

Oneida Nation

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Oneida, WI 54155

BC Resolution # 08-12-20-L

Approving a Limited Waiver of Sovereignty for the Merganser Capital Management LLC, Advisory Agreement with the Oneida Trust Enrollment Committee

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; 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,** Oneida General Tribal Council Resolution 4-28-74 established the Oneida Trust Enrollment Committee to receive, hold, and distribute Emigrant New York Claim settlement funds from the Bureau of Indian Affairs of the United States Department of the Interior; and
- WHEREAS,** Oneida General Tribal Council Resolution 1-8-77-C delegated administrative authority to the Oneida Trust Enrollment Committee to implement areas of Trust fund investments and disbursements; and
- WHEREAS,** Oneida General Tribal Council Resolution 6-30-90-A and Addendum established a "Per Capita Payment Trust Fund Distribution Plan" creating a trust fund with the purpose of perpetual per capita distributions to Oneida members aged 65 and older and to meet the needs of scholarships, members with disabilities, and burial expenses; this trust fund is referred to as the "Elderly Per Capita, Education, and General Welfare Trust Fund (EEGWT); and
- WHEREAS,** the Oneida Trust Enrollment Committee has established an investment policy for the EEGWT that employs custodians, money managers, advisors and service providers; and
- WHEREAS,** on May 26, 2020 the Oneida Trust Enrollment Committee amended their investment policy to employ a money manager to manage a fixed-income account within the EEGWT that fulfills the trust fund's disbursement obligation; this account is referred to as a Liability Driven Investment (LDI); and
- WHEREAS,** the Oneida Trust Enrollment Committee employed the consulting services of RVK Inc, to facilitate a request for proposals from potential LDI applicants; and
- WHEREAS,** the Oneida Trust Enrollment Committee and Trust Enrollment Department reviewed five proposals, interviewed two candidates, and determined Merganser Capital Management LLC, would be the best fit to manage the EEGWT's LDI account based on their the performance history, volatility history, customer service availability, corporate social responsibility, and management fees; and

WHEREAS, an advisory agreement between the Oneida Trust Enrollment Committee and Merganser Capital Management LLC, has been drafted and reviewed by the Oneida Law Office; and

WHEREAS, section 15.b of the draft agreement calls for a limited waiver of sovereign immunity from the Oneida Nation only in the event there is a claim dispute between the Oneida Trust Enrollment Committee and Merganser Capital Management LLC; and

WHEREAS, all limited waivers of sovereign immunity shall be made in accordance with the Oneida Nation Sovereign Immunity Law, Chapter 112; and

NOW THEREFORE BE IT RESOLVED, the Oneida Business Committee hereby approves the limited waiver of sovereign immunity provisions set forth in the advisory agreement between the Oneida Trust Enrollment Committee and Merganser Capital Management LLC.

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; 8 members were present at a meeting duly called, noticed and held on the 12th day of August, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 7 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

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