



Little River Band of Ottawa Indians

1762 US 31 South
Manistee, MI 49660

Resolution No. #02-0605-01

Approval to submit a grant to the U.S. Department of Housing and Urban Development Indian Community Development Block Grants for Community Water Storage and Distribution System and Agreeing to the Assurances Regarding Compliance with the National Environmental Policy Act (NEPA), HUD Environmental Compliance Responsibilities, and other requirements associated with acceptance of those Block Grants

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, Stat. 2156 (25 U.S.C., 1300k et seq.); and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council, pursuant to Article IV, Section 7(a) of the Constitution, has the power to provide for the general welfare of the Tribe and its members; and

WHEREAS, the Tribal Council, pursuant to Article IV, Section 7 (i)(2) of the Constitution, has the power to manage any funds within the exclusive control of the Tribe and to appropriate such funds for the benefit of the Tribe and its members; and

WHEREAS, The Little River Band is committed to provide safe, sanitary water in a community water storage and distribution system to support the infrastructure needs for our current and planned community and economic growth on Tribal lands; and

WHEREAS, The Little River Band of Ottawa Indians has worked closely with the Indian Health Services in determining the best site to serve our community water needs; and

WHEREAS, The Little River Band of Ottawa Indians has found that the Department of Housing and Urban Development has Indian Community Development Block Grant funding available that may be used for this purpose; and

WHEREAS, The Little River Band of Ottawa Indians Tribal Council intends to seek grant funding from the Department of Housing and Urban Development to build a Community Water Storage and Distribution System; and

WHEREAS, the Housing Commission has passed a Procurement Policy that complies with 24 CFR Part 85; and

WHEREAS, the Tribal Council passed a Utility Ordinance on November 7, 2001, that regulates the operation and maintenance of the community water storage and distribution system. Ordinance # 01-500-05; and

WHEREAS, the Tribal Council has committed the necessary funds to complete this project, as well as maintain the community water storage and distribution system; and

WHEREAS, the Tribal Council understands that if the Tribe receives these funds, it will comply with all pertinent requirements of 24 CFR part 1003; and

WHEREAS, in order for the Tribe to receive the Indian Community Development Block Grant (ICDBG) funds, the Tribal Council must authorize the Tribal Ogema to assume the status of a Federal official under the National Environmental Policy Act of 1969 (NEPA) and each provision of law designated in 24 CFR 58.5 list of NEPA related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the Tribe, including the rights of affected parties to challenge Federal official's compliance with NEPA by appealing the Federal official's determination in federal court; and

WHEREAS, the Tribal Council must also provide assurances that neither the Band, nor the Tribal Ogema in his official capacity as a Tribal official, will assert a defense of sovereign immunity and consent to the jurisdiction of the Federal Courts, for the enforcement of these responsibilities; and

WHEREAS, Article IX, Section 1 of the Constitution preserves the Tribe's immunity from suit except as authorized by resolution or in furtherance of tribal business enterprises; and

WHEREAS, the Tribal Council has determined that acceptance of ICDBG funds from HUD to be used for activities associated with the development of the community water tower and distribution system will advance important Tribal purposes.

NOW THEREFORE BE IT RESOLVED THAT the Little River Band of Ottawa Indians by this resolution intends to apply for a grant from the Department of Housing and Urban Development under the Indian Community Development Block Grant Program in the amount of \$500,000 to assist the Little River Band in establishing a community water and storage distribution system.

IT IS FURTHER RESOLVED THAT, if the Tribe receives this grant, the Tribal Council authorizes the Tribal Ogema, or in his absence, the Tribal Council Speaker to execute any documents necessary to officially accept these grant funds from HUD.

IT IS FURTHER RESOLVED THAT, if the Tribe receives this grant, the Housing Commission Procurement Policy that complies with 24 CFR Part 85 will be used to implement the grant.

IT IS FURTHER RESOLVED THAT, the Utility Ordinance that regulates the operation and maintenance of the community water storage and distribution system shall govern the community water storage and distribution system. Ordinance # 01-500-05.

IT IS FURTHER RESOLVED THAT, if the Tribe receives this grant, the Tribal Council shall commit the necessary funds to complete this project, as well as maintain the community water storage and distribution system.

IT IS FURTHER RESOLVED THAT, if the Tribe receives this grant, it will comply with all pertinent requirements of 24 CFR Part 1003.

IT IS FURTHER RESOLVED THAT, if the Tribe receives this grant, the Tribal Council, in authorizing the execution of such documents, authorizes the Tribal Ogema to assume the status of a federal official under the National Environmental Policy Act of 1969 (NEPA) and each provision of law designated in 24 CFR 58.5 list of NEPA related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action associated with the projects to be funded with the grant funds received from HUD.

IT IS FURTHER AGREED THAT, if the Tribe receives this grant, the Tribal Council consents to the jurisdiction of the federal courts for the limited purpose of permitting person(s) the right to sue the Tribal Ogema, in his capacity as a federal official, and for the limited purpose of seeking declaratory and injunctive relief for alleged violations of the federal official's responsibilities under NEPA and each provision of law designated in 24 CFR 58.5 list of NEPA related authorities insofar as the provisions of these laws apply to HUD's responsibilities for environmental review, decision-making and action that have been assumed by the Tribe. The Tribal Council further agrees that neither the Band, nor the Tribal Ogema, shall assert the sovereign immunity of the Band, nor that of the Tribal Ogema as an official of the Band, as a defense in such actions.

IT IS FURTHER RESOLVED THAT, if the Tribe receives this grant, nothing in this Resolution shall be construed as a waiver of the Little River Band, its Tribal Ogema and other Tribal officials, acting in their official capacities, from suits in the courts of the United States or any state except as expressly provided in this Resolution, and shall not be construed to waive the right of Band or Tribal officials to be immune from damages in any suit.

CERTIFICATION OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 1 AGAINST, 0 ABSENT, and 0 ABSTAINING, at a Regular Session of the Little River Band of Ottawa Indians' Tribal Council held at the Little River Band Community Center on June 5, 2002, in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest: