



Little River Band of Ottawa Indians

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

Resolution # 05-0907-435

Permanent Adoption of Emergency Amendments to Small Business Incentive Program Code, Ordinance # 05-700-05

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa 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 Little River Band and its members; and

WHEREAS, the Tribal Council adopted emergency amendments to the Small Business Incentive Program Code which corrected references to the director of the department; and

WHEREAS, the emergency action was posted for Public Comment in accordance with section 4.03 of the Administrative Procedures Act - Ordinances, between June 16, 2005 and July 21, 2005, during which no comments were received; and

WHEREAS, the Tribal Council held a final work session in accordance with section 4.04 of the Administrative Procedures Act - Ordinances during which the final draft ordinance was recommended for final adoption with minor changes to clarify intent; and

WHEREAS, the Tribal Council, as a result of ongoing concerns regarding Article IX, held a final work session, at which the Task Force was present and offered an additional concern regarding section 7.02(c) limitations for commercial banking loan standards. The Task Force identified that this requirement unduly limited their ability to review applications and meet the needs of Tribal members as originally identified by the Tribal Council; and

WHEREAS, the Tribal Council has identified final clarifying language regarding Article IX, and has addressed the concern raised by the Task Force in regards to section 7.02(c);


NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts, on a final basis, the amendments to the Small Business Incentive Code, Ordinance # 05-700-05, as identified by the attached ordinance.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 0 AGAINST, 1 ABSTAINING, 1 ABSENT, and 1 VACANT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on September 7, 2005, at the Little River Band's Dome 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

SMALL BUSINESS INCENTIVE PROGRAM CODE

Ordinance # 05-700-05

Article I. Purpose; Findings

1.01. *Purpose.* The purpose of this ordinance is to facilitate the development of the economy on the Tribe's Reservation by promoting the establishment, maintenance and expansion of Tribal member-owned businesses on the Reservation and to provide incentives to Tribal members who own existing businesses to relocate those businesses to Tribally-owned lands within the Reservation.

1.02. *Findings.* Small businesses provide an essential component to establishment of a self-sustaining economy on the Little River Band of Ottawa Indians Reservation. Entrepreneurial efforts by Tribal members as well as Tribal member-owned businesses can best take advantage of regulatory and tax incentives available under Tribal law by locating their business facilities on lands that are owned by the Tribe or held in trust for the Tribe by the United States government. The Tribal government has a responsibility to provide incentives to Tribal members to locate businesses on the Reservation by providing financial assistance to businesses in accordance with sound financial principals.

1.03. *Policy.* It shall be the policy of the Tribal Council to facilitate, promote and assist the development and maintenance of small businesses. A Small Business Incentive Program should be designed to assist Tribal members re-locate and expand existing businesses to locations on the Reservation and provide assistance to Tribal members to start and maintain new businesses within the Reservation. Accordingly, it is recognized that the program funds will be used to acquire or improve real property owned by the Tribe for subsequent lease to Tribal member-owned small businesses or to supply start-up or operating capital to Tribal member-owned business ventures to be located on the Reservation.

Article II. Adoption; Amendment; Short Title; Severability

2.01. *Adoption.* This ordinance is adopted by resolution # 05-0323-123.

2.02. *Amendment.* This ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

a. Resolution # 05-0615-246 - emergency amendments to clarify references to director.

b. Resolution # _____ - permanent adoption of emergency amendments.

2.03. *Short Title.* This Title may be cited as the Small Business Incentive Program Code.

2.04. *Severability Clause.* If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Article III. Definitions

3.01. *Definitions.* For purposes of this Ordinance, certain terms are defined in this Article. The word "shall" is always mandatory and not merely advisory.

3.02. *Small Business Incentive Program Director Employee, SBIPD, Director. Officer in charge of Employee assigned responsibility for the Program.*

3.03. *Small Business Incentive Program Task Force.* Entity in charge of reviewing each fund request.

