

# LUMBEE TRIBE OF NORTH CAROLINA

CLLO-2020-0917-01

DATE: SEPTEMBER 17, 2020

## “TRIBAL CONSULTATION MANDATE”

**WHEREAS**, The Lumbee Tribe of North Carolina ("Lumbee Tribe") is a recognized American Indian Tribe of the State of North Carolina, subject to the Constitution of the Lumbee Tribe of North Carolina ("Tribal Constitution") and its inherent sovereign powers and right to self-government; and

**WHEREAS**, The Lumbee Constitution was adopted to preserve for all time the Lumbee way of life and community, promoting the educational, cultural, social, and economic well-being of Lumbee people, and securing justice and freedom for the Lumbee people; and

**WHEREAS**, The Lumbee River, surround lands and natural resources are vital to the sustainability of the Lumbee people; and

**WHEREAS**, The Lumbee Tribal Council has the authority and responsibility to protect the quality of life of the Lumbee people; and

**WHEREAS**, Article VII, Section 1 of the Tribal Constitution delegates all legislative authority to the Tribal Council of the Lumbee Tribe of North Carolina ("Tribal Council"); and

**WHEREAS**, Article VIII, Section 1(e) of the Tribal Constitution states that the Tribal Chairman represents the Lumbee Tribe of North Carolina before all other governments and tribunals, including the United States, the State of North Carolina and all federal and state agencies; and

**WHEREAS**, Just as our ancestors did, the members of the Lumbee Tribe depend upon rivers, streams, aquifers, and other ground water sources, community lands, forests, swamps, and environment for sustenance, medicines, as well as for health, general welfare, and sustainability of tribal communities and the ecosystem; and

**WHEREAS**, Any construction project, particularly those associated with, but not limited to, energy, water and utilities pose a serious risk to the environmental and cultural resources of the Lumbee Tribe and its ability to provide a safe, livable homeland for its members and residents; and

**WHEREAS**, The states of the United States, as sub-divisions of the federal government of the United States owe a duty to consult with the Lumbee Tribe of NC on any governmental discussion or decisions that involve what the Lumbee Tribe considers traditional tribal lands; and

**WHEREAS**, Any federal, state or local agency including, but not limited to, the Federal Energy Regulatory Commission, the United States Environmental Protection Agency, the US Army Corp of Engineers, the North Carolina Department of Environmental Quality, and the North Carolina Commission of Indian Affairs; must notify the Lumbee Tribal Council and the Tribal Administration at the first consideration of a project or proposal that may have any effect on those Lumbee traditional lands; and initiate a government-to-government consultation with the Lumbee Tribal Council.

**WHEREAS,** The lack of true government-to-government consultation with the Lumbee Tribe, and other Indian tribal nations with ties to the land, will potentially suffer negative impact; and,

**WHEREAS,** The Lumbee Tribe is deeply concerned about the disturbance and desecration of unmarked ancestral burials, funerary or ceremonial objects, sacred places, ancestral human remains and in addition to the federal and state laws that prohibit destruction or movement of ancestral human remains, its environment, and is unconditionally opposed to their desecration or dispossession, and to any adverse impact, damage, endangerment, injury or threat to them; and

**WHEREAS,** The Final Environmental Impact Statement prepared for any previous projects lacks sufficient information and requires a supplemental environmental assessment or environmental impact statement and must address how the project will protect the cultural, ancestral, and environmental interests of the Lumbee Tribe and comply with relevant federal and state laws that protect these interests that would be impacted by the construction and future operation of any such project; and

**WHEREAS,** Any project requiring permitting including, but not limited to, the Clean Water Act permits under sections 401 and 404, by federal or state governments, that fails to consult with the Lumbee Tribal Council and Lumbee Tribal Administration will be a basis for the Lumbee Tribal Government to proceed to seek any and all judicial and administrative remedies to immediately stop the project(s) until such consultation takes place; and

**WHEREAS,** The National Congress of American Indians, the oldest and largest national organization of American Indian and Alaska Native tribal governments, has likewise called upon all agencies to engage in meaningful consultation with the Indian tribal nations that will be impacted by the construction and operation of similar construction projects; and

**WHEREAS,** The United Nations affirmed the international obligation to recognize and respect the rights of indigenous peoples in the UN Declaration of the Rights of Indigenous Peoples in 2007, and this obligation extends to nations and their relationships with their indigenous peoples.

