

TABLED  
PASSED  
SEP 03 2020

Cherokee Council House  
Cherokee, North Carolina  
JUL 07 2020

Ordinance No. 191 (2020)

Date

- WHEREAS, The Division of Operations houses many programs that enter into procurement contracts with both TERO and non-TERO certified vendors using the Tribe's contract bidding process in Chapter 92 of the Cherokee Code; and
- WHEREAS, the Tribe's government contracting law provides preference for a TERO certified vendor by allowing a TERO vendor's contract bid to be as much as 5 % more than the actual lowest bid from a competing business; and
- WHEREAS, the policy of offering opportunity and promoting Native owned businesses is a good policy; it can add to the cost of tribal government contracts; and
- WHEREAS, there has been an additional cost imposed on tribal government contracts in the form of a 1.75% fee attached to all contracts awarded to non-TERO vendors. Currently, this penalty is only levied against non-TERO bidders that were the lowest responsible bid winner on contracts of \$10,000 or more; and
- WHEREAS, the additional 1.75% is allocated as funding the administration of the TERO entity when TERO has been historically funded by the general fund budget. In actuality, this fee will be incurred by EBCI Program Budgets which were not intended by Council to pay for the Administration of TERO; and
- WHEREAS; Imposing this penalty on low bid contractors will reduce fair competition which will in turn drive up EBCI contract costs
- WHEREAS, allocating an arbitrary percentage without defined parameters of a budget need or spending violates the EBCI Fiscal Management Policy (FMP) established within the EBCI Department of Treasury. According to the FMP, programs are charged with developing a Reasonable, Accurate, and Balanced Budget. In addition, the FMP prohibits, "Placing unreasonable requirements on vendors for them to qualify to do business."

NOW, THEREFORE, BE IT ORDAINED by the Tribal Council of the Eastern Band of Cherokee Indians, in Council assembled, at which a quorum is present that Chapter 92 of the Cherokee Code is hereby amended as follows:

Sec. 92-28B. (Repealed). - ~~TERO fees. An employee rights fee is necessary to raise revenue for the operation of the TERO. Every economic entity, with the exception of TERO certified vendors, that obtains a Tribal contract where section 92-3 applies shall pay a fee of 1.75% for all contracts in excess of \$10,000.00.~~

**BE IT FURTHER ORDAINED**, that this ordinance shall take effect upon ratification of the Principal Chief and the that all ordinance or resolutions in conflict are hereby rescinded.

*Submitted by: Division of Operations*

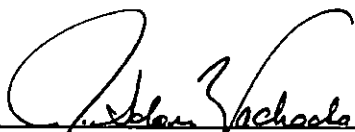
The attached Resolution/Ordinance No. 191 dated JULY 1, 2020 was:

**PASSED ( X )**

**KILLED ( )**

and ratified in open Council on SEPTEMBER 3, 2020 by 45 voting for the act  
and 43 members voting against it as follows:

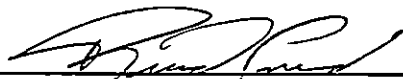
VOTE	FOR	AGAINST	ABSTAIN	ABSENT
Richard French		X		
Perry Shell	X			
Boyd Owle	X			
Bucky Brown	X			
Tom Wahneetah	X			
David Wolfe	X			
Adam Wachacha	X			
Bo Crowe		X		
Chelsea Saunooke				X
Albert Rose		X		
Dike Sneed		X		
Tommye Saunooke		X		
	45	43	0	12



TRIBAL COUNCIL CHAIRMAN



ENGLISH CLERK



PRINCIPAL CHIEF

APPROVED ( ☒ ) VETOED ( )

VETO UPHOLD ( ) VETO DENIED ( )

DATE: 9/17/2020

I hereby certify that the foregoing act of the Council was duly:

**PASSED ( )**

**KILLED ( )**

and ratified in open Council after the same has been interpreted by the Official Interpreter and  
has been fully and freely discussed.

INTERPRETED ( )

OMITTED ( )