3.04. *Reservation.* Is all those lands encompassed by the exterior boundaries of the Manistee Reserve, reserved in Article Second of the Treaty of March 28, 1836 (7 Stat. 491) and Townships 17 and 19 North, Range 16 West, as reserved in Article First, paragraph Sixth of the Treaty of Detroit of July 31, 1855 (known as Custer and Eden Townships in Mason County, Michigan), and all lands now or in the future held in trust by the United States for the benefit of the Tribe.

3.05. *Applicant* means a duly enrolled member of the Little River Band of Ottawa Indians.

Article IV. Establishment of the Small Business Incentive Program, Limitations of Obligation.

4.01. There is hereby established the Small Business Incentive Program (Program) for the purpose of making capital improvements on Tribal lands, to acquire additional Tribal lands, within the Reservation to permit Tribal members to re-locate existing small businesses to locations within the Reservation, to provide start-up capital to fund the development of new businesses within the Reservation or operating capital to existing business relocating to locations within the Reservation.

4.02. Funds may be appropriated each year by the Tribal Council during its annual budget process for purposes consistent with the provisions of this Title. Funds may also be allocated from program line items earmarked for land acquisition or economic development projects if no specific purposes have been identified or authorized for those funds.

4.03. The functions authorized under this Title do not obligate the Tribe to provide any functions or obligations beyond those established each year upon approval of the Tribal Annual budget.

4.04 *Type of Tribal Contributions from Program.*

a. Subject to the availability of funds for this Program, the Tribe may acquire real property for the purpose of leasing all or a portion of that real property to Tribal member small businesses that wish to move to a location within the Reservation.

b. Subject to the availability of funds for this Program, the Tribe may make improvements to Tribally-owned lands or buildings for the purpose of leasing those improvements to Tribal member-owned small businesses that desire to re-locate to the Reservation.

c. Subject to the availability of suitable land or building space, the Tribe may enter into ground leases of real property, including space in existing Tribal buildings, to Tribal member small businesses intending to move to a location within the Reservation.

d. Subject to the availability of funds for this Program, the Tribe may provide start-up capital, including capital to acquire real property for a new business, to business ventures being developed by Tribal members on the Reservation or operating capital to existing business currently located within the Reservation or relocating to locations within the Reservation.

Article V. Allocation of Program Funds/Lands Designated for Small Business Re-location Assistance.

5.01. The allocation of annual program funds for applications under each category of financial assistance, and the allocation of lots, or building space on, Tribally-owned Reservation lands under this Program shall be made on a first-come-first-serve basis, taking into consideration the criteria described in Article 6.

5.02. The total purchase price for any parcel of real property to serve any one (1) applicant under section 6.01 shall not exceed \$350,000.00.

5.03. The total amount of program assistance for individual applicants requesting funds for the improvements to Tribally-owned lands and facilities under sections 6.01 or 6.03 shall not exceed \$350,000.00.

5.04. The total amount of program assistance available for applicants seeking start-up capital for new business ventures or operating capital to existing business relocating to locations within the Reservation shall not exceed \$ 200,000.

5.05. Applicants may request funding from more than one program category, provided the total amount of funding requested does not exceed the limit established for the category of funding that has the higher ceiling.

5.06. In the event that funding levels are insufficient to serve all qualified applicants, the Small Business Incentive Program Task Force may develop distribution criteria which takes into consideration such things as the amount of available funds, the level of need for each prospective participant, the amount of alternative resources available, and other factors that may impact a prospective participant's level of need.

5.07. In the event that the availability of lots or building space on Tribal lands is insufficient to serve all qualified applicants, the Small Business Incentive Program Task Force may develop distribution criteria which takes into consideration such things as the amount of available lands or building space, the amount of land or building space requested by each prospective participant, the amount of alternative land or building

space available, and other factors that may impact a prospective participant's level of need.

Article VI. Eligibility for Assistance; Application Requirements.

