

Little River Band of Ottawa Indians

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

Resolution # 05-0601-231

Authorizing Execution of a Contract to Retain Eugene Zeller as Tribal Prosecutor for a Term of Four (4) Years and Consenting to the Jurisdiction of the Tribal Court in Accordance with Section 5.2 of that Contract

WHEREAS, the status of the *Gaá Čhíng Ziibi Dádwaá Aníshinábek* (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 Tribe, Tribal members and other persons within the jurisdiction of the Tribe; and

WHEREAS, the Tribal Council, pursuant to Article IV, Section 7 (e) of the Constitution, has the power to engage legal counsel; and

WHEREAS, the Tribal Ogema has negotiated the contract terms to continue to engage Eugene Zeller as Tribal Prosecutor under substantially the same terms and conditions as Mr. Zeller is currently engaged; and

WHEREAS, the Tribal Ogema has proposed to engage Mr. Zeller as Prosecutor for a four (4) year term commencing June 4, 2005; and

WHEREAS, the Tribal Ogema has proposed to engage Mr. Zeller under 'just cause' contract under which Mr. Zeller's employment as Prosecutor could only be terminated for cause as defined in the Contract presented; and

WHEREAS, pursuant to Article XI, Section 1 of the Constitution provides that the Tribal Council shall not waive or limit the right of the Little River Band to be immune from suit, except as authorized by tribal ordinance or resolution; and

WHEREAS, the Contract with Mr. Zeller would provide that any disputes between the Ogema and Mr. Zeller concerning the existence of 'cause' to terminate the Contract would be resolved by the Tribal Court and that provision requires a limited waiver of immunity by the Tribal Council to consent to the jurisdiction of the Tribal Court for purposes of resolving those disputes; and


WHEREAS, the Tribal Council finds that the terms of the Contract presented by the Tribal Ogema to retain Mr. Zeller as Prosecutor are reasonable and that it is in the interest of the Tribe to consent to the jurisdiction of the Tribal Court for dispute resolution in accordance with Section 5.2 of the Contract as proposed.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes the Tribal Ogema to execute the Contract employing Eugene Zeller as Tribal Prosecutor for a term of four (4) years commencing June 4, 2005, including the amendment to Item 5 – Termination, as agreed to by the Ogema and Tribal Council.

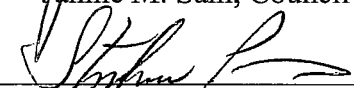
IT IS FURTHER RESOLVED THAT the Tribal Council authorizes and agrees to a limited waiver of sovereign immunity and consents to the jurisdiction of the Tribal Court for the limited purpose of resolving disputes arising under that Contract in accordance with Section 5.2 of that Contract.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 0 AGAINST, 0 ABSTAINING, 1 ABSENT and 1 VACANT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on June 1, 2005, 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: