

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


TRIBAL RESOLUTION #020214-01

**Authorizing Loan from Wells Fargo Bank, National Association and related Documents,
Authorizing Tribal Appropriations for Payments of the Loan, Adopting Law Governing the
Arbitration of Disputes related to the Loan, Adopting Law Regarding Security Interests and
Addressing Related Matters**

- WHEREAS,** the Little Traverse Bay Bands of Odawa Indians ("Tribe") is a federally recognized Indian Tribe reaffirmed by the United States Congress on September 21, 1994 in Public Law 103-324 (as amended, the "Little Traverse Act"); and
- WHEREAS,** under the Tribe's Constitution adopted by the members of the Tribe on February 1, 2005 (the "Constitution"), the "Tribal Council" referred to therein, consisting of nine (9) members of the Tribe, is the elected legislative branch of the Tribe and the "Tribal Chairperson" (also referred to as the "Executive") and "Vice-Chairperson" referred to therein constitute the elected executive branch of the Tribe; and
- WHEREAS,** the Tribal Council has various powers enumerated in the Constitution, including, among others, to: (1) make laws not inconsistent with the Tribe's Constitution, including for the regulation of commerce, subject to a veto thereof by the Executive that is not thereafter overridden by the Tribal Council; (2) enact laws governing the encumbrance and disposition of non-real estate tangible assets; (3) purchase, receive by gift, or otherwise acquire land, interests in land, personal property or other intangible assets which the Tribal Council may deem beneficial; (4) appropriate funds; (5) approve negotiations with any other governments, businesses or individuals by a majority vote of the Tribal Council; and
- WHEREAS,** under the Constitution, the Tribal Council may make laws of the Tribe either by statute or by resolution; and
- WHEREAS,** the Tribe owns and operates the Odawa Casino and the Odawa Hotel, located on lands taken into trust pursuant to the express authorization for trust acquisitions set forth in 25 U.S.C. §1300k-4(a) of the Little Traverse Act, and the general authorization for trust acquisitions in the Indian Reorganization Act of 1934 as expressly made applicable to the Tribe in 25 U.S.C. §1300k-2(a) of the Little Traverse Act; and
- WHEREAS,** there are presently outstanding \$39,962,000 of the Tribe's 9.00% Senior Secured Notes Due 2020, secured by assets and revenues of the Odawa Casino and the Odawa Hotel (the "Existing Notes"); and

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WHEREAS, the Tribe desires to obtain financing to, among other things, refinance the Existing Notes; and

WHEREAS, there has been presented to the Tribal Council for its consideration forms of each of the following documents:

- (a) Loan Agreement between the Tribe, as borrower, Wells Fargo Bank, National Association, as administrative agent (in such capacity, the "Administrative Agent"), and Wells Fargo Bank, National Association, as the initial sole lender thereunder (in such capacity, the "Lender"), setting forth the terms and conditions of a reducing revolving credit facility in the initial principal amount of \$41,000,000 (the "Loan Agreement");
- (b) Revolving Note in the principal amount of \$41,000,000, evidencing the Tribe's obligation to repay to the Lender the principal borrowed under the Loan Agreement, together with interest thereon as provided under the Loan Agreement (the "Revolving Note");
- (c) Security Agreement by the Tribe in favor of the Administrative Agent, for the benefit of the Administrative Agent and all Lenders from time to time party to the Loan Agreement, granting a security interest, with certain exceptions, in all assets and revenues of the Tribe related to the Odawa Casino and the Odawa Resort (the "Security Agreement");
- (d) (i) Deposit Account Control Agreement (Access Restricted After Notice) among the Tribe, the Administrative Agent and Wells Fargo Bank, National Association, in its capacity as a depository bank, perfecting the security interest created by the Security Agreement in the operating accounts of the Odawa Casino and Odawa Resort identified therein, and (ii) Deposit Account Control Agreement (Access Restricted Immediately) among the Tribe, the Administrative Agent and Wells Fargo Bank, National Association, as a depository bank, perfecting the security interest created by the Security Agreement in an account required to be established under the Indenture to hold amounts that are not paid to the State of Michigan because of so-called free or promotional play (collectively, such agreements described in clauses (i) and (ii), the "Control Agreements");
- (e) Springing Depository Agreement (the "Springing Depository Agreement") among the Tribe, the Administrative Agent and U.S. Bank National Association, as depository bank, providing, with certain exceptions, for the deposit of all revenues of the Odawa Casino and Odawa Resort after the occurrence of a default under the Loan Agreement to secure payment of amounts due under the Loan Agreement and other Loan Documents (as defined in the Loan Agreement); and
- (f) letter from the Tribe to the Administrative Agent containing a limited waiver of the Tribe's sovereign immunity that will apply to contractual relationships between the