6.01. *Acquisition of New Lands.* Applicants requesting program assistance for the purpose of acquiring real property to which the applicant proposes to re-locate its business operations must meet the following threshold requirements:

a. *Business Requirements.*

1. Demonstrate (through tax returns or other evidence) that the business entity (including any predecessor entities, i.e. sole proprietorship, partnership, etc.) has been engaged in business for not less than 2 years at some other business location(s) and has been owned by a Tribal member for at least the same period of time prior to filling the application for funds;
2. Proof that the business entity is currently wholly-owned by one or more enrolled member(s) of the Little River Band of Ottawa Indians;
3. Proof that the business entity's management and operations are, and will continue to be, substantially controlled by one or more enrolled member(s) of the Tribe;
4. A description of the business' current operations (including location, facilities, number of employees, product(s)/service(s)); and
5. Identification of the parcel of real property meeting the criteria described in subsection (b). Applicants may submit more than 1 parcel for consideration; provided that the selection of the parcel to be pursued will be made by the reviewing official in his/her recommendation.

b. *Property Requirements.* Applicants for program assistance are responsible for providing documents demonstrating that the real property proposed for acquisition with Program funds meets the following requirements:

1. The property is available for purchase. (i.e. copy of the MLS listing information or similar fact sheet);
2. The proposed business activity is compatible with applicable land use plans and authorized by applicable zoning ordinances;
3. Certification, with reference to the Business Plan, that the parcel identified reasonably meets all the business' physical requirements in terms of space, utilities, and access;
4. The total cost of acquiring the parcel, including the cost of necessary due diligence (i.e. Phase I Environmental Assessment; Survey; Building Inspections) does not exceed to the maximum amount of Program assistance authorized. The amount of any equity contribution toward the purchase price, which the applicant is committing, shall be considered in making this determination.
5. Verification that the parcel is located within the exterior boundaries of the Reservation;

c. *Business Plan.* The Business Plan submitted by the applicant should include the following minimum information:

1. Audited financial statements or tax returns (including, if applicable, federal corporate tax returns, state sales/use tax returns, single business tax returns) for the previous 2 years;
2. Profit/Loss statements, Assets/Liabilities and Cash Balance statements for previous 2 years operations and current year-to-date;
3. Financial projections and pro-forma statements for the next 3 years.
4. A description of the business's current and (if applicable) proposed legal and management structure and any changes in the business' operations, management structure and/or marketing strategies proposed.

6.02. *Lease and Improvement of Tribal Lands.* Applicants requesting Program assistance for the purpose of financing the cost of improvements to a designated parcel of land within the Reservation which is owned by the Tribe to which the applicant proposes to re-locate his/its business must meet the following threshold

requirements:

a. *Business Requirements.*

1. Demonstrate (through tax returns or other evidence) that the business entity (including any predecessor entities, i.e. sole proprietorship, partnership, etc.) has been engaged in business for not less than 2 years at some other business location(s) and has been owned by a Tribal member for at least the same period of time prior to filling the application for funds;
2. Proof that the business entity is currently wholly-owned by one or more enrolled member(s) of the Little River Band of Ottawa Indians;
3. Proof that the business entity's management and operations are, and will continue to be, substantially controlled by one or more enrolled member(s) of the Tribe;
4. A description of the business' current operations (including location, facilities, number of employees, product(s)/service(s)); and
5. Identification of the parcel of Tribal land meeting the criteria described in subsection (b). Applicants may identify more than 1 parcel for consideration; provided that the selection of the parcel to be pursued will be made by the reviewing official in his/her recommendation.

b. *Property Requirements.* Applicants for program assistance are responsible for providing documents demonstrating that the Tribal parcel proposed for lease and improvement with Program funds meets the following requirements:

1. The parcel has been designated for use for commercial purposes and is available for lease and that the proposed business activity is compatible with applicable land use plans and zoning ordinances;
2. Certification, with reference to the Business Plan, that the parcel identified reasonably meets all the business' physical requirements in terms of space, utilities, and access;
3. The total cost of improving the parcel, including the cost of necessary due diligence (i.e. Phase I Environmental Assessment; Survey; Building Inspections) does not exceed to the maximum amount of Program assistance authorized. The amount of any equity contribution toward the cost of improving the property, which the applicant is committing, shall be considered in making this determination.

c. *Business Plan.* The Business Plan submitted by the applicant should include the following minimum information:

1. Audited financial statements or tax returns (including, if applicable, federal corporate tax returns, state sales/use tax returns, single business tax returns) for the previous 2 years;
2. Profit/Loss statements, Assets/Liabilities and Cash Balance statements for previous 2 years operations and current year-to-date;
3. Financial projections and pro-forma statements for the next 3 years.
4. A description of the business's current and (if applicable) proposed legal and management structure and any changes in the business' operations, management structure and/or marketing strategies proposed.

