

Gaming Enterprise Oversight Authority Act of 2024
Ordinance #24 -800-09

Article I. Purpose; Findings.

- 1.01. *Purpose.* The purpose of this Ordinance is to create the Little River Band of Ottawa Indians Gaming Enterprise Oversight Authority for the purpose of maintaining appropriate oversight and competent management of the Tribe's Gaming Enterprise and to manage the gaming funds within the exclusive control of the Band and to ensure consistent regulatory compliance and the maximization of income for all existing and future Gaming Enterprises.
- 1.02. *Authority.* The Tribal Council of the Little River Band of Ottawa Indians (hereafter referred to interchangeably as band or tribe) adopts this Ordinance in accordance with the following constitutional authority:
- a. Article IV, Section 7(a) of the Constitution of the Little River Band of Ottawa Indians empowers the Tribal Council with the sole authority to “exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution.” Among these powers are the power,
 - 1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction; and,
 - 2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members.
 - b. Article V, Section 5(a)(1) of the Constitution provides that the Ogema shall enforce and execute the laws, ordinances, and resolutions of the Tribal Council consistent with the Constitution; and,
 - c. Article V, Section 5(a)(8) of the Constitution provides that the Ogema shall manage the economic affairs, enterprises, property, and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council; and,
 - d. Article V, Section 5(a)(4), of the Constitution provides that the Ogema has the power, with the approval of the Tribal Council, to appoint members of regulatory commissions and heads of subordinate organizations created by ordinance; and,
 - e. Article IV, Section 7(f), of the Constitution provides that Tribal Council is empowered to create by ordinance regulatory commissions or subordinate

organizations and to delegate to such organizations the power to manage the affairs and enterprises of the Little River Band; and,

- f. Article IV, Section 7(h), of the Constitution provides that the Tribal Council is empowered to approve appointments to regulatory commissions and heads of subordinate organizations created by ordinance.
- g. Article IV, Section 7(i), of the Constitution provides that the Tribal Council shall exercise the fiscal power to “manage any funds withing the exclusive control of the Little River Band and to appropriate these funds for the benefit of the Tribe and its members”.

1.03. *Findings.* The Tribal Council finds:

- a. That the Indian Gaming Regulatory Act of 1988 (“IGRA”) provides that a principal goal of federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal governments. Congress has created limitations regarding the use of gaming revenues by Indian Tribes, as well as imposing regulations by which tribes must operate their gaming enterprises; and
- b. That the Gaming Enterprise is the Tribe's primary source of governmental revenue and the creation of new employment opportunities for tribal members; and
- c. That applicable tribal and federal gaming regulations require the adequate monitoring and oversight of the Gaming Enterprise by the Tribe; and
- d. That Tribal gaming is a highly regulated business activity that requires skilled and experienced management and competent oversight in order to be successful; and
- e. That the Tribal Ogema is burdened with the responsibility for managing all business enterprises of the Band in addition to performing the wide range of duties of the Executive branch of government and cannot be reasonably expected to be actively involved in the day-to-day management of any or all tribal enterprises without the assistance of qualified and experienced business managers and advisors; and
- f. That the Tribal Council finds it necessary to establish a subordinate organization that can assume primary responsibility for overseeing the Management of the Gaming Enterprise of the Band to assist the General Manager and the Ogema with oversight of the day-to-day business activities of the Gaming Enterprise; and

- g. That such organization shall regularly report to the Tribal Ogema and to the Tribal Council as to the financial condition and needs of the Gaming Enterprise.

Article II. Adoption; Amendment; Repeal; Severability.

- 2.01. *Adoption.* This Ordinance is adopted by Resolution # 24-0911-158 and repeals all prior ordinances, resolutions, and motions that are in conflict with this Ordinance.
- 2.02. *Amendment.* This Ordinance may be amended by the Tribal Council in accordance with the Constitution of the Little River Band of Ottawa Indians.
- 2.03. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalid provision shall be severed from this Ordinance and shall not affect other provisions or applications of this Ordinance which can be given effect without the severed provision or language, and to this end the provisions of this Ordinance are severable.
- 2.04. *Title.* This Ordinance shall hereafter be referred to as the "Gaming Enterprise Oversight Authority Act of 2024" ("Ordinance").

Article III. Definitions.

- 3.01. *Definitions.* For purposes of this Ordinance certain key terms are defined in this Article. When used in this Ordinance, the word "shall" is always to be understood to be mandatory and not merely advisory.
- 3.02. *At-Large Member* means the Tribal Ogema, who shall serve as a non-voting Member of the Gaming Enterprise Oversight Authority ("Authority") Board.
- 3.03. *Board* means the appointed members of the Gaming Enterprise Oversight Authority.
- 3.04. *Capital Expenditures* means funds expended by the Gaming Enterprise at the direction of the Oversight Authority that add to the value of or extend the useful life of the property and equipment or to adapt it to a new or different use. Expenses that keep the property and equipment in an ordinarily efficient operating condition and do not add to its value or appreciably add to its useful life are not capital expenditures.
- 3.05. *Collective Bargaining Agreement* means a contract between a Gaming Enterprise and a labor organization regarding wages, hours, terms or conditions of employment pursuant to the Fair Employment Practices Code.

- 3.06. *Contract* means an agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law.
- 3.07. *Daily Operational Expense* means those expenses identified in the budget as necessary to operate and manage the Gaming Enterprise on a day-to-day basis and includes but is not limited to payroll, insurance premiums, utilities, and any payments made in accordance with the terms of an approved contract.
- 3.08. *Elected Official*, as used in this Ordinance, shall mean the Ogema and any sitting Tribal Council member.
- 3.09. *Gaming Enterprise*, as used in this Ordinance, shall mean the Little River Casino Resort and any other or future facility at which gaming is authorized under Tribal, State, and/or Federal Law including, but not limited to, the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact(s), and the Tribal Gaming Ordinance. All Gaming Enterprises of the Little River Band of Ottawa Indians are wholly owned business entities of the tribal government and are considered public employers, and are authorized to conduct activities including, but not limited to, the following:
- a. Gaming activities authorized by tribal law.
 - b. Gaming activities authorized under the Tribal-State Gaming Compact;
 - c. Hotel and recreational activities;
 - d. Entertainment and conference activities;
 - e. Dining and banquet activities;
 - f. Activities reasonably related to subparagraphs (a)-(d) above; and
 - g. Other activities authorized from time to time by resolution of the Tribal Council amending this ordinance.
- 3.10. *General Manager*, as used in this Ordinance shall mean the person who is employed by the Little River Band of Ottawa Indians and licensed by the LRBOI Tribal Gaming Commission as the Primary Management Official responsible for the management of the Band's gaming enterprise. The General Manager shall have primary responsibility for the hiring and supervision of all subordinate gaming employees and is authorized to set up working policy for any gaming activity located within any licensed gaming enterprise of the LRBOI.

