



**Little River Band of Ottawa Indians
Tribal Council**

2608 Government Center Drive
Manistee, MI 49660
(231) 723-8288

RESOLUTION #20-0909-244

***A RESOLUTION AUTHORIZING LIMITED WAIVERS OF SOVEREIGN IMMUNITY
AND THE RIGHT TO EXCLUDE AND ADDRESSING OTHER MATTERS REQUIRED
TO OBTAIN AND MAINTAIN AN INTERNET GAMING OPERATOR'S LICENSE FROM
THE MICHIGAN GAMING CONTROL BOARD***

WHEREAS, the Little River Band of Ottawa Indians (“Tribe”) is a federally recognized Indian tribe (reaffirmed pursuant to the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act, 25 USC 1300k) and organized pursuant to a Constitution approved by the Tribal Membership (“Constitution”); and

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 XI to waive or limit sovereign immunity by resolution in furtherance of tribal business enterprises; and

WHEREAS, the Tribal Council in Tribal Council Resolution #20-0122-029 authorized an application for online gaming and sports betting licensing; and

WHEREAS, the Congress of the United States has enacted the Indian Gaming Regulatory Act of 1988 (25 USC 2701 *et seq.*) (hereafter “IGRA”), which regulates Class III gaming activities by an Indian tribe on its “Indian lands” as that term is defined in IGRA, and requires those Class III gaming activities to be conducted pursuant to a tribal-state compact entered into for that purpose; and

WHEREAS, the Tribe and the State of Michigan entered into a tribal-state Class III gaming compact on December 3, 1998, which was “deemed” approved to the extent that it is consistent with IGRA by the United States Department of the Interior on February 9, 1999, and published in the Federal Register on February 18, 1999, and amended by the Tribe and the State of Michigan on January 29, 2008, with this amendment “deemed” approved to the extent that it is consistent with IGRA by the United States Department of the Interior on March 11, 2008, and published in the Federal Register on April 21, 2008 (the “Compact”); and

WHEREAS, in accordance with IGRA, on January 15, 1997 the Tribe passed a tribal gaming ordinance authorizing Class III gaming on its Indian lands, which was approved by the chair of the National Indian Gaming Commission on January 27, 1997, which ordinance has been amended through amendments approved by the chair of the National Indian Gaming Commission on ten separate occasions, with the most recent amendment approved by the chair of the National Indian Gaming Commission on April 3, 2018; and

WHEREAS, by a resolution adopted on March 14, 1999 (and amended on July 28, 2004), the Tribal Council chartered the Little River Casino Resort”, a distinct instrumentality created, wholly-owned, and controlled by the Tribe, and imbued with the power to conduct gaming activities on behalf of the Tribe; and

WHEREAS, the Tribe conducts Class III gaming at the Little River Casino Resort, which operates under a license issued by the Tribal Gaming Commission at 2700 Orchard Highway, Manistee, Michigan; and

WHEREAS, the Michigan Legislature has enacted the Lawful Internet Gaming Act, MCL 432.301 *et seq.* (hereafter “LIGA”), which is the sole basis in state law under which any person may lawfully conduct internet gaming outside of Indian lands in Michigan; and

WHEREAS, LIGA authorizes an eligible Indian tribe to engage in certain online gaming activities in Michigan outside of its Indian lands, subject to licensing and regulation; and

WHEREAS, LIGA includes in the definition of an Indian tribe any instrumentality, political subdivision, or other legal entity through which an Indian tribe operates its casino in this state; and

WHEREAS, the Tribe's operation of Little River Casino Resort under IGRA and pursuant to the tribal-state gaming compact makes it eligible to apply for an internet gaming operator's license under LIGA; and

WHEREAS, LIGA, MCL 432.307(1)(h), requires an eligible Indian tribe to grant a limited waiver of sovereign immunity solely for the purposes stated in that provision as a condition of the Michigan Gaming Control Board issuing, maintaining, and renewing an internet gaming operator license; and

WHEREAS, LIGA, MCL 432.309, authorizes the Michigan Gaming Control Board to do anything "necessary or desirable to effectuate this act"; and

WHEREAS, in light of tribal sovereign immunity and inherent tribal sovereignty, the Michigan Gaming Control Board has determined that it is necessary and/or desirable to avoid disputes with eligible Indian tribes that seek or have an internet gaming operator license by resolving in advance any questions about the matters addressed in this resolution; and

WHEREAS, internet gaming presents a valuable opportunity for the Tribe and the Tribe seeks to obtain, maintain, and renew when necessary, an internet gaming operator license under LIGA; and

WHEREAS, pursuant to the Tribe's Constitution, the governing body of the Tribe is the Tribe's Tribal Council, it is authorized to adopt this resolution pursuant to Article XI, Section 1 of the Tribe's Constitution and to bind both the Tribe and the Little River Casino Resort, it has had the opportunity to consult its legal counsel, and it adopts this resolution voluntarily;

NOW, THEREFORE, BE IT RESOLVED ON BEHALF OF THE TRIBE AND THE LITTLE RIVER CASINO RESORT:

- 1. State jurisdiction and law.** The Tribe submits itself to the Michigan Gaming Control Board's jurisdiction or any successor agency charged with enforcement of LIGA in connection with its application for an internet gaming operator's license and as a condition of the Tribe's eligibility to hold, retain, and renew its internet gaming operator's license. The Tribe agrees to be bound by all applicable provisions of LIGA, all applicable administrative rules promulgated pursuant to LIGA, and all applicable orders of the Michigan Gaming Control Board issued pursuant to LIGA internet gaming by an Indian tribe.

2. **Limited waiver of sovereign immunity.** The Tribe waives its sovereign immunity solely for the limited purposes stated in LIGA, MCL 432.307(1)(h), including its subsections and those provisions to which they refer. This limited waiver of sovereign immunity related to LIGA applies to all bodies, individuals, and entities that claim to be entitled to assert or be protected by the Tribe's sovereign immunity from suits originating under LIGA. Nothing in this Resolution shall be construed as a general waiver of the Tribe's sovereign immunity.
3. **Administrative and other actions, and limited waiver of tribal court jurisdiction.** The Tribe consents to administrative actions in front of the Michigan Gaming Control Board and any subsequent appeals in a state court of competent jurisdiction. The Tribe otherwise consents to be sued in the state circuit court for the County of Ingham and any subsequent appeals in a state court of competent jurisdiction. For any action originating under LIGA that cannot be brought originally in the Michigan Gaming Control Board or the state circuit court for the County of Ingham, the Tribe consents to be sued in a state court of competent jurisdiction as set forth in section 13 of LIGA, MCL 432.313. The Tribe waives its right to contest or litigate any claims or issues originating under LIGA in the Tribe's tribal courts.
4. **Sovereign immunity and inherent sovereignty not defenses.** The Tribe hereby affirms that it will not assert its sovereign immunity from suit or its inherent sovereignty as a defense in or bar to any civil, criminal, or administrative action originating under LIGA that the Michigan Gaming Control Board, the Michigan Attorney General, or a local prosecutor brings directly or that they raise as a counter-claim in an action initiated by the Tribe.
5. **Remedies and relief.** The Tribe consents to all remedies and relief provided in or permitted under LIGA, including legal and equitable relief, monetary fines, other sanctions, and the seizure of the Tribe's other personal property related to the conduct of gaming under LIGA. The Tribe waives and does not require a specific pledge of assets to be subject to an order, decision, or judgment requiring it to pay civil fines or to fulfill other relief requiring it to pay money related to LIGA. The Tribe expressly understands and agrees that the remedies and relief available under LIGA are not limited to prospective, declaratory, or injunctive relief.
6. **Consent to entry upon Indian lands and limited waiver of the right to exclude.** The Tribe consents to entry upon the Tribe's Indian lands by the officials, officers, employees, agents, and representatives of the Michigan Gaming Control Board, Michigan Department of Attorney General, Michigan State Police, local prosecutors, and local law enforcement agencies to audit, inspect, or otherwise carryout, regulate, and enforce any provision in LIGA, the administrative rules promulgated under LIGA, and the orders issued pursuant to LIGA. The Tribe waives any right it may have to exclude officials, employees, agents, and representatives of the Michigan Gaming Control Board, Michigan Department of Attorney General, Michigan State Police, local prosecutors, and local law enforcement agencies to audit, inspect, or otherwise carryout, regulate, and enforce any provision in

LIGA, the administrative rules promulgated under LIGA, and the orders issued pursuant to LIGA.

7. **Authorized tribal official.** The Tribe designates the General Manager of the Little River Casino Resort to act on behalf of and bind the Tribe in anything originating under LIGA. The General Manager of the Little River Casino Resort has actual authority to do all things necessary to apply for, obtain, maintain, and/or renew an internet gaming operator's license for the Tribe under LIGA, excluding the authority to modify the limited waiver of tribal sovereign immunity in this Resolution.
8. **No waiver of other tribal rights or limitations in LIGA.** This Resolution specifically relates to the Tribe's compliance with LIGA and enforcement of LIGA by the Michigan Gaming Control Board, the Michigan Attorney General, local prosecutors, and local law enforcement. Nothing in this resolution is intended to waive the Tribe's immunity from suit by other persons or parties, such as the Tribe's vendors or patrons. Nothing in this resolution waives the Tribe's rights under LIGA, the administrative rules promulgated under LIGA, or the orders issued under LIGA, including any provisions that may limit their reach or effect. Except as stated in this Resolution, the Tribe does not waive any argument concerning whether one or more provisions of LIGA, the administrative rules promulgated under LIGA, or the orders issued under LIGA apply to an Indian tribe.
9. **No amendment to tribal-state gaming compact.** Nothing in this Resolution waives the Tribe's rights under its gaming compact with the State of Michigan, amends that gaming compact, or authorizes the Michigan Gaming Control Board to otherwise regulate gaming conducted by the Tribe exclusively on the Tribe's Indian lands.
10. **Effective date.** This resolution is effective when adopted by a simple majority of Tribal Council.
11. **Duration and survival.** This resolution shall remain continuously in effect while the Tribe is an applicant for a license under LIGA, has a license under LIGA, is seeking renewal of a license under LIGA, and until any outstanding administrative, civil, and/or criminal matters under LIGA, including all appeals, are resolved fully and finally. The Tribe intends for this resolution to survive any license it may obtain under LIGA to ensure that all matters that occur or arise while the Tribe holds or is applying for an internet gaming operator's license, including any disputes or violations, are resolved and so that it can wind-down its internet gaming operations in a manner consistent with LIGA should those operations cease.
12. **Modification, revocation, or rescission.** The Tribe will give three months' advance written notice to the Executive Director of the Michigan Gaming Control Board if it intends to modify, revoke, or rescind this resolution by any action, including by referendum of the Tribe's members. Unless replaced by a resolution or other action consistent with the requirements of LIGA as determined by the Michigan Gaming Control Board, the Tribe understands that modifying, revoking, or rescinding this resolution or one or more terms

under it may lead the Michigan Gaming Control Board to initiate proceedings to suspend or revoke the Tribe's internet gaming operator's license issued under LIGA, or to seek other relief.

13. Definitions. The terms used in this resolution shall have the meaning given to them in LIGA if defined there. Additionally, the following terms shall have the meaning stated below, regardless of capitalization or whether stated in the plural or singular:

- a. **Related to LIGA.** Any claim, issue, license, or other matter arising out of or related to LIGA, the administrative rules promulgated under LIGA, or orders issued pursuant to LIGA.

CERTIFICATION OF ADOPTION

I, the undersigned, as Recorder of Little River Band of Ottawa Indians, a federally recognized Indian tribe, do hereby certify that the Tribal Council is composed of nine (9) members, of whom (9), constituting a quorum, were present at a meeting duly called, noticed, convened and held on the 9th day of [September], 2020 and the foregoing resolution was adopted at said meeting by an affirmative vote of (9) members, (0) against and (0) abstaining, and that said resolution has not been rescinded or amended in any way.



Gary Di Piazza, Tribal Council Recorder



Ronald Pete, Tribal Council Speaker