

INTERLOCAL AGREEMENT FOR ESTABLISHMENT OF NATIVE AMERICAN HERITAGE FUND BOARD

WHEREAS, the Urban Cooperation Act of 1967 (MCL 124.501 et seq., as amended: hereinafter the "Urban Cooperation Act") provides that public agencies of the State of Michigan and public agencies of the United States may enter into interlocal agreements to exercise jointly with each other any power, privilege, or authority that the agencies share in common and that each may exercise separately; and

WHEREAS, under subsection 2(e) of the Urban Cooperation Act (MCL 124.502(e)), the State of Michigan is a public agency; and

WHEREAS, for purposes of the Urban Cooperation Act, the Nottawaseppi Huron Band of the Potawatomi Indians (hereinafter "the Tribe") is treated as a public agency of the United States government with the authority to enter into an interlocal agreement; and

WHEREAS, in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.; hereinafter referred to as "IGRA"), on December 3, 1998 the State of Michigan and the Tribe made and entered into a Compact providing for the conduct of Class III gaming, as approved by the U.S. Secretary of the Interior by publication in the Federal Register on February 18, 1999 (64 Fed. Reg. 8111), as amended on July 23, 2009 in accordance with Section 16 of the Compact and approved by the U.S. Secretary of the Interior by publication in the Federal Register on October 8, 2009, (74 Fed. Reg. 51875), and as further amended in August 2016 in accordance with Section 16 of the Compact and approved by the U.S. Secretary of the Interior by publication in the Federal Register on December 12, 2016, (81 Fed. Reg. 89504), (hereinafter collectively referred to as the "Compact"); and

WHEREAS, the Tribe, a federally-recognized Indian tribe, acting under its governmental authority in accordance with IGRA and the Compact, commenced Class III gaming operations on August 1, 2009, at the Firekeepers Casino (hereinafter the "Casino") on land located in Emmett Township, Michigan that is held in trust for the Nottawaseppi Huron Band by the United States; and

WHEREAS, the 2016 amendment to the Compact establishes that the Tribe and the State will form a Heritage Fund Board by interlocal agreement under the Urban Cooperation Act for the purpose of receiving a portion of the revenue sharing payments made by the Tribe under the terms of the Compact and directing the disbursement of those funds for the purposes set forth in Section 17(C)(5) of the Compact; and

WHEREAS, by entering into this interlocal agreement (hereinafter this "Agreement") and pursuant to terms of the Compact, the Tribe and State seek to create a Heritage Fund Board, which will have the responsibility for allocating monies deposited in the "Michigan Native American Heritage Fund" (hereinafter the "Fund") established by the 2016 amendment to the Compact, consistent with the terms and provisions of the Compact and for the purposes stated therein.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the State and the Tribe (collectively referred to as "the forming parties"), enter into this Agreement to establish a Michigan Native American Heritage Fund Board, consistent with the Compact, under the following terms and conditions:

1. ESTABLISHMENT OF HERITAGE FUND BOARD

The Heritage Fund Board, which shall be called the "Michigan Native American Heritage Fund Board" (hereinafter referred to as the "HFB"), is established by this Agreement pursuant to the Urban Cooperation Act of 1967 and in accordance with the Compact. The HFB is established as a public body politic for the purpose of exercising those powers described under Section 4, Section 5 and Section 7 of the Urban Cooperation Act (MCL 124.504, 124.505 and 124.507), which are not inconsistent with the purposes the HFB is intended to serve, as set forth in Section 17(C)(5) of the Compact, and subject to such other requirements of the Compact as may apply. The HFB shall exercise its powers as set forth in this agreement and in By-laws duly adopted by the HFB under the terms of this Agreement. By-laws or procedures for the general functioning of the HFB and any other matters not specified in the Compact shall be determined by a majority vote of the representatives comprising the HFB in accordance with the Urban Cooperation Act, provided that By-laws establishing criteria or formulas for the distribution of revenues held in the Fund, any actual disbursement of funds for purposes authorized in the Compact, and the approval of the annual budget as provided in Paragraph 4 of this Agreement, shall require a unanimous vote of the representatives comprising the HFB.

2. DURATION OF THIS AGREEMENT AND THE HERITAGE FUND BOARD

This Agreement is entered into and shall be effective as of the date that the Tribe and the State shall have formally approved and entered into the Agreement. The HFB intends to begin operations upon such time when this agreement is duly executed by the parties, filed with the Michigan Department of State and the clerk of Calhoun County, and inaugural appointments are finalized pursuant to Section 4. Either the State or the Tribe may terminate its participation in this Agreement by written notice issued not later than May 1 of the year such notice is issued, which shall become effective sixty (60) days after the date the notice is issued. This Agreement shall continue unless and until terminated by the Tribe or the State.

3. If this Agreement is terminated pursuant to Section 2, the HFB shall remit all funds the HFB received and held in the Fund that have not been disbursed by the effective date of termination to the Michigan Department of Treasury. If a successor agreement concerning the use of any monies remaining in the Fund after termination of the Agreement is not executed by the Tribe and State within 180 days of the effective date of termination, the Michigan Department of Treasury shall remit such funds to the Michigan Strategic Fund, or its successor.

4. COMPOSITION OF BOARD, APPOINTMENT OF OFFICERS, MEETINGS

AND REGISTERED OFFICE

- (a) Pursuant to the Compact, the HFB shall be governed by a board consisting of the following individuals:
 - (1) Two (2) representatives selected by the Tribal Council of the Nottawaseppi Huron Band of the Potawatomi, who shall serve at the pleasure of the Tribal Council;
 - (2) Two (2) representative selected by the Governor, who shall serve at the pleasure of the Governor; and
 - (3) The Director of the Michigan Department of Civil Rights, or another employee of the Department of Civil Rights designated in writing by the Director, who shall serve at the pleasure of the Director.
- (b) The parties shall give written notice of the appointment or selection of representatives to the HFB to other parties entitled to designate representatives. The parties to this Agreement that are entitled to designate representatives to serve on the HFB may, at their discretion, designate an alternate to serve in the absence of such party's primary representative(s) to the HFB. A member of the HFB may be removed at any time, with or without cause, by action of the respective public agency that member represents on the HFB. All members shall serve without compensation.
- (c) The HFB shall elect by majority vote of the members present at its first meeting after the effective date of this Agreement, a Chairperson, Vice-Chairperson, and Secretary-Treasurer. The HFB shall endeavor to fill any vacancy in the term of the Chairperson, Vice-Chairperson, or Secretary at the next HFB meeting following the date such position became vacant.
- (d) The Chairperson shall preside at all HFB meetings and shall have all the privileges and duties of other members of the HFB, including full voting rights. Meetings shall be conducted according to the Robert's Rules of Order. The Vice-Chairperson shall preside at all HFB meetings at which the Chairperson is unavailable. The Secretary-Treasurer shall maintain financial records, reports, and minutes of the HFB required by the Agreement, the Compact or by applicable law. The Secretary-Treasurer shall also maintain the HFB's compliance with the Michigan Open Meetings Act and the Michigan Freedom of Information Act.
- (e) The HFB shall meet as often as needed to make timely disbursements of funds received from the Tribe and to conduct such other business as the HFB determines is needed to fulfill the requirements of this Agreement and the Compact. At its initial meeting, the HFB may set a schedule for

meetings and may amend the schedule thereafter as needed. Special meetings may be called by the Chairperson, or in the Chairperson's absence, by the Vice-Chairperson. Special meetings may also be called at the request of at least two members of the HFB. Special meetings may be called with shortened notice so long as the minimum notice requirements of the Michigan Open Meetings Act are satisfied. Notice of special meetings shall be given by electronic notice or other means best calculated to notify the member(s).

- (f) The HFB shall designate a registered office for the HFB and may establish a post office box for the receipt of mail. The HFB may change the registered office and any post office box at any time.

5. FINANCIAL AND IN-KIND SUPPORT

Administrative and operational costs incurred directly or indirectly by the HFB in fulfilling the requirements of this Agreement shall be paid with funds received by the HFB from the Tribe provided that the amount of such funds available to pay such costs shall not exceed 4% of the total funds received by the HFB during any year. The HFB shall operate under a fiscal year that commences on January 1 of each year, shall establish an annual budget for anticipated administrative and operational costs and may reserve from funds received annually from the Tribe sufficient funds for the budget, subject to the 4% cap. At its discretion, any unused funds reserved for administrative and operational costs from the prior fiscal year may be carried over by the HFB to its current fiscal year, provided that at no time shall the amount of the reserved funds exceed the lesser of the total annual budget or 4% of the funds received from the Tribe during such current fiscal year. Unless expressly stated otherwise in this Agreement, or expressly approved by the HFB, any responsibilities and functions transferred, assigned or reassigned to a party in fulfillment of the purposes of this Agreement shall not result in any right of financial contribution or other remuneration from the HFB or from one or more other parties to this agreement.