- 3.11. *Good Cause*, as used in this Ordinance as a basis for the removal of a Member of the Oversight Authority, shall have the meaning ascribed to it under Article IX of this Ordinance.
- 3.12. *Oversight Authority* means the subordinate organization established by the Tribal Council by this Ordinance to work with and assist the General Manager and with the assistance of which the Ogema will perform his duties to manage the gaming operations of the Tribe to enhance and improve the market share and profitability of the gaming operations. The Oversight Authority shall carry out its duties by official directives, approvals and recommendations provided to the General Manager in accordance with this Ordinance.
- 3.13. *Primary Management Official* shall have the meaning ascribed to it by the Indian Gaming Regulatory Act and the implementing regulations of the Tribal Gaming Ordinance and other applicable regulations, as amended from time to time.
- 3.14. *Official Action* shall mean an action taken by Resolution or Motion approved by a majority of the Members of the Oversight Authority voting at an official meeting where a quorum is declared.
- 3.15. *Official Capacity*. A Member of the Oversight Authority is acting in his or her official capacity only when undertaking official actions sanctioned and approved by a majority of Members of the Oversight Authority voting in an official meeting.
- 3.16. *Public Employer* means a Gaming Enterprise or other subordinate economic organization, department, commission, agency, or authority of the Band engaged in any Governmental Operations or activity of the Band.

Article IV. General Manager-Responsibilities and Duties.

- 4.01. *General Manager*. The hiring, evaluation, and termination of a General Manager of the gaming enterprise shall be the joint responsibility of the Oversight Authority, the Tribal Ogema and the Tribal Council in accordance with the below requirements:
- a. *Hiring a General Manager*. The Oversight Authority shall have the power to search and recruit applicants for the position of General Manager in accordance with the laws and resolutions of the Tribe provided, that any hiring shall be negotiated by the Tribal Ogema and will be effective upon its ratification and approval by the Tribal Council. However, any General Manager employed on the date this Ordinance is adopted shall remain the General Manager in accordance with and pursuant to the terms of any existing employment agreement with the General

Manager. If there is no approved agreement in place at that time, upon the seating of a sufficient number of members of the Oversight Authority to establish a quorum, an employment agreement shall be promptly negotiated and executed with the General Manager by the Oversight Authority on terms and conditions that are competitive in the surrounding market, or with a newly selected General Manager should those negotiations fail to result in an agreement satisfactory to both the existing General Manager, the Oversight Authority, the Tribal Ogema and the Tribal Council.

- b. *Evaluating the General Manager.* The Oversight Authority shall evaluate the performance of the General Manager on an annual basis or more frequently as the Authority shall determine necessary. The evaluations shall be shared with the Tribal Ogema and the Tribal Council to ensure they are apprised of any problems or issues that might exist.
- c. *Termination of the General Manager.* The Oversight Authority shall have the power to recommend the termination of the employment of the General Manager prior to the completion of any term of employment established by contract only for good cause. The Authority will make such a recommendation to the Tribal Ogema, who shall share the recommendation with the Tribal Council and consult with the Tribal Council prior to any termination. Where the General Manager is terminated for reasons other than for good cause, the General Manager shall be compensated for the remainder of any uncompleted term of employment at a rate equal to no less than one-half ($\frac{1}{2}$) of the value of the compensation remaining to be paid under the terms of the agreement if fully performed, or as may otherwise be stipulated in the General Manager's employment agreement.
- d. For purposes of such termination, in addition to breach of contract, good cause is defined as, i) the loss of the General Manager's gaming license; ii) the conviction of embezzlement or misuse of gaming revenue or other tribal funds, iii) the conviction of a criminal offense involving dishonesty or corruption and, iv) the repetitive demonstration of a lack of good judgment or leadership or any single event of a substantial abuse of the authority of the position.
- e. The General Manager shall be provided with written notice of termination stating the cause for termination and shall be entitled to a hearing before the tribal court by submitting a written demand to the Tribal Court Clerk within ten (10) days of termination requesting a hearing. The General Manager shall be entitled to defend against the charges of good cause by the presentation of evidence refuting the charges in the form of testimony of witnesses or by the presentment of documentary evidence. The Court Clerk shall issue subpoenas for witnesses to appear and give testimony under

oath at the request of the General Manager or the Ogema or their legal counsels. The ruling of the tribal court shall be final, and no appeal shall be available to the General Manager or the Ogema once the tribal court has ruled.

4.02. *Responsibilities.* The General Manager shall be responsible for the following:

- a. to make presentations of monthly financial statements and reports to the Oversight Authority, the Ogema, and the Tribal Council and to comply and ensure continued compliance with the laws and resolutions enacted by the Tribal Council; and
- b. to meet any goals for the Gaming Enterprise established by the Oversight Authority; and
- c. to comply and ensure compliance with all applicable gaming laws and regulations, including the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming Ordinance of the Tribe, and all other applicable laws, regulations, internal operating procedures, policies and minimum internal control standards; and
- d. to timely account for and transfer, or direct the accounting and transfer of, all revenues generated by the Gaming Enterprise, excluding authorized operating funds, within forty-eight (48) hours to the account or accounts authorized and established by the Tribal Council by law or resolution; and
- e. to make reasonable efforts to increase the number of Tribal Members employed by the Gaming Enterprise in accordance with business needs of the facilities the Indian Preference in Employment Ordinance (#15-600-02) and the available applications;
- f. to provide sufficient mentoring and training opportunities that will promote reasonable efforts to increase the number of Tribal Members employed by the Gaming Enterprise in management level positions in accordance with business needs and the Indian Preference in Employment Ordinance; and
- g. to maintain a consistent and regular attendance record; and
- h. to be held accountable, to the highest degree, for the accuracy and thoroughness of the records and reports of the Gaming Enterprise; and
- i. to be responsible for the successful overall direction and operation of all activities of the Gaming Enterprise.

4.03. *General Duties.* The General Manager shall:

- a. create, develop, and implement an effective strategy for the successful operation of the Gaming Enterprise within the annual budget appropriation, including setting goals and objectives for future growth and expansion in accordance with the Annual Operating Plan and Annual Budget approved by the Tribal Council; and,
- b. ensure a high quality of management activities and operations in all areas of the Gaming Enterprise; and,
- c. have sole authority over the day-to day management of the gaming operations and all employees and staff along with other duties and responsibilities customary for a General Manager of a gaming, restaurant, hotel, and entertainment enterprise, including responsibility for the overall operation of the Gaming Enterprise, subject to any limitations or prohibitions set forth in this Ordinance or other applicable law.

4.04. *Specific Duties.*

- a. *Primary Management Official Employment.* The General Manager shall have the power to recruit, select and employ all subordinate Primary Management Officials for the Gaming Enterprise in accordance with the Gaming Ordinance and applicable laws and resolutions of the Tribe. The Oversight Authority shall be provided evaluation reports regarding the performance of all Primary Management Officials on an annual basis or more frequently as needed. The General Manager shall keep the Oversight Authority informed of any matters pertaining to concerns related to the performance or underperformance of Primary Management Officials under the supervision of the General Manager.
- b. *Personnel Manual.* The General Manager shall have the responsibility for creating or updating any existing Personnel Policies Manual for the Gaming Enterprise ensuring that the basic protections and rights of Gaming Enterprise employees are reasonably consistent with the Personnel Policies of the Band for tribal employees, subject to the overriding authority of the Tribal Council to establish employment regulations and laws by ordinance or resolution. The General Manager shall provide at least sixty (60) day advance notice to the Ogema and Tribal Council of all proposed amendments to the Personnel Manual.
- c. *Collective Bargaining Agreements; Contracts.* Subject to Section 16.06 of this Ordinance, the General Manager is expressly delegated the authority to negotiate Collective Bargaining Agreements for the Gaming Enterprise, subject to approval of

the Oversight Authority. Collective Bargaining Agreements shall be forwarded to the Tribal Council Recorder for filing with the General Manager's Monthly Report.

1. **Release of Financial Information.** The General Manager is expressly delegated authority to release necessary financial information to support the Little River Casino's position(s) during any collective bargaining process. Financial information released shall be subject to the confidentiality provisions contained within Article XVI of the Fair Employment Practices Code.
 - d. **Contracts.** The General Manager is responsible for the execution of any contract approved by the Oversight Authority or as is otherwise authorized within the authority of the General Manager by this Ordinance. Every contract shall be reviewed by the legal counsel engaged by the Oversight Authority.
 - e. **Expenditures.** The General Manager may authorize all other expenditures of less than \$50,000.00, excluding budgeted daily operational expenses.
 - f. **Compliance and Accounting Audits.** The General Manager shall comply fully with requests of the Tribal Council, the Gaming Commission, the Oversight Authority, and any auditors retained by the Tribe's Elected Officials to audit the Gaming Enterprise's compliance with regulatory and accounting requirements, and adherence to appropriate business practices and provide all requested assistance to each.
- 4.05. **Additional Duties of General Manager or Primary Management Officials at the Direction of the General Manager.** In addition to all other duties of the General Manager contained in this Ordinance, the General Manager, or his or her designated Primary Management Official, shall be responsible for carrying out the following additional duties:
- a. **Mandatory Reporting Requirements.** Ensuring the accuracy and timely submission of all mandatory budgets and reports in accordance with the schedules set forth in Article VI of this Ordinance.
 - b. **Mandatory Distributions.** Ensuring the accuracy and timeliness of all mandatory distributions of gaming revenues in accordance with the schedules set forth in Article VII of this Ordinance.
 - c. **Corrective Action Plans.** In the event mandatory distribution or reporting requirements are not met in accordance with the provisions of this Ordinance, the General Manager shall submit a comprehensive Corrective Action Plan to the

Oversight Authority, copying the Ogema and the Tribal Council, which, at a minimum:

1. identifies with specificity the individual(s) responsible for the Gaming Enterprise's failure to comply with the provisions of this Ordinance along with any explanation of the reason(s) for the failure;
2. identifies with specificity any disciplinary action taken against the responsible individual(s) where appropriate; and
3. identifies with specificity what action the General Manager has taken to avoid future non-compliance with the provisions of this Ordinance; and
4. a Corrective Action Plan submitted under this Section shall be delivered to the Tribal Council Recorder within three (3) business days of the date of the failure or default. The Tribal Council Recorder shall place the matter on the next available Tribal Council closed session agenda for discussion.

Article V. Limitations on the Powers of the General Manager.

- 5.01. *Waivers of Sovereign Immunity.* The General Manager shall have no power to waive the sovereign immunity of the Tribe or of the Gaming Enterprise. Any waiver of sovereign immunity shall be approved in advance by the Oversight Authority and shall be limited in nature to exclude the Tribe and all tribal assets from liability and responsibility for any debts or obligations of the Gaming Enterprise. Notwithstanding the foregoing, any waiver of sovereign immunity previously granted in accordance with the applicable tribal law in force at the time shall remain in full force and effect in accordance with the terms of any such waiver.
- 5.02. *Limitations on Contracting Authority.* The General Manager shall not have the unilateral authority to enter or approve any contracts for legal services without the approval of the Tribal Council, nor for construction contracts without the approval of the Oversight Authority. The General Manager and the Oversight Authority shall not enter into any form of contract or agreement or initiate negotiations with any municipality, nation, Indian Tribe, state or body politic, without the prior approval of the Tribal Council. Contracts and agreements requiring approval of the Tribal Council shall be forwarded to the Tribal Council Recorder for filing with the General Manager's Monthly Report.
- 5.03. *Limitation on Authority to Obligate Funds.* The General Manager, with the approval of the Oversight Authority, shall have the authority to obligate funds in excess of the parameters of the approved budget without prior approval by the Tribal Council not to exceed the sum

of Fifty Thousand dollars (\$50,000). Any request of the Oversight Authority for the expenditure or obligation of funds outside the parameters of the approved budget in excess of Fifty Thousand dollars (\$50,000) must be approved by Tribal Council. Any program which obligates funds outside the parameters of the approved budget and that is related to employee bonus or profit-sharing program must be approved by the Tribal Council.