6.03. *Lease of Tribal Lands (with Improvements Financed by the Applicant).* Applicants requesting authorization to lease Tribal land, or space within existing Tribal facilities, to which the applicant proposes to relocate its business must meet the following threshold requirements:

a. *Business Requirements.*

1. Demonstrate (through tax returns or other evidence) that the business entity (including any predecessor entities, i.e. sole proprietorship, partnership, etc.) has been engaged in business for not less than 2 years at some other business location(s) and has been owned by a Tribal member for at least the same period of time prior to filling the application for funds;
2. Proof that the business entity is currently wholly-owned by one or more enrolled member(s) of the Little River Band of Ottawa Indians;

3. Proof that the business entity's management and operations are, and will continue to be, substantially controlled by one or more enrolled member(s) of the Tribe;
 4. A description of the business' current operations (including location, facilities, number of employees, product(s)/service(s)); and
 5. Identification of the parcel of Tribal land meeting the criteria described in subsection (b). Applicants may identify more than 1 parcel for consideration; provided that the selection of the parcel to be pursued will be made by the reviewing official in his/her recommendation.
- b. *Property Requirements.* Applicants are responsible for providing documents demonstrating that the Tribal parcel (or building space) proposed for lease and improvement by the applicant meets the following requirements:
1. The parcel (or building space) has been designated for use for commercial purposes and is available for lease and that the proposed business activity is compatible with applicable land use plans and zoning ordinances;
 2. Certification, with reference to the Business Plan, that the parcel identified reasonably meets all the business' physical requirements in terms of space, utilities, and access.
- c. *Business Plan.* The Business Plan submitted by the applicant should include the following minimum information:
1. Audited financial statements or tax returns (including, if applicable, federal corporate tax returns, state sales/use tax returns, single business tax returns) for the previous 2 years;
 2. Profit/Loss statements, Assets/Liabilities and Cash Balance statements for previous 2 years operations and current year-to-date;
 3. Financial projections and pro-forma statements for the next 3 years.
 4. A description of the business's current and (if applicable) proposed legal and management structure, and any changes in the business' operations, management structure and/or marketing strategies proposed.

6.04. *Start-Up Capital for New Businesses or operating capital to existing business relocating to locations within the Reservation.* Applicants requesting Program assistance for the purpose of obtaining contributions of start-up capital for new businesses proposed by Tribal members or operating capital to existing business currently located within the Reservation or relocating to locations within the Reservation must meet the following threshold requirements:

- a. *Business Requirements.*
1. Proof that the business entity is, or will be, wholly-owned by one or more enrolled member(s) of the Little River Band of Ottawa Indians;
 2. Proof that the business entity's management and operations are, and will continue to be, substantially controlled by one or more enrolled member(s) of the Tribe;
 3. A description of the business' proposed operations (including location, facilities, number of employees, product(s)/service(s)); and
 4. Identification of the location proposed for the business, including any parcel(s) of Tribal land meeting the criteria described in subsection (b).
- b. *Property Requirements.* Applicants for program assistance are responsible for providing documents demonstrating that they have identified suitable land/facilities within the Reservation. Applicants seeking to locate their business on Tribally-owned lands must identify a parcel which meets the following requirements:
1. The parcel has been designated for use for commercial purposes, is available for lease and that the proposed business activity(ies) is (are) compatible with applicable land use plans;
 2. Certification, with reference to the Business Plan, that the parcel identified reasonably meets all the business' physical requirements in terms of space, utilities, and access;
 3. The total cost of improving the parcel, including the cost of necessary due diligence (i.e.

