

**PONCA TRIBE OF NEBRASKA  
TRIBAL COUNCIL**

**RESOLUTION 09-50**

WHEREAS, the Ponca Tribe of Nebraska (the "Tribe") is a federally recognized Indian tribe with powers of self-government; and

WHEREAS, in accordance with its Constitution, the Tribe is governed by the Tribal Council; and

WHEREAS, the Tribal Council enacted a Gaming Ordinance and an Amended Gaming Ordinance governing Class I and Class II gaming by the Tribe under the Indian Gaming Regulatory Act; and

WHEREAS, the National Indian Gaming Commission approved the Tribe's Gaming Ordinance and Amended Gaming Ordinance; and

WHEREAS, by Resolution 07-36, the Tribal Council authorized an Amended Gaming Ordinance that would authorize gaming on what is known as the Carter Lake Parcel, a parcel of land in Carter Lake, Iowa accepted into trust on February 4, 2003, by the Regional Director for the Bureau of Indian Affairs; and

WHEREAS, the Tribe submitted a request for approval of an Amended and Restated Gaming Ordinance to the National Indian Gaming Commission which was eventually approved on the premise that the Carter Lake parcel is restored lands; and

WHEREAS, the NIGC's approval of the Tribe's Gaming Ordinance is the subject of a federal lawsuit brought by the States of Iowa and Nebraska which, until resolved, has delayed the commencement of gaming at the Carter Lake; and

WHEREAS, the Tribe has determined that it is in the best interest of the Tribe and its members to pursue an interim economic venture on the Carter Lake trust parcel in order to generate needed governmental revenue; and

WHEREAS, the Tribe has determined that establishing a smoke shop selling discount cigarettes to the general public will be the best interim measure to generate revenue for the benefit of the Tribe and its members; and

WHEREAS, the Tribe and the City have engaged in discussions regarding this interim economic development measure but have been unable to come to an agreement regarding the necessity of building permits and zoning requirements for the site regarding this proposed use; and


WHEREAS, the Tribe and the City wish to work together to resolve their differences and maintain a cooperative government to government agreement.


NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby authorizes the Chairman and Akin Gump Strauss Hauer & Feld LLP, to negotiate and execute an Addendum to the "COOPERATION AND JURISDICTIONAL AGREEMENT" between the Ponca Tribe of Nebraska and the City of Carter Lake, Iowa in which the parties reserve their rights to maintain their respective positions regarding the law applicable to the trust parcel but nonetheless agree that the Tribe may proceed with the contemplated smoke shop without obtaining a building permit or complying with local zoning requirements. Nonetheless, the Tribe will adopt as its own the local building codes, agree upon 48 hours notice access by local building inspectors and will apply to have the zoning designation of the property changed to conform to the contemplated retail use, approval of which will not be unreasonably withheld by the City.

CERTIFICATION

THIS IS TO CERTIFY AND AFFIRM that the above Resolution was duly authorized and passed by the Ponca Tribal Council on the 19 day of September, 2009, at a duly called meeting held at Omaha, Nebraska by a vote of 5 Ayes; 0 Nays; 0 Abstained; 3 Absent. Chairperson \_\_\_ voting  not voting. A quorum of 6 was present.

ATTEST

  
Larry Wright, Jr., Chairman  
Ponca Tribe of Nebraska

  
Rose Birdhead, Secretary  
Ponca Tribe of Nebraska