Article VI. Budgets; Reporting Requirements; Schedules - Required.

6.01. *Operation of Gaming Enterprise.* The operation of the Gaming Enterprise is governed by the provisions contained within this Article. No deviation from approved plans and budgets not explicitly authorized herein shall occur unless approved by the Tribal Council.

6.02. *Annual Budget, Reports and Operating Plan.*

- a. The General Manager shall prepare, or cause to be prepared, a separate proposed Annual Budget for each Gaming Enterprise and deliver such proposed budget(s) to the Ogema for inclusion in the preparation and presentment of an annual budget to Tribal Council under Article V, Section 5(a)(5) of the Constitution, in accordance with the Budget and Appropriations Ordinance of 2013 (Ordinance #13-100-04), and in accordance with the power of the Tribal Council to approve or amend the annual budget; provided that the Annual Budget shall include at a minimum:
 1. Estimates of all projected revenue and proposed expenses for the budget year along with the actual revenue and expenses for the prior year and the year-to-date comparison and the remaining budget for the current year;
 2. A statement of revenue and expenses shall be presented listing each month, with summary statements of all departments and operating segments, detailed statements by department or other operating segment and detailed statements of monthly revenue by category;
 3. Schedule of budgeted depreciation & capital replacement reserves;
 4. Detail of budgeted capital expenditures by month including justification for each proposed expenditure/project exceeding \$50,000.00;
 5. Budget cash flow statement by month;
 6. Loan amortization schedule(s) for the budget year;
 7. Loan covenant compliance calculation by month for the budget year; and

8. Schedule and discussion of risks and opportunities for the budget year including recommendations of Management for addressing same.
- b. *Annual Marketing Report.* The annual marketing report shall describe the activities of the current fiscal year to date as well as activities planned for the upcoming fiscal year by month and shall include but not be limited to the following:
1. Executive summary;
 2. Situation analysis;
 3. Market analysis / target markets;
 4. Competitive analysis;
 5. Marketing strategies;
 6. Analysis of Direct mail program;
 7. Player development activities; and
 8. Event profiles and pro-forma.
- c. *Annual Human Resources Report.* The human resources report shall document the activities of the current fiscal year to date as well as describe plans for the upcoming fiscal year by month and shall include but not be limited to the following:
1. Head count schedule;
 2. Preference in employment report;
 3. Hiring plans;
 4. Training schedules;
 5. Employee development plans;
 6. Proposed changes to employee benefits/plans;
 7. Compensation plans;

8. Disclosure of any bonus compensation plans;
 9. Status of Collective Bargaining Agreements and other union activities; and
 10. Termination reports.
- d. *Annual Operating Plan & Report.* The operating plan shall report on the proposed activities for the upcoming fiscal year by month and shall include but not be limited to the following:
1. Operating goals for the enterprise;
 2. Operating goals for each department;
 3. Proposed changes in operations;
 4. Status of Collective Bargaining Agreements and other union activities; and
 5. Schedule and discussion of risks and opportunities.
- e. *Schedule for Submission of Annual Budgets and Reports.* The detailed annual budget and annual reports described in items (a)-(d) above shall be submitted by the General Manager for the upcoming fiscal year to the Ogema and Tribal Council no later than September 1, of each succeeding year. Additionally, an Estimate of Projected Revenue for the next fiscal year, as defined and required by Section 5.03 of the Budget and Appropriations Ordinance of 2013, Ordinance #13-100-04, shall be submitted to the Ogema and the Tribal Council by March 1 of each year.
- f. *Confidentiality.* Reports and statements submitted to the Ogema and Tribal Council under this subsection shall be treated as privileged and confidential and submitted for discussion only in Tribal Council closed meetings.

6.03. *Monthly Reports.*

- a. The General Manager shall prepare, or cause to be prepared, a written monthly report for timely delivery to the Ogema and the Tribal Council. The monthly report shall summarize the status of all material aspects of the operation of each Gaming Enterprise. The monthly report shall include, at a minimum:
 1. Statements of revenue and expenses that shall include:

- i. Actual budget and a year-to-date comparison of the current month financial condition with the same month of the prior year;
 - ii. Summary statement of all departments and other operating segments;
 - iii. Detailed statements by department and other operating segment;
 - iv. Detailed statement of revenue by category;
 - v. Cash flow statement; and
 - vi. Capital replacement reserve schedule.
2. Three-month forecast of revenues by category;
3. Balance sheet for the current month, the prior month and the prior year end;
4. Schedule of actual capital expenditures vs budget for the current month and year to date;
5. Schedule of forecasted capital expenditures vs budget for the next three months;
6. Loan covenant compliance schedule;
7. Management narrative of operations;
8. Schedule and discussion of risks and opportunities for the next three months including recommendations of management;
9. Marketing Department Report, containing the impact of the current month's promotions, promotions scheduled for the next three months, and entertainment venue and conference center use scheduled for the next three months;
10. Human Resources Report containing a headcount schedule, preference employment report, summary of new hires, headcount forecast for the next three months and termination reports; and

11. Status of Collective Bargaining Agreements and other union activities

- b. *Schedule for Submission of Monthly Reports.* The monthly report shall be submitted no later than the 4th Wednesday following the month end.
- c. *Confidentiality.* Reports and statements submitted under this section, except for the Human Resources preference employment report, shall be treated as proprietary and confidential and shall be submitted to the Ogema and the Tribal Council only in Tribal Council closed meetings.

