



Little River Band of Ottawa Indians

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

Resolution # 05-0817-398

Identification of Conditions that Support the Findings of the Tribal Council of Breach of Contract for Failure by Duane Hopkins, Blue Buffalo Consulting, Inc., to Present Accurate Financial Records

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 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 vested with the authority, under Article IV, Section 7(i)(2), to manage the funds of the Tribe and to appropriate these funds for the benefit of the Tribe and its members; and

WHEREAS, the Tribal Council is vested with the authority, under Article IV, Section 7(b), to authorize and ratify contracts; and

WHEREAS, the Tribal Council ratified a contract with Blue Buffalo Consulting by resolution # 03-0219-52 and as amended by resolution # 03-0604-160; and

WHEREAS, the purpose of obtaining consulting services for the Chief Financial Officer position was the result of audit findings, inadequate audit reporting, inadequate accounting procedures and training, inadequate records management for accounting systems, and the discharge from employment the Chief Financial Officer and the Controller; and

WHEREAS, in February 2003, the Tribal Council determined that the contract entered into with Blue Buffalo Consulting was in the best interests of the Tribe in order to provide stability for the accounting department, development of accounting procedures, correcting and implementing accounting systems that would accurately and adequately track the receipts, budgets, expenditures, reporting and other accounting related activities; and

WHEREAS, the Tribal Council also determined that engaging a consultant to fill the needs of the Chief Financial Officer position was a temporary service in order to develop the proper job description, post, hire and train a permanent Chief Financial Officer for the Tribe; and

WHEREAS, the contracted consultant was specifically responsible for generating timely and accurate financial reports; and

WHEREAS, the Tribal Council received, and reviewed with Ogema Sam, a proposal from Blue Buffalo Consulting, Duane Hopkins, regarding the inquiry which specifically identified the ability to provide GASB 34 reporting standards, and financial reporting requirements; and

WHEREAS, the Tribal Council engaged an separate accountant, Dan Taylor, CPA, to recreate the accounting and financial records for the prior years as a result of the complex and time consuming nature of that activity and the inability of the accounting department to manage that responsibility at that time. Dan Taylor spent a significant amount of time collecting, inputting, correcting, and providing guidance regarding the prior fiscal years. Dan Taylor was asked to correct the accounting work for an additional year based on the inability of the consulting chief financial officer to correct the accounting processes during that fiscal year; and

WHEREAS, the Tribal Council finds that financial reports are still incorrect and efforts to present accurate financial reports have not been adequately undertaken, and that reasonable efforts to present timely and accurate financial reports have not been made. The Comptroller General has consistently recommended that the reports be accepted only in part as a result of the consultant's failure to accurately identify errors in the reports; and

WHEREAS, the Ogema, under Article V, Section (5), has the responsibility and obligation to oversee administration and management of the Tribal government and execute agreements and contracts with consultants and vendors; and

WHEREAS, the Ogema has a fiduciary responsibility to manage these contracts to assure that the deliverables are being submitted in a timely manner and meet the requirements and qualifications identified in the contract; and

WHEREAS, the Ogema's constitutional and fiduciary responsibility includes invoking the termination clauses contained within contracts, and in this contract with Blue Buffalo Consulting, Inc., on behalf of the Little River Band when presented with documentation and findings that the contract responsibilities and deliverables are not being fulfilled;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby requests a detailed explanation from the Ogema regarding the Ogema's oversight over the consultant's actions, including task orders and/or other written directives to the consultant, and how the Ogema has justified the continued engagement of the consultant in light of the facts presented in this resolution to be submitted to the Tribal Council during the Council meeting of August 24th.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSTAINING, 0 ABSENT, and 1 VACANT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on August 17, 2005, at the Little River Band's Conference Room in Manistee, Michigan, with a quorum being present for such vote.

Attest:



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Distribution: Council Records
Tribal Ogema
Tribal Court