Phase I Environmental Assessment; Survey; Building Inspections) does not exceed to the maximum amount of Program assistance authorized. The amount of any equity contribution toward the cost of improving the property, which the applicant is committing, shall be considered in making this determination.

c. *Business Plan.* The Business Plan submitted by the applicant should include the following minimum information:

1. Financial projections and pro-forma statements for the first 3 years of operation.
2. A description of the business's proposed legal and management structure, operating and management structure, and marketing strategies proposed.

6.05. *Eligibility Determinations; Criteria.* In making recommendations for Program assistance, the Small Business Incentive Program Task Force (the "Task Force") must determine that the document submitted by the applicant reasonably demonstrates:

- a. For applications under sections 6.01 and 6.02 that the applicant will have the ability to make lease payments equivalent to those that would be required under a triple-net lease upon a 10 year amortization schedule (at prevailing interest rates for commercial loans available from National City Bank of the Midwest) of the total amount of Program funds allocated to the purchase and/or improvement of the real property.
- b. For applications under section 6.03, that the applicant has the ability to finance the construction of the real property improvements necessary to meet the business' requirements.
- c. That the applicant currently owns or has the ability to finance the acquisition of any fixtures, equipment and materials not covered by Program assistance, which is necessary to meet the business' requirements.
- d. For applications under section 6.01, that acquisition of the parcel is consistent with any applicable land use acquisition priorities established by the Tribe.
- e. The business activities proposed are consistent with any applicable Tribal land use plans.
- f. That the applicant, who is already an established business has, prior to the receipt of program assistance, contributed, equity or capital in its business in amount not less than 20% of the amount of program funding requested. This requirement does not apply for start-up operations.
- g. Confirm that substantially the entire applicant's business operations (manufacturing/assembly; service delivery and/or warehouse/showroom) will be located on, or relocated from their present location to, the proposed location on the Reservation.
- h. Verify that the applicant and/ or business has not have received funds from the Program for a period of 5 years prior.

6.06. *Mix Application.* An applicant who may be relocating or is already located within the boundaries of the Reservation may apply to one or more of the different segments of incentives, purchasing of real estate, leasing of real estate, and/or start-up funds or operating capital. If successful, the funds allocated to his application will be taken from the appropriation made to the each segment he may have applied for, however, the total funding may not exceed the equivalent of \$350,000.

Article VII. Processing Applications.

7.01. Applications for assistance, which include all of the information necessary to meet Program requirements, will be processed in the order they are received by the Small Business Incentive Program Task Force.

7.02. Upon receipt of a request for assistance under this Program, the Task Force will:

- a. Review the application to determine if the applicant included all of the information required. The Task Force may develop application forms to guide applicants, to ensure that all information necessary to meet Program requirements is included with the application and to assure that Program goals are carried out based on sound financial principles.

b. Determine if the application meets all of the requirements for program assistance under the appropriate category of Program assistance described in Article VI. The Task Force should work with the applicant to assist the applicant in obtaining information necessary to complete his/her/its application, including referring the applicant to other resources (i.e. SCORE; Chamber of Commerce, etc.)

c. Upon receipt of a complete application requesting assistance under this program, the Task Force shall make a recommendation as to whether the application should be approved based on the availability of suitable lands and/or building space to meet the needs described in the application and the availability of sufficient funds to carry out the purpose described in the application, and the criteria defined in section 6.05. The Task Force's decision concerning the financial soundness of the business shall be based on the same standards as ~~would be applied by any commercial lending institution~~ as identified by the Task Force. The Task Force's rejection of an application shall specify the reason(s) why the application does not qualify. Applications rejected can be resubmitted for consideration once the objection(s) has (have) been cured.¹

7.04 *Action on Recommendation to Approve Applications.* Upon the Task Force issuing a recommendation to approve the application for assistance under the Program:

a. The Task Force shall forward the application to Tribal Council for appropriation approval.

b. Tribal Council approval shall direct the Ogema to initiate steps to negotiate a purchase agreement, or proceed with preparation of building plans for the improvements and solicitation of bids to construct the improvements specified in the approved application, and to execute a Development Agreement and/or Lease Agreement with the applicant in a form meeting the requirements prescribed in Articles VIII and IX.

c. Funds will be disbursed in the manner recommended by the Task Force and as stated in the Tribal Council resolution that granted the approval.

