

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 ODAWA CIRCLE
HARBOR SPRINGS, MI 49740

RESOLUTION # 012206-03

Guaranteed Maximum Price Authorization with Financing Contingency

WHEREAS the Waganakising Odawak is a nation of citizens with inherent sovereignty and right to self-governance and;

WHEREAS the Little Traverse Bay Bands of Odawa Indians (“LTBB” or “Tribe”) is a Federally recognized Indian Tribe reaffirmed by the United States Congress on September 21, 1994 in Public Law 103-324, as amended, which exercises sovereign governmental authority over the people, land, and water within its jurisdiction and administers a wide range of governmental programs;

WHEREAS as authorized by Resolution 080705-02 of the Tribal Council, the Little Traverse Bay Bands of Odawa Indians (“Tribe”) entered into an agreement with Clark Construction Company (“Clark”) for Clark to serve as construction manager/constructor of the Tribe’s new casino project; that Resolution stated that “the AIA Document A121 Cmc -2003 Amendment No. 1 for the Guaranteed Maximum Price (GMP) with Exhibits referenced in a certain Construction Services Agreement must be submitted to and authorized by Tribal Council before taking effect;”

WHEREAS the Tribal Council has received and reviewed the GMP documents;

WHEREAS by Resolution 100905-08 Tribal Council authorized a GMP in the amount of \$122,200,000.00;

WHEREAS Tribal Council has approved a revised new casino project scope and budget;

THEREFORE BE IT RESOLVED THAT:

1. The Tribal Council authorizes the GMP of \$ 85,479,400.00 with Clark which replaces that authorized by Resolution 100905-08.
2. The Tribal Council authorizes Change Order #6 to the agreement with Clark Construction dated January 18, 2006 in the amount of \$77,173,943.00;
3. The Tribal Chairperson is hereby authorized on behalf of the Tribe to immediately execute the GMP with Clark; *provided* that Clark agrees that the Tribe’s obligations with respect to the GMP are conditioned on the closing of the Bond financing, and that the documentation executed by the Tribal Chairperson and Clark includes substantially the following language:

Notwithstanding any other provision in the Agreement or this Change Order, the Contractor shall not proceed under this Change Order, and the Owner shall have the absolute discretion to terminate the effect of this Change Order, until the earlier of (a) February 28, 2006, and (b) the date on which the Owner notifies the Contractor that Owner has not completed its pending sale of notes to Banc of America LLC.

CERTIFICATION

As Tribal Council Secretary and Legislative Leader, we certify that this Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held January 22, 2006, at which a quorum was present, by a vote of 5 in favor, 2 opposed, 2 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Regina Gasco Bentley	X			
Fred Harrington, Jr.		X		
Dexter McNamara	X			
Mary Roberts			X	
Rita Shananaquet		X		
Alice Yellowbank	X			
Shirley Oldman			X	
Melvin L. Kiogima	X			
Beatrice A. Law	X			

Date: _____

Beatrice A. Law, Legislative Leader

Date: _____

Melvin L. Kiogima, Secretary

Received by the Executive Office on _____ by _____

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: _____

Frank Ettawageshik, Tribal Chairperson