



LIMITED WAIVER OF SOVEREIGN IMMUNITY

RESOLUTION NUMBER _____

A RESOLUTION OF THE _____ TRIBE ("TRIBE") ACCEPTING AND APPROVING ALASKA ENERGY AUTHORITY GRANT IN PARTNERSHIP WITH WELLS FARGO AND DENALI COMISSION FOR OUTDOOR LIGHTING RETROFITS TO LED TECHNOLOGY AND PROVIDING A LIMITED WAIVER OF THE TRIBE'S SOVEREIGN IMMUNITY.

WHEREAS, the Alaska Energy Authority in partnership with Wells Fargo and Denali Commission has a grant available to the Tribe for the purchase of retrofitting outdoor lighting to LED technology as described in the Grant Agreement; and

WHEREAS, the Authority requires as a condition of the Grant that the Tribe waive its sovereign immunity and consent to suit as to all causes of action arising out of or in connection with the Grant Agreement; and

WHEREAS, the Tribe desires to waive its sovereign immunity as set forth herein.

NOW THEREFORE BE IT RESOLVED THAT:

1. **Waiver of Sovereign Immunity:** The Tribe, acting under the authority its Constitution, adopted _____, waives the Tribe's sovereign immunity and gives its consent to be sued and to have judgment entered against it in the courts or administrative tribunals or entities of the State of Alaska for the relief specified in the attached Limited Waiver of Sovereign Immunity; and

2. **Authorized Agent:** The Tribe authorizes the President of the Tribe to negotiate, execute, and administer on behalf of the Tribe the Limited Waiver of Sovereign Immunity and any other agreements or documents required as a condition of the Grant Agreement and any subsequent amendments.

CERTIFICATION

The foregoing resolution was passed and approved by a duly convened meeting of the _____ Council, at which the required voting quorum was present and voted ___ Yes, ___ No, and ___ Abstaining, this ___ day of _____, 2020.

IN WITNESS THERETO BY: SIGNATURE OF PRESIDENT

Signature _____ Title _____

Attest: SIGNATURE OF CLERK/SECRETARY

Signature _____ Title _____



**Limited Waiver of Sovereign Immunity by the _____
Tribe in Connection with the Alaska Energy Authority Grant Agreement No. _____**

1. The _____ Tribe ("Tribe"), a federally recognized Indian Tribe, expressly and irrevocably waives its sovereign immunity and gives its consent to be sued in and to have judgment entered against it in the courts or administrative tribunals/entities of the State of Alaska ("State") for the relief specified below.
2. Action. Immunity is waived solely as to:
 - a. Any administrative agency action or civil action filed by the State or Wells Fargo or Denali Commission against the Tribe, or its employees or officials acting in their official capacities, for a breach or violation of the Alaska Energy Authority Grant Agreement No. _____;
 - b. Any defense, cross-claims, counterclaim, offset, or third party claims against the Tribe or its officials or corporate officers by the State or Wells Fargo or Denali Commission in response to an administrative agency action or civil action involving the Tribe or its employees or officials acting in their official capacities and involving the Grant Agreement or activities performed thereunder;
 - c. Any claim arising under or related to the Grant Agreement asserted against the Tribe or its officials or corporate officers by the State or Wells Fargo or Denali Commission (1) in response to third-party claims against the State or Wells Fargo or Denali Commission as a result of the Tribe's actions, or the actions of the Tribe's officials, corporate officers, employees or agents, during period of the Grant Agreement; (2) to compel compliance with a subpoena, (3) to compel compliance with a lawful judgment, order, or process of the administrative body or state court, or (4) to prevent any other unlawful interference with the process or proceedings of an administrative body or state court and to seek any available remedies against the Tribe via contempt proceedings (*see, e.g.,* AS 09.50.010, AS 09.50.020 and AS 09.50.040).
3. Remedy: The remedies available under this waiver shall be limited as follows:
 - a. Monetary relief;
 - b. Equitable relief for the remedy of specific performance, including but not limited to injunctive relief, and declaratory relief;
 - c. Any available remedies for contempt;
 - d. Should the State or Wells Fargo or Denali Commission be declared a prevailing party against the Tribe, or should a court find the Tribe in contempt, the Tribe hereby waives its immunity to permit the State or Wells Fargo or Denali Commission to levy and execute against Tribal funds for costs or attorney's fees awarded to the State of Alaska or Wells Fargo or Denali Commission and to enforce the contempt order or any remedy provided for in the contempt order; and
 - e. Only funds belonging to the Tribe are subject to potential levy and execution or other legal process; no personal assets of Tribal officials or employees are subject to levy, execution, or other mechanisms to enforce a judgment.
4. Federal Tort Claims Act. This limited waiver of sovereign immunity shall not be construed as an agreement or concession by the Tribe to limit, waive or alter the coverage of section 314 of Public Law 101-512 or the Federal Tort Claims Act for any claim to which those laws apply.
5. No Third Party Beneficiary. The Tribe does not waive sovereign immunity as to any third party and this limited waiver of sovereign immunity may not be construed to grant any rights or interests to any third party.
6. Forum. Except as otherwise provided by law, Alaska State Courts shall have exclusive jurisdiction over all civil actions described in this waiver of sovereign immunity and any civil action initiated by either party that arises under or is in any manner related to the Grant Agreement shall be filed in the courts of the State of Alaska with venue in the Third Judicial District at Anchorage, Alaska.
7. Effect of Future Amendment of Tribe's Constitution. If the Tribe's Constitution or by-laws or ordinances are amended in the future, this waiver of sovereign immunity shall continue in full force and effect regardless of the terms of any such future amendments.
8. Applicable Law and Rules of Construction. This Limited Waiver of Sovereign Immunity shall be interpreted under the laws of the State of Alaska. The Tribe has had a full and fair opportunity to consult with legal counsel, to ask questions, and to consider this Limited Waiver of Sovereign Immunity's specific provisions. This Limited Waiver of Sovereign Immunity will not be interpreted in favor of or against either the Tribe, the State, or Wells Fargo or Denali Commission.
9. Duration. This Limited Waiver of Sovereign Immunity shall expire six years after the Grant Agreement is either closed or terminated.

_____ **TRIBE BY:** _____

PRINTED NAME: _____ TITLE: _____ DATE: _____