



Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 04-0630-280

Authorizing Submission of an Application and Permit for Miscellaneous Operations within a State Trunkline Right of Way and Agreeing to a Limited Waiver of Sovereign Immunity to Permit Enforcement of the Terms of a Performance and Indemnification Resolution

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; 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 is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, pursuant to Article IV, Section 5 (a)(4) and Article V, Section 5(a)(3) and (8) of the Band's Constitution, the Tribal Ogema, or in his/her absence, the Tribal Council Speaker, is authorized to represent the Band in its relations with other organizations and manage the economic affairs/enterprises of the Band, in a manner consistent with the Band's Constitution and resolutions of the Tribal Council; and

WHEREAS, the Tribal Council, pursuant to Article IV, Section 7 (b) of the Constitution, has the power to authorize and ratify agreements and contracts negotiated by the Tribal Ogema; and

WHEREAS, pursuant to Section 1 of Article XI of the Constitution, the Tribe is immune from suits except as authorized by ordinance or resolution; and

WHEREAS, the Band is sponsoring a Walk for Wellness on July 3, 2004, which event will require temporary closure of highway U.S. 31 adjacent to the Band's pow wow grounds; and

WHEREAS, in recognition of the Michigan Department of Transportation's (MDOT) interest in the use and safety of users on the right of way granted for purposes of U.S. 31, the Band is willing to request an Application and Permit for Miscellaneous Operations Within State Trunkline Right of Way from MDOT; and

WHEREAS, as a condition of such permit, MDOT requires that designated Tribal officials be authorized to submit the Permit application on behalf of the Band and agree to the terms of a Performance and Indemnification Resolution; and

WHEREAS, the terms of the Performance and Indemnification Resolution would require a limited waiver of sovereign immunity for the limited purpose of indemnifying and holding harmless, the State of Michigan, its Transportation Commission, MDOT, and all officers, agents, and employees of the State from certain claims and losses arising from the Band's use of U.S. 31 under the Permit; and

WHEREAS, the Tribal Council finds that execution of the Permit and agreeing to the terms of the Performance and Indemnification Resolution to resolve any legal issues necessary to permit the Walk for Wellness to proceed is in the best interests of the Band.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes the Tribal Ogema to execute and complete an Application and Permit for Miscellaneous Operations within the State Trunkline Right of Way (the "Permit") requesting temporary closure of U.S. 31 on July 3, 2004 for the Walk for Wellness.

IT IS FURTHER RESOLVED THAT the Tribal Council agrees to the terms of the Performance and Indemnification Resolution and agrees to a limited waiver of sovereign immunity for sole purpose of permitting enforcement of terms of Permit and the performance and indemnification resolution; provided that neither the terms of this resolution nor the terms of the Performance and Indemnification Resolution shall be construed as a consent to the jurisdiction of the courts of the State of Michigan.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on June 30, 2004, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court