

POKAGON BAND OF POTAWATOMI INDIANS

POKAGON GAMING AUTHORITY ORDINANCE

AMENDED AND RESTATED AS OF FEBRUARY 27, 2017

Section I: Title.

This Ordinance shall be known as the “Pokagon Gaming Authority Ordinance.”

Section II: Findings and Declarations.

The Tribal Council of the Pokagon Band of Potawatomi Indians (the “Band”) finds and declares as follows:

A. The Band is a sovereign, federally recognized Indian tribe, as reaffirmed by P.L. 103-23 (25 U.S.C. § 1300j *et seq.*, the “Pokagon Restoration Act”), enacted September 21, 1994, and is organized under a Constitution adopted by the Band on November 1, 2005 (the “Constitution”).

B. In accordance with the Pokagon Restoration Act and pursuant to Article IX of the Constitution, the Tribal Council of the Pokagon Band of Potawatomi Indians (the Tribal Council”) is the duly recognized governing body of the Band.

C. The Tribal Council is vested with those sovereign powers of the Band that are not inconsistent with any provisions of the Constitution, including without limitation those enumerated powers set forth in Article IX, Section 2, of the Constitution, which authorizes the Tribal Council to “regulate all business activities within the jurisdiction of the Band” and to “charter subordinate organizations and to delegate to such organizations, or to any subordinate boards or officials of the organizations, the power to manage the economic affairs, enterprises, and property” of the Band.

D. Pursuant to the Band’s inherent sovereign power, and as further authorized under the Indian Gaming Regulatory Act (“IGRA”) and by the Compact between the Band and the State of Michigan (the “Compact”), the Band, acting through the Authority, has developed and operates gaming facilities located on reservation lands located in New Buffalo Township, Berrien County, Michigan, Hartford Township, Van Buren County, Michigan, and Pokagon Township, Cass County, Michigan, and is developing a gaming facility on reservation lands located in the City of South Bend, St. Joseph County, Indiana (collectively, the “Gaming Sites”), such lands being held by the United States government in trust for the Band (the “New Buffalo Trust Land”, the “Hartford Trust Land”, the “Dowagiac Trust Land”, and the “South Bend Trust Land”, respectively).

E. To enhance economic development of the Band and provide for the well-being of its members, the Band is in the process of developing a gaming facility with a bar, restaurant, and other amenities on the South Bend Trust Land (the “Project”), which Project the Band anticipates will be partially financed through, among other sources, a Credit Agreement among the Band, the Authority, Bank of America, N.A. and other parties dated on or near February 28, 2017 (such agreement, along with subsequent amendments thereto, the “Credit Agreement”).

F. The Gaming Business (as defined below) is located on lands held in trust for the Band and will be operated pursuant to the IGRA, the Pokagon Band Gaming Regulatory Act, as well as the Band’s inherent sovereign power, provided that the portion of the Gaming Business located in Michigan will also be operated in accordance with the Compact.

G. The ability of the Band to finance, develop, construct, operate, and maintain the Gaming Business will be enhanced by the creation of a tribal governmental instrumentality which can, among other things, obtain enterprise financing, meet and consult with those providing to the Band contractual, leasehold, professional, and financial services relating to the Gaming Business, and do all other things necessary or convenient for the development, construction, ownership and operation of the Gaming Business for the Band’s benefit, and cause assets, liabilities, rights, obligations, receipts and expenditures related to the Gaming Business to be separated from those of the Band that are not related to the Gaming Business, but without the formation of a separate entity for federal, state or other tax purposes.

Section III: Purpose.

The purpose of this Ordinance is as follows:

A. To codify the Band’s existing ownership, management and supervision authority over the Gaming Business and the Gaming Assets, which is exercised by the Tribal Council on behalf of the Band.

B. To confirm that the Band’s ownership, management and supervisory authority over the Gaming Business and the Gaming Assets will continue to be exercised by and through the Tribal Council, on behalf of the Band, pursuant to specific authority delegated to the Tribal Council.

C. To establish, as a tribal governmental instrumentality of the Band, the Pokagon Gaming Authority, which shall have all of the privileges and immunities of the Band, and shall exercise the Band’s ownership, management and supervision of the Gaming Business and the Gaming Assets pursuant to the specific authority delegated by the Tribal Council herein.

D. To establish the make-up, and define rights, powers and obligations of the Authority and the Board of Directors of the Authority, which Board shall manage the Gaming Business and the Gaming Assets pursuant to the specific authority delegated herein.

Section IV: Definitions.

Capitalized terms not otherwise defined in this Ordinance shall have the following definitions:

A-1. “Amended and Restated Ordinance Effective Date” shall mean the date on which the Authority has executed and delivered the Credit Agreement and such Credit Agreement has become effective.

A. “Authority” shall mean the Pokagon Gaming Authority created by this Ordinance, which Authority is vested with the specific powers delegated hereunder by the Tribal Council.

B. “Authority Board” or “Board of Directors” or “Board” shall mean the Board of Directors of the Authority which shall consist of a minimum of five (5) and a maximum of eleven (11) members (each a “Director”), appointed by and serving at the discretion of the Tribal Council, the make-up, authority, rights, powers and obligations of which are as set forth herein.

C. “Component of the Band” shall mean any enterprise, authority, division, subdivision, branch or other agency, instrumentality or other government component of the Band.

D. “Footprint” shall have the meaning set forth in the Credit Agreement.

E. “Gaming” shall mean any and all activities defined as class II or class III gaming under IGRA and any other gaming activity authorized under the Compact.

F. “Gaming Assets” shall have the meaning set forth in the Credit Agreement.

G. “Gaming Authority” shall mean any agency, authority, board, bureau, commission, department, office or instrumentality of any nature whatsoever of the Band, the federal government, or any state, city or other political subdivision, whether now or hereafter in existence, or any officer or official thereof, including, without limitation, the NIGC, the Bureau of Indian Affairs, the Michigan Gaming Control Board and the Pokagon Band Gaming Commission, any division of the Band or any other agency, but only to the extent that such agency, authority, board, bureau, commission, department, office or instrumentality possesses authority to regulate any Gaming operation (or proposed Gaming operation) owned, managed or operated by the Authority or the Band.

