



H1711

LUMMI INDIAN BUSINESS COUNCIL

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RESOLUTION #2004-065 OF THE LUMMI INDIAN BUSINESS COUNCIL

TITLE: Appointment of the Cherry Point Core Team

WHEREAS: the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and Bylaws of the Lummi Tribe of the Lummi Reservation, Washington; and

WHEREAS, in order to further the employment opportunities of the Lummi people and foster economic development on the Lummi Reservation, the Lummi Indian Business Council has formed the Lummi Development Authority (LDA) to explore the development, construction, and operation of new business ventures on behalf of the Lummi Nation; and

WHEREAS, the LDA Board of Directors met on February 27, 2004, and unanimously approved establishing a core team for the purposes of exploring opportunities and impacts of the proposed Cherry Point Projects; and

WHEREAS, on April 21, 2004, the LDA recommended that the LIBC formally recognize and formally approve the following members of the Cherry Point Core Team: Policy: Merle Jefferson, Leroy Deardorff, Randy Kinley, Elden Hillaire, Clarence Bob; Legal: Judy Bush/Paul Alexander/Tom Weathers; Staff: Henry Cagey, and Curt Wolters.

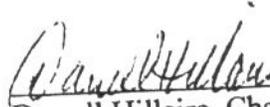
NOW THEREFORE BE IT RESOLVED, the Lummi Indian Business Council hereby appoints Merle Jefferson, Leroy Deardorff, Clarence Bob, Judy Bush/Paul Alexander/Tom Weathers, Henry Cagey, Joe Mace and Curt Wolters to the Cherry Point Core Team; and

BE IT FURTHER RESOLVED, that the Lummi Indian Business Council delegates to the Cherry Point Core Team the responsibility to continue discussions with Mercator, Homeport, and related Parties; and

BE IT FURTHER RESOLVED, that the LDA will develop a business deal concept and bring it back to the LIBC Council table for their approval upon completion; and

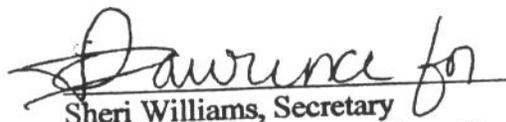
BE IT FURTHER RESOLVED, that the Chairman (or Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in her absence) is authorized and directed to execute the following certification.

LUMMINATION


Darrell Hillaire, Chairman
Lummi Indian Business Council

CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2004-065 was adopted at a regular meeting of the Council held on the 26th day of April, 2004, at which time a quorum of 9 was present, and was adopted by a vote of 8 for, 0 Against, and 0 Abstention(S).


Sheri Williams, Secretary
Lummi Indian Business Council

PROPOSED CHERRY POINT INVESTMENTS

INTERNAL COORDINATION

PROJECT DEVELOPMENT

Even though all proposed Cherry Point investment possibilities are to various degrees inter-related, it is recommended that each be treated as a distinct and separate project.

LDA Steering Committee

The LDA Board will constitute the Project Development Steering Committee. The Board therefore oversees the project development process. It meets at regularly scheduled intervals to review project status and ensures timely execution of the Project Implementation Plan. The Board regularly communicates with the LIBC on project development progress. As directed by the Board, the Core Team takes the project development activities through the LIBC internal coordination and approval processes.

Project Development Team

It is essential that there be political buy-in at the Council level from the very beginning.

Therefore, the "Core Team," selected and nominated by the LDA Board, should be duly appointed and authorized by LIBC Resolution. Team membership is determined by the technical and professional skills, as well as the relevant experience each Team member brings to the collective effort. The team will be functionally divided between "political," "staff" and "technical" responsibilities. The Team's membership shall include, but not be limited to three LDA Board members, an LCC Board member, selected staff members from the: Economic Development Department, LCC, the Natural Resources Department and TERO. The Planning, Grants and Culture Departments will act as "technical advisory" bodies on an as-needed basis. The contracted law firm's lead attorney is a "Virtual Member" of the Team (i.e., participates effectively at long-distance in reaching decisions and framing recommendations). The contract lawyers' work is coordinated by the Project Manager, back-stopped by the Tribal Attorney.

The Team's responsibilities are to:

- Act as the principal operational decision-making body throughout the duration of the negotiation and project development processes.
- Assess and evaluate project proposals.
- Study the project's political, legal, economic, financial, social, cultural, physical, environmental and other significant benefits and costs to the Lummi Nation.
- Keep the LDA Board informed of progress through regular written reports and verbal briefings.
- Coordinating the public education/information process.

