



Little River Band of Ottawa Indians

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

Resolution # 05-1116-598

Adopts Muschigon Construction Ordinance and Authorizes the Tribal Ogema to act as a Registered Agent and organizer of Muschigon Construction Limited Liability Company

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(i)2 to manage any funds within the exclusive control of the Little River Band and to appropriate these funds for the benefit of the Tribe and its members; and

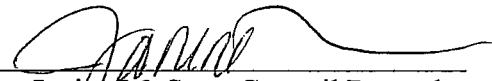
WHEREAS, the Muschigon Construction Ordinance was properly posted for public comments for the period of time mandated by the Administrative Procedures Act, and that no comments were made, Tribal Council in a final work session adopted the final text of the Muschigon Construction Ordinance; and

WHEREAS, the Muschigon Construction Ordinance provides for the establishment of a construction company under the Tribe's Limited Liability Ordinance, and requires the designation of a Registered Office and Agent.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby adopts the Muschigon Construction Company Ordinance and authorizes the Tribal Ogema to act as Registered Agent and organizer of the Muschigon Construction LLC.

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 Session of the Little River Band of Ottawa Indians Tribal Council held on November 16, 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

MUSCHIGON CONSTRUCTION COMPANY ORDINANCE
05-800-04

Article I. Purpose; Findings

1.01. *Purpose.* It is the purpose of this ordinance to authorize the creation of a Limited Liability Company as per the Little River Band of Ottawa Indians Limited Liability Company Ordinance (“LLC Ordinance”) to engage in residential and commercial construction projects.

1.02. *Findings.* The Tribal Council of the Little River Band of Ottawa Indians finds that:

- a. The legislative powers of the Tribe are vested in the Tribal Council, Article IV, Section 7; and
- b. The Tribal Council’s powers are exercised through action by ordinance, resolution or motion, Article IV, Section 6(g)(1); and
- c. The Tribal Council is delegated responsibility and authority regarding land and assets, Article IV, section 7 (c and d); and
- d. The Tribal Council is responsible for making, holding, and revoking assignments of Tribal property, Article IV, Section 7(a)(4); and
- e. The Tribal Council has the duty to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members, Article IV, Section 7(a)2; and
- f. The Tribal Council has the power to manage any funds within the exclusive control of the Little River Band and to appropriate these funds for the benefit of the Tribe and its members, Article IV, Section 7(i)2.

Article II. Adoption; Amendment; Severability

2.01. *Adoption.* This Ordinance is adopted by Resolution # 05-1116-5^{CR}.

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.

2.03. *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. *General.* For purposes of this Ordinance, certain terms are defined in this Article. The word “shall” is always mandatory and not merely advisory.

Article IV. Creation of Muschigon Construction

4.01. *Formation of a Limited Liability Company; General Authority.* There is hereby authorized the creation of a construction company to be structured and formed in accordance with the Little River Band of Ottawa Indians (“the Tribe”) Limited Liability Company Ordinance, for the purposes described in Article I of this Ordinance. It shall be named “Muschigon Construction, LLC” and shall be managed by a Board of Directors. The Board of Directors shall act as agent of the Tribe for the purpose of providing guidance for or otherwise administering the operation of Muschigon Construction, LLC. in accordance with this Ordinance.

4.02. *Scope of Activities.* Muschigon Construction, LLC is authorized to conduct the following business activities:

- a. To engage in residential and/or commercial construction projects.
- b. To enter into competitive bids for construction projects.

- c. To enter into joint venture agreements to further the purpose of its creation.
 - d. To develop activities reasonably related to the above.
 - e. To engage in any other lawful act or activity for which a limited liability company may be organized under the LLC Ordinance and that not opposes the purposes of the creation of the subordinate organization as outlined in this Ordinance.
- 4.03. *Assets.* Muschigon Construction, LLC shall be assigned a starting budget of \$ 6,000 . The budget assigned in this ordinance shall be managed by Muschigon Construction, LLC.

Article V. Management Structure

5.01. *Management Organization.* Muschigon Construction, LLC shall be managed by a General Manager, hired by and reporting to a Board of Directors.

5.02. *General Manager.* The General Manager shall have a sole authority and responsibility for managing Muschigon Construction, LLC in accordance with the processes and Articles of Organization and by-laws approved by the Board of Directors, the LLC Ordinance and the laws and regulations of the Tribe.

5.03. *Board of Directors.*

a. *Members.* The Board of Directors is made up of five members who shall meet the following qualifications:

1. All Board of Directors members shall be members of the Little River Band of Ottawa Indians.
2. There shall be a member of the Board of Directors that has one of the following qualifications, and all qualifications shall be represented:
 - A. Three years of residential/commercial construction experience in any capacity.
 - B. Two years of construction project management experience.
 - C. Two years of business development experience.
 - D. One year of managerial experience.
3. A vacancy in one of the required qualifications must be filled by a candidate meeting the qualifications.
4. No elected official of the Tribe shall sit as a member of the Board of Directors.

b. *Appointments.* Board members shall be appointed by the Tribal Ogema with the approval of the Tribal Council. To this effect, the Tribal Ogema is granted 45 days from the date of adoption of this Ordinance to submit to Tribal Council the names of the individuals nominated to fill the first Board of Directors positions. Thereafter, when a vacancy occurs or a reappointment is required, the Tribal Ogema has 45 days to submit the name of the individual nominated to fill the vacancy or to be reappointed. Upon the expiration of the 45 days term above, Tribal Council may request through a public notice the submission of applications to fill the vacant position(s). Tribal Council then will forward a directive to the Tribal Ogema to submit for appointment a name of an individual from the list of applicants collected by Tribal Council. Should the Tribal Ogema delay the submission for more than 15 days from the date he has been sent the directive with the applicants' list, Tribal Council may appoint to the vacant position at its discretion, the individual from the applicants' list that best match the qualifications for the position sought to be filled. Board members are official upon appointment by Tribal Council and are authorized to attend meetings upon their appointment.

