



Little River Band of Ottawa Indians
2608 Government Center Drive
Manistee, MI 49660

**Moved to
Open Session
02/24/21**

Resolution # 20-0603-166

Granting Limited Waiver of Sovereign Immunity in connection with acquisition of a Class C License from the state of Michigan for the Little River Casino and Resort at the Bear Lake Highland's Golf Course

WHEREAS, the status of the *Gaá Čhíng 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 Tribe adopted amendments to the Constitution on July 11, 2016 which became effective upon approval by the Assistant Secretary-Indian Affairs on August 24, 2016; 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, the Tribal Council is vested with the authority, under Article IV, Section 7(b), to ratify agreements and contracts to be entered into with federal, state and local governments and other Indian tribes or their departments or political subdivisions, or with private persons on behalf of the Tribe; and

WHEREAS, the Little River Casino Resort filed an application with the Michigan Liquor Control Commission to be licensed as a Class C license, as defined by MCL 436.1107(2), is a place licensed to sell, at retail, beer, wine, mixed spirit drink, and spirits for consumption on the premises; and

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WHEREAS; the Tribal Council recognizes that 18 U.S.C. Section 1161 provides for shared concurrent jurisdiction over liquor transactions in Indian country among Indian tribes, states, and the federal government; and

WHEREAS, the Little River Casino Resort acknowledges that liquor transactions in Indian Country have impacts outside of Indian Country and, therefor, the State of Michigan shares an interest and governmental responsibility in effective liquor regulation; and

WHEREAS, the Michigan Liquor Control Commission requires, as a condition for the Bear Lake Highland's Golf Course being granted and maintain a Class C license, that the Little River Band of Ottawa Indians provide the Michigan Liquor Control Commission with limited waiver of sovereign immunity in connection with its operation of the Bear Lake Highland's Golf Course in order to address uncertainties related to the state's ability to monitor and ensure Bear Lake Highland's Golf Course compliance with, and prosecute violations of, the Michigan Liquor Control Code of 1998 and the administrative rules promulgated thereunder; and

WHEREAS, the Tribal Council finds that the limited waiver of sovereign immunity in relations to the Bear Lake Highland's Golf Course set forth in this resolution is necessary to secure a substantial benefit to the Little River Band of Ottawa Indians, and that granting the limited waiver of immunity is an acceptable accommodation to the Michigan Liquor Control Commission in consideration of the Class C License that may be granted to the Little River Casino Resort as operator of the Bear Lake Highland's Golf Course; and

WHEREAS, the Tribal Council is authorized by resolution to waive **sovereign immunity** under Article XI; and

NOW, THEREFORE BE IT RESOLVED the Tribal Council approves the following grant of a limited waiver of Little River Band of Ottawa Indians tribal sovereign immunity, as to the Bear Lake Highland's Golf Course, which shall be constructed accordingly to the express limitations and requirements started hereunder:

(a) This limited waiver of immunity does not affect the Little River Casino Resort, Casino operations, including but not limited to the beer and wine sold or distributed at the Little River Casino Resort, whose address is 2700 Orchard Highway, Manistee, MI 49660. The sale or distribution of beer, wine, spirits, and mixed drinks sold at the Little River Casino Resort is subject to the conditions in the Tribal-State Compact of December 3, 1998.

(b) Little River Casino Resort as operator of the Bear Lake Highland's Golf Course submits to the jurisdiction of the Michigan Liquor Control Commission in

all matters which fall within its regulatory authority of the Bear Lake Highland's Golf Course, and the Little River Band of Ottawa Indians expressly waives its sovereign immunity for such purposes. Little River Casino Resort as operator of the Bear Lake Highland's Golf Course agrees to be bound by and adhere to the Michigan Liquor Control Code of 1998, as amended, and the rules promulgated thereunder in the same manner as any other licensee, but excluding any provisions of the Michigan Liquor Control Code of 1998 and the rules promulgated thereunder, including any other Michigan law referenced or incorporated therein, that would expand, supplement, or otherwise affect the scope and terms of Little River Band of Ottawa Indians waiver of its sovereign immunity as set forth herein.