Tribe and the Administrative Agent or Lenders or affiliates thereof in the absence of any other effective waiver of sovereign immunity, which letter can be prospectively terminated by the Tribe at any time with respect to future contractual relationships (such letter, the "Alternative Dispute Resolution Letter"; together with the Loan Agreement, the Security Agreement, the Control Agreements and the Springing Depository Agreement, collectively, the "Financing Documents"; and

WHEREAS, one or more of the Financing Documents contain provisions related to governing law, forum selection, arbitration, the limited waiver of tribal sovereign immunity, a waiver of the doctrine of exhaustion of tribal remedies and use of tribal forums for dispute resolution (the "Dispute Resolution Provisions"); and

WHEREAS, as a condition to the Administrative Agent and the Lenders entering into the Financing Documents to which they are parties, the Tribe has been requested to provide, under the laws of the Tribe, for (1) the appropriation of funds for repayment of principal of the loans extended to the Tribe under the Loan Agreements and payment of accrued interest thereon, (2) clarify the Tribe's laws regarding the granting and perfection of security interests in revenues, and (3) provide for the treatment of arbitration awards related to the Financing Documents.

THEREFORE BE IT RESOLVED THAT:

1. Findings. The Tribal Council hereby determines and finds that: (a) the Recitals in this Resolution are true and correct in all material respects; (b) the Tribal Council has full power and authority to adopt this Resolution, subject to approval by the Executive as provided in the Constitution; (c) the Tribal Council's adoption of this Resolution and the Tribe entering into the Financing Documents is in the best interest of the Tribe and its members and is consistent with the laws of the Tribe; and (d) the meeting at which this Resolution is being adopted is being validly held in compliance with the Constitution and the laws of the Tribe, and a quorum has been present and acting at all times relevant to adoption of this Resolution.

2. Approval of Financing Documents and Performance Thereunder. The Tribal Council hereby approves each Financing Document in the form presented to it. The Tribal Council further hereby authorizes and approves the execution and delivery of each Financing Document (including those provisions of other documents incorporated by reference therein) on behalf of the Tribe by one or more Authorized Representatives referred to in Section 3 hereof, substantially in the forms so presented or with such modifications or changes thereto as shall be approved by the Authorized Representatives executing the same, which approval shall be conclusively presumed upon such execution and delivery. Following the execution and delivery of any Financing Document, the Tribal Council also authorizes the performance thereof on behalf of the Tribe.

3. Authorized Representatives. The Tribal Council hereby authorizes the Tribal Chairperson, or, in the absence of the Tribal Chairperson, the Tribal Vice-Chairperson or any other person entitled under the laws of the Tribe to act in the stead of the Chairperson or Vice-Chairperson and the Tribal Treasurer (each, an "Authorized Representative"), to execute and deliver on behalf of the

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Tribe each Financing Document in the form authorized in Section 2 of this Resolution, and to execute and deliver such other agreements (including indemnity agreements), documents, certificates, orders, requests and instruments and cause to be taken such other actions as may be contemplated by any Financing Document or as may be necessary or appropriate in connection with the consummation of the transactions contemplated by the Financing Documents, including, but not limited to, (a) the taking of all actions necessary or desirable to cause all Existing Notes to be redeemed at a price equal to the principal amount thereof plus accrued interest no later than thirty-five (35) days after all Financing Documents have been executed and delivered and (b) the transfer of funds and accounts of the Odawa Casino Resort to Wells Fargo Bank, National Association, and the execution and delivery of documentation necessary or desirable in connection therewith.

