

Oneida Tribe of Indians of Wisconsin



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

BC Resolution 01-26-11-H

Resolution to Approve Restatement of Tribal Retirement Plans and Authorize IRS Determination Letter Applications

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States (the "Tribe"), and
- WHEREAS,** the Oneida General Tribal Council is the duly recognized governing body of the Oneida Tribe of Indians of Wisconsin, and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1 of the Oneida Tribal Constitution by the Oneida General Tribal Council, and
- WHEREAS,** the Tribe sponsors the Oneida Tribe of Indians of Wisconsin Retirement Savings and 401(k) Plan (the "Governmental 401(k) Plan"), the Oneida Tribe of Indians of Wisconsin Business Committee 401(k) Plan (the "BC 401(k) Plan"), and the Oneida Tribe of Indians of Wisconsin Public Safety Officer Pension Plan (the "PSP"), and
- WHEREAS,** Section 906 of the Pension Protection Act of 2006 (the "PPA") requires Tribal employers to restrict their governmental tax-qualified retirement programs to employees substantially all of whose services are in the performance of essential governmental functions and which are not commercial activities; and
- WHEREAS,** the Tribe maintains that all functions performed by its employees are essential governmental functions which are not commercial in nature and desires to protect its governmental status to the greatest extent possible; and
- WHEREAS,** the Department of Treasury published Internal Revenue Service Notices 2006-86 and 2007-67 requiring operational good faith compliance with Section 906 of the PPA until final guidance has been published and no such final guidance has been proposed or published as of this date; and
- WHEREAS,** the Tribe has operated the Governmental 401(k) Plan in reasonable and good faith operational compliance with the PPA requirements since January 1, 2007 and has adopted, on an operational basis, the Oneida Tribe of Indians of Wisconsin Enterprise 401(k) Plan (the "Enterprise 401(k) Plan") in connection with such reasonable and good faith operational compliance; and
- WHEREAS,** to maintain the tax-qualified status of the Governmental 401(k) Plan, the BC 401(k) Plan and the PSP, the Tribe is required to restate those Plans at this time to incorporate legislative and other compliance changes into the documentation; and

WHEREAS, the Tribe desires to apply for an updated determination letters on the amended and restated Governmental 401(k) Plan and the PSP, and to apply for an initial determination letter on the BC 401(k) Plan, to assist in the compliance efforts and efficient operation of those Plans, and such determination letter applications must be filed by January 31, 2011; and

WHEREAS, legal counsel has recommended that the Enterprise 401(k) Plan be formally documented and separated from the Governmental 401(k) Plan at this time in order to provide appropriate documentation describing the good faith operation of the Enterprise 401(k) Plan; and

WHEREAS, legal counsel has recommended that the Tribe proceed with a spin-off of the Enterprise 401(k) Plan assets and liabilities from the Governmental 401(k) Plan to a separate Enterprise 401(k) Plan Trust Fund at this time to simplify the required Enterprise 401(k) Plan audit process and to coincide with the Tribe's transition from Wells Fargo's retirement administration to Transamerica; and

WHEREAS, drafts of the amended and restated Governmental 401(k) Plan, the Enterprise 401(k) Plan, the BC 401(k) Plan and the PSP have been prepared and are being presented to the Tribal Council this date, and

NOW THEREFORE BE IT RESOLVED, that the amendment and restatement of the Governmental 401(k) Plan, now known as the Oneida Tribe of Indians of Wisconsin Governmental 401(k) Plan, effective as of January 1, 2011, hereby is authorized and approved, and

BE IT FURTHER RESOLVED, that the amendment and restatement of the Oneida Tribe of Indians of Wisconsin Business Committee 401(k) Savings Plan, effective as of January 1, 2011, hereby is authorized and approved, and

BE IT FURTHER RESOLVED, that the amendment and restatement of the Oneida Tribe of Indians of Wisconsin Public Safety Officer Pension Plan, effective as of January 1, 2011, hereby is authorized and approved, and

BE IT FURTHER RESOLVED, that the adoption of the documentation for the Oneida Tribe of Indians of Wisconsin Enterprise 401(k) Plan, effective as of January 1, 2011, hereby is authorized and approved, subject to the Tribe's reservation of the right to assert governmental status with regard to all employees covered by the Enterprise 401(k) Plan, pending final guidance under Section 906 of the PPA, and

BE IT FURTHER RESOLVED, that the Enterprise 401(k) Plan "limitation year" for purposes of Section 415 of the Internal Revenue Code shall be the calendar year, and

BE IT FURTHER RESOLVED, that the governmental status of the Tribe and its enterprises shall be preserved to the greatest extent possible while the Tribe continues its reasonable and good faith compliance with the requirements of Section 906 of the PPA and, accordingly, participation in the Enterprise 401(k) Plan shall be limited to the employees of the Tribe's gaming and retail divisions, and any other enterprises which are deemed to be performing commercial functions under Internal Revenue Service Notice 2007-67, pending the publication of final guidance under Section 906 of the PPA, and

BE IT FURTHER RESOLVED, that the Tribe's Finance Director hereby is authorized and directed to facilitate the spin-off of the Enterprise 401(k) Plan assets and liabilities from the Governmental 401(k) Plan Trust Fund to the newly created Enterprise 401(k) Plan Trust Fund, effective on or about February 1, 2011, and

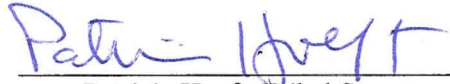
BE IT FURTHER RESOLVED, that the Tribe's Finance Director hereby is authorized and directed to prepare and submit determination letter applications to the Internal Revenue Service for the Governmental 401(k) Plan, the Enterprise 401(k) Plan, the BC 401(k) Plan, and the PSP during the current IRS submission "Cycle E", and

BE IT FURTHER RESOLVED, that the Chair or Vice Chair of the Business Committee, or other appropriate representative, hereby is authorized and directed to execute any and all documentation required to effectuate the intention of these resolutions, and

BE IT FINALLY RESOLVED, that the actions taken by the Tribe's officers and personnel in connection with the matters addressed in these resolutions be, and hereby are, ratified, confirmed and adopted as actions of the Oneida Tribe of Indians of Wisconsin.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members, of whom 5 members constitute a quorum. 7 members were present at a meeting duly called, noticed and held on the 26th day of January 2011; that the foregoing resolution was duly adopted at such meeting by a vote of 5 members for; 0 members against; and 1 member not voting; and that said resolution has not been rescinded or amended in any way.



Patricia Hoeft, Tribal Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."