6.04. *Applicable Accounting Standards.* The General Manager shall ensure that all budgets and reporting requirements contained in this Ordinance comply with generally accepted accounting principles ("GAAP").

Article VII. Mandatory Distributions.

7.01. *Mandatory Distributions.* The General Manager shall be responsible for ensuring the timely payment of all distributions required by applicable Federal, State or Tribal laws, Resolutions, Regulations, Compacts, or Agreements including, but not limited to, the following:

- a. *Distributions Required by Compact(s).* Distributions mandated by any Compact between the Little River Band of Ottawa Indians and the State of Michigan shall be made in accordance with the terms of that Compact or any other Agreement between the Tribe and the State.
- b. *National Indian Gaming Commission Payments.* All payments required to be made to the National Indian Gaming Commission, or any other payments mandated by the Indian Gaming Regulatory Act.
- c. *Tribal Gross Gaming Tax.* The Tribal Gross Gaming Tax shall be distributed monthly in arrears to the Tribe along with a certificate signed by an officer stating the amount of the tax and showing the calculations used to determine such amount. The distribution of the tax shall be made no later than twenty (20) days after the end of each month and shall be based on percentages as established by Ordinance #09-100-05.
- d. *Net Gaming Revenue.* Distributions calculated as a portion of net gaming revenue to the Tribal Government shall be made monthly, no later than twenty (20) days after the end of each month.

Article VIII. Oversight Authority; Composition and Qualifications.

8.01. *Oversight Authority Generally.* The Oversight Authority is a subordinate organization of the Tribe responsible for overseeing the Tribe's Gaming Enterprise, subject to the following conditions:

- a. The Oversight Authority and its Members shall be subject to the Constitution, laws, and regulations of the Tribe, including the legislative authority of the Tribal Council to enact laws and resolutions and the executive authority of the Ogema to implement and enforce the laws and resolutions enacted by the Tribal Council.
- b. The Oversight Authority and its Members shall be subject to all federal laws, or any laws promulgated pursuant to federal law, including but not limited to the Indian Gaming Regulatory Act, the Tribal-State Gaming Compact, the Gaming Ordinance of the Tribe, and all applicable laws, regulations, internal operating procedures and minimum internal control standards.
- c. The Members of the Oversight Authority shall take an oath of office given by a member of the Judiciary of the Little River Band Tribal Court and shall execute a sworn confidentiality statement and file same with the Tribal Council Recorder within three (3) days of their swearing in.

8.02. *Composition of the Oversight Authority.* The Oversight Authority shall be comprised of five (5) voting members who shall serve staggered terms of four (4) years each unless removed or voluntarily relinquishing the position or vacating the position as a result of disability or death. There shall be no elected officials or tribal employees seated on the Oversight Authority.

- a. **Appointment Process.** The Tribal Ogema shall nominate five (5) persons who are willing to serve as Members of the Oversight Authority and who meet the qualifications described below at Section 8.03 of this Ordinance. The Tribal Ogema shall submit all nominees to the Tribal Council along with documentation sufficient to demonstrate their qualifications to serve. All personal and background information shall be treated as confidential and proprietary and shall be available for review by the Tribal Council only in closed meetings for their consideration and approval of each individual nominee.
- b. *Officers; Chairperson; Vice-Chairperson; Recording Secretary.*

Upon the approval of the appointment of at least three (3) Members of the Oversight Authority by the Tribal Council, the Oversight Authority shall be authorized to meet and select from among the appointees a Chairman, Vice-Chairman and Recording Secretary. Each Member shall be permitted to cast one vote on any matter put to the Oversight Authority to decide.

The duties of the Chairman, Vice Chairman and Recording Secretary are as described below.

1. The Chairman shall chair all meetings and be responsible for preparing the agenda for each meeting of the Oversight Authority. The agenda for each meeting shall reflect items of interest to the Oversight Authority and such items may originate from any member of the Oversight Authority or from the General Manager, if timely proposed to the Chairman to be included on the agenda.
 2. The Vice Chairman shall assume the duties of the Chairman for any meeting at which the Chairman is absent, including the preparation of meeting agendas and perform other duties in support of the Chairman as assigned.
 3. The Position of Recording Secretary shall be filled by any other seated member of the Oversight Authority. The Recording Secretary shall be responsible for taking and storing the minutes of the meetings in a secure place. This responsibility may not be delegated to a non-member.
- c. *Licensing as Primary Management Officials.* All Members of the Oversight Authority are hereby designated as Primary Management Officials, and each shall obtain and maintain a valid primary management official Gaming License issued by the appropriate Gaming Regulatory Agency or Commission of the Band.
- d. *Bond or Insurance.* The Tribal Council may elect to require a bond and/or liability and/or officers' and employees' insurance that protects the tribe against theft or embezzlement or other wrongdoing by the Members of the Oversight Authority, and that protects the Authority Members from personal liability for the debts of the Oversight Authority and the claims of third parties against the Oversight Authority or its Members. Such insurance shall only cover the activities of Authority Members of the Oversight Authority while acting in their official capacity as appointed tribal officials and shall be an expense paid by the Gaming Enterprise(s) or the Oversight

Authority. All Members of the Oversight Authority shall cooperate fully with the Tribe to secure such bonding and/or insurance covering his or her activities as a Member of the Oversight Authority.

e. *Prohibited Classes.* The following individuals shall be prohibited from serving as a Member of the Oversight Authority:

1. All elected officials of the Little River Band of Ottawa Indian government or any person sitting as a Commissioner on the Little River Band of Ottawa Indians Gaming Commission or other Tribal Gaming Regulatory Agency.
1. Any person that is an employee of any Gaming Enterprise.
2. Any person employed by the Little River Band of Ottawa Indians Gaming Commission or other Tribal Gaming Regulatory Agency.
3. Any LRBOI government employee.