4. Approval of Waiver of Sovereign Immunity and other Dispute Resolution Provisions. The Tribal Council has been advised of each Dispute Resolution Provision contained in each Financing Document and such provisions are hereby approved as the valid and binding obligations of the Tribe, enforceable against the Tribe in accordance with their terms. Each limited waiver of sovereign immunity and each provision relating to the resolution of disputes in each Financing Document is hereby expressly incorporated by reference herein as though set forth at length herein, such incorporation, however, to become effective only upon the execution and delivery of the applicable Financing Document; upon such incorporation the limited waiver of sovereign immunity and each such provision shall be independently valid and enforceable as a law of the Tribe, independent of the Financing Documents and irrespective of whether the Financing Document is valid and enforceable.

5. Enforcement. The Tribal Court shall give full faith and credit to any award, order or decree rendered by any federal or state court in accordance with this Resolution and the Financing Documents. For judgments, decrees, orders, warrants, subpoenas, records or other judicial acts of the Tribe's Courts resulting from any action under the Financing Documents, a Tribal police officer is authorized to execute such judgment, decree, order, warrant, subpoena, record or other judicial act. In the case of any such foreclosure order or judgment, after delivery of such order or judgment by a Tribal police officer, such police officer may proceed to enter upon any property of the Tribe to remove such personal property or to permit removal by the party in whose favor the order or judgment was issued.


6. Security Interest Provisions. The Tribal Council hereby adopts the following which shall have the force of law:

Notwithstanding any provision of the Little Traverse Bay Bands of Odawa Indians Secured Transaction Statute (the "LTBB Secured Transactions Statute") or the Michigan UCC (defined below) to the contrary:

- (a) A security interest granted by a Tribal Party (as that term is defined in the LTBB Secured Transactions Statute), including in Pledged Revenues (as that term is defined in the LTBB Secured Transactions Statute), shall be created and attach upon the giving of value and the granting of such security interest in a writing executed by that Tribal Party, which security interest shall be governed by paragraphs (a) through (d) and, to the extent not inconsistent with such paragraphs, the LTBB Secured Transactions Statute.

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- (b) A security interest in Pledged Revenues may be perfected only by the filing of an initial financing statement in the same manner and in the same location as if all of such Pledged Revenues were accounts within the meaning of the Michigan UCC.
- (c) Jurisdiction to enforce security interests against a Tribal Party governed by the LTBB Secured Transactions Statute shall lie solely within the Tribe's Tribal Courts or Federal Courts or State Courts with respect to which a Tribal Party has granted a waiver of its sovereign immunity to permit enforcement.
- (d) For all purposes of paragraphs (a) through (c) above and the LTBB Secured Transactions Statute, "Michigan UCC" means the Uniform Commercial Code of the State of Michigan, as amended from time to time, except that any provision therein, including Section 440.9109(4)(m), that excludes from its scope any security interest granted by a governmental unit, subdivision or agency shall be inapplicable to a Tribal Party.

7. Enactment of Arbitration Law Applicable Solely to Transaction Documents.

The Tribal Council hereby enacts as a law of the Tribe the "Limited Arbitration Provisions" set forth in **EXHIBIT A** attached hereto.

8. Appropriation. The Tribal Council hereby appropriates all such funds and revenues of the Odawa Casino and Odawa Resort as shall be required to pay when due all amounts owing by the Tribe under all Financing Documents, it being intended that this appropriation shall constitute a statute addressing appropriations for Tribal institutions within the meaning of Article XIV(A)(1) of the Constitution (relating to initiatives).

9. Repealer. Any laws, ordinances, rules, regulations, decisions, orders, judgments, resolutions or other actions, other than the Tribal Constitution of the Tribe, any branch, division, authority, agency, subsidiary, board, commission or other instrumentality of the Tribe, or any of the officers, employees or agents of the foregoing, whether written, unwritten or established by tradition, custom or practice that are in effect and are in conflict with or inconsistent with the terms of this Resolution, the transactions contemplated herein or any provision set forth in the Financing Documents are hereby repealed and annulled to the extent of such conflict or inconsistency, and this Resolution shall supersede the same.

