

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

TRIBAL RESOLUTION # 090320- 01

**Authorizing Limited Waivers of Sovereign Immunity and The Right to Exclude and
Address Other Matters Required to Obtain and Maintain an Internet Gaming
Operator's License from the Michigan Gaming Control Board Under the Michigan
Lawful Internet Gaming Act**

WHEREAS, the Little Traverse Bay Bands of Odawa Indians (Tribe) is a federally recognized Indian tribe 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" 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 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, in accordance with IGRA, on February 26, 2011 the Tribe enacted a Tribal gaming ordinance authorizing Class III gaming on its Indian lands, Waganakising Odawak Statute 2011-005, which was approved by the chair of the NIGC by letter dated March 28, 2011; and

WHEREAS, the Tribe as formed the Gaming Authority ("Authority"), which is an unincorporated instrumentality and political subdivision of the Tribe authorized under Waganakising Odawak Statute 2018-016, as amended by Waganakising Odawak Statute 2020-011, to manage its Class III gaming enterprise under IGRA, and to operate the Tribe's Michigan licensed internet gaming and sports betting operations. Waganakising Odawak Statute 2020-011 authorizes the Authority to form a sub-entity LLC to help carry out its

internet gaming and sports betting duties, and the Authority has formed Odawa Online GSP, LLC under the Tribe's LLC Code for this purpose; and

WHEREAS, the Tribe, through the Authority, 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 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, through its Authority, of Odawa Casino under IGRA and pursuant to the tribal-state gaming compact makes it eligible to apply for an internet gaming operator's license 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 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, through its Authority, seeks to obtain, maintain, and renew when necessary, an internet gaming operator license under LIGA; and

WHEREAS, pursuant to Article VII of the Tribe's Constitution, the Tribal Council is the legislative governing body of the Tribe, and the Tribal Chairperson is the chief officer of the Executive Branch. The Tribal Council is authorized to adopt this Resolution, and the Chairperson to sign it into law, pursuant to Article VII (D) and Article XVIII (A) of the Tribe's Constitution, and they have had the opportunity to consult their legal counsel, and adopt this resolution voluntarily;

NOW, THEREFORE, BE IT RESOLVED:

- 1. State jurisdiction and law.** The Tribe, including its Authority and any other sub-entity, which are hereinafter all encompassed in the term "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 Chairperson of the Authority to act on behalf of and bind the Tribe in anything originating under LIGA. The Chairperson of the Authority 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 a quorum of the Tribal Council and signed by the Tribal Chairperson, or if vetoed by the Tribal Chairperson it takes effect upon veto override by vote of 7 of 9 members of the 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.
- 14. Repeal of Prior Resolution.** This Resolution repeals and replaces Tribal Resolution 070920-02.

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 September 3, 2020 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	X	_____	_____	_____
Fred Kiogima	X	_____	_____	_____
Tamara Kiogima	X	_____	_____	_____
Melissa Pamp	X	_____	_____	_____
Leroy Shomin	X	_____	_____	_____
Marty Van De Car	X	_____	_____	_____
Marcella Reyes	X	_____	_____	_____
Julie Shananaquet	X	_____	_____	_____
Emily Proctor	X	_____	_____	_____

Date: 9/4/2020 Emily Proctor
 Emily Proctor, Legislative Leader

Date: 9/4/2020 Julie Shananaquet
 Julie Shananaquet, Tribal Council Secretary

Received by the Executive Office on 9-4-2020 by Le. J. J. K.

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: 9-11-2020 Regina Gasco-Bentley
 Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on 09.11.2020 by Julie Shananaquet

