



**Little River Band of Ottawa Indians**

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

**Resolution # 02-0911-09**

*Resolution Approving the "July Draw", Pay Application #23, by the Cunningham-Limp Company in Regards to the Little River Casino Expansion Project*

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(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council has approved a budget and the Little River Casino Resort Expansion Project through Resolution # 01-0303-01 and 01-0303-02; and

WHEREAS, the Tribal Council, recognizing the complexity of this project and the need to designate clear lines of authority and communications, created the Construction Management Team (CMT) through Resolution #01-0110-03; and

WHEREAS, the CMT is delegated responsibility to approve expenditures by a vote of three members, Resolve #3, section B(1); and

WHEREAS, the CMT has been presented the request for the "July Draw", Pay Application #23, in the amount of \$656,823.00, on July 25, 2002; and

WHEREAS, the CMT has reviewed the July draw, and because of questions that have not been clearly articulated by the CMT arising out of prior draws, has not been able to approve the July Draw; and

WHEREAS, the July Draw meets the contract and loan documentation requirements in sufficient forms so as to be able to authorize payment; and

WHEREAS, Cunningham-Limp has expressed concern about its ability to continue the project if receipt of the July Draw is not received in a timely manner resulting in an inability to make sub-contractor payments through a September 11, 2002 memo; and

WHEREAS, one of the CMT members has approved the July Draw, one of the CMT members has reluctantly agreed to approve the July Draw expressing continued unarticulated specific concerns, and the final CMT member has refused to approve the July Draw without expressing specific concerns; and

WHEREAS, Attorney Brooks has identified that if a dispute arises in regards to the prior expenses of the project is identified as a result of the financial review that sufficient funds will remain for the final payment to cover these potential challenged expenses; and

WHEREAS, Councilor Parsons, as part of the walk through team, and as Speaker of the Tribal Council, has been made aware of these concerns brought forward by Cunningham-Limp as being present at various CMT activities, has placed this matter before the Tribal Council for action; and

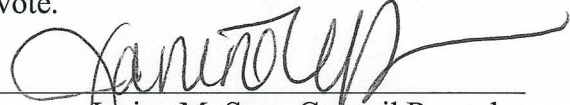
WHEREAS, Resolution # 01-0110-03, Resolve #3, section D(5)(a)(5) requires the CMT to take action regarding a draw or pay application within 20 days of receipt, unless portions or parts of the draw or pay application are clearly identified as being challenged and presented to Cunningham-Limp for clarification of amendment as set forth in the contract and/or loan documents; and

NOW THEREFORE BE IT RESOLVED, that the Tribal Council of the Little River Band of Ottawa Indians hereby approves the July Draw request, Pay Application #23, in the amount of \$656,823.00, recognizing the deadlock present in the CMT, the potential jeopardy to the continuation of the project in this final phase, and the ability to recover expenses paid under this draw that may be challenged as a result of the financial review currently being conducted.



**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, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on September 12, 2002, at the Little River Band's Downtown Offices in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records  
Tribal Ogema  
Tribal Court  
Legal Department  
CMT



**CERTIFICATION OF EXECUTION**

At a Closed Session of the Little River Band of Ottawa Indians Tribal Council held at the Downtown Offices on September 12, 2002, with a quorum being present for such vote, the Tribal Council adopted Resolution # 02-0911-09.

By my signature, I certify that an original of said Resolution was delivered to the Tribal Ogema for Execution in accordance with Article V, Section 5, (Sub. 2 of the Little River Band of Ottawa Indians Tribal Constitution.

Date delivered to Ogema: 9-13-02 Time: 4:08pm

Signature of Recorder: [Signature]

Acknowledgement of Receipt by Tribal Ogema: \_\_\_\_\_

Manner of Execution determined by Tribal Ogema:

☐ Copy of Resolution forwarded to Personnel/Department, with instructions for Execution (written instructions attached):

\_\_\_\_\_  
Name Title

☐ Creation of New Regulation or Executive Order Regulation/Executive Order Number: \_\_\_\_\_

☐ Expected date of completion: \_\_\_\_\_

☐ Other: \_\_\_\_\_

☐ Ogema requires additional information from the Tribal Council in order to complete Execution as follows:

Returned to Tribal Council for further action on: \_\_\_\_\_

Date: \_\_\_\_\_ Signature of Ogema \_\_\_\_\_