

ORIGINAL



Little River Band of Ottawa Indians

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Resolution No. #99-1107-03

**Authorizing the Tribal Ogema, or in his absence, the
Tribal Council Speaker to Execute Design/Development Agreement
with Cunningham-Limp Company and
Agreeing to Binding Arbitration and a Limited Waiver of
Sovereign Immunity**

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 is entitled to the protections and benefits accorded federally-recognized Indian tribes under federal law, including those under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. §2701 et seq.)(hereinafter "IGRA"), which permits Indian tribes to operate Class II and III gaming activities on lands held in trust for the Tribe; and

WHEREAS, the Tribe has determined that the development an addition to its Interim Class III gaming facility will allow the Tribe to generate additional revenues, which are needed to establish an effective tribal government and to provide necessary services and jobs for tribal members, pending completion of the Tribe's "permanent" casino resort facilities; and

WHEREAS, the Tribe requires retention of a firm with sufficient technical and administrative expertise to design and construct the addition to the Tribe's Interim Casino; and

WHEREAS, the Tribal Council has been satisfied with the performance of Cunningham-Limp Company in completing the Interim Casino in a cost-efficient and timely manner and wishes to continue its relationship with Cunningham-Limp Company; and

WHEREAS, the Tribal Council has reviewed and approved a preliminary design and construction budget presented by the Cunningham-Limp Company for the 7,500 square foot addition to the Tribe's Interim Casino; and

WHEREAS, Tribal representatives and representatives of Cunningham-Limp Company have proposed a form of agreement in substantially similar form to the Design/Build Agreement, which was previously approved for construction of the Interim Casino, which will assure the cost-efficient and timely completion of the addition in accordance with Design and Summary of Building Specifications presented to the Tribal Council; and

WHEREAS, Cunningham-Limp has agreed to construct the Class II/Class III Casino Resort complex for a "Cost of the Work Plus a Fee With a Guaranteed Maximum Price" not to exceed an amount agreed to by the Tribe, North American Gaming and Cunningham-Limp Company, which amount is presently set at \$1,824,549.00; 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 Tribal 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, the Tribal Council understands that the agreement negotiated with Cunningham-Limp Company would include an agreement by the Tribe to have disputes arising under such agreement submitted to binding arbitration and the Tribe would further agree to a waiver Tribal sovereign immunity from suit in federal or Tribal courts for purposes of compelling arbitration or enforcing decisions of the arbitrators; and

WHEREAS, the Tribal Council has determined that the specific waiver of sovereign immunity requested by Cunningham-Limp Company for the specific purpose of enforcement and/or interpretation of that Agreement is in furtherance of important Tribal purposes and tribal business enterprises and that such waiver is authorized by and is consistent with Article XI, Section 1 of the Tribe's Constitution.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes the Tribal Ogema, or in his absence, the Tribal Council Speaker, Joan Spalding, to execute a Design/Build Agreement with Cunningham-Limp Company for the design and construction of the addition to the Tribe's Interim Casino, as described in the design documents;

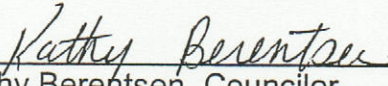
IT IS FURTHER RESOLVED THAT the Tribal Council, by authorizing the Tribal Ogema, or Council Speaker, to execute that Agreement, expressly agrees to waive its sovereign immunity from suit for the sole purpose of enforcement and/or interpretation of the terms of the Agreement as provided in the dispute resolution of the Design/Build Agreement.

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, 1 ABSENT, and 1 ABSTAINING, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council on November 7, 1999, in Manistee, Michigan. A quorum of the Tribal Council being present for such vote.



Charles Fisher, Council Recorder



Attest:

Kathy Berentsen, Councilor