



Little River Band of Ottawa Indians

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

Resolution # 04-0929-389

*Ratification of Contract with Chicago Bridget and Iron to Construct Water Tower and
Authorizing a Limited Waiver of Sovereign Immunity as Identified in the Contract*

WHEREAS, the status of the *Gaá Čhing 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 Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; 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 is authorized under Article IV, Section 7(a)(4) and (c) to manage the properties of the Tribe; and

WHEREAS, the Housing Commission had identified a housing project and received dedication of the property for a housing subdivision titled Aki Maadiziwin by the Tribal Council; and

WHEREAS, the Little River Casino Resort has identified a master plan and received dedication of that master plan for the Resort's property by the Tribal Council; and

WHEREAS, the Tribal Council has dedicated infrastructure in water and sewer utilities to both projects by resolution; and

WHEREAS, the Housing Commission, Housing Department and the Little River Casino Resort have identified additional long and short term needs in water utility services; and

WHEREAS, the Housing Department has identified, and been working closely with, an engineer from the Indian Health Services, from which the Tribe has received a federal grant, for the purposes of developing a water tower system that would increase water pressure and utility services for short and long term needs; and

WHEREAS, a Request for Bids was issued and responded to in a timely manner by several companies interested in fabricating a water tower as identified and approved by the project team, and that the project team, upon opening and reviewing all bids has determined that the bid should be awarded to Chicago Bridge and Iron; and

WHEREAS, the Indian Health Service contract award identifies that conflicts arising out of this contract shall be governed by the laws of the State of Michigan, and Chicago Bridge and Iron has agreed that this does not result in a waiver of sovereign immunity of the Tribe; and

WHEREAS, the contract identifies that the Indian Health Services Engineer shall be the arbiter of any disputes subject to appeal to the Tribal Court of the Little River Band of Ottawa Indians; and

WHEREAS, the contract identifies that damages arising out an arbitration award issued by the Indian Health Services Engineer are limited to block grant funds from the Department of Housing and Urban Development, special revenue funds of the Tribe regarding allowable expenses under a grant, and general revenue funds of the Tribe for the purpose of funding this contract; and

WHEREAS, the Tribal Council has determined that ratification of the contract and authorizing a limited waiver of sovereign immunity is an important governmental action in order to provide for the health and safety of the residents in the Aki Maadiziwin subdivision, and as may be supported for the customers and employees at the Little River Casino Resort;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby ratifies the contract with Chicago Bridge and Iron to construct a water tower to provide water pressure support for the Tribal utilities in the amount of \$498,000 to be funded through grant funds awarded by the Indian Health Services.

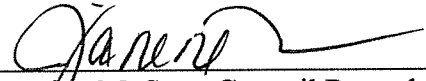
IT IS FURTHER RESOLVED THAT the Tribal Council authorizes a limited waiver of sovereign immunity for the purposes of enforcement or appeal of an arbitration award arising

out of Supplementary Condition 16 of the contract, and limited to the funds identified below as current block grant funds, and special revenue funds.

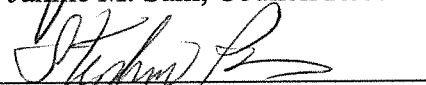
IT IS FINALLY RESOLVED THAT the Tribal Council identifies that no general revenue funds have been, or will be, appropriated for purposes of support of the contract or project as the project is fully funded through block grant revenue.

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 Closed Session of the Little River Band of Ottawa Indians Tribal Council held on September 29, 2004, at the Little River Band's Conference Room 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