(c) This limited waiver of sovereign immunity exclusively waives the Little River Casino Resort as operator of the Bear Lake Highland's Golf Course's sovereign immunity (including the sovereign immunity of any of its employees, clerks, and agents). Otherwise, the waiver will not extend to any action against any other person or entity including Little River Band of Ottawa Indians or Little River Casino Resort, nor shall it in any way be deemed a waiver of any of the rights, privileges and immunities of any other person or entity including the Little River Band of Ottawa Indians or Little River Casino Resort.

(d) This limited waiver of sovereign immunity is granted solely to the Michigan Liquor Control Commission and any State or local law enforcement agency acting pursuant to the Liquor Control Code. This limited waiver shall not extend to or be exercised by any other entity or person, public or private.

(e) This limited waiver of sovereign immunity is limited to the application of the Michigan Liquor Control Code of 1998, as amended, and the rules promulgated thereunder and, specifically, to the Michigan Liquor Control Commission's exercise of state civil regulatory authority. This limited waiver of sovereign immunity excludes any criminal prosecutions that may be brought under state law.

(f) This limited waiver of sovereign immunity is limited to the following investigative and enforcement actions by the Michigan Liquor Control Commission or any State or local law enforcement agency acting pursuant to the Liquor Control Code concerning the Class C license and any permits the Michigan Liquor Control Commission grants to Bear Lake Highland's Golf Course :

- (1) investigative actions, including the inspection of the premises designated in the Class C license, the inspection of records, wherever located, and interviewing employees of Bear Lake Highland's Golf Course with responsibilities related to the operation of the Bear Lake Highland's Golf Course;
- (2) administrative enforcement actions, including without limitation actions to levy fines, seize contraband alcoholic liquor, and to suspend or revoke licenses, and

- (3) judicial actions, which shall be limited to prospective injunctive relief and any enforcement and collection of civil fines levied by the Michigan Liquor Control Commission.

(g) Actions initiated by the Michigan Liquor Control Commission in accordance with this limited waiver of sovereign immunity may only be brought in the following forums:

- (1) the Michigan Liquor Control Commission,
- (2) the Little River Band of Ottawa Indians Gaming Commission,
- (3) Little River Band of Ottawa Indians Tribal Court,
- (4) the Courts of the State of Michigan,
- (5) the Federal Courts of Michigan.

(h) The Michigan Liquor Control Commission's recourse for the recovery of fines or, to the extent expressly authorized by this limited waiver of sovereign immunity, other enforcement actions that may involve funds or property, is limited to the undistributed revenues or assets of Little River Casino Resort that are or were generated by operation of the Bear Lake Highland's Golf Course. Neither the Little River Band of Ottawa Indians nor Little River Casino Resort shall be liable for the payment or performance of any of the obligations of Bear Lake Highland's Golf Course, and no recourse shall be had against any assets or revenues of the Little River Casino Resort in order to satisfy the obligations of the Bear Lake Highland's Golf Course, including assets of the Little River Band of Ottawa Indians or Little River Casino Resort that were leased, loaned, or assigned to Bear Lake Highland's Golf Course for its use, without transfer of title.

(i) This limited waiver of sovereign immunity takes effect upon the date that the Class C license, if any, granted to Bear Lake Highland's Golf Course by the Michigan Liquor Control Commission become effective under Michigan law. This limited waiver of sovereign immunity remains in effect as long as Bear Lake Highland's Golf Course holds any license under the Michigan Liquor Control Code.

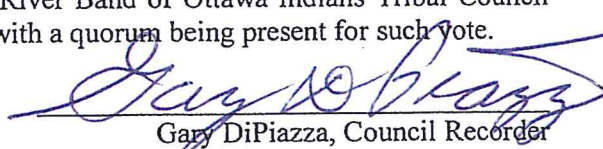
(j) If the limited waiver of sovereign immunity is rescinded or made otherwise ineffective, any license issued under the Liquor Control Code by the State of Michigan will immediately terminate.

(k) This is a limited waiver of sovereign immunity in accordance with the terms and conditions stated above. This Resolution otherwise does not waive, modify, or affect existing State, Federal, or local law.

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CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 7 FOR, 1 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Closed Session of the Little River Band of Ottawa Indians Tribal Council held on June 3, 2020, via Teleconference, with a quorum being present for such vote.



Gary DiPiazza, Council Recorder



Ron Pete, Council Speaker

Attest:

Distribution: Council Records
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 Tribal Court