



Little River Band of Ottawa Indians

2608 Government Center Drive

Manistee, MI 49660

(231) 723-8288

Resolution #17-1011-348

Approval of Easement to Consumers Energy for Construction and Maintenance of Electric Facilities on the Gathering Grounds Trust Parcel

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 Tribe adopted amendments to the Constitution on April 26, 2004, which became effective upon approval by the Assistant Secretary-Indian Affairs on May 13, 2004; and

WHEREAS, the Tribe adopted amendments to the Constitution on July 11, 2016 which became effective upon approval by the Assistant Secretary-Indian Affairs on August 24, 2016; 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, the Bureau of Indian Affairs (BIA) is requesting permission to survey Tribal Trust Land in order to prepare a clear defined description of easement for construction and maintenance of electrical facilities on the Gathering Grounds parcel; and

WHEREAS, the Bureau of Indian Affairs requires the granting of an easement to Consumers Energy in order to authorize the construction and maintenance of electrical facilities on the Gathering Grounds parcel, according to the following attached documents: Exhibit A—Certificate of Survey; and Exhibit B—Easement for Electric Facilities.

NOW THEREFORE BE IT RESOLVED that the Little River Band of Ottawa Indians, Tribal Council hereby maintains its existing jurisdiction over the land, activities, and persons within the easement and this grant does not diminish to any extent: (a) the tribe's power to tax the land, any improvements on the land, or any person or activity within, the right-of-way; (b) the tribe's authority to enforce tribal law of general or particular application on the land subject to and within the right-of-way, as if there were no grant of right-of-way; (c) the tribe's inherent sovereign power to exercise civil jurisdiction over non-members on Indian land; or (d) the character of the land subject to the right-of-way as Indian country under U.S.C. 1151.

NOW THEREFORE BE IT RESOLVED that Little River Band of Ottawa Indians shall be the owner of any permanent improvements constructed during the term of the Grant and said permanent improvements, appurtenances, fixtures and equipment placed within the right-of-way shall be removed or an option for landowner to take possession of and title to the permanent improvements or as otherwise negotiated.

NOW THEREFORE BE IT RESOLVED the Grant may be amended.

NOW THEREFORE BE IT RESOLVED this easement may be assigned with applicable consent and BIA approval and within 30 days.

NOW THEREFORE BE IT RESOLVED the Grant will be effective on the date it is approved.

NOW THEREFORE BE IT RESOLVED the condition for this grant shall extend to and be binding upon and shall inure to the benefit of the successors of the GRANTEE.

NOW THEREFORE BE IT RESOLVED that the proposed use is in conformance with applicable tribal law.

NOW THEREFORE BE IT RESOLVED that the Little River Band of Ottawa Indians Tribal Council hereby authorizes permission to survey and grant a 50-year easement to Consumers Energy for construction and maintenance on the property described in Exhibit A and Exhibit B referenced earlier in this resolution. Due to the overall benefits to the Tribe and its members derived from the road improvements, compensation/bonding/insurance requirements for any damages from the survey and for the granting of the right-of-way are hereby waived. The Superintendent of the Michigan Agency is hereby requested to recommend approval of the easement documents.

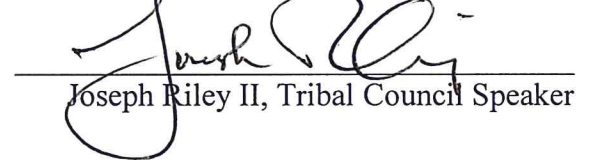
NOW THEREFORE BE IT RESOLVED, that the Ogema is hereby authorized to execute any documentation required concerning the easement, for and on behalf of the Little River Band of Ottawa Indians.

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 October 11, 2017, at the Little River Band of Ottawa Indians Government Center in Manistee, Michigan, with a quorum being present for such vote.



Sandra Lewis, Tribal Council Recorder



Joseph Riley II, Tribal Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court
Planning Department

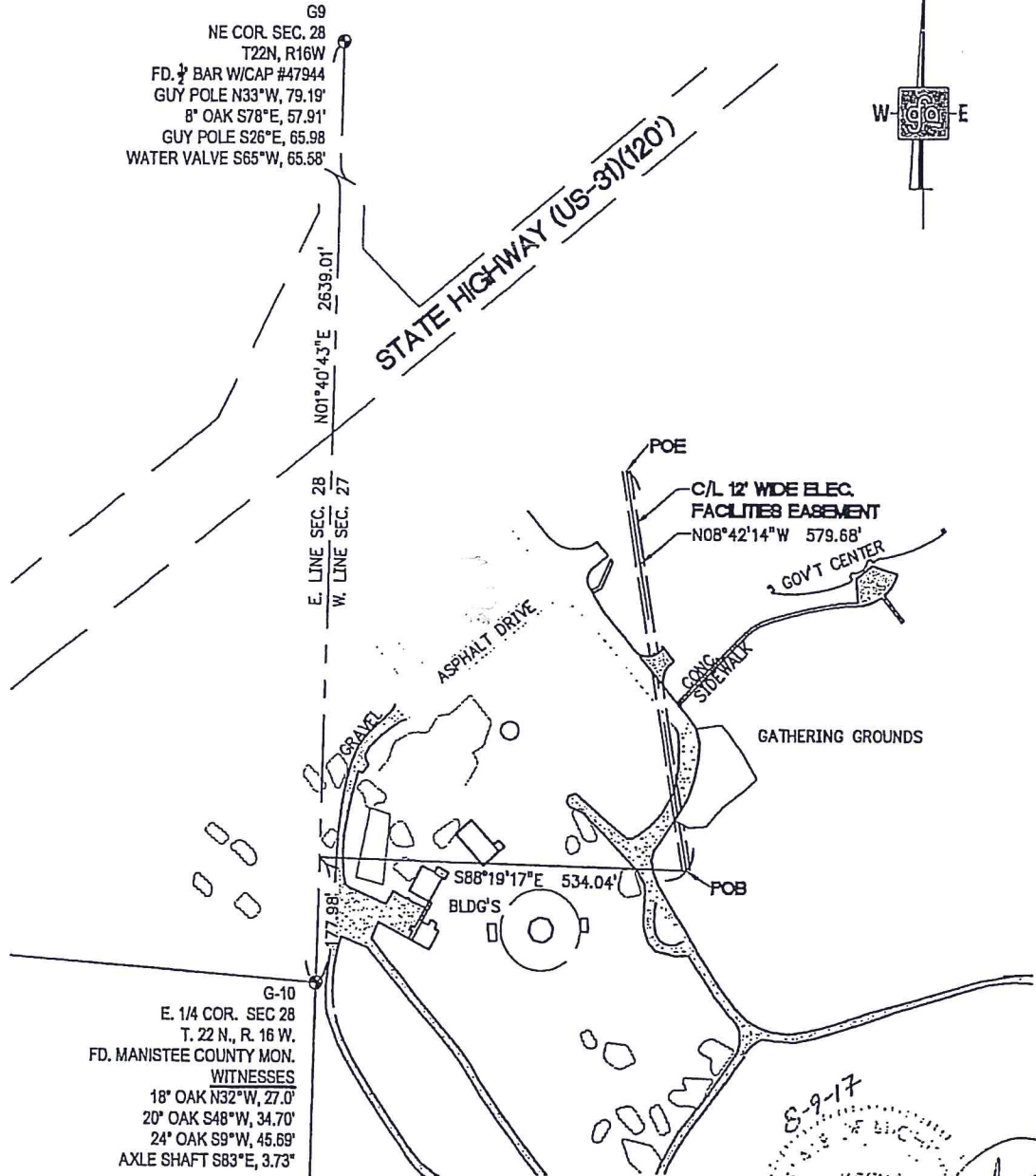
Exhibit - A

EASEMENT EXHIBIT

GRAPHIC SCALE: 1 inch = 200 feet
0 100 200 400 600


Legend

Government Corner



PREPARED FOR: **RCA PC**

BASIS OF BEARINGS: U.S. STATE PLANE ZONE 2112, NAD83 (2011)

<p>ENGINEERING SURVEYING TESTING & OPERATIONS</p> <p>123 West Front Street Traverse City, MI 49684</p>	 <p>http://gfa.ic</p> <p>231.946.5874 (p)</p> <p>231.946.3703 (f)</p>	<p>Location:</p> <p>PART OF THE NW 1/4 SECTION 27, TOWN 22 NORTH, RANGE 16 WEST MANISTEE TWP., MANISTEE CO., MI</p>	<p>DATE: August 8, 2017</p> <p>BY: JASON JUDLERET</p> <p>DR: MJF CRO: JAJ</p> <p>17287</p> <p>SHT 1 OF 2</p>
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THESE DOCUMENTS ARE PREPARED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONTRACT FOR THIS PROJECT.

REV: .

EASEMENT EXHIBIT

EASEMENT FOR ELECTRICAL FACILITIES

An easement for the installation and maintenance of Electrical facilities in part of the Northwest one-quarter of Section 27, Town 22 North, Range 16 West, Manistee Township, Manistee County, Michigan the easement being 12 feet wide the side lines of which are 6 feet each side of and parallel to the following described centerline:

Commencing at the East one-quarter corner of said Section 28,
thence North 01°40'43" East, 177.98 feet,
along the West line of said Section 27;
thence South 88°19'17" East, 534.04 feet,
along a line running perpendicular to the said West line of said Section 27, to the Point of
Beginning of said 12.00 foot wide electrical facilities easement centerline;
thence North 08°42'14" West, 579.68 feet,
to the Point of Ending of said 12.00 foot wide electrical facilities easement centerline.



PREPARED FOR: **RCA PC**

BASIS OF BEARINGS: U.S. STATE PLANE ZONE 112, NAD83 (2011)


ENGINEERING SURVEYING TESTING & OPERATIONS		http://gfa.lc 231.946.5874 (p) 231.946.3703 (f)	Location PART OF THE NW 1/4 SECTION 27, TOWN 22 NORTH, RANGE 16 WEST MANISTEE TWP., MANISTEE CO., MI	DATE August 8, 2017 PM: JASON JULLER DR: MJF CHK: JAJ 17287 SHT 2 OF 2
123 West Front Street Traverse City, MI 49684				
THESE DOCUMENTS ARE PREPARED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE CONTRACT FOR THIS PROJECT.				
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REV: .				

Exhibit B

EASEMENT FOR ELECTRIC FACILITIES

SAP# 1040430937
Design# 10822722
Agreement#MIO0000030121

Little River Band of Ottawa Indians of Michigan, a Federally recognized Indian Tribe, of P.O. Box 314, Manistee, MI 49660 (hereinafter "Owner")

for \$1.00 and other good and valuable consideration [exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to MCLA 207.526(f)] grants and warrants to

CONSUMERS ENERGY COMPANY, a Michigan corporation, One Energy Plaza, Jackson, Michigan 49201 (hereinafter "Consumers")

a permanent easement to enter Owner's land (hereinafter "Owner's Land") located in the Township of Manistee, County of Manistee, and State of Michigan as more particularly described in the attached Exhibit A to construct, operate, maintain, inspect (including aerial patrol), survey, replace, reconstruct, improve, remove, relocate, change the size of, enlarge, and protect a line or lines of electric facilities in, on, over, under, across, and through a portion of Owner's Land (hereinafter "Easement Area") as more fully described in the attached Exhibit B, together with any pole structures, poles, or any combination of same, wires, cables, conduits, crossarms, braces, guys, anchors, transformers, electric control circuits and devices, location markers and signs, communication systems, utility lines, protective apparatus and all other equipment, appurtenances, associated fixtures, and facilities, whether above or below grade, useful or incidental to or for the operation or protection thereof, and to conduct such other activities as may be convenient in connection therewith as determined by Consumers for the purpose of transmitting and distributing electricity. Consumers may attach additional lines outside the Easement Area, running laterally from a line within the Easement Area to the South, East and West edge(s) of Owner's Land, in which event the Easement Area shall include a 12-foot-wide strip of land, being 6 feet on each side of each such lateral line constructed on Owner's Land.