- Inter-Tribal communication
- Analyze findings and develop options, ranging from “no involvement,” or “mitigation only,” to “partial or full involvement” and various degrees of “partnership.”
- Conflict resolution process management.
- Develop a unified set of positions on each of the Cherry Point investments under consideration.
- Make recommendations, through the LDA Board and the relevant Commissions, the Lummi Indian Business Council (LIBC) along the following precepts:

- Ensure and Protect all Treaty Rights
- Strengthen Sovereignty
- Enhance the Financial and Economic Situations of the Tribe
- Enhance the Environmental and Natural Resource Security of the Tribe
- Enhance Educational and Training Opportunities for the Tribe
- Create Additional Economic Opportunities for the Tribe, Based on the Proposed Investments, Including “Living Wage” Employment
- Protect and Expand the Geographic Integrity of the Lummi Nation and its Associated Land Base

Coordination with the LIBC’s Relevant Commissions

Through the appropriate LIBC Departments, the Project Development Team obtains technical determinations as inputs to its deliberations, studies and analyses as follows:

■ FISH AND NATURAL RESOURCES COMMISSION:

- Impact on fishing (incl. crabbing, shellfish, herring) operations of proposed construction activities and increased vessel traffic
- Gear loss compensation
- Creation of Fishermen’s Endowment from which annuities can be funded (construction of the Homeport/SSA Marine deepwater port, and LNG Terminal being the most appropriate vehicles to generate funds into such an endowment)
- Scholarships and retraining funding for affected/displaced fishers
- Environmental regulation
- Compliance enforcement

■ PLANNING COMMISSION:

- Land use
- Land purchase (seller-financed)

- Placing land into Trust status
- Acceptable infrastructure planning and development
- Ensuring utilities are in place

■ CULTURAL COMMISSION:

- Promoting the broader recognition of cultural assets in the Tribe's U&A areas
- Managing the public education and information program regarding affected cultural resources
- Identification and protection of sensitive sites
- Liaison with neighboring Tribes regarding shared cultural resources
- Ensuring that Federal and State cultural resources protection regulation and ordinances are observed
- Proposing cultural mitigation actions
- Oversight and monitoring in excavation work
- Identifying the Tribe's specific culture-related education and training needs
- Administering and monitoring a cultural scholarships program

■ TERO COMMISSION:

- Identifying appropriate apprenticeships and employment opportunities for Lummi workers
- Identifying appropriate training programs for Lummi Tribal workers employed under the partnerships
- Overseeing and monitoring compliance/enforcement of employment related elements in the various partnership agreements

Coordination with the Lummi Commercial Company

Two of the LCC's chartered **responsibilities** are to (1) "Participate in any partnership, joint venture, trust or other enterprise and able to execute any agreements required in the connection therewith;" and (2) "... title to real property or property that is to become a part of the land, shall be taken in the name of the United States in trust for the Lummi Nation." Further, two of the **purposes** of the LCC, according to its By-laws, are (1) "To generate revenue for the strengthening of tribal self-government;" and (2) "To enhance employment opportunities for tribal members."

It is therefore essential to closely coordinate all Cherry Point investment-related activities and recommendations involving contractual agreements, real property, financing, and tribal employment opportunities, with LCC management and the LCC Board.

The Approval Process (for sensitive projects and activities affecting Treaty Rights)

1. LIBC approves the overall "business deal" in principle
2. LDA Board presentation to and seeking approval from the Commissions (LNR, Planning, Culture, TERO) on details
3. Presentation of the business "deal," accompanied by Commission feedback and recommendations, to LIBC
4. LIBC authorizes Public Hearing
5. Public Hearing (General Council)
6. "Community Comment" period
7. Record of Public Hearing open for limited time to accommodate additional comments
8. Recommendation to LIBC
9. LIBC issues Resolution authorizing action

LIBC

The Council, based on recommendations from the LDA Board, the relevant Commissions, and public comment, decides on important politically, culturally and socially sensitive issues regarding Cherry Point projects, by Resolutions. Once action has been authorized, the Council also ensures adequate ongoing communication with the community at-large and the General Council on Cherry Point project developments as these evolve.

(Drafter: Curt Wolters, Ph.D., Chief Economist, EDD, 04/27/04)