8.03. *Qualifications of Oversight Authority Members.* Members shall meet at least one of the qualifications of the below categories:

- a. All members of the Gaming Enterprise Oversight Authority shall hold current membership in the Little River Band of Ottawa Indians.
- b. Possess at least seven (7) years of work experience in finance, accounting, or financial auditing; or
- c. Possess at least ten (10) years of work experience in executive management in the fields of hospitality, gaming, or gaming law or compliance; or
- d. Possess at least ten (10) years of executive level business experience or other vocation that lends demonstrable knowledge, experience or skills to the oversight and management of a gaming enterprise.

Article IX. Oversight Authority -- Removal.

9.01. *Removal of a Member of the Oversight Authority.* The Tribal Council shall have the power to remove Members of the Oversight Authority for good cause by majority vote.

9.02. *Good cause,* as used in this ordinance as the basis for removal shall mean that a Member of the Oversight Authority may be removed for any of the following reasons:

- a. Absence from three (3) meetings of the Oversight Authority within a twelve (12) month period, including special or emergency meetings.
- b. The revocation of a member's professional license, permit or certification that reflects negatively on the qualifications or character of the member to sit on the Oversight Authority or reflects negatively on the professional reputation and integrity of the member as determined by the Tribal Council.
- c. The conviction of a felony, or the conviction of a misdemeanor that calls into question the professional reputation and integrity of the member.
- d. The failure to carry out the duties and obligations mandated by this Ordinance.
- e. The revocation or denial of the renewal of a gaming license issued by the Band's regulatory body or by any other gaming regulatory body shall automatically disqualify the member and result in the forfeiture of their appointed position on the Authority.

9.03. *Removal Process.* The following process for removal of a Member of the Oversight Authority shall be strictly adhered to:

- a. *Notification - Reasons for Removal.* Any Member of the Oversight Authority that is the subject of a removal action shall receive timely written notification from the Tribal Council, describing with specificity the alleged grounds for their removal.
- b. *Notification of Rights.* The notification shall include, at a minimum, the specific conduct, incident, or action(s) that is alleged as the basis for the removal, and the date, time and place of the alleged event or events. The notice shall be accompanied by copies of any documents relevant to or evidencing the conduct, incident, or action(s), and the names of witnesses or other individuals who may possess information regarding the allegations.

The Notification shall also include an explanation of the right of the Member to demand a hearing prior to their removal, and the right of the Member to refute and contest the allegations, along with the deadline for demanding a hearing by presentment of the demand to the Tribal Court Clerk in writing within ten (10) days of the receipt of a Notice of Removal. The Member subject to a removal action shall be automatically suspended from participation in the Oversight Authority pending the final resolution of the removal action.

- c. *Notification of Hearing - Hearing Date and Time.* Upon timely receipt of a written demand for hearing from a Member subjected to removal, the Tribal Court Clerk shall consult with the Chief Judge, or other such Judge assigned to serve as the Hearing Officer and shall cause to be issued an official Notice of Hearing which shall be mailed by Certified Mail and/or email to the last known address of the Member subject to removal, to the Ogema and to the Tribal Council Recorder.

The Notice of Hearing shall designate the place, date and time of the hearing and shall inform the Member and the Oversight Authority of their right to be represented by legal counsel at their own expense, and to call witnesses to testify and to submit documentary evidence for the consideration of the Hearing Officer. The hearing shall be closed to the public unless the parties mutually agree that the hearing be open to the public.

- d. *Witnesses; Documents.* The Member of the Oversight Authority who is the subject of a removal proceeding shall submit, no later than forty-eight (48) hours prior to the scheduled hearing date and time, a list of proposed witnesses that will be called, and a list and copy of all documents that will be presented at the hearing. Likewise, the Tribal Council, or its duly appointed representative or legal counsel shall submit its own list of witness and exhibits to the Member on the same time requirement. Witnesses shall be required to take an oath as to the truth and accuracy of their testimony prior to testifying.
- e. *Majority Vote Required.* A Member of the Oversight Authority shall only be removed by majority vote of the Tribal Council.
- f. *Final Decision.* The majority vote of the Tribal Council to remove a Member shall be final after the passing of ten (10) days, subject to a timely appeal filed by the removed Member with the Tribal Court Clerk and the ruling of the appointed Hearing Officer.

9.04. *Resignation.* An Oversight Authority member shall provide thirty (30) days' written notice to the Chairman or Vice-Chairman of the Oversight Authority and to the Tribal Ogema and the Tribal Council Recorder of his or her resignation.

9.05. *Return of Property.* Any Member of the Oversight Authority that has resigned or that has been removed, shall upon the effective date of such resignation, or receipt of notification of their removal, including the result of any appeal of removal, immediately return any property, including documents or records of any type, that rightfully belong to the Oversight Authority.

Article X. Oversight Authority -- Automatic Disqualification.

- 10.01. *Automatic Disqualification - General.* Automatic disqualifications are non-discretionary and shall be strictly enforced by the Chairperson, or the Vice-Chairperson presiding in the Chairperson's absence.
- 10.02. *Grounds for Disqualification.* A Member of the Oversight Authority shall be automatically disqualified from serving on the Oversight Authority upon one of the following occurrences:
- a. The Member of the Oversight Authority no longer holds, or is no longer eligible to hold, a valid Primary Management Official's gaming license issued by the Tribe's gaming regulatory agency; or
 - b. Upon the Gaming Commission acting to revoke, suspend, or disqualify a currently seated Oversight Authority member, the Gaming Commission shall notify the Tribal Council Recorder and the Ogema within seven (7) calendar days of the revocation or disqualification.
- 10.03. *Disqualification - Procedure.* When a Member of the Oversight Authority is subject to disqualification under Section 10.02 above, the Chairperson, or the Vice-Chairperson presiding in the Chairperson's absence, shall notify the affected Member in writing. The notification shall contain, at a minimum:
- a. The reason(s) for the disqualification; and
 - b. Notice that the Member is disqualified effective immediately; and
 - c. Notice that disqualification is not appealable.

Article XI. Oversight Authority -- Notice; Posting Required; Vacancies.

