

Little River Band of Ottawa Indians

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

Resolution # 02-1030-15

Approving the Extension of the Second Amendment of Tribe's Owner's Representative Contract with Bay Shores until project completion, including the project-related financial review and/or audit, i.e., through November 30, 2002, under the same terms/conditions in the previously approved contract amendment

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 the permanent casino/resort facilities is in the best, long-term interests of the Tribe and its members; and

WHEREAS, the Tribe has, pursuant to Resolution No. #01-0303-02, authorized the execution of a Design/Build Agreement, dated March 1, 2001, with Cunningham-Limp Company for the design and construction of the Tribe's permanent Casino-Resort; 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 under the above Agreement; and

WHEREAS, the Tribe entered into an Agreement dated January 10, 2001 with Bay Shores for Owner's Representative Services related to the design, construction and equipping of a permanent casino, hotel, conference center, RV Park and related facilities (including the community water and wastewater treatment systems); and

WHEREAS, the Tribe authorized a Second Amendment to the Contract with Bay Shores for Owner's Representative Services that eliminated the regular monthly charges and provided for continuing services (upon the request of the CMT) of a more limited nature (after August 31, 2002 to October 31, 2002); and

WHEREAS, the Bay Shores is willing to continue Owner's Representative Services beyond October 31, 2002 through the actual completion of the project (now anticipated to be on or about December 31, 2002) as indicated in their attached proposal letter dated October 21, 2002; and

WHEREAS, the final project closeout has been delayed as the result of the following: 1) preliminary financial review, 2) outstanding punch list and warranty matters, 3) possible code issues involving the casino-resort, and 4) SBR-related work yet to be completed; and

WHEREAS, the CMT has reviewed the request for this contract extension (until the end of the year) and recommends approval (under the same terms/conditions as contained in the second amended contract), a recommendation that is based on a full view of what remains to be completed (including a focused financial review) as well as their direct experience in working with the Owner's Representative through the period of agreement contained in the second amended contract; and

WHEREAS, the CMT has also estimated the expenses involved with the proposed extension of the Bay Shores second amended contract and projects that the related costs would not exceed \$12,232.00 to provide these services through the end of the year (December 31, 2002), the anticipated final closeout of the project; and

WHEREAS, there is, on the part of Cunningham-Limp, the Design-Builder, continued pressure for payment for their latest draw and (presumably) final payment (not yet received) and a concomitant need on the part of the Tribe to resolve project closeout matters (financial and otherwise) in both an effective and timely manner; and

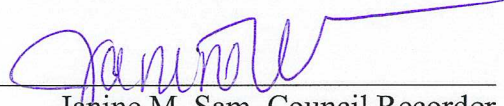
WHEREAS, the extension of the Bay Shores second amended contract would help facilitate and provide additional support for those tasks necessary for final payment (including the related financial closeout) and further assures that these services are provided in a cost-effective manner consistent with project objectives.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes the Tribal Ogema, or in the absence of, the Tribal Council Speaker, to execute an extension of the Second Amendment to the Agreement with Bay Shores Construction and Land Development Company in the form presented in this Resolution.

IT IS FINALLY RESOLVED THAT the Tribal Council authorizes the use of the Contingency Allowance in the Capital Budget to fund the cost of such incremental work in an amount not to exceed \$12,232.00.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 5 FOR, 2 AGAINST, 0 ABSTAINING, and 2 ABSENT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on October 30, 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