6. RECEIPT AND DISBURSEMENT OF FUNDS

The HFB shall deposit funds received by the Tribe pursuant to the Compact in an interest-bearing account or accounts at one or more financial institutions within the State of Michigan that are subject to the laws of the State of Michigan and the federal government. The HFB shall disburse monies held in the Fund in accordance with the By-laws and consistent with the purposes as stated in the Compact.

7. EMPLOYEE TRANSFER, REASSIGNMENT OR BENEFIT ADJUSTMENTS

Except as otherwise provided in Paragraph 4, this Agreement is not intended to and shall not result in the transfer, appointment or reassignment to the HFB or

other similar treatment of any individuals employed by a party to this Agreement for the purpose of fulfilling obligations set forth in the Agreement.

8. OWNERSHIP OF PROPERTY

Any personal property that may be acquired by the HFB shall be held in the name of the HFB. Upon dissolution of the HFB, any personal property held in the name of the HFB shall be liquidated and the resulting funds distributed pursuant to Section 2 of this Agreement, unless the value of the property is de minimis.

9. ANNUAL AUDIT REQUIREMENT AND ACCESS TO FINANCIAL RECORDS

The HFB shall cause to have conducted an annual audit of the financial transactions and status by a Certified Public Accountant of the HFB's choosing. The report of such audit shall be submitted to the HFB and to the governing bodies which appoint members to the HFB. All parties to this Agreement shall have reasonable access to HFB financial records.

10. AMENDMENTS TO THIS AGREEMENT

This Agreement may only be amended by written agreement signed by both the Tribe and the State. Amendments to this Agreement may be proposed at any time by written notice that specifies, at a minimum, the following: the reason for the proposed amendment; the language to be added, changed or deleted; and the date such amendment is proposed to become effective. Amendments to this agreement shall be filed with the Michigan Department of State and the clerk of Calhoun County.

11. CONFLICT WITH OTHER AGREEMENTS

This Agreement shall not supersede any previous agreement(s) heretofore made among any two or more of the parties to this Agreement.

12. SEVERABILITY

The provisions of this Agreement are severable. If any section, subsection, sentence, clause, phrase or other portion of this Agreement is, for any reason, held invalid by any court of competent jurisdiction or is determined to be in conflict with provisions of the Compact, the invalid or conflicting provision or such portion shall be deemed a separate, distinct and independent provision that is deleted from this Agreement and such holding or determination shall not affect the validity of the remaining portions hereto. The parties will, in good faith, attempt to replace any deleted provision with one that is valid and which comes as close as possible to expressing the purpose and intent of the original provision.

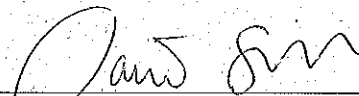
13. LIABILITIES AND IMMUNITIES

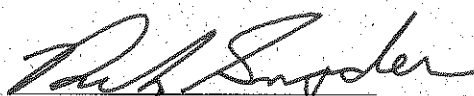
(a) All liability, loss or damage as a result of claims, demands, costs or judgments arising out of activities of the HFB will be the sole responsibility of the HFB and not of the Public agencies that are parties to this Agreement.

- (b) Nothing in the Agreement shall be construed as a waiver of any governmental immunity to which the Public agencies that are parties to this Agreement may be entitled by law. To the full extent allowed by law, all of the privileges and immunities from liability, and exemptions from law that apply to the officers, members, employees, agents and representatives of the Public agencies that are parties to this Agreement shall apply to the same degree and extent to the members appointed to the HFB and to the officers, members, employees, agents and representatives of the Public agencies that serve or assist the HFB. Further, the members of the HFB shall be immune from civil liability for any good faith errors or omissions, to the full extent allowed by law:

Nottawaseppi Huron Band of the Potawatomi:

State of Michigan:


By: Jamie P. Stuck
Its: Tribal Council Chair
Date: 9-21-2017


By: Rick Snyder
Its: Governor
Date: October 9, 2017

Resolution # 09-21-17-08

FILED WITH SECRETARY OF STATE
ON 10/9/17 AT 2:45 pm