- 11.01. *Notification Required.* The Chairperson of the Oversight Authority is required to notify the Ogema and Tribal Council Recorder, in writing, within seven (7) days of a vacancy whether by removal, disqualification, or resignation of a Member of the Oversight Authority.
- 11.02. *Posting Notice of Vacancy for Applicants.* The Ogema shall post for at least sixty (60) days on the Band website and in the usual manner of media communications to its members,

notice that a vacancy on the Oversight Authority exists, the preferred qualifications for the vacant position, and the opening and closing dates of the application period. All applications will be considered by the Tribal Ogema who shall select one qualified applicant as his nominee for the appointment and present his nominee to the Tribal Council for approval in accordance with Section 11.04 of this Ordinance.

11.03. *Vacancy Exists.* A vacancy exists upon the removal of a Member of the Oversight Authority by automatic disqualification, resignation, or upon receipt of the notice of vacancy from the Oversight Authority by the Ogema.

11.04. *Procedure for Filling Vacancies.* The following procedures shall be adhered to when filling vacancies on the Oversight Authority:

- a. The Ogema shall submit any nominee for appointment to fill vacancies on the Authority within ninety (90) days of the receipt of notice of a vacancy.
- b. If the Ogema is unable to timely nominate individuals to fill vacancies on the Oversight Authority, the Ogema shall identify the reasons vacancies cannot be filled within the timelines set forth in this section, identify all attempts made to nominate qualified persons, and identify with specificity what qualifications each applicant is lacking. Only those items listed at 8.03 shall be used to weigh the qualifications of applications.

Article XII. Oversight Authority -- Meetings; Minutes; Compensation.

12.01. *Quorum.* Three (3) or more members of the Oversight Authority shall make a quorum for the conducting of the official business of the Oversight Authority. However, should the number of appointed members be reduced to three (3) members by removal, resignation or otherwise, all three (3) members shall be present to establish a quorum. A quorum shall be required to conduct business.

12.02. *Meetings.* The Oversight Authority shall hold regularly scheduled meetings at least once per month. The Oversight Authority may convene special or emergency meetings as necessary.

12.03. *Publication of Meeting Schedule.* The Oversight Authority shall determine and post the dates and location of their regularly scheduled meetings for the coming year and provide a copy of their schedule of meetings to the Tribal Council Recorder. No notice is required where the Oversight Authority finds it necessary to hold a special or emergency meeting and all official actions taken in such meetings must be reported to the Tribal Council Recorder within forty-eight (48) hours of such action.

- 12.04. *Requirement to Attend Meetings.* All Members of the Oversight Authority shall participate in all regularly scheduled meetings in order to be compensated. Members of the Oversight Authority may participate in meetings by telephone or virtually, upon approval of the remaining Members of the Oversight Authority, when conditions or circumstances prohibit attendance in person.
- 12.05. *Procedures.* In the absence of Rules of Procedure established by the Tribal Council for the Authority, the Oversight Authority shall be authorized to establish its own meeting rules and procedures not inconsistent with this Ordinance; provided, that the Oversight Authority shall act only by Resolution under the following circumstances:
- a. When approving contracts and agreements;
 - b. When authorizing a limited waiver of the sovereign immunity on behalf of the Gaming Enterprise; and
 - c. When authorizing expenditures requiring prior Oversight Authority approval.
- 12.06. *Minutes.* The Oversight Authority shall prepare minutes of all open and closed session meetings which shall describe with specificity all official actions taken by the Oversight Authority and memorialize all discussions related to those official actions. Copies of the Oversight Authority's minutes shall be submitted to the Tribal Ogema and the Tribal Council with the next monthly report.
- 12.07. *Compensation.* Each Member of the Oversight Authority may be paid reasonable compensation for each meeting, or may be paid monthly for their service, including reimbursement for any reasonably related expenses of their service and as authorized by Resolution of the Tribal Council subject to the following limitations:
- a. Compensation for Members of the Oversight Authority shall not be diminished during any term of office.
 - b. For purposes of 12.07 the term "reasonably related expenses" shall mean the costs of mileage for ground transportation calculated at the existing federal rate per mile; the actual cost of hotel lodging and meals based on receipts; the costs associated with airline travel when required, including baggage handling; and the costs associated with acquiring meeting space where such meetings take place outside the property of the LRBOI, including the use of electronic/technical equipment when needed.

Article XIII. Oversight Authority -- Terms of Office; Hold-Over Period.

13.01 *Terms of Office.* The term of office for each member of the Oversight Authority shall be a four (4) year term and such terms shall be assigned to the members in order to establish an orderly staggering of terms to ensure that no more than two (2) member's terms shall end in the same year. Upon the seating of a full Oversight Authority membership the members shall assign the staggered terms among themselves unless those members have been appointed to specific seats and terms by the Ogema, with the approval of the Tribal Council. The members initially selected to serve as Chairman and Recording Secretary will be assigned full four (4) year terms. The remaining members shall be initially assigned terms of one, two and three years to establish the staggered term schedule for reappointment or replacement. No newly appointed member shall serve as Chairman or Recording Secretary during their first year of service.

13.02 *Hold-Over Period.* To accommodate the appointment and approval provisions for seating Members of the Oversight Authority Board, each Member of the Oversight Authority appointed and approved in accordance with this Ordinance may be held over in office for a period no more than ninety (90) days following the end of their term.

Article XIV. Responsibilities and Duties of the Oversight Authority.

14.01. *Delegated Authority.* The Oversight Authority is expressly delegated the authority to perform all actions necessary to carry out their assigned duties so long as in doing so they are compliant with all applicable laws, policies, and procedures and including the authority to conduct a search for qualified and experienced applicants for the position of General Manager when that position is vacant. The ultimate authority to approve the hiring of the General Manager shall remain with the Ogema, with the consent and approval of the Tribal Council.

14.02. *Reporting.* The Oversight Authority shall file with the Tribal Council Recorder and the Ogema copies of all reports provided to the Oversight Authority by the General Manager other than those reports pertaining to individual employees or confidential information that is obtained as a result of background investigations for licensing purposes, or in the case of other legally protected information that is obtained.

14.03. *Organizational Chart Approval.* The Oversight Authority shall approve any change to the organizational chart of the Gaming Enterprise and related entities for which the General Manager is responsible.

14.04. *Salary Administration Policy.* The Oversight Authority must approve any change or exceptions to the Salary Administration Policy of the Gaming Enterprise.

