

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

**7500 Odawa Circle
Harbor Springs, MI 49740**

TRIBAL RESOLUTION # 051123- 01

Water, Sewer and Electric Services to Second Street Indian Town Development

WHEREAS the Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) is a federally recognized Indian Tribe under Public Law 103-324, and is a party to numerous Treaties with the United States, the most recent being the Treaty of Washington of March 28, 1836 (7 Stat. 491) and the Treaty of Detroit of 1855 (11 Stat. 621);

WHEREAS the Tribe is the beneficial owner of a number of contiguous parcels held in trust by the United States on Second Street in Harbor Springs in the area commonly referred to as Indian Town as shown in the survey map prepared by Wade Trim, Job ODW2022-01G, attached as Exhibit A ("Property");

WHEREAS the Tribe has developed a site plan for the Property to initially construct elders housing. The full build out is shown in the Seven Generations Architecture and Engineering Site Layout, August 29, 2022, attached as Exhibit B;

WHEREAS the City of Harbor Springs ("City") maintains its water main, sewer and electric lines along Second Street through which it provides water, sewer and electric service to the current residences outside of the Tribe's trust parcels, and historically provided water, sewer and electric services to residences that were located within the Property;

WHEREAS the Tribe plans to construct water and sewer lines and related infrastructure to enable the City to supply water and sewer services in the structures as shown in Exhibit B;

THEREFORE BE IT RESOLVED:

1. The Tribe grants, warrants and conveys to the City the right and authority to construct, maintain, alter, replace, extend, repair, or remove water, sewer and electric lines and related equipment, including existing water, sewer and electric lines and extensions thereof on the Property.

2. The Tribe, through a licensed contractor, will construct water and sewer lines to connect the structures to the City mains including all appurtenances, such as valves, hydrants, and water and sewer services, at no cost to the City. The water and sewer line construction will be observed under the supervision of a licensed engineer, and will be constructed and tested and approved per EGLE permit requirements and City construction standards. The City will be allowed to observe and inspect all construction facilities. Upon certification of completion by the

licensed engineer, and City's concurrence that the water and sewer lines are ready for operation, the City will approve hook-up to the water and sewer mains on Second Street, at which point ownership of the water and sewer lines within the Second Street development will be turned over to the City.

3. The electric lines shall be run underground and located by agreement between the Tribe's licensed contractor and the City Department of Public Works.

4. The City shall be responsible for maintenance and repair of the water, sewer and electric lines pursuant to the City ordinances and applicable law, except the Tribe, and its tenants, agents, successors and assignees acknowledge the City is expressly reserving all rights under law available to the City including rights of governmental immunity. The Tribe understands and agrees that under current city law the owner is responsible for the cost of installation and maintenance of water, sewer and electric lines from the curb stop to the structures.

5. The Tribe shall be responsible for all water service lines and appurtenances on the Property, the same as all owners of property located in the City pursuant to the City ordinances and applicable law.

6. The City shall possess such rights of ingress and egress over Property as are necessary or reasonable for all purposes incident to water, sewer and electric line installation and distribution activities. Such rights include, by way of illustration and not limitation, the following:

A. The right to install water and electric meters for each user located on the Property including the right to access all meters for reading, repairs, replacement and the right to calculate water consumption, sewer volume and electric usage;

B. The right to separately bill all users of water, sewer and electric on the Property pursuant to the City ordinances now in effect and as amended from time to time (the "City Codes");

C. The right to shut off water or electric services for non-payment or other violations pursuant to the City ordinances.

7. No structure or other barrier shall be constructed or maintained anywhere on the Property that would interfere with the City's ability to maintain its water, sewer and electric lines.

8. The Tribe, its sub-entities, employees, officials, guests, lessees, sub-lessees and invitees will not engage in any activity that would damage or hinder the maintenance of the City's water, sewer and electric lines on the Property or that would otherwise be prohibited by City ordinance.

9. This Resolution shall be binding on the Tribe's tenants, successors and assigns as to the Property with the same force and effect as a utility easement that runs with the land. The Tribe shall reference this Resolution in all leases and agreements that relate to the Property.

10. The Tribe shall cause all of its tenants, successors, and assigns to be contractually bound by the City of Harbor Springs ordinances that relate to the use and consumption of City water, sewer and electric.

11. The surrounding parcels currently or historically served by City water, sewer and electric lines that have run through the Property, including Tax ID#s 51-15-14-200-101, 51-15-14-200-102 and 51-15-14-200-105 may continue to receive City water, sewer and electric service by lines running through the Property to be located by mutual agreement of the Tribe's licensed contractor and City Department of Public Works.

12. In the event the City or local Fire Authority is called to respond to an event on the Property the responding fire department shall have the same authority to enter the Property, issue orders necessary to protect life and property, and take any other actions, as when fighting fires elsewhere in the City. The Tribal Chairperson is authorized to sign the Fire Protection Services Agreement, by and on behalf of the Tribe.

13. Any disputes relating the provision of City water, sewer and electric services to the Property that are not resolved informally are subject to the jurisdiction of courts of the State of Michigan, and the Tribe waives its sovereign immunity for the sole and limited purpose of resolving such disputes.

14. The Tribal Chairperson is authorized to sign the MOA with the City attached as Exhibit C to make the contents of this Resolution a binding Agreement between LTBB and the City. The signed version of Exhibit C will be attached to and kept on file with this Resolution.

15. This Resolution may be recorded with the Emmet County Register of Deeds in order to place the terms and conditions of this Resolution as part of the public record.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Tribal Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on May 11, 2023 at which a quorum was present, by a vote of 5 in favor, 0 opposed, 0 abstentions, and 4 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Kiogima	X			
Tamara Munson				X
William Ortiz	X			
Aaron Otto	X			
Melissa Pamp	X			
James Pontiac				X
Leroy Shomin				X
Marcella Reyes				X
Emily Proctor	X			

Date: 05/12/2023

Emily Proctor
Emily Proctor, Legislative Leader

Date: 05/12/2023

Marcella R. Reyes
Marcella Reyes, Tribal Council Secretary

Received by the Executive Office on 5-12-2023 by Sandra Worthington

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 5-12-2023

Regina Gasco Bentley
Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on 5/12/2023 by Marino Taylor