



## Little River Band of Ottawa Indians

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

### Resolution # 05-0713-318

*Approval to Support Amicus Brief Being Drafted on behalf of the National Intertribal Tax Alliance and Various Tribes in Richards v Prairie Band Potawatomi Nation Pending Before the U.S. Supreme Court*

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 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 delegated under Article IV, Section 7(a)(1) and (e) to promote, protect and provide for public health, peace, morals, education and general welfare of the Tribe and its members, and to engage legal counsel; and

WHEREAS, the Tribal Council has a Constitutional duty to take action as may be necessary to enhance and preserve tribal sovereignty by the affirmative exercise of governmental powers within the Tribe's territory and defending the Tribe from unwarranted intrusions upon the Tribe's territorial and political jurisdiction; and

WHEREAS, the Tribal Council is aware of a case that will be argued before the United States Supreme Court (Richards v. Prairie Band Potawatomi Nation, No. 04-631) which will affect the extent to which Tribal sovereignty limits the application of state taxes that can burden economic development by Tribes and limit Tribe's ability to raise tax revenues to support critical Tribal government programs; and

WHEREAS, the Tribe is currently implementing its economic development plans and tax laws to implement the tax regime resulting from years of negotiation on such issues with other Tribes and the State of Michigan, which could be undermined if core principles of Indian Country tax law are altered by a negative decision in Richards; and

WHEREAS, the action of the United States Supreme Court affects the Little River Band of Ottawa Indians and all other Tribes such that the Tribe should participate in the submission of an amicus brief that presents the Tribe's position regarding core principles that have served to protect Tribal interests in the tax area and promote the resolution of tax disputes with states through negotiated compacts or agreements; and

WHEREAS, the National Intertribal Tax Alliance and similarly situated Tribes which have entered into tax agreements with states has been requested to develop an amicus brief that emphasizes -

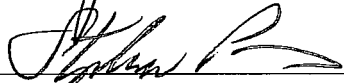
1. the legal and practical reasons for retaining the balancing of interests tests utilized by the Courts to determine if, under a particular set of circumstances, state taxation of transactions in Indian Country is preempted; and
2. how any decision altering the current legal framework for analyzing state-tribal taxing jurisdiction will only undermine efforts of Tribes to reach negotiated resolution of disputes concerning taxation of commerce within Indian Country; and
3. highlighting the nature of successful examples where Tribes and states have reached comprehensive agreements to resolve difficult tax disputes; and.

NOW THEREFORE BE IT RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby supports the submission of an amicus brief on behalf of the National Intertribal Tax Alliance and consents to be listed as a participating Tribal Nation on that amicus brief.

### 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 July 13, 2005, at the Little River Band's Conference Room in Manistee, Michigan, with a quorum being present for such vote.

  
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Janyne M. Sam, Council Recorder

  
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Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records  
Tribal Ogema  
Tribal Court