Article VIII. Development and Lease Agreements.

8.01. *Development Agreement.* As a condition of receiving financial assistance under sections 6.01, 6.02 and 6.03 or 6.04 of this program, applicants shall be required to execute a Development Agreement which contains the following terms:

a. Clearly identifies the parties to the agreement, which must include: the applicant, the legal entity which will own and operate the business, and the capacity of each person/entity to enter into the development agreement;

b. Identifies the property on which the business will be operated;

c. Identifies the business activities the applicant will be permitted to engage in on the property, including any activities or uses specifically prohibited;

d. A commitment by the applicant to carry out the goals set forth in its business plan;

e. Specifies project commencement and completion dates, either for the project as a whole, or for various phases and commits the applicant to maintaining that project schedule. The project schedule should require the applicant to:

1. Re-locate its business operations to the new location within a specified period of time;

2. If applicable, commence construction of improvements within a specified period of time;

3. Commence business operations at its new location on the Reservation within a specified period of time.

f. Provide for periodic review of the applicant's progress in order to determine compliance with the

¹ This amendment clarifies the concerns of the Task Force in regards to standards for loan determinations. The amendment allows the Task Force to identify appropriate standards.

terms of the development agreement.

g. Require the applicant to make periodic progress reports to the Small Business Incentive Program *Director Employee*.

h. Require the applicant to hold the Tribe, its officials, employees and agents, harmless from liability for damages, injury or death which may arise from the direct or indirect operations of the applicant.

i. Require the applicant to re-pay the amount of program assistance if the applicant fails to re-locate substantially all of its business operations to the location identified

j. Requires the applicant to re-pay the amount of program assistance if the applicant sells its business to a non-Tribal member or to a business entity which is not wholly-owned by Tribal members within 5 years after receipt of program funds.

k. Grants to the Tribe, a right of first refusal with respect to any proposed sale by the applicant of its business to a non-member or a business entity which is not wholly-owned by Tribal members.

8.02. *Development Agreement Template*. The Small Business Incentive Program *Director Employee* may develop templates for Development Agreements for each category of assistance to encourage consistency with respect to the content and requirements for Development Agreements.

8.03. *Lease Agreements for Businesses*. As a condition of receiving assistance under sections 6.01 and 6.02 and, where applicable, sections 6.03 and 6.04 of this program, applicants shall be required to execute a Lease Agreement which contains the following terms:

a. A legal description of the area and, if appropriate, delineation of the square feet of building space that is subject to the lease, including a description of the lessee's right to use common areas (i.e. lobby; parking).

b. The term of the lease, including commencement date, termination date, and right to renew the lease.

c. The amount of, or basis for calculating, monthly rental payments should be the same as stated on 6.05(a) and (c) above. The lease shall also provide for a rebate to the lessee of an amount equal to 50% of the lease payments during the first year of the lease if the lessee complied with all of the provisions in its Development Agreement.

d. Require the lessee to keep the leased premises in good repair and to maintain insurance on the leased premises and all improvements.

e Lessee's agreement that any encumbrance on its leasehold interest, or to any improvements on the leased property will require approval by the Tribe and, if the property is held in trust by the United States, the Secretary of the Interior.

f. Definition of the circumstances constituting a default, which entitle the Tribe to terminate the lease, and the Tribe's remedies upon default. Among the circumstances constituting an "event of default" shall be the lessee's failure to commence construction of improvements or to commence business operations on the leased property within the time period prescribed in the Development Agreement.

g. Prohibits the lessee from assigning its interest in the lease without approval by the Tribe and, if the property is held in trust by the United States, the Secretary of the Interior.

