



Little River Band of Ottawa Indians

PO Box 314
Manistee MI 49660-0314
(616) 723-8288

Resolution No. #99-0707-07

**Authorizing the Tribal Council Speaker or
Tribal Ogema to Execute the Professional Services Contract
For Tobacco Litigation with Branch Law Firm
for Litigation Against the Tobacco Companies**

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.)(hereinafter "Little River Act"); and

WHEREAS, the Tribe adopted a 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, pursuant to Article IV, Section 5 (a)(4) and Article V, Section 5(a)(3) and (8) of the Tribal Constitution, the Tribal Ogema, or in his/her absence, the Council Speaker, is authorized to represent the Tribe in its relations with other organizations and manage the economic affairs/enterprises of the Tribe, in a manner consistent with the Tribal Constitution and resolutions of the Tribal Council; and

WHEREAS, the Tribal Council, pursuant to Article IV, Section 7 (b) of the Constitution, has the power to authorize and ratify agreements and contracts negotiated by the Chief Executive Officer of the Tribe; and

WHEREAS, pursuant to a Global Settlement Agreement between the 50 states and 5 territories of the United States and the American tobacco companies, the states and territories will be reimbursed billions of dollars spent in Medicare expenses for diseases caused by smoking tobacco and tobacco use. The settlement funds will also pay for health related programs such as smoking cessation programs; and

WHEREAS, Indian Nations have been excluded from the Global Settlement Agreement. Therefore, Indian Nations, as sovereign governmental entities, can bring lawsuits against tobacco companies just as the states have done; and

WHEREAS, the Little River Band Tribal government has suffered loss and injury by diverting limited funds available for health services to treatment and care of patients afflicted with lung cancer and other respiratory diseases caused by the use of smoking and smokeless tobacco; and

WHEREAS, the tobacco companies have targeted Native Americans, in particular Native American Youth, including the Tribe and its youth, with their advertising campaigns. As a result, more Native Americans, especially the youth, are smoking or using smokeless tobacco than the general population in the United States; and

WHEREAS, the Little River Band Tribal Council has the duty and obligation to protect and preserve the health, welfare and safety of its members, and to seek redress for their injury or injury to the Tribe; and

WHEREAS, the Branch Law Firm, along with Albert A. Hale, Attorney at Law, and Of Counsel to the Branch Law Firm (hereinafter referred to as "Attorneys"), propose to represent the Tribe against the tobacco companies; and

WHEREAS, the Attorneys possess the expertise, resources and financial capability to bring a lawsuit on behalf of the Tribe against the tobacco companies. The Branch Law Firm has represented the State of New Mexico in litigation against the tobacco companies and secured a settlement of over \$1.168 billion; and

WHEREAS, time is of the essence because the United States Congress is likely to place a moratorium on further litigation against the tobacco companies; and

WHEREAS, it is in the best interest of the Tribe that the Attorneys be retained immediately to litigate a claim on behalf of the Tribe against the tobacco companies and to authorize the Tribal Ogema or Speaker of the Council of the Tribe to finalize the Professional Services Contract for Tobacco Litigation, attached hereto and incorporated herein as Exhibit "A", and to execute the same for and on behalf of the Tribe.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council hereby approves the Professional Services Contract For Tobacco Litigation, attached hereto and incorporated herein as Exhibit "A", with the Branch Law Firm and Albert A. Hale, Attorney at Law, Of Counsel to the Branch Law Firm, for litigation against the tobacco companies.

IT IS FURTHER RESOLVED THAT The Tribal Council further authorizes and directs the Tribal Ogema or Speaker of the Council of the Little River Band of Ottawa Indians to finalize the Professional Services Contract for Tobacco Litigation and execute the same for and on behalf of the Tribe.

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, 3 ABSENT and 0 ABSTAINING, at an Emergency Session of the Little River Band of Ottawa Indians Tribal Council held for this purpose on July 7, 1999, in Manistee, Michigan. A quorum of the Tribal Council being present for such vote.



Charles Fisher, Council Recorder



Kathy Berensten, Councilor

Attest: