



## Little River Band of Ottawa Indians

2608 Government Center Drive  
Manistee, MI 49660  
(231) 723-8288

Moved to  
Open Session  
08/05/20

### Resolution # 20-0723-206

*Approval of Right-Of-Way and  
Easement for Construction on Orchard A Parcel for Commodities Road—Route #2140  
and Commodities Parking Lot—Route #P108*

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 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) requires that as part of the Tribal Transportation Program (TTP) Road Inventory certain statements be made by the tribes regarding the roads when TTP construction funding is to be spent on designing and constructing roads on Tribal lands; and

WHEREAS, the Little River Band of Ottawa Indians has Tribal owned roads/facilities that are currently part of the Tribe's TTP Road Inventory and these roads/facilities are known as: Commodities Road—Route #2140 and Commodities Parking Lot—Route #P108.

WHEREAS, Commodities Road—Route #2140 and Commodities Parking Lot—Route #P108 are contained within the Orchard A Parcel, Tract Number 482T1; and

WHEREAS, these facilities reside on Tribal property and will remain as Tribal owned facilities in the TTP Road Inventory throughout construction of this project; and

WHEREAS, the Bureau of Indian Affairs requires the granting of a right-of-way to the Little River Band of Ottawa Indians Tribal Council in order to authorize road improvements/construction according to the documents contained in "Exhibit A."

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 right-of-way 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 the Little River Band's Tribal Transportation Program 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 any disputes regarding violations, abandonment, or non-use may be addressed in accordance with 25 CFR 169.403.

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 Little River Band's Tribal Transportation Program is required to complete construction of the permanent improvements within 60 days or by general schedule of construction.

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 perpetual right-of-way to the Little River Band's Tribal Transportation Program for road improvements/construction on the property described in the exhibits 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 right-of-way documents.

NOW THEREFORE BE IT RESOLVED that this easement may not be mortgaged without applicable consent and BIA approval within 30 days.

BE IT FINALLY RESOLVED that Steve Parsons, BIA Roads/Program Coordinator, is hereby authorized to be the Tribe's Point of Contact as identified on page 2 of the Bureau of Indian Affairs Right of Way Application Form and is as such is authorized to execute any required documentation concerning the Right-of-Way application.

### **CERTIFICATE OF ADOPTION**

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 9 FOR,    AGAINST,    ABSTAINING, and   0 ABSENT, at an Emergency Session of the Little River Band of Ottawa Indians Tribal Council held on July 23, 2020, via Teleconference, with a quorum being present for such vote.

  
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Gary DiPiazza, Council Recorder

  
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Ron Pete, Council Speaker

Attest:

Distribution:      Council Records  
                         Tribal Ogema  
                         Tribal Court