14.05. *Travel/Training Reimbursement Policy.* The Oversight Authority must approve any change or exception to any travel or training reimbursement policy of the Gaming

Enterprise.

- 14.06. *Finance Department Policies and Procedures.* The Oversight Authority must approve any change in Finance Department policies and procedures that would affect the flow or management of cash assets.

Article XV. Oversight Authority: Limited Authority to Waive Sovereign Immunity.

- 15.01. *Limited Delegation of Authority - General.* The Tribal Council expressly delegates its authority to the Gaming Enterprise Oversight Authority to grant a limited waiver of immunity from suit on behalf of the Gaming Enterprise(s) in accordance with the limitations described at 15.02 below, when the Oversight Authority determines by majority vote and in its best judgment the limited waiver is a necessary business decision and will be beneficial to the Gaming Enterprise and the Band.
- 15.02. *Authority.* The Oversight Authority shall have limited authority to waive the sovereign immunity of the Gaming Enterprise in accordance with the terms and limitations set forth in this Article under the following circumstances:
- a. The Oversight Authority shall have limited authority to execute Collective Bargaining Agreements for the Gaming Enterprise on behalf of the Tribe. To the extent a Collective Bargaining Agreement provides for a waiver of the Tribe's sovereign immunity, the Oversight Authority is authorized to grant a limited waiver, but only to the extent that such waiver is consistent with the waiver of sovereign immunity described at Article XVI of the Fair Employment Practices Code, or any amendments thereto.
 - b. The Oversight Authority shall have the additional authority to waive the sovereign immunity of the Gaming Enterprise that contains the same limitations described at Section 15.03 below, when contracting for essential daily operational needs.
- 15.03. *Limitations on Waiver Authority.* Any waiver of sovereign immunity shall be subject to the following limitations in order to be valid and legally binding and enforceable:
- a. A waiver of sovereign immunity authorized in accordance with Section 15.02(b) above shall be limited to claims against the Gaming Enterprise and the assets of the Gaming Enterprise and shall not result in liability to, or action taken against, the Band or Band assets and property; and

- b. The Oversight Authority shall not have the authority to waive the right of the Gaming Enterprise to be immune from awards of ancillary or punitive damages; and
- c. For purposes of this Ordinance only, "damages" do not include remedies or awards for wages or other "make whole" remedies that employees may be entitled to recover pursuant to a Collective Bargaining Agreement duly executed pursuant to Article XVI of the Fair Employment Practices Code.

15.04. *Procedure.* Only limited waivers of the sovereign immunity of the Gaming Enterprise that strictly comply with the procedures set forth in this Section shall be valid and enforceable:

- a. The Oversight Authority shall only waive the sovereign immunity of the Gaming Enterprise by a duly authorized resolution which contains the following information:
 - 1. The precise language of the waiver and any limitation(s) to the waiver as identified in the contract or Collective Bargaining Agreement; and
 - 2. The forum and choice of law which will govern claims or disputes.
- b. A copy of the authorizing Resolution shall be forwarded to the Tribal Council Recorder for filing with the Oversight Authority's next Monthly Report.


Article XVI. Oversight Authority--Limitations to Authority and Access.

- 16.01. *Official Action Required.* No Member of the Oversight Authority shall be authorized to act independently or in the absence of an official action taken by the Oversight Authority by roll call vote.
- 16.02. *Limitations on Access.* The Oversight Authority members shall not be authorized to access gaming facility pits, cage, surveillance, count rooms, vaults, and behind bars for the serving of food and/or alcohol in any Gaming Enterprise.
- 16.03. *Authority to hire employees.* The Oversight Authority shall have the authority to employ an internal auditor in accordance with the laws of the Tribe. This individual shall be employed by contract which provides for its termination without cause upon thirty (30) days written notice by the Oversight Authority. The budget to compensate this position must be approved by the Tribal Council.

- 16.04. *Contracts.* The Oversight Authority shall be required to approve all contracts and shall have the power to approve contracts up to and including \$250,000.00 without Ogema or Tribal Council approval, subject to those limitations identified in Article XVI, Section 16.07 of this Ordinance. Contracts in excess of \$250,000.00 or contracts with any vendor that exceed a cumulative amount exceeding \$250,000 within a rolling eighteen (18) month period shall require Tribal Council approval as a part of the annual budget process. Contracts may not be split or divided up in order to avoid approval or payment requirements.
- 16.05. *Expenditures.* The Oversight Authority shall be required to approve all Gaming Enterprise capital expenditures and shall be required to approve all other expenditures in excess of \$50,000.00, excluding budgeted daily operational expenses.
- 16.06. *Collective Bargaining Agreements.* The Oversight Authority expressly delegated the authority to approve Collective Bargaining Agreements for the Gaming Enterprise.
- 16.07. *Limitations on Contracting Authority.* The Oversight Authority shall not have the power to enter into or approve contracts for legal counsel or construction contracts, nor may the Oversight Authority enter into any form of contract or agreement or initiate negotiations with any governmental entity, including municipal, national, tribal, state or other body politic, without the prior approval of the Tribal Council. All other contracts and agreements shall be approved by a duly authorized Resolution which shall be forwarded to the Tribal Council Recorder for filing with the Oversight Authority's Monthly Report.
- 16.08. *Limitation on Authority to Terminate Employment.* The Oversight Authority shall have no independent authority to intervene or intercede in any personnel related matter, including the termination of employment of any individual employee of the Gaming Enterprise. The Oversight Authority shall have limited authority to assist in the hiring and firing processes of the General Manager in accordance with Section 4.01 of this Ordinance.
- 16.09. *Limitation on Authority to Obligate Funds.* The Oversight Authority shall have no authority to obligate funds in excess of the parameters of the approved annual budget without the prior approval of the Tribal Council, including, but not limited to, funding connected to any bonus or profit-sharing programs.

CERTIFICATION

I, Pam Johnson, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Gaming Enterprise Oversight Authority Act of 2024 adopted by the Tribal Council on September 11, 2024.



Pam Johnson, Tribal Council Recorder

[SEAL]