Resolution #09-1118-324

Approval of Second Amendment to the Amended and Restated Loan Agreement with PNC Bank (successor to National City Bank)

WHEREAS, the status of the Gaá Chíng 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, due to purchasing TITO technology utilizing Casino’s capital replacement reserve and also due to the current economic climate, it has been determined by the Chief Financial Officer, in agreement with PNC Bank (National City Bank), that it is necessary to amend certain provisions of the Loan Agreement dated July 22, 2004; and

WHEREAS, the amendment will include changes to the Leverage Ratio, Base Rate, Fixed Cost Coverage Ratio, and Minimum EBITDAM, per the Summary of Amended Terms and Conditions per the Proposed Second Amendment to the Amended and Restated Loan Agreement provided by the bank; and

WHEREAS, the Fixed Cost Charge Coverage Ratio will be waived by the bank for the periods ending 12/31/08, 3/31/09, 6/30/09 and 9/30/09; and

WHEREAS, the Tribe, as an agreement of the loan amendment, will also open and maintain Depository accounts with Comerica Bank and Key Bank, who are participants with PNC In the loan; and
NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians authorizes the approval of the second amendment to the Amended and Restated Loan Agreement with PNC Bank (successor to National City Bank).

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with _8_ FOR, _0_ AGAINST, _0_ ABSTAINING, and _1_ ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on November 18, 2009, at the Little River Band’s Dome Room in Manistee, Michigan, with a quorum being present for such vote.

Janice M. Sam, Council Recorder

Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court
Legal Department
Accounting Department