c. *Term of Office; Vacancies.* Board members shall serve 4 year terms subject to removal under subsections (i) and (j). A term begins the date of the member's appointment approval ending on the fourth anniversary. A vacancy prior to the end of the term shall, if less than 18 months remaining on the last date in office, be filled for the remainder of the term and a full four year term; and, if more than 18 months remaining on the last date in office, shall be filled only for the remainder of

the vacant term. The terms of the Directors appointed for the first time upon adoption of this Ordinance shall be staggered as follows: Two of the five Board Members appointed will be appointed for a 2 year term, and the remaining three will be appointed for a four year term. The Board members who will serve only two years will be determined by a lottery system established by Tribal Council at the time of their appointment, providing guarantees of its fairness and impartiality.

d. *Compensation.* Board members shall receive compensation as set by resolution of the Tribal Council paid in monthly increments which should be included in the budget of Muschigon Construction, LLC. Every two years, the Tribal Council shall review the compensation set for the Board of Directors and approve appropriate changes. Compensation shall not be reduced during the two year term after approval, provided that, compensation may be reduced based upon revenues of Muschigon Construction, LLC and must be approved by resolution of the Tribal Council. Board members shall be reimbursed reasonable expenses related to activities of the Board of Directors for attending meetings or travel.

e. *Quorum.* A quorum of the Board of Directors shall consist of 3 members.

f. *Meetings.* The Board of Directors is authorized to meet as often as necessary to carry out the responsibilities set forth in this Article.

g. *Removal.* A member of the Board of Directors may be removed for the following reasons by a vote of 3 of the Board of Directors.

1. Failure to attend four meetings of the Board of Directors, including special or emergency meetings, within a 12 month period.

2. Revocation of a professional license, permit or certification that reflects on the qualifications of the member to sit on the Board or reflects on the professional responsibilities and integrity of the member.

3. Conviction of a felony.

4. Conviction of a misdemeanor act that infringes on the professional responsibilities and integrity of the member.

5. Tribal Council may remove a member of the Board if the member is disenrolled from the Tribe membership roster.

6. Tribal Council may also remove a member of the Board when the Board of Directors fails to carry out any removal under the reasons set forth under subsections 1 through 4 above.

5.04. *Procedures.* The Board of Directors shall be authorized to establish its own procedures to meet as well as by-laws to regulate its operation.

Article VI. Enterprise Governance

6.01. *Board of Directors.* Muschigon Construction, LLC shall be managed by a Board of Directors responsible for guiding and supporting the business operations of the enterprise having as a main purpose generating revenues and profits for the company and to encourage job development opportunities for Tribal members within the company.

6.02. *Authority.* The Board of Directors is delegated the authority to prepare and submit to Tribal Council for approval the company's Operating Plan, which includes the operating budget, and the financial and business forecasts. In addition, the Board of Directors has the authority to review and approve the Standard Operating Procedures and Internal Controls of the company. The Board of Directors shall also have the authority to request audits, financial, personnel, and compliance reports.

6.03. *Capital Expenditures.* The Board of Directors is authorized to approve all capital expenditures unless they require financing through the utilization of loan documents, letters of credit, and other banking and non-

banking activities which require borrowing funds. In such case the Board of Directors requires to approve the transaction and to seek ratification and approval by Tribal Council.

6.04. *Joint Ventures.* The Board of Directors is authorized to negotiate and execute joint venture agreements with other entities, Tribal or not, and to obligate the company to management contracts or any other agreement derived from a joint venture agreement, provided that the Board of Directors seeks approval of the joint venture proposal from Tribal Council prior to its execution.

6.05. *Personnel.* The Board of Directors is delegated the limited responsibility to hire the General Manager and to complete the General Manager's job performance appraisal as well as the authority to issue recommendations for improvement or to impose disciplinary measures. In exercising this authority, the Board of Directors is bound by the Tribe's Employment laws. If needed, the Board of Directors may approve the company's personnel manual, and submit such document for Tribal Council ratification and approval. The Board of Directors has the authority to approve all job descriptions for managerial positions within the company.

6.06. *Notices.* The Board of Directors should seek approval and/or ratification of Tribal Council of all the actions and documents approved by the Board as specified herein. The Board of Directors must provide notice to Tribal Council of all other Board actions and documents reflecting the management of the company.

6.06. *Budget.* The Board of Directors shall create an annual budget, which shall be included within the budget of the company, sufficient to maintain appropriate office space, compensation, and other activities of the Board.

6.07. *Staffing.* The Board of Directors shall have the authority to engage staff for the purposes of maintaining the books and records of the Board, as well as consultants for the purpose of assisting in the Board to carry its responsibilities.

6.08. *Reporting to Tribal Council in April and October.* The Board of Directors shall submit a report to Tribal Council on a monthly basis. Further, at the first Tribal Council meeting in April and October, the Board of Directors shall be present to answer questions and respond concerns presented by the Ogema, Tribal Council, or membership. The monthly reports shall include the monthly financial statements, marketing activity human resources activity, and meeting minutes.

6.09. *Annual Funding Needs.* On July 15th of each year, the Board of Directors shall forward to the Tribal Council the estimated revenues for the next fiscal year and the estimated budget needs of the operations in accordance with the Budget and Appropriation Ordinance. This report shall be sufficiently detailed so as to allow the Tribal Council to incorporate it within the governmental budget.