



Little River Band of Ottawa Indians

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Resolution No. #97-0721-02

Authorizing the Tribal Chairman to Execute the Pre-Development
Loan Agreement and Promissory Note and Agreeing to a
Limited Waiver of Sovereign Immunity

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.)(hereinafter "Little River Act"; and

WHEREAS, the Tribe has determined that the establishment and operation of a tribal gaming enterprise under the IGRA will assist the Tribe generate the revenues needed to establish an effective tribal government, provide necessary employment opportunities services for tribal members and promote tribal self-sufficiency; and

WHEREAS, the Tribe does not presently possess sufficient technical and financial expertise to develop and manage a Tribal Gaming Enterprise and has determined that employment of a firm with the necessary management and development expertise will assist the Tribe in meeting the above goals; and

WHEREAS, the Tribal Council, pursuant to Article VII, Section 1. (f) of the Constitution and Bylaws of the Little River Band of Ottawa Indians ("Tribal Constitution"), is authorized to manage the economic affairs of the Tribe; and

WHEREAS, the Tribal Chairman, pursuant to Article IV, Section 11 (f)(2) of the Tribal Constitution, is authorized to represent the Tribe in its relations with other organizations, in a manner consistent with the Tribal Constitution;

WHEREAS, the Tribal Council, pursuant to Tribal Council Resolution No. #95-1205-01, authorized Tribal Chairman Robert Guenthardt to negotiate a Letter of Intent with representatives of North American Gaming, which letter will define the parties' respective obligations concerning the completion of tasks necessary to establishing a Tribal Class III gaming facility; and

WHEREAS, the Letter of Intent contemplates the negotiation of a Pre-Development Loan between North American Gaming and the Tribe by which North American Gaming will loan the Tribe funds to cover certain expenses incurred by the Tribe in connection with the development of a Tribal gaming facility; and

WHEREAS, the Tribe has required, and North American Gaming has provided, an Pre-Development Loan in the amount of \$500,000.00 to cover the pre-development expenses incurred by the Tribe in connection with the planning and approval of the Tribal Gaming Enterprise; and

WHEREAS, the effectuation and protection of the parties' respective rights and obligations under the "Pre-Development Loan" provided by North American Gaming requires the execution of a promissory note; and

WHEREAS, the Little River Band of Ottawa Indians, as a federally recognized Indian Tribe, is immune from suit for damages in federal, state or tribal courts; and

WHEREAS, Article XII of the Little River Band of Ottawa Indians' Constitution provides that the Tribal Council shall not waive or limit the right of the Little River Band to be immune from suit, except as authorized by tribal ordinance or resolution or in furtherance of tribal business enterprises; and

WHEREAS, the Tribal Council understands that the "Pre-Development Loan" will be a component of and will be re-paid to North American from funds to be advanced under the Development Loan, to be secured in accordance with the Development and Construction Agreement; and

WHEREAS, the Tribal Council understands that, in the event the Tribe defaults on repayment of the "Pre-Development Loan", the amount due may be recovered only if the Tribe completes and opens for operation a gaming facility and that North American Gaming may only seek enforcement and collection of such amounts to be repaid from revenues received by the tribe from gaming operations and assets of the gaming facility; and

WHEREAS, the Tribal Council further understands that the Tribe would be agreeing to waive its sovereign immunity from suit in federal, state or Tribal courts for purposes of enforcement and/or interpretation of the terms of the Note, the Development and Construction Agreement and the Letter of Intent and that the Tribe would agree to have those documents construed and enforced in accordance with the laws of the State of Michigan; and

WHEREAS, the Tribal Council has determined that the specific waiver of sovereign immunity requested by North American Gaming in the Note, for the specific purpose of enforcement and/or interpretation of the Pre-Development Loan Agreement, the Note, the Development and Construction Agreement or the Letter of Intent, is in furtherance of important Tribal purposes and tribal business enterprises.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby authorizes Chairman Robert Guenthardt to execute the Pre-Development Loan Agreement and Note to allow performance and payment by North American Gaming of the Pre-Development Loan in an amount not to exceed \$500,000.00, for the purposes specified in a Budget to be approved by the parties;

IT IS FURTHER RESOLVED THAT the Tribal Council, by authorizing the Tribal Chairman to execute such documents, expressly agrees to waive its sovereign immunity from suit for the sole purpose of enforcement and/or interpretation of the terms of the Note. Provided, However That any subsequent agreements, including the Development Loan Agreement, which require the Tribal Government to waive its sovereign immunity will not be effective until the same are specifically authorized by subsequent Tribal Council Resolution.

Certificate of Adoption

This resolution was adopted by the Tribal Council of the Little River Band of Ottawa Indians at a Special Meeting held on July 21, 1997 by a vote of 5 in favor, 0 opposed, 2 absent and 0 abstentions. A quorum of the Tribal Council being present for such vote.

Date: 7/21/97

Kathy Berentsen
Kathy Berentsen, Vice-Chair

Attest:

Charles Fisher
Charles Fisher, Council Secretary