



**A RESOLUTION OF THE DELAWARE TRIBE OF INDIANS ATTESTING TO
PERIODIC STATEMENTS OF PERFORMANCE, AND CONFIRMING TRUST FUND
LITIGATION SETTLEMENT APPROVAL**

Resolution No. 2017-38

WHEREAS, pursuant to the Constitution, Article V, and Bylaws of the Delaware Tribe (1982), the Tribal Council is designated as the body with the power to represent and act on behalf of the Tribe in all matters concerning the general welfare of the Tribe; and

WHEREAS, on January 8, 2002, the Tribe and the Trust Board, represented by the Nordhaus Law Firm, filed suit against the United States in the United States Court of Federal Claims in Washington, DC, *Delaware Tribe of Indians and Delaware Trust Board v. United States*, No 02-26L ("Trust Fund Action"), regarding distribution and mismanagement of judgment funds awarded to the Tribe and held in trust by the United States, including historical accountings and other equitable relief relating to those funds; and

WHEREAS, on January 17, 2017, by Resolution No. 2017-04, the Tribal Council approved settlement of the Trust Fund Action on the terms set forth in the proposed Settlement Agreement between the Tribe and the United States (Attachment 1 thereto); and

WHEREAS, several months later, the Departments of Interior and Treasury both recommended to the Department of Justice that the Settlement Agreement be formally approved by the Department of Justice on behalf of the United States; and

WHEREAS, the Department of Justice has now approved the Settlement Agreement; and

WHEREAS, paragraph 8 of the Settlement Agreement requires that:

Delaware accepts, as a matter of settlement and compromise, the most recent Statements of Performance ["PSPs"] issued by OST (Exhibit 1), as accurate, full, true, and correct statements of all of Delaware's trust fund accounts as of the date of the Statements. Further, Delaware accepts, as a matter of settlement and compromise, the Statements of Performance (Exhibit 1) in fulfillment of any accounting of Delaware's trust fund accounts that is required by law as of the date of the execution of this Settlement Agreement by both Parties.

WHEREAS, in Resolution 2017-04, the Tribal Council accepted the December 31, 2016 PSPs for the purposes stated in ¶ 8; and

WHEREAS, the Tribal Council has reviewed the PSPs for the period ending October 31, 2017 (attached as Exhibit 1).


NOW THEREFORE BE IT RESOLVED THAT, that the Tribal Council reaffirms Resolution 2017-04 in its entirety and expressly restates its approval of the settlement, including the proposed Settlement Agreement attached to that Resolution and all of its terms; and

BE IT FURTHER RESOLVED THAT, the Tribal Council attests to the accuracy of the balances in the October 31, 2017 PSPs, Exhibit 1, as required by and for the purposes stated in ¶ 8 of the Settlement Agreement and further accepts that the October 31, 2017 PSPs constitute and fulfill "any accounting of Delaware's trust fund accounts that is required by law as of the date of the execution of this Settlement Agreement by both Parties"; and

BE IT FURTHER RESOLVED THAT, the Tribal Council restates the delegations to the Chief in Resolution 2017-04, including full and complete authority to: (1) approve any revisions to the proposed Settlement Agreement so long as they do not deviate significantly from the proposed Settlement Agreement attached to Resolution 2017-04, as determined by the Chief in his discretion after consultation with the Assistant Chief and the Nordhaus Law Firm; and (2) execute any and all documents, including the final Settlement Agreement and to take any actions consistent with this Resolution and Resolution 2017-04 to conclude a settlement of the Trust Fund Action; and

BE IT FURTHER RESOLVED THAT, the Tribal Council authorizes and directs the Nordhaus Law Firm, consistent with any direction from the Chief, to execute any and all documents, including the final Settlement Agreement, and to take any actions consistent with this Resolution and Resolution 2017-04 to conclude a settlement of the Trust Fund Action.

The above resolution was duly adopted at a special meeting of the Delaware Tribal Council held November 19, 2017, at Delaware Tribal Complex, by a majority vote of 7 yes, and 0 no, and 0 abstaining.



Chet Brooks, Chief



Attested by: Charles Randall, Secretary

