out. Contractor shall notify the Band's Department of Public Safety who will verify that all fires are out.

Contractor will be responsible for disposing of tin & metal removed from the site at a licensed landfill or other appropriate facility in accordance with all applicable laws. Contractor shall be responsible for paying any "tipping fee" or other charges associated with disposal of tin and metal.

Payment for Services. Subject to any changes in the scope of work described in attachments, in exchange for the Services, the Band shall pay to Contractor the total amount of \$8,480.00. Contractor shall bill the Band following completion of the Services and the Band will pay invoices within fifteen (15) days of receipt of invoices.

Relationship of Parties: The parties to this Agreement understand that Contractor is an independent contractor with respect to the Band, and not an employee, and that each party shall be solely responsible for the conduct of their respective employees and agents in connection with the performance of their obligations hereunder. As such, the Band shall not provide to Contractor or Contractor's employees, if any, any fringe benefits such as health or accident insurance, paid vacation or other time off, or any other employee benefit. Contractor acknowledges Contractor's obligation to obtain appropriate insurance coverage for the benefit of Contractor and Contractor's employees, if any. Contractor shall provide the Band with a certificate of insurance evidencing adequate insurance covering the Contractor's operations, including general liability.

Indemnification: Contractor voluntarily agrees to entirely indemnify the Band and hold the Band harmless from any and all claims, losses, expenses, fees, including attorney fees, costs, and judgments which may be asserted against the Band resulting from

Contractors or Contractors employees' acts or omissions in connection with this Agreement. Contractor voluntarily waives any and all rights to recover from the Band for any injury which Contractor or Contractors employees, if any, may sustain while performing services under this Agreement and which are the result of their acts or negligence. Contractor shall have no responsibility for claims or losses resulting from the negligence or acts of the Band's representatives or other sub-contractors not under the control or supervision of the Contractor.

Confidentiality: Contractor shall not at any time, or in any manner, either directly or indirectly, use information that is proprietary to the Band or the Little River Band of Ottawa Indians for the personal benefit of Contractor, nor shall Contractor divulge, disclose, or communicate in any manner any such information. Contractor shall protect such information and treat it as strictly confidential. This contract provision shall continue in effect after termination of this Agreement. Upon contract termination, Contractor shall return to the Band all records, notes, documentation and other items that were used, created, or controlled by Contractor during the term of this Agreement.

Governing Law: This Agreement shall be construed according to the laws of the Band. In the absence of controlling laws of the Band, this Agreement shall be construed according to the laws of the State of Michigan. The parties agree that the situs of this transaction is on Little River Band of Ottawa Indians Tribal lands.

Jurisdiction for Resolution of Disputes: The parties agree that the Commercial Division of the Band's Tribal Courts shall have original and exclusive jurisdiction over any dispute that may arise under this Agreement.

Severability: If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If the Court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

Entire Agreement: This writing, including any Attachments specifically referenced in this writing, contains the entire Agreement of the Contractor and the Band, and there are no promises or conditions in any other agreement, whether written or oral which pertain to this Agreement. This Agreement may not be modified in any way except with a writing signed by both parties.

Accounting: The Band reserves the right to access and audit the Contractor's accounting records relative to the work under and in compliance with this Agreement.

Additional Fees: There will be no additional services or fees under this Agreement unless authorized in writing by the Band's Tribal Council prior to the commencement of such additional services.

In witness hereto, the parties warrant and represent that they have the right, power, and

authority to execute this Agreement on behalf of their respective organizations, and so signify by affixing their signatures below.

Little River Band of Ottawa Indians

By: 

Its: Tribal Ogemia

Date: 7/19/02

Contractor

By: _____

Its: _____

Date: _____