**THEREFORE BE IT ENACTED,** Meaningful consultation with the Lumbee Tribe must be undertaken for any action contemplated by the Federal Energy Regulatory Commission, the U.S. Army Corps of Engineers and any other federal and state regulatory bodies. Consultation must consider impacts upon the Lumbee tribal communities and, if permitted, how to mitigate such impacts; and

**BE IT FURTHER ENACTED,** the Tribal Council and Tribal Administration of the Lumbee Tribe of North Carolina does hereby call upon the United States government, and all federal, state, and local governments to deny or suspend any permits, approvals, or processes towards issuance of certifications, permits, or other approvals unless and until meaningful government-to-government consultation has been engaged with the Lumbee Tribal Council and Tribal Administration and any other relief and remedies including laws, regulations and directives that protect against environmental injustice and any other remedy to which the Lumbee Tribal Council and Tribal Administration are entitled by local, state or federal law; and

**THEREFORE BE IT FINALLY ENACTED,** The Tribal Council and Tribal Administration of the Lumbee Tribe of North Carolina does hereby condemn and take note that any violation of this ordinance will be the basis to initiate further legal and administrative action to remedy these violations.

**CERTIFICATION**

THIS **CLLO-2020-0917-01** "TRIBAL CONSULTATION MANDATE" ADOPTED AT A MEETING OF THE TWENTY-ONE (21) MEMBER TRIBAL COUNCIL OF THE LUMBEE TRIBE OF NORTH CAROLINA WHERE 18 MEMBERS WERE PRESENT, CONSTITUTING A QUORUM, THIS THE 17<sup>TH</sup> DAY OF SEPTEMBER BY A VOTE OF 18 YES, 0 NC, AND 0 ABSTENTION(S).

*Ricky A Burnett* 9-17-2020  
ATTEST: RICKY BURNETT DATE  
Speaker, Tribal Council of the Lumbee Tribe of North Carolina

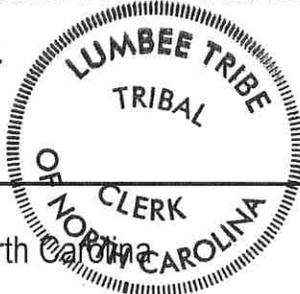
*Sharon Hunt* 9-17-2020  
ATTEST: SHARON HUNT DATE  
Secretary, Tribal Council of the Lumbee Tribe of North Carolina

ATTEST: HARVEY GODWIN, JR. DATE  
Chairman, Tribal Council of the Lumbee Tribe of North Carolina

**POSTING**

THIS **CLLO-2020-0917-01** "TRIBAL CONSULTATION MANDATE", DULY POSTED ON THE 17<sup>th</sup> DAY OF SEPTEMBER 2020.

*Belinda Brewer* 09-17-2020  
ATTEST: BELINDA BREWER DATE  
Tribal Clerk Designee, Lumbee Tribe of North Carolina



**ROLL CALL VOTE RESULTS TO ADOPTED**

**CLL0-2020-0917-01  
“TRIBAL CONSULTATION MANDATE”**

**18 FOR, 0 AGAINST, 0 ABSTENTION(S)**

|              |                    |        |
|--------------|--------------------|--------|
| District 1:  | Carvicous Barfield | YES    |
| District 2:  | Sharon Hunt        | YES    |
|              | Gerald Goolsby     | YES    |
| District 3:  | James B. Hunt      | ABSENT |
|              | Pam Hunt           | YES    |
| District 4:  | Ted Woodell        | ABSENT |
| District 5:  | Wendy Moore        | YES    |
|              | Jarrod Lowery      | ABSENT |
| District 6:  | Larry Chavis       | YES    |
|              | Douglas Locklear   | YES    |
| District 7:  | Reginald Oxendine  | YES    |
|              | Yvonne Dial        | YES    |
|              | Alvin Mercer       | YES    |
| District 8:  | Corbin Eddings     | YES    |
| District 9:  | Dewey J McNeill    | YES    |
| District 10: | Marshil Locklear   | YES    |
| District 11: | Frank Cooper       | YES    |
| District 12: | Shelley Strickland | YES    |
|              | Michael Chavis     | YES    |
| District 13: | Ricky Burnett      | YES    |
| District 14: | Terry Hunt         | YES    |



Lumbee Tribe of North Carolina  
*The Desk of the Tribal Clerk*

**Record of Posting**

Tribal Ordinance: CLLO-2020-0917-01 "TRIBAL CONSULTATION MANDATE"

\_\_\_\_\_

\_\_\_\_\_

Posted Date: 9/17/2020

Presented to Tribal Chairman for Review: 9/17/2020 VIA EMAIL

Signature or Veto date: \_\_\_\_\_

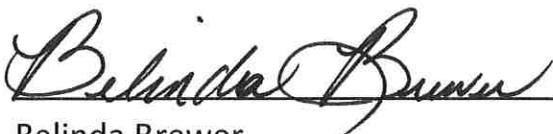
Reason for Veto: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_  
Harvey Godwin, Jr. \_\_\_\_\_  
Tribal Chairman of the Lumbee Tribe of North Carolina Date

  
\_\_\_\_\_  
Belinda Brewer  
Tribal Clerk Designee of the Lumbee Tribe of North Carolina

  
9/17/2020  
Date