Additional Work Space: In addition to the Easement rights granted herein, Owner further grants to Consumers, during initial construction and installation only, the right to temporarily use such additional work space reasonably required to construct said lines. Said temporary work space shall abut the Easement Area, on either side, as required by construction.

Access: Consumers shall have the right to unimpaired access to said line or lines, and the right of ingress and egress on, over, and through Owner's Land for any and all purposes necessary, convenient, or incidental to the exercise by Consumers of the rights granted hereunder.

Trees and Other Vegetation: Owner shall not plant any trees within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, roots, and other vegetation within the Easement Area. Consumers shall have the right from time to time hereafter to enter Owner's Land to trim, cut down, and otherwise remove and control any trees, brush, or other vegetation located outside of the Easement Area which are of such a height or are of such a species whose mature height that in falling directly to the ground could come into contact with or land directly above Consumers' facilities.

Buildings/Structures: Owner agrees not to build, create, construct, or permit to be built, created, or constructed, any obstruction, building, septic system, drain field, fuel tank, pond, swimming pool, lake, pit, well, foundation, engineering works, installation or any other type of structure over, under, or on said Easement Area, whether temporary or permanent, natural or man-made, without the express authorization of Consumers, without a prior written agreement executed by Consumers' Real Estate Department expressly allowing the aforementioned.

Ground Elevation: Owner shall not materially alter the ground elevation within the Easement Area without a prior written agreement executed by Consumers Real Estate Department allowing said alteration.

Exercise of Easement: Consumers' nonuse or limited use of this Easement shall not preclude Consumers' later use of this Easement to its full extent.

Ownership: Owner covenants with Consumers that they are the lawful fee simple owner of the aforesaid lands, and that they have the right and authority to make this grant, and that they will forever warrant and defend the title thereto against all claims whatsoever.

Successors: This easement shall bind and benefit Owner's and Consumers' respective heirs, successors, lessees, licensees, and assigns.

Counterparts: This easement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. It is not necessary that all parties execute any single counterpart if each party executes at least one counterpart.

Date: _____

Owner: Little River Band of Ottawa Indians of Michigan, a
Federally recognized Indian Tribe

By: Larry B. Romanelli

Its: Tribal Ogema

Acknowledgment

The foregoing instrument was acknowledged before me in _____ County, Michigan,

on _____ by Larry B. Romanelli, Tribal Ogema for the Little River Band of

Ottawa Indians of Michigan, a Federally recognized Indian Tribe, on behalf of the tribe.

Notary Public

County, Michigan

Acting in _____ County

My Commission expires: _____

Prepared By: Brandy R. Gale; 07/27/2017
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

After recording, return to:
Carrie Main, EP7-471
Business Services
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION MUST IDENTIFY [§169.102(a)]:

1. Applicant Name and Address: Consumers Energy, a Michigan corporation,
One Energy Plaza, Jackson, Michigan 49201
2. Tract(s) or parcel(s) affected by the right-of-way: As attached Exhibit A
3. General location (easement description): As attached Exhibit A
4. Purpose: As attached Exhibit B
5. Term (Renewal, if applicable): As attached Exhibit B (Easement for Electric Facilities)
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of way;
2. A map of definite location of the right-of-way; (25 CFR 169.102((b)(2); survey plat signed by professional surveyor or engineer showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C. § 176, 43 U.S.C. § 2 AND § 1764, and showing existing facilities adjacent to the proposed project.)
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103;
4. Record of notice that the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting the requirements of §§ 169.110, 112, 114;
7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:

- a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
 9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference includes such rules, regulations and requirements as a part of this application to the same effect as if the same were herein set out in full.

Applicant Point of Contact Information:

Name: Michelle L. Reed on behalf of

Consumers Energy

Address : 4100 W. M-76, West Branch

State: Michigan Zip: 48661

Phone: (989) 516-4122

Email: michelle.reed@cmsenergy.com

Fax: (989) 343-0050

Date: September 11, 2017

Applicant:

Michelle L Reed
(Signature)

Michelle L Reed
(Print Name)