



Little River Band of Ottawa Indians

PO Box 314
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(616) 723-8288

Resolution No. #98-0316-01

Authorizing the Tribal Chairman to Execute the Land Acquisition
Loan Agreement, Promissory Note and Assignment/Security Agreement,
Designating the Financial Institution and Accounts for Deposit of Judgment Funds
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 acquire the real property on which that Tribal Gaming Enterprise will be developed; 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 Tribe has required, and North American Gaming has provided, a Land Acquisition Loan in the amount of \$550,000.00 to cover the expenses associated with the acquisition of the real properties upon which the Tribal Gaming Enterprise and resort will be developed; and

WHEREAS, the effectuation and protection of the parties' respective rights and obligations under the "Land Acquisition Loan" provided by North American Gaming requires the execution of a promissory note and assignment/security agreement; and

WHEREAS, the Tribe has agreed to re-pay the Land Acquisition Loan from the Tribe's share of the Judgment Funds to be received from Dockets 18-E, 58 and 364; and

WHEREAS, the Tribe has agreed to designate the financial institution and account into which the Judgment Funds to be used to re-pay the Land Acquisition Loan will be deposited to permit North American Gaming to obtain a security interest in the funds deposited in such account; and

WHEREAS, 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, in the event the Tribe defaults on repayment of the "Land Acquisition Loan", North American Gaming may only seek enforcement and collection of such amounts from: (1) the Tribe's share of the Judgment Funds; (2) the proceeds of the Permanent Loan, if any, secured to fund the construction and development of the Tribe's Gaming Facility; or (3) net revenues received by the Tribe from gaming operations and other economic enterprises operated by or for the Tribe; 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 Land Acquisition Loan Agreement and Security Agreement 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 Land Acquisition Loan Agreement, the Note, and the Assignment/Security Agreement, 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 Land Acquisition Loan Agreement, the Note, and Assignment/Security Agreement to allow performance and payment by North American Gaming of the Land Acquisition Loan in an amount not to exceed \$550,000.00, for the acquisition expenses and 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 and the Assignment/Security Agreement. Provided, However That any subsequent agreements, including the Permanent 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;

IT IS FURTHER RESOLVED THAT the Tribal Council has established the following accounts a Huntington National Banks in Manistee, into which the Judgment Funds will be deposited: Account No. 01182014764 and Account No. 01182014751 and agrees to give North American Gaming a security interest in such accounts to secure performance of the Tribe's obligations under the Land Acquisition Loan Agreement, the Note, and the Assignment/Security Agreement;

IT IS FURTHER RESOLVED THAT the Tribal Council shall notify the Secretary of the Interior of the establishment of these accounts for purposes of receiving and disbursing the Judgment Funds and shall further direct the Secretary to make a direct, electronic transfer of the Judgment Funds to such accounts within 30 days after the Effective Date of the Tribe's Plan as provided in Section 105 of the Michigan Indian Lands Claims Settlement Act.


Certificate of Adoption

This resolution was adopted by the Tribal Council of the Little River Band of Ottawa Indians at a Special Meeting held for this purpose on March 16, 1998 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: 3-16-98


Donald Koon, Councilor

Attest:


Charles Fisher, Council Secretary