

PERFORMANCE RESOLUTION FOR TRIBAL GOVERNMENTS

This Performance Resolution is required by the Michigan Department of Transportation for purposes of issuing to a sovereign tribal government an "Individual Permit for Use of State Trunkline Right of Way," or an "Annual Application and Permit for Miscellaneous Operations Within State Trunkline Right of Way."

RESOLVED WHEREAS, the _____
(Name of Sovereign Tribal Government)

hereinafter referred to as the "TRIBAL GOVERNMENT," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under state trunkline right of way at various locations; within and adjacent to its tribal government properties;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the TRIBAL GOVERNMENT agrees that:

1. Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law. This Agreement is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. Any work performed for the TRIBAL GOVERNMENT will be solely as for the TRIBAL GOVERNMENT and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the TRIBAL GOVERNMENT, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims against the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof will be the sole responsibility of the TRIBAL GOVERNMENT. Certificate of insurance shall be provided to the Department by the contractors. The liability policies shall meet the requirements of the Department's Permit.
3. The TRIBAL GOVERNMENT will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State trunkline right of way resulting from the installation, construction, operation and/or maintenance of the TRIBAL GOVERNMENT'S facilities according to a PERMIT issued by the DEPARTMENT.
4. With respect to any activities authorized by PERMIT, when the TRIBAL GOVERNMENT requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
5. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

6. This resolution shall continue in force from this date until cancelled by the TRIBAL GOVERNMENT or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the TRIBAL GOVERNMENT with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within state trunkline right of way on behalf of the TRIBAL GOVERNMENT.

Name	and/or	Title

I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by the Tribal Council of the _____.
(Name of Sovereign Indian Tribe)

at a meeting held on the _____ day of _____ 20__ A.D.

Signed _____ Title _____

Print Name _____