

Little River Band of Ottawa Indians

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

Resolution # 03-0416-97

Authorizing the Construction Management Team to Execute a Change Order that increases the contract amount with Davis Construction Company by an amount not to exceed \$236,549 to cover the costs of fabrication and installation of an additional 160,000 gallon sludge storage tank for the wastewater treatment plant

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; 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 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 had previously entered into an agreement with Davis Construction Company for Phase II elements of the SBR project, a critical element of the community water and wastewater system; 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 (including the community water and wastewater treatment systems) under the above Agreement; and

WHEREAS, the CMT has worked with the SBR Director and discussed the related issues with Davis Construction and determined that modifications to the sludge storage needs to be undertaken in order to help assure that the plant is better to manage its current and future waste management needs and further determined that the costs related to the recommended modifications will not exceed a total cost of \$236,549; and

WHEREAS, Section D.4d of Resolution No. 01-0110-03 requires the Construction Management Team to present Change Orders to the Agreement, which either: (a) increase the Guaranteed Maximum Price for the project prescribed in the Agreement; or 9b) would require use of any portion of the Contingency Allowance in the capital budget for the project; 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 has reviewed and recommends the approval of the related Change Order to Davis Construction Company in an amount to exceed \$236,549 with the understanding that it is the intent of the CMT to address the costs related to this work within the tax-exempt financing agreement that the Tribe has entered into.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby approves by Resolution the Change Order associated with Davis Construction Company's work as described for additional services not covered in the original scope of work in an amount not to exceed \$236,549.

IT IS FURTHER RESOLVED THAT the Tribal Council hereby authorizes the Tribal Ogema or, in his absence, the Tribal Council Speaker, to execute the above mentioned Change Order.

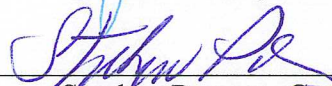
IT IS FURTHER RESOLVED THAT the Tribal Council authorizes an increase in the budget line for Davis Construction Company in the amount of in an amount not to exceed \$236,549 and authorizes said payment for the costs of this work through funds from the tax-exempt loan as recommended by the project accountant.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 9 FOR, 0 AGAINST, 0 ABSTAINING, and 0 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on April 16, 2003, at the Little River Band's Community Center 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