



# Little River Band of Ottawa Indians

PO Box 314

Manistee MI 49660-0314

RESOLUTION NO. #97-0707-04

AUTHORIZING THE USE OF CDGB FUNDS FOR ACQUISITION  
OF THE THOMAS PROPERTIES  
AND  
THE EXECUTION OF MORTGAGE DOCUMENTS FOR SUCH ACQUISITION  
AND  
AGREEING TO A LIMITED WAIVER OF IMMUNITY IN SUCH MORTGAGE  
DOCUMENTS

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.) (hereinafter "Little River Act"; and

WHEREAS, Section 8(a)(2) of the Little River Act (25 U.S.C. §1300k-6(a)(2)), provides that the governing documents in effect as of the date of enactment of the Little River Act shall be the interim governing documents for the Tribe until such time as a new governing document is enacted under the Secretarial election required by the Little River Act; and

WHEREAS, the Tribal Council, pursuant to Article VII, Section 1. (f) of the Constitution and Bylaws of the Little River Band of Ottawa Indians ("Tribal Constitution"), is authorized to manage the economic affairs of the Tribe; and

WHEREAS, the Tribal Chairman, pursuant to Article IV, Section 11 (f)(2) of the Tribal Constitution, is authorized to represent the Tribe in its relations with other organizations, in a manner consistent with the Tribal Constitution;

WHEREAS, the Tribe has a need to acquire additional building space for Tribal administrative offices and community facilities; and

WHEREAS, the Tribe has agreed to terms with the owners of certain commercial property, known as the Thomas Property, which has two buildings with facilities suitable for the establishment of a Tribal Administrative Offices and a Tribal Community Center; and

WHEREAS, the Tribal Council has authorized Robert Guenthardt,



the Tribal Chairperson, to negotiate the purchase of the Thomas Property and to execute such agreements as are necessary to proceed with such acquisition; and

WHEREAS, the Tribal Council intends to utilize the Community Block Grant Funds to apply towards the purchase of the Thomas Property and the cost of renovating and improving said property so that it is suitable for community purposes; and

WHEREAS, the Tribe must execute a Mortgage Agreement and Promissory Note in an amount up to \$300,000.00 to cover the balance of the costs of acquiring and renovating the Thomas Properties so that it is suitable for the Tribe's intended use of the building for governmental and community purposes; and

WHEREAS, FMB Bank has tentatively agreed to provide the Tribe with a Loan in the amount required and to proceed with the negotiation and execution of a Mortgage Agreement and Promissory Note with representatives of the Tribe; and

WHEREAS, the Little River Band of Ottawa Indians, as a federally recognized Indian Tribe, is immune from suit for damages in federal, state or tribal courts; and

WHEREAS, Article XII of the Little River Band of Ottawa Indians' Constitution provides that the Tribal Council shall not waive or limit the right of the Little River Band to be immune from suit, except as authorized by tribal ordinance or resolution or in furtherance of tribal business enterprises; and

WHEREAS, the Tribal Council understands that the Forest Clinic property would be provided as security for such Mortgage and Note and that, in the event the Tribe defaults on repayment of the Mortgage and Note, the amount due may be recovered from solely from such security and that FMB Bank may only seek enforcement and collection of such amounts to be repaid from revenues received by the Tribe from the Thomas Property and the Thomas Property; and

WHEREAS, the Tribal Council further understands that the Tribe would be agreeing to waive its sovereign immunity from suit in state or Tribal courts for purposes of enforcement and/or interpretation of the terms of the Mortgage Agreement and Promissory Note and that the Tribe would agree to have those documents construed and enforced in accordance with the laws of the State of Michigan; and

WHEREAS, the Tribal Council has determined that the specific waiver of sovereign immunity requested by FMB Bank in the Mortgage Agreement and Promissory Note, for the specific purpose of



enforcement and/or interpretation of the Mortgage and Note, is in furtherance of important Tribal purposes.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes Chairman Robert Guenthardt or, in his absence, Vice Chair Kathy Berentsen, to execute the Mortgage Agreement and Promissory Note to allow performance and payment by FMB Bank of a Loan in an amount not to exceed \$300,000.00, in whatever amount is determined necessary to acquire and renovate the buildings on the Thomas Property for the purposes described;

IT IS FURTHER RESOLVED THAT the Tribal Council, by authorizing the Tribal Chairman or Vice Chair to execute such documents, expressly agrees to waive its sovereign immunity from suit for the sole purpose of enforcement and/or interpretation of the terms of the Mortgage and Note.


#### Certificate of Adoption

This resolution was adopted by the Tribal Council of the Little River Band of Ottawa Indians at its Regular Session held on July 7, 1997 by a vote of 7 in favor, 0 opposed, 0 absent and 0 abstentions. A quorum of the Tribal Council being present for such vote.

Date: 7/7/97

  
Charles Fisher, Council Secretary

Attest:

  
William Memberto, Council Treasurer