8.04. *Lease Agreement Template*. The Small Business Incentive Program *Director Employee* may develop templates for Lease Agreements to encourage consistency with respect to the content and requirements for Lease Agreements.

Article IX. Small Business Incentive Program *Director Employee*; Task Force.

9.01. *Small Business Incentive Program Director Employee*. This officer is in charge of performing the initial review of the Small Business Incentive Program applications and its supporting documents. The Small Business Incentive Program *Director Employee* shall affix the date and time of submission of each application and shall complete a requirements check. If an application does not meet the requirements set forth in this Ordinance or lack required supporting documents, the *Director Employee* shall notify the applicant in writing.

The applicant may resubmit the application at any time. All applications that meet the formal requirements shall be submitted to the Small Business Incentive Program Task Force for review and recommendation for approval, no later than 15 days after being filed by the applicant before the ~~Director~~ *Employee*.

9.02. *Director Assignment of Responsibilities for Program.* The ~~Director~~ *Employee assigned responsibility for* of the program shall an employee whose primary employment responsibilities are economic development, who shall, in addition to duties listed in this Article, chair meetings in the absence of the Ogema. The ~~director~~ *employee assigned responsibility for the program* shall not be compensated for chairing meetings except through normal employment related compensation.

9.03. *Small Business Incentive Program Task Force.* The Task Force will be comprised of the Ogema, the Small Business Incentive Program ~~Director~~ *Employee* and three additional members. These members will be nominated by the Ogema and their appointments for a two-year term will be ratified by Tribal Council. Members of the Task Force do not have to be Tribal members, and a professional background in business as well as work experience in small business development should be a consideration. The Ogema shall make an effort to recruit a bank commercial loan officer, a small business development specialist, and a successful local entrepreneur. These appointed members of the Task Force would be offered a stipend equivalent to the one offered to members of Tribal Commissions.

9.04. *Review Procedure.* The Task Force shall act as a body. Its decisions shall be adopted by the majority of the quorum present. The quorum required to meet is three members, with two of them being the Ogema and the Small Business Incentive Program ~~Director~~ *Employee*. If the Ogema fails to concur to the quorum for more than two scheduled meetings in a row, the Task Force may vote and approve or reject proposals without his vote, provided that a majority of at least three members concur on the vote, with at least one of them being the Small Business Incentive Program ~~Director~~ *Employee*.

9.05. *Recommendation.* Upon approval of an application, the Task Force shall issue a recommendation for approval and submit the proposal to Tribal Council for approval and appropriation.

9.06. *Confidentiality.* The ~~Director~~ *employee assigned responsibility for the program*, Task Force members and all other persons involved in the review of applications, or who have access to applications, shall be required to execute confidentiality agreements which prohibit such persons from disclosing to any person not involved in the administration of this Program any trade secrets, business ideas, marketing plans, or other proprietary information that the applicant has included with his application. The confidentiality agreement shall also prohibit persons from using any trade secrets, business ideas, marketing plans or other proprietary information submitted by an applicant to directly or indirectly assist any other person, including such person, the Tribe or any third party, without the express written consent of the applicant who provided that information.

Article X. Reporting

10.01. *Reporting.* The Small Business Incentive Program shall report to the Tribal Council, on a quarterly basis at the first Tribal Council meeting in January, April, August and December regarding the program activities.

10.02. *Content.* the Report shall contain the following minimum information.

- a. Name ~~Program director~~ *employee assigned responsibility for the program* and office location
- b. Names of Task Force members
- c. Number of applications, including the types of applications - start-up capital; property purchase, lease or improvement
- d. Number of applications funded - including the types of applications and, type of business
- e. Funding - including the total allocation, quarterly expenditures and year to date, and remaining program funds
- f. Status of recipients for a two year period.

10.03. *Confidentiality.* Applications, until funded, are confidential in regards to the individual's name and

business name. Upon funding, the applicant and business name shall be public information, including the amount and type of funding received. The reports required under this Article shall be made in line with this restriction.