10. Miscellaneous. If any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of the Resolution shall not be affected with respect to the same. This Resolution shall become effective as of the date and time of its passage and approval by the Tribal Council.

EXHIBIT A TO RESOLUTION

LIMITED ARBITRATION PROVISIONS

Section 1. Definitions. Capitalized terms used but not defined in this Exhibit A are used with the meanings that apply in the Resolution to which this Exhibit is attached.

Section 2. Scope. Certain of the Transaction Documents provide for the arbitration of certain actions, disputes, claims or controversies (collectively, "Disputes"). The following arbitration provisions shall apply solely to such Disputes and to no others.

Section 3. Enforceability of Agreements to Arbitrate. As the law of the Tribe, an agreement by the Tribe contained in any Transaction Document to submit a Dispute to arbitration shall be valid, irrevocable and enforceable in accordance with its terms. Article IX(C)(3) of the Constitution shall not prevent a Dispute from being resolved in arbitration prior to being filed in Tribal Court.

Section 4. Confirmation of Arbitration Awards. At any time within one year after an arbitration award has been rendered for a Dispute arising under the Transaction Documents, any party to the arbitration may make application to a court of the Tribe having jurisdiction (a "Tribal Court") for an order confirming the award.

Section 5. Review and Modification of Arbitration Awards. An arbitration award shall not be subject to review or modification by a Tribal Court, but shall be confirmed strictly as provided by the arbitrator; provided, that a Tribal Court may nevertheless decline to enforce any arbitration award if it finds that any of the following occurred:

- (a) the award was procured by corruption, fraud, or undue means;
- (b) there was evident partiality or corruption in the arbitrator(s);
- (c) the arbitrator(s) were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or
- (d) the arbitrator(s) exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

If an arbitration award is vacated in accordance with the foregoing, a Tribal Court may, in its discretion, direct a rehearing by the arbitrator(s) in accordance with the terms of the applicable Transaction Document(s).

Section 6. Docketing of Arbitration Awards. The judgment confirming an award shall be docketed as if it were rendered in a civil action. The judgment so entered shall have the same force and effect in all respects as, and be subject to all the provisions of law relating to, a judgment in a civil action, and it may be enforced as if it has been rendered in a civil action in the Tribal Court. When the

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award requires the performance of any obligation under the Transaction Documents other than the payment of money, the Tribal Court may direct the enforcement thereon in the manner provided by law.

Section 7. Appeals. No further appeal may be taken from an order issued by the Tribal Court enforcing an agreement to arbitrate or an award issued by an arbitrator.


Section 8. Police Powers. The Tribes' police powers shall be available to secure and support any arbitration award, and all police or other law enforcement officials of the Tribes shall carry out any orders that may be entered by the Tribal Court pursuant to the arbitration provisions in this Exhibit.

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 by Phone Poll of the Tribal Council held on February 2, 2014 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Bill A. Denemy	X			
John W. Keshick III				X
Beatrice A. Law	X			
Michael J. Naganashe	X			
Aaron Otto	X			
Winnay Wemigwase	X			
Marcella R. Reyes	X			
Julia A. Shananaquet	X			
Regina Gasco Bentley	X			

Date: 2-2-14


Legislative Leader Regina Gasco Bentley

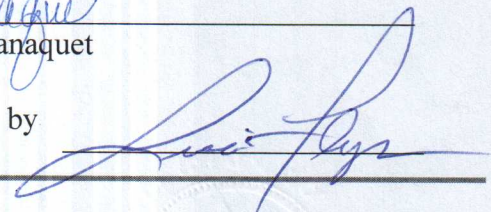
Date: 2-2-14


Secretary Julia A. Shananaquet

Received by the Executive Office on


2-4-14

by



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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:

5-Feb-14


Fred Kiogima, Tribal Chairperson

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Secretary Shananaquet 