

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 Odawa Circle
Harbor Springs, MI 49740

TRIBAL RESOLUTION # 07/09/20-02

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 Traverse Bay Bands of Odawa Indians (Tribe) is a federally recognized Indian tribe as reaffirmed in Public Law 103-234 organized pursuant to a Constitution approved by the Tribal Membership on February 1, 2005("Constitution"); 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 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 the Tribal-State Compact for Regulation of Class III Gaming by the Little Traverse Bay Bands of Odawa Indians, dated December 3, 1998, (for which publication of National Indian Gaming Commission [NIGC] approval appeared in the Federal Register on February 18, 1999), as amended by an amendment signed on July 14, 2003 and July 22, 2003 (for which publication of NIGC approval appeared in the Federal Register on December 10, 2003), and an amendment dated January 24, 2008 (for which publication of NIGC approval appeared in the Federal Register on April 21, 2008); and

WHEREAS, the Tribe enacted a Tribal gaming ordinance authorizing the conduct of Class III gaming, Waganakising Odawak Statute 2011-005, on February 26, 2011 in accordance with the Constitution, which was approved by the NIGC by letter dated March 28, 2011; and

WHEREAS, the Tribe conducts Class III gaming in its Odawa Casino which operates under a license issued by Little Traverse Bay Bands of Odawa Indians Gaming Regulatory Commission at 1760 Lears Road, Petoskey, MI 49770 and 1080 S. Nicolet Street, Mackinaw City, MI 49701; 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 in Michigan; and

WHEREAS, the Little Traverse Bay Bands operation of its Odawa Casino under IGRA and the Compact establishes its eligibility to apply to the Michigan Gaming Control Board for a license to conduct off-reservation internet based gaming under LIGA which activity the Tribe will conduct solely under LIGA as a licensee of the Michigan Gaming Control Board separate from its on-reservation gaming activity under IGRA;

WHEREAS, LIGA, MCL 432.307(1)(h), requires an eligible Indian tribe to grant a limited waiver of sovereign immunity 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 Little Traverse Bay Bands of Odawa Indians and the Tribe seeks to obtain, maintain, and renew when necessary, an internet gaming operator license under LIGA;

WHEREAS, pursuant to, the Little Traverse Bay Bands of Odawa Indians' Tribal Council, is authorized to adopt this resolution by Article XVIII (A) of the Tribe Consitution, it has had the opportunity to consult its legal counsel, and it adopts this resolution voluntarily;

NOW, THEREFORE, BE IT RESOLVED:

- 1. State jurisdiction and law.** The Little Traverse Bay Bands of Odawa Indians submits itself to the Michigan Gaming Control Board's jurisdiction or any successor agency charged with enforcement of LIGA. The Tribe agrees to be bound by LIGA, all administrative rules promulgated pursuant to LIGA, and all orders of the Michigan Gaming Control Board issued pursuant to LIGA that apply to internet gaming by an Indian tribe.
- 2. Limited waiver of sovereign immunity.** The Little Traverse Bay Bands of Odawa Indians waives its sovereign immunity for all purposes stated in LIGA, MCL 432.307(1)(h), including its subsections and those provisions to which they refer. This 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 suit.

- 3. Administrative and other actions, and limited waiver of tribal court jurisdiction.** The Little Traverse Bay Bands of Odawa Indians consents to administrative actions in front of the Michigan Gaming Control Board and any subsequent appeals in a state court of competent jurisdiction related to LIGA. 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 related to LIGA. For any action related to 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 an action in a state administrative tribunal or state court of competent jurisdiction. The Tribe waives its right to contest or litigate any claims or issues related to LIGA in its tribal courts.
- 4. Sovereign immunity and inherent sovereignty not defenses.** The Little Traverse Bay Bands of Odawa Indians hereby waives and affirms that it will not raise its sovereign immunity from suit or its inherent sovereignty as a defense in any civil, criminal, or administrative action related to LIGA that the Michigan Gaming Control Board, the Michigan Attorney General, or a local prosecutor brings directly or raises as a counter-claim.
- 5. Remedies and relief.** The Little Traverse Bay Bands of Odawa Indians 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. 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 Little Traverse Bay Bands of Odawa Indians consents to entry upon its 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 Little Traverse Bay Bands of Odawa Indians designates its Tribal Chairperson to act on behalf of and bind the Tribe in anything related to LIGA. The Tribal Chairperson has actual authority to do all things

necessary to apply for, obtain, maintain, and/or renew an internet gaming facility operator's license for the [TRIBE] under LIGA.

8. **No waiver of tribal rights and limitations in LIGA.** Nothing in this resolution waives the Little Traverse Bay Bands of Odawa Indians' 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.
9. **Effective date.** This resolution is effective when passed by a simple majority of a quorum of the Tribal Council and signed by the Chairperson, or if vetoed overridden by a vote of 7 of the 9 members of the Tribal Council.
10. **Duration and survival.** This resolution shall remain continuously in effect while the Little Traverse Bay Bands of Odawa Indians 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, including any disputes or violations, are resolved and so that it can wind-down its internet gaming operations in a manner consistent with LIGA.
11. **Modification, revocation, or rescission.** The Little Traverse Bay Bands of Odawa Indians will give three months' advance written notice to 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 acceptable to 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 facility operator's license, or to seek other relief.
12. **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

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Tribal Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on July 9, 2020 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 1 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Fred Kiogima	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Tamara Kiogima	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Melissa Pamp	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Leroy Shomin	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Martin Van de Car	<u> </u>	<u> </u>	<u> X</u>	<u> </u>
Marcella Reyes	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Julie Shananaquet	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Emily Proctor	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Date: July 9, 2020 Emily Proctor
Emily Proctor, Legislative Leader

Date: July 9, 2020 Julie Shananaquet
Julie Shananaquet, Tribal Council Secretary

Received by the Executive Office on 7/9/2020 by 

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 7-10-2020 Regina Gasco-Bentley
Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on 7.10.2020 by 