H. "Gaming Business" shall have the meaning set forth in the Credit Agreement.

I. "Gaming Business Contracts" shall mean all contracts or agreements entered into by the Band as of the date hereof in connection with the establishment and development of the Gaming Business or relating to the Gaming Assets; provided, however, that Gaming Business Contracts shall not include (i) the Compact, (ii) the Local Agreement between the Band and the City of New Buffalo and New Buffalo Township, (iii) the Local Agreement among the Band, the Authority and Hartford Township, (iv) the Local Agreement among the Band, the Authority and Hartford Township, (v) the Local Agreement among the Band, the Authority and Pokagon Township, and (vi) the Local Agreement among the Band, the Authority and the City of South Bend (although liabilities of the Band relating to the Gaming Business and arising under the Compact or said Local Agreements shall be deemed liabilities of the Authority and recorded on the books of the Authority).

J. "Gaming Business Liabilities" shall mean any obligations or responsibilities of, or liabilities incurred by, the Band as of the date hereof under the Gaming Business Contracts, and in connection with the establishment and development of the Gaming Business and relating to the Gaming Business or the Gaming Assets, and all plans for the establishment, development, construction and management of the same.

K. "Gaming Business Tribal Rights" shall mean all rights of the Band to engage in gaming, as regulated by IGRA and the Pokagon Band Gaming Regulatory Act, and pursuant to the unrestricted right and license to have access to use, and enjoy all real property, improvements to real property and interests in real property held by or in trust for the Band that constitute Gaming Assets or which are necessary or useful for the ownership and operation by the Authority of the Gaming Business and utilization of the Gaming Assets.

L-1 "Gaming Commission" shall mean the gaming regulatory body of the Band established pursuant to the Gaming Regulatory Act, and referred to therein as the "Gaming Commission".

L. "Gaming License" shall mean every license, permit, franchise or other authorization from any Gaming Authority required to own, lease, operate or otherwise conduct Gaming activities of the Authority or the Band, including all licenses granted under applicable federal, tribal, state, foreign or local laws.

M. "Gaming Regulatory Act" shall mean the Pokagon Band Gaming Regulatory Act, which was duly and validly adopted by the Tribal Council on February 7, 2007, was duly and validly amended by the Tribal Council on May 12, 2007, and was approved by the

National Indian Gaming Commission on June 1, 2007, as the same may be amended from time to time in accordance with the IGRA.

N. [Reserved]

O. "Obligations" shall mean any notes, bonds, interim certificates, debentures, mortgages or other evidences of indebtedness of every nature and type issued by the Authority from time to time.

P. "Obligee" shall mean any holder of an Obligation or any agent or trustee for a holder of any Obligation.

Section V: Establishment of the Authority.

A. The Authority is hereby established under this Ordinance as an unincorporated governmental instrumentality of the Band which shall be governed and managed by the Authority Board, subject in all instances to the terms, provisions and limitations set forth in this Ordinance. The principal place of business and offices of the Authority shall at all times be located on the New Buffalo Trust Land. The Authority and its assets and activities shall have the same privileges and immunities from federal, state, and local government taxation as the Band and its assets and activities, and the Authority is not an entity separate from the Band for any federal, state or local taxing purposes. The Authority is created as an instrumentality of the Band through which the Gaming Business shall hereafter be conducted and through which the Band shall at all times retain the sole proprietary interest in the Gaming Business.

B. Upon enactment of this Ordinance on May 25, 2006 by adoption of Tribal Council Resolution No. 06-05-25-06, which shall be effective on the date of enactment (the "Effective Date"), and except as specifically provided below, all Gaming Assets of the Band and all Gaming Business Tribal Rights shall be assigned and allocated to the Authority and deemed owned by the Authority, and the Chairman and Secretary of the Band are authorized to execute and deliver on behalf of the Band such assignments, instruments of transfer and assumption and such other documents as may be necessary or convenient so as to confirm or fully vest in and allocate to the Authority all Gaming Assets and the Gaming Business Tribal Rights. Notwithstanding the foregoing, the assignment and allocation by the Band to the Authority (and any deemed ownership by the Authority) of the land and improvements located within the New Buffalo Trust Land, the Hartford Trust Land, and the Dowagiac Trust Land shall cease upon the Amended and Restated Ordinance Effective Date. On and after the Amended and Restated Ordinance Effective Date, the rights of the Authority to land located within the New Buffalo Trust Land, the Hartford Trust Land, the Dowagiac Trust Land, and the South Bend Trust Land shall be limited to the Footprint.

C. On the Effective Date, all employees, consultants, agents and attorneys of the Band providing services with respect to the Gaming Business and the development, management and financing thereof (“Providers”), under any terms and conditions, shall become Providers of such services to the Authority upon the same terms and conditions. To the extent any of such Providers also provide services other than for the benefit of the Gaming Business, such persons shall also be deemed to such extent to be employed or engaged, as applicable, by the Band, with a fair and reasonable allocation of the costs of such persons (both direct and indirect) being made as between the Authority and the Band and the Chairman and the Secretary of the Band are authorized to execute and deliver on behalf of the Band such assignments, instruments of transfer and assumption and such other documents as may be necessary or convenient so as to transfer to the Authority and have the Authority assume all such arrangements with Providers.

D. On the Effective Date, all obligations and responsibilities of the Band to perform under any Gaming Business Liabilities existing on the Effective Date shall be delegated to and deemed assumed by the Authority, with the Authority being obligated to perform any obligations of the Band thereunder arising after the Effective Date. On the Effective Date, all right, title and interest of the Band in and to any Gaming Business Contract in effect on the Effective Date, shall be allocated and assigned to the Authority and deemed owned by and an obligation of the Authority. The Chairman and the Secretary of the Band are authorized to execute and deliver on behalf of the Band such assignments, instruments of transfer and assumption and such other documents as may be necessary or convenient so as to assign and transfer to the Authority, and confirm the assumption by the Authority of all the Gaming Business Liabilities and the rights and obligations of the Authority under all Gaming Business Contracts. Subject to any contrary requirement of federal law or the Compact, all contracts relating to the Gaming Business entered into after the Effective Date shall be entered into in the name of the Authority and not the Band, provided that to the extent it shall be reasonably impracticable for any such Gaming Business Contract to be entered into in the name of the Authority, instead of the name of the Band, then such Gaming Business Contract may be entered into in the name of the Band, so long as the Band and all other parties to the Gaming Business Contract shall in writing acknowledge that such Gaming Business Contract inures to the benefit of and may be enforced by and in the name of the Authority, to the same extent as though the Gaming Business Contract were entered into in the name of the Authority. Any Gaming Business Contract also may be entered into by both the Band and the Authority.

E. The Authority shall have the right to enjoy and exercise all Gaming Business Tribal Rights. Notwithstanding the foregoing, the Band in its own name shall be a party to the Compact and any amendment or supplement thereto or replacement or restatement thereof.

F. Any exercise by the Authority of any powers or authority in accordance with this Ordinance shall constitute the exercise of a governmental function of the Band.

G. All rights, powers, or privileges not expressly allocated and/or assigned herein to the Authority with respect to the Gaming Business shall be reserved to and held by the Tribal Council.

Section VI: Authority Rights, Powers and Immunities.

A. 1. The Authority shall be entitled to all of the privileges and immunities of the Band, including the sovereign immunity of the Band, to the same extent as the Band itself, together with all other rights and privileges arising from tribal sovereignty. Except as provided in Section IX of this Ordinance, no waiver of sovereign immunity by the Band or any other person or entity, shall ever permit or allow or be construed or interpreted so as to permit or allow any enforcement or recourse as against the Authority, the Gaming Assets or the Gaming Business except that a waiver of sovereign immunity meeting each of the requirements set forth in Section IX of this Ordinance will permit recourse against explicitly identified assets, revenues, business or activity of the Authority.

2. Any liability or obligation of the Authority of any nature whatsoever, whether arising under contract, law, or otherwise, shall be enforceable only as against the Authority, the Gaming Assets or the Gaming Business (but only to the extent the Authority waives its sovereign immunity as permitted herein) but not any other assets or revenues of the Band, except with the express consent of the Band that has been authorized by the Tribal Council.

3. No liabilities or obligations of the Band other than liabilities and obligations of the Authority, including, without limitation, the Gaming Business Liabilities, (and certain liabilities and obligations to the federal government) shall be enforceable against the assets, revenues, business or activities of the Authority.

4. No assets, liabilities, rights, obligations, receipts or expenditures of the Authority shall be considered those of the Band, and no assets, liabilities, rights, obligations, receipts or expenditures of the Band shall be considered those of the Authority.

B. It is the intent of this Ordinance to authorize the Authority, subject to approval of the Tribal Council where applicable as set forth herein, to do any and all things necessary or desirable in connection with the financing, development, construction, ownership, lease, operation, management, maintenance and promotion of the Gaming Business and the Gaming Assets so as to further the governmental interests of the Band.

C. In order to further its goals, the Authority shall have the power in its own name, with respect to the Gaming Business and the Gaming Assets, to:

(i) receive, collect and own all revenues and pay all expenses and expenditures arising from or relating to the Gaming Business;

(ii) purchase, take, receive, lease, obtain by gift or bequest, or otherwise acquire, own, hold, improve, or use real or personal property, or any interest therein, wherever situated;

(iii) sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of or encumber all or any part of the Authority's property and assets, including Gaming Assets;

(iv) purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, corporations, associations, partnerships or other entities, or individuals, or direct or indirect obligations of the United States or of any other government, tribe, state, territory, governmental district or municipality, or of any instrumentality thereof;

(v) make and enter into contracts in furtherance of the Gaming Business and to incur liabilities, indebtedness and other obligations, including the issuance of guarantees, and the borrowing of money at such rates of interest as the Authority may determine, and to issue its notes, bonds, debt securities and other obligations, and secure any of such obligations by mortgage or pledge of all or any of its property, franchises, revenues and income;

(vi) employ contractors, consultants, agents, managers, advisers and accountants;

(vii) lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(viii) conduct its affairs, carry on its operations, hold property, and have offices and exercise the powers granted by this Ordinance;

(ix) develop, design, construct, equip and finance, refinance, improve or expand facilities for the use of or as may be useful to the Gaming Business;

(x) hire, supervise and terminate employees, consultants and agents of the Authority, and define their duties and fix their compensation, provided that all employees shall be governed by the personnel policies of the Band unless the Tribal Council has approved separate personnel policies for the Authority;

(xi) make and alter by-laws, not inconsistent with this Ordinance, the Compact or with the laws, ordinances, and regulations of the Band and the United States, for the administration and regulation of the affairs of the Authority, provided that the initial bylaws of the Authority (the "Bylaws") shall be the Bylaws attached as Exhibit B to the Pokagon Gaming Authority Ordinance as initially adopted;

(xii) form and own subsidiaries, which subsidiaries shall enjoy the same privileges and immunities of the Authority to the extent permitted by law;

(xiii) open and maintain such deposit and securities accounts with banks, securities intermediaries and other financial institutions, whether located within or without of the State of Michigan, and to deposit therein any or all revenues of the Gaming Business, which accounts shall be separate from other accounts of the Band, and no assets in the accounts of the Authority shall be commingled with the other assets of the Band; and

(xiv) to the extent not inconsistent with the foregoing or anything to the contrary herein, to have and exercise all powers necessary, appropriate or convenient for the operation of the Gaming Business, the utilization of the Gaming Assets or to further any or all of the purposes for which the Authority is organized.

D. Any exercise by the Authority of any powers or authority in accordance with this Ordinance shall constitute the exercise of a governmental function of the Band. The Authority shall have no authority to exercise any regulatory or legislative power.

Section VII: Authority Assets.

The Authority's assets shall consist of all Gaming Assets, all Gaming Business Tribal Rights and all rights under the Gaming Business Contracts, together with the earnings and proceeds of the same and whatever other assets it develops, generates or acquires by other means as provided in this Ordinance. Notwithstanding the foregoing, for purposes of clarification and the avoidance of doubt, upon transfer of funds or property from the accounts of the Authority to the general funds or other accounts of the Band in compliance with all contractual restrictions applicable to the Authority or its Restricted Subsidiaries, such funds shall cease to be assets of the Authority without the requirement of further act or deed.

Section VIII: Authority Board.

A. There is hereby established an Authority Board, the purpose of which is to manage and carry out the duties and powers of the Authority as set forth in this Ordinance.

B. The Authority Board shall consist of a minimum of seven (7) and a maximum of eleven (11) members (each, a “Director”), appointed by and serving at the pleasure of the Tribal Council. A Director may be a member of Tribal Council. The initial Board shall be comprised of eleven (11) Directors, and the initial Directors shall be the sitting members of the Tribal Council; the list of the initial Directors and Chairperson of the Board was attached hereto as Exhibit C to the Pokagon Gaming Authority Ordinance as initially adopted. The term of service of each Director shall expire after three (3) years, provided that the term of service of any Director who is also a Tribal Council member shall be coterminous with such Director’s term of office on the Tribal Council. Directors may be re-appointed to successive terms. The Board shall be chaired by a Chairperson selected by the Tribal Council from among the Directors. The Chairperson shall be a voting member of the Authority Board. In addition:

1. the Tribal Council may choose to stagger the terms of Directors such that the terms of approximately one-third of the seats on the Board expire annually, and may appoint Directors to one or two year terms to accomplish this result;

2. an appointment to fill a vacancy shall be only for the length of the unexpired term; and

3. unless and until he or she resigns from office or is removed from office by action of the Tribal Council, each member of the Board shall hold office until his or her successor is appointed by the Tribal Council and has been sworn in by the Chairperson of the Pokagon Band Election Board or, if the Chairperson is unavailable, the Vice Chairperson. A certificate of the Secretary of the Tribal Council as to the appointment of any Director shall be conclusive evidence of his or her due and proper appointment as a Director. Directors shall be entitled to reimbursement for actual and reasonable expenses incurred in the discharge of their duties, provided that such reimbursement shall be in accordance with the expense reimbursement policies and procedures followed by the Tribal Council. Directors shall not be compensated for service on the Board other than for such expenses unless pursuant to a plan of compensation approved by the Tribal Council prior to its implementation. The Council may, in its discretion, require the Salary Commission to evaluate the Director positions and recommend a compensation plan to the Council for approval. The Tribal Council shall review the rates of compensation for Directors at least every three years and shall make adjustments to such rates as the Tribal Council determines to be appropriate to address increases in the cost of living or wage deflation.

C. The Board is hereby delegated the power to manage and control the business, property and affairs of the Authority. The Board shall oversee the performance of the executive officers and senior management of the Authority.

D. No member of the Authority Board shall be liable to any creditor of the Authority by reason of his or her status as a member of such Board, or by reason of acts done in the course of his or her official duties.

E. A majority of the Authority Board members presently in office shall constitute a quorum and may act for the Authority through resolutions or written consents properly adopted pursuant to the provisions set forth in the Bylaws (any such action, an “Official Action”).

F. Regular meetings of the Authority Board shall be held no less frequently than monthly. Special meetings of the Authority Board may be held at the request of any member of the Authority Board pursuant to the Bylaws. Meetings of the Authority Board may be held at any location within or outside the Band’s jurisdiction land as directed by a majority of the Board. Members of the Authority Board may participate in meetings by teleconference, videoconference or other communications equipment by which participants can hear each other.

G. The Directors, officers, and employees of the Authority shall be subject to the Pokagon Band Code of Ethics, as amended from time to time.

H. If any Director, officer, Tribal Council member, or employee of the Authority acquired any such personal financial interest prior to appointment, election or employment as Director, officer, Tribal Council member or employee, that person, in any such event, shall immediately disclose his or her personal financial interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and that person shall not participate in any action by the Board or the Tribal Council relating to the entity or contract in which he or she has any personal financial interest unless authorized to do so by a disinterested majority of the Board or the Tribal Council, as applicable.

I. [reserved]

J. The Authority Board shall keep complete and accurate records of all meetings and actions taken and the same shall be available for inspection by members of the Tribal Council or its designees.

Section IX: Ability to Sue and Be Sued.

A. By adopting this Ordinance, the Tribal Council hereby gives its irrevocable consent to allow the Authority, through Official Action and subject to the limitations herein, to sue and to be sued in its name, or to submit to arbitration or alternative dispute resolution any controversy arising under, or upon, any contract, claim, obligation, or any other matter arising out of its activities under this Ordinance, and hereby authorizes the Authority,

through Official Action, to agree by contract to (1) waive any of its immunity from suit or other legal process and (2) waive any or all rights it may have to resolve disputes (i) in a court or other forum of the Band, or (ii) in any other court of competent jurisdiction, and in connection therewith to waive any right of exhaustion of tribal remedies; but, except to the extent of enforcement or remedies as against assets of the Authority or Gaming Assets, the Band shall not be liable for the debts or obligations of the Authority, and the Authority shall have no power to pledge or encumber the assets of the Band other than assets of the Authority or Gaming Assets. Every contract, note, bond, or other obligation or instrument approved by the Authority which waives its sovereign immunity also shall include an express limitation of recourse on such contract to the assets of the Authority and to no other property or income of the Band (every such contract, note, bond, or other obligation so approved and containing such express limitation referred to in this Ordinance, an "Approved Instrument"); and for that purpose, with respect to any such Approved Instrument, the Band hereby irrevocably waives any and all defenses otherwise available to the Authority based upon its sovereign immunity from suit with respect to any action against the Authority in any forum seeking to enforce the obligations of the Authority under such Approved Instrument, and to the extent such Approved Instrument so provides, to waive any right of exhaustion of tribal remedies. With respect to suits, actions or other proceedings within the scope of this expressly limited waiver of immunity, the Authority is further empowered to sue and be sued in the name of the Authority, and the Band hereby further agrees to accept service of process upon the Authority with respect to such action by delivery to the Chairperson or Secretary of the Authority; provided, however, that the power to sue and be sued shall extend only to actions on Approved Instruments as set forth in this paragraph and shall not constitute a waiver of the sovereign immunity of the Band, including the Authority, for any other purpose or action whatsoever. This action does not constitute a delegation to the Authority of the power to make any waiver of the immunity of the Band, except with respect to assets of the Authority and Gaming Assets. Notwithstanding anything herein to the contrary, the grant of power herein to sue and to be sued shall not in and of itself constitute a waiver of immunity whatsoever. Any waiver of immunity by the Authority shall (i) be duly approved by the Authority Board; (ii) be in writing only; (iii) expressly state that such waiver shall permit recourse and enforcement against the explicitly designated assets, revenues, and business activity of the Authority; and (iv) be limited in scope to the express matters to which it is given, and as to the remedies and other conditions set forth therein.

B. Consistent with the foregoing, the Authority, by Official Action, shall have the authority to consent, with respect to any suit against the Authority, (i) to the exercise of jurisdiction by the state courts of Michigan or any other state, the federal courts sitting in any state, the tribal courts of the Band or any other Indian tribe, or the courts of any United States territory or foreign jurisdiction, and (ii) to arbitration or alternative dispute resolution.

Section X: Obligations.

A. As set forth in Section VI of this Ordinance, the Authority may obtain financing and issue Obligations from time to time in its discretion for any of its purposes, including without limitation the promotion, establishment, development and expansion of the Gaming Business and the acquisition, repair and replacement of Gaming Assets, and may also refinance and issue refunding obligations for the purpose of paying or retiring Obligations as it may determine, including Obligations on which principal and interest are payable.

B. Any such Obligations so issued may be secured by a pledge of any revenues of or any other property of the Authority or Subsidiaries, including Gaming Assets.

C. Neither the members of the Authority Board nor any person executing the Obligations shall be liable personally on the Obligations by reason of issuance thereof.

D. Unless otherwise consented to by the Band with authorization from the Tribal Council, the Obligations of the Authority shall not be a debt or obligation of the Band.

E. In connection with the issuance of Obligations and to secure the payment of such Obligations, the Authority may by way of illustration and not limitation:

1. Pledge all or any part of the gross or net fees, income, or revenues arising from the Gaming Business or other assets of the Authority, to which its rights then exist or may thereafter come into existence;

2. Provide for the powers and duties of Obligees, agree to affirmative and negative covenants and warranties and representations regarding the Authority, the Gaming Business, and Gaming Assets, and provide the terms and conditions on which such Obligees may enforce any covenant or rights securing or relating to the Obligations;

3. Covenant against pledging all or any part of the fees and revenues of the Authority or against mortgaging or encumbering any or all of the real or personal property of the Authority to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property;

4. Covenant as to what other or additional debts or obligations may be incurred by it;

5. Redeem the Obligations and covenant for their redemption and provide for the terms and conditions thereof;

6. Create or authorize the creation of special funds or accounts for monies held for construction, development or operating costs, debt service, reserve or other purposes, and covenant as to the use and disposition of the monies held in such funds or accounts;

7. Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation;

8. Vest in any Obligees or any proportion of them the right to enforce the payment of Obligations or any covenant securing or relating to the Obligations; or

9. Make any covenants, arrange for any credit support, and do any acts and things necessary or convenient or desirable in order to secure its Obligations, or to make the Obligations more marketable although the covenants, acts or things are not enumerated in this section.

E. The Authority shall at all times maintain and enforce a policy of Indian preference to provide opportunities to qualified members of the Band to receive training and employment in the Authority, and shall endeavor to prepare members of the Band for management opportunities in the Authority.

F. The Authority shall pay the expenses of the Gaming Commission as expenses of the Authority in accordance with its usual practices with respect to its accounts payable and payroll expenses.

G. Subject to applicable contractual restrictions reflecting the terms of the Credit Agreement and any other financing during the terms of those instruments, all net revenues after satisfaction of debt service obligations and other costs and expenses of the Gaming Business, and after reserving such funds as may in the judgment of the Authority Board be required for the continuing operation of the Authority in the ordinary course of its business, including required capital expenditures to maintain the plant, property and equipment of the Gaming Business, shall be remitted to the Band for disposition by the Tribal Council, subject to the requirements of the Pokagon Band Revenue Allocation Plan, at such times as the Authority Board deems appropriate and convenient, except as may be otherwise directed by the Tribal Council; provided, that with the approval of the Tribal Council, the Authority Board may reserve such additional funds as may be required for approved capital expansion projects related to the Gaming Business.

Section XI: Reports of the Authority.

A. The Authority Board shall submit to the Tribal Council each month a report showing, with respect to the prior month:

(i) a summary of the Gaming Business's activities;

(ii) the financial condition of the Gaming Business;

(iii) any significant problems and accomplishments;

(iv) plans for the next month; and

(v) such other information as the Authority Board or the Tribal Council deems pertinent.

B. The Authority Board shall submit to the Tribal Council, after the close of each fiscal year, an audited annual report showing, with respect to the prior year:

(i) a summary of the Gaming Business's activities;

(ii) the complete financial condition of the Gaming Business, including a detailed report outlining the operations of the Gaming Business;

(iii) any significant problems and accomplishments;

(iv) plans for the next year; and

(v) such other information as the Authority Board or the Tribal Council deems pertinent.

C. The Authority shall maintain such books and records with respect to its operations and assets as are customary or required by any applicable legal requirement. The Authority shall cause annual audits of the Gaming Business in compliance with generally accepted auditing procedures and the preparation of financial statements based thereon in accordance with generally accepted accounting principles, IGRA and, with regard to the portion of the Gaming Business located in Michigan, the Compact. The Authority shall prepare such other reports at such times and relating to such matters with respect to the Gaming Business as the Tribal Council may from time to time request.

Section XII: Finances and Accounting.

A. The fiscal year of the Authority shall be, as set forth in the Bylaws.

B. The Authority Board shall use an accounting system (i) in conformity with generally accepted accounting principles applicable to the Authority, (ii) consistent with any covenants related to issuance of the Obligations, and (iii) necessary and advisable, in the reasonable discretion of the Authority Board, in order to manage the assets of the

Authority. Such accounting system shall ensure the availability of information as may be necessary to comply with federal, state and Pokagon Band regulatory requirements.

C. The accounts and records of the Authority shall be audited at the close of each fiscal year and as otherwise required by law.

D. The books, records and property of the Authority shall be available for inspection at all reasonable times by authorized representatives of the Band.

Section XIII: Indemnification of Board Members and Employees of the Authority.

The Authority shall indemnify any present or past employee or member of the Authority Board against reasonable expenses actually and necessarily incurred by that person in connection with the defense of any action, suit or proceeding in which that person is made a party by reason of being or having been such employee or member of the Authority Board, except in relation to matters as to which that person shall be adjudged in such action, suit or proceeding to be liable for gross negligence or intentional misconduct in the performance of duty; or except in relation to matters in which such employee was acting beyond the scope of their employment. The Authority shall also reimburse any employee or member of the Authority Board the reasonable costs of settlements of any such action, suit or proceeding if it shall be found by a majority of the Authority Board (other than the member(s), if any, of the Authority Board involved in the matter in controversy), that it is in the best interest of the Authority and the Band that such settlement be made and that such employee or member of the Authority Board was not guilty of gross negligence or intentional misconduct, or acting beyond the scope of their employment. Such rights of indemnification and reimbursement shall be in addition to any other rights which such employee or member of the Authority Board may be entitled to receive under the Authority's Bylaws or otherwise.

Section XIV: Miscellaneous.

A. To the extent this Ordinance conflicts with any provision of law, ordinance, resolution, motion or any other action of the Band heretofore taken, the provisions of this Ordinance shall govern, and the conflicting provisions are hereby superseded and repealed, provided that the provisions of the Gaming Revenue Allocation Code, adopted by Resolution No. 05-10-12-02 and amended by Resolution No. 06-03-15-01 and Resolution No. 12-01-21-02, are not superseded or repealed and shall be interpreted in harmony with this Ordinance. The Resolution of the Band dated May 23, 2000, creating the Charter of the Pokagon Michigan Gaming Enterprise, is hereby expressly repealed and nullified.

B. To the extent reasonable, this Ordinance shall be read and interpreted in a manner that is consistent with the Constitution of the Band, but in the event of any inconsistency, the provisions of the Constitution shall control.

C. This Amended and Restated Pokagon Gaming Authority Ordinance shall become effective as the law of the Band for all purposes on the Amended and Restated Ordinance Effective Date.

Legislative History

The “Pokagon Gaming Authority Ordinance” was enacted by the Tribal Council on May 25, 2006 by adoption of Resolution No. 06-05-25-06; on March 18, 2008, subsection VIII(B)(3) was amended by adoption of Tribal Council Resolution No. 08-03-18-01; on June 27, 2011, by adoption of Resolution No. 11-06-27-03, the Pokagon Gaming Authority Ordinance was amended (to acknowledge and permit additional gaming locations, to omit references to “Lakes” and the “Lakes Agreements”, to coordinate with the terms of a refinancing or Authority debt, and for other technical purposes) and was restated; on February 27, 2017, by adoption of Resolution No. 17-02-27-02, the Pokagon Gaming Authority Ordinance was amended (to acknowledge and permit additional gaming locations, to coordinate with the terms of a refinancing or Authority debt, and for other technical purposes) and was restated.

Exhibit B

**BY-LAWS
OF THE
POKAGON GAMING AUTHORITY**

ARTICLE I

Organization, Office, Location,
and Section Headings

Section 1. Organization. The Pokagon Gaming Authority (the “Authority”) is an unincorporated governmental instrumentality of the Pokagon Band of Potawatomi Indians (the “Band”) that was established by the Band’s Tribal Council (the “Tribal Council”) pursuant to the enactment of this Ordinance, being the Pokagon Gaming Authority Ordinance (the “Ordinance”). The Ordinance authorizes the Authority to adopt, and from time to time, amend By-laws for the administration and regulation of the affairs of the Authority. These By-laws are adopted pursuant to the exercise of said authority.

Section 2. Office and Location. Unless otherwise changed by the Authority Board, the principal office and place of business of the Authority shall at all times be located on lands located in Berrien County, New Buffalo being held in trust by the government of the United States for the Band. The Authority may have such other offices and places of business, both within and without the State of Michigan, as the Board of Directors of the Authority may from time to time fix, or as the business of the Authority may from time to time require.

Section 3. Section Headings. The headings of the various Articles and Sections of these By-laws are for convenience of reference only, and shall not be taken into account in construing the meaning of the terms and provisions of these By-laws.

Section 4. Primacy of Ordinance. The terms and provisions of these By-laws are subject and subordinate to the Ordinance.

ARTICLE II

Directors

Section 1. Number, Qualification and Term. The Authority shall be managed and governed by a Board of Directors. The Board of Directors of the Authority shall consist of a minimum of five (5) and a maximum of eleven (11) members who shall be appointed by and serve at the pleasure of the Tribal Council. All Directors must meet the qualifications required under the Band's Constitution for service as a member of Tribal Council. Directors shall be appointed by the Tribal Council for initial terms of three years, provided that the term of service of any Director who is also a Tribal Council member shall be coterminous with such Director's term of office on the Tribal Council. Each Director shall serve until his or her successor shall have been appointed by the Tribal Council and sworn in by the Chairperson of the Pokagon Band Election Board or, if the Chairperson is unavailable, the Vice Chairperson. The Tribal Council shall designate a Chairperson from among the Directors, to preside at meetings of the Directors and to exercise such other duties as may be prescribed by the Board of Directors.

Section 2. Vacancies, Resignation and Removal. Any vacancy in the Board of Directors, including newly created directorships created by an increase in the number of Directors by the Tribal Council, shall be filled by the Tribal Council. Any Director may resign his or her office by delivering a written resignation to the Chairperson of the Board of Directors and the Chairperson of the Tribal Council, such resignation to be effective upon delivery. A Director appointed to fill a vacancy, howsoever arising, shall be appointed for the unexpired term of his or her predecessor in office.

Section 3. Compensation. The Board of Directors, by the affirmative vote of a majority of the Directors then in office, and irrespective of any personal interest of any of its members, shall make recommendations to the Tribal Council regarding reasonable compensation of all Directors for services to the Authority as Directors, provided that such compensation shall be established by the Tribal Council. No Tribal Council member serving as a Director shall be compensated for service as a Director unless such compensation has been recommended by the Band's Salary Commission pursuant to Article X, Section 7 of the Band's Constitution.

Section 4. Powers. The Board of Directors of the Authority shall manage and control the business, property, and affairs of the Authority, and is vested with the power to authorize any and all actions relating to the conduct of the business of the Authority, except as otherwise provided in, and subject to the terms and provisions of the Ordinance.

ARTICLE III

Meeting of the Board of Directors

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held no less frequently than monthly at such time and place as shall from time to time be fixed

by the Board. Unless otherwise specified by the Board, no notice to the Directors of such regular meetings shall be necessary.

Section 2. Special Meetings. Special meetings of the Board of Directors may be called by the Chairperson, the President of the Authority or any Board member. The person or persons calling the special meeting shall fix the time and place thereof.

Except as otherwise provided in Article X hereof regarding amendments to these Bylaws, neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of the meeting. The giving of notice of a special meeting of the Board of Directors by, or at the direction of, the person or persons so authorized to call the same shall constitute the call thereof.

Section 3. Notice; When and How Given. Notice of meetings of the Board of Directors may be given by any of the following methods within the time period specified for that method:

- A. by depositing a copy of the notice in the United States mails, first class postage prepaid, addressed to the Director at his or her usual or last known business or residence address, at least 3 business days before the meeting;
- B. by delivering a copy of the notice to a recognized overnight delivery or express service addressed to the Director at his or her usual or last known business or residence address, including street or the like in the address, at least 2 business days before the meeting;
- C. by delivering a copy of the notice in hand to the Director at least 24 hours before the meeting;
- D. by reading or causing to be read the notice over the telephone to the Director at least 24 hours before the meeting;
- E. by transmitting the contents of the notice by telecopy or fax, or by any other electronic transmission, and in a manner authorized by the Director, for the receipt of the means of transmission selected at least 24 hours before the meeting; or
- F. by sending a copy of the notice by any usual means of communication addressed to the Director at his or her usual or last known business or residence address, including street or the like in the address, at least 3 business days before the meeting.

Notice to any Director actually received by him or her at least 24 hours before the meeting shall be deemed sufficient, notwithstanding the method or means of communication selected or the time when sent. For the purposes of this Section, a “business day” is any day other than a Saturday, Sunday or Pokagon Band legal holiday. Reasonable efforts shall be made to provide at least three days public notice of all regular meetings and at least one day public notice of all special meetings, provided that the failure to so provide public notice shall not affect the validity of any meeting otherwise duly called.

Section 4. Attendance as Waiver of Notice. Attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends for the express purpose, stated at the commencement of the meeting, of objecting to the transaction of any business because the meeting is not lawfully called, noticed or convened.

Section 5. Quorum and Vote Required. At any meeting of the Directors, a majority of the Directors then in office shall constitute a quorum for the transaction of business. The Chairperson is a voting member of the Board, and shall be included in any determination of whether a quorum is present. The Directors present at a duly called and convened meeting may, with the consent of all of the Directors present while such quorum is present, continue to do business and take action at the meeting notwithstanding the withdrawal of such numbers of Directors as would leave less than a quorum. Any meeting may be adjourned from time to time by a majority of the votes cast upon the question, and the meeting may be held as adjourned without further notice if the time and place to which it is adjourned is fixed and announced at such meeting. The vote of a majority of the Directors present at a meeting at which a quorum is present, or has been dispensed with in accordance with this section, shall be the act of the Board of Directors unless the vote of a greater number is required by these By-laws or the Ordinance.

Section 6. Action by Consent. Any action required or permitted to be taken at a meeting of the Directors, or of a committee of the Directors, may be taken without a meeting if all of the Directors, or all of the members of the committee, as the case may be, sign written consents setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of Directors’ meetings or committee meetings, as the case may be, and shall have, and may be stated by any officer of the Authority to have, the same effect as a unanimous vote or resolution of the Board of Directors at a legal meeting thereof. Any such action taken by unanimous written consents may, but need not be, set forth in such consents in the form of resolutions or votes.

Section 7. Alternative Meeting Arrangements. Members of the Board of Directors or of any committee designated thereby may participate in a meeting of the Board or of such committee by means of conference telephone, video conference or similar

communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting in such manner by any member who does not object at the beginning of such meeting to the holding thereof in such manner shall constitute presence in person at such meeting.

ARTICLE IV

Executive and Other Committees

Section 1. Establishment; Authority. The Board of Directors, by a resolution adopted by a majority of the Directors then in office, may designate from among its members an executive committee and other committees, each consisting of two (2) or more Directors, and may delegate to such committee or committees any part or all of the authority of the Board of Directors.

Section 2. Procedures. Vacancies in the membership of a committee shall be filled by resolution adopted by a majority of the Directors then in office. Committees shall keep minutes of their proceedings and report the same to the Board of Directors. Members of a committee may be removed from such committee with or without cause, by resolution adopted by a majority of the Directors then in office. Any person or persons authorized to call a meeting of the Board of Directors, as well as the chair of a committee or the committee itself, may call a meeting of a committee. Except as hereinbefore otherwise provided, so far as applicable, the provisions of these By-laws relating to the calling, noticing and conduct of meetings of the Board of Directors shall govern the calling, noticing and conduct of meetings of committees.

ARTICLE V

Officers

Section 1. Number and Selection. The officers of the Authority shall be appointed by the Board of Directors and shall include a President and Chief Executive Officer, Vice-President, a Secretary, a Treasurer, and such other officers as may be determined by the Board of Directors. The Officers of the Authority may, but need not be members of the Board of Directors and may hold more than one office in the Authority. The Officers shall serve at the pleasure of the Board of Directors. The initial Officers shall be selected by the Board of Directors at its first meeting following appointment of the Directors by the Tribal Council.

Section 2. Additional Officers. The Board of Directors may appoint such other officers and agents from time to time as it shall deem necessary who shall hold their offices for

such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

Section 3. Compensation and Officers. The salaries of all officers of the Authority shall be fixed by the Board of Directors. No Tribal Council member serving as an officer of the Authority shall be compensated for service as an officer unless such compensation has been recommended by the Band's Salary Commission pursuant to Article X, Section 7 of the Band's Constitution.

Section 4. Vacancies, Term and Removal. The officers of the Authority shall hold office until their successors are appointed and qualified or until their earlier death, resignation or removal from office, as applicable. Any officer appointed by the Board of Directors may be removed at any time by the Board of Directors, with or without cause, if such action is consistent with the provisions of applicable law and policies, if any. Any vacancy occurring in any office of the Authority may be filled by the Board of Directors.

Section 5. Authority and Duties. Each officer shall have such authority and perform such duties as are set forth in these By-laws or as determined from time to time by the Board of Directors. Each officer shall also have such authority and perform such duties as are usually incumbent upon his office except as the same may be limited from time to time by the Board of Directors.

Section 6. President and Chief Executive Officer. The President and Chief Executive Officer (the "President") shall be the chief executive officer of the Authority, who shall have responsibility for the general and active management of the business of the Authority, and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President shall report to the Board of Directors. The President shall have such other powers and duties as are prescribed by the Ordinance, or as may be prescribed by these By-laws or by the Board of Directors.

Section 7. Vice-President. The Vice-President, if any, or if there shall be more than one, the Vice-Presidents in the order determined by the Board of Directors, shall, in case of the extended absence, or the disability, resignation or death of the President, perform the duties and exercise the powers of the President until such time as the Board of Directors appoints and qualifies a new President, and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

Section 8. Secretary. The Secretary shall attend all meetings of the Board of Directors and record all proceedings of the Board of Directors in a record book kept for that purpose, and shall perform like duties for the executive committee. The Secretary may receive service of process in any judicial action, suit or proceeding on behalf of the Authority. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or President, under whose supervision he or she shall serve. He or

she, or an Assistant Secretary, shall have authority to affix a seal of the Authority, if one is adopted by the Board of Directors, to any instrument requiring it and when so affixed, it may be attested by his signature or by the signature of such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Authority and to attest the same. The Secretary shall have such other powers and duties as are prescribed by the Board of Directors.

Section 9. Assistant Secretaries. The Assistant Secretary, or if there be more than one, the Assistant Secretaries, in the order determined by the Board of Directors, shall, in the case of the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary, and shall perform such other duties and have such other powers as these By-Laws or the Board of Directors may from time to time prescribe.

Section 10. Treasurer. The Treasurer (the “Treasurer”) shall be the financial officer of the Authority and shall have the custody of the Authority funds and securities, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Authority and shall provide for the deposit all monies and other valuable effects in the name and to the credit of the Authority in such depositories as may be designated by the Board of Directors. He or she shall disburse the funds of the Authority as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all his or her transactions as Treasurer and of the financial condition of the Authority. The Treasurer shall have such other powers and duties as are prescribed by law or by the Board of Directors.

Section 11. Assistant Treasurer. The Assistant Treasurer, or, if there shall be more than one, the Assistant Treasurers, in the order determined by the Board of Directors, shall, in the absence of or in the case of the disability of the Treasurer, perform the duties and exercise the powers of the Treasurer and shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

ARTICLE VI

Voting of Equity Interests of Other Organizations

Section 1. Voting Shares of Other Corporation. The Chairperson of the Board, the President, any Vice-President, Treasurer and Secretary of the Authority, in that order, shall have authority to vote shares or any equity interests of any corporation or other business entity standing in the name of or owned by the Authority, and the Chairperson, the President, any Vice-President, Treasurer or Secretary is authorized to execute in the name and on behalf of this Authority proxies appointing any one or more of the officers first above named, in the order above named, as the proxy agents.

ARTICLE VII

Indemnification

Section 1. Basic Indemnification. Subject to the expressly limited waiver of sovereign immunity in Section IX of the Ordinance of this Authority, any person who was or is a party or is threatened to be made a party of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a Director, officer, employee of the Authority, shall be indemnified by the Authority from reasonable expenses actually and necessarily incurred by that person and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceedings in which that person is made a party by reason of being or having been a Director, officer, or employee; provided that the person to be indemnified acted in good faith and in the reasonable belief that (i) in the case of conduct in the individual's capacity as a Director or officer, that his or her conduct was in the best interests of the Authority; (ii) in all other cases, that his or her conduct was in or not opposed to the best interests of the Authority; and (iii) in the case of any criminal action or proceeding, that his or her conduct was lawful. Furthermore, no indemnification shall be provided for any person with respect to any matter as to which he or she shall have been finally adjudicated in any action, suit or proceeding not to have acted in his or her capacity as a Director, officer, or employee of the Authority, or not within the scope of his or her respective authority, or when liability is predicated upon gross negligence or intentional misconduct. The termination of any action, suit or proceeding by judgment, order or conviction adverse to such person, or by settlement or a plea or nolo contendere or its equivalent, shall not of itself create a presumption that such person acted or did not act in his or her capacity as a Director, officer, or employee of the Authority, or within or not within the scope of his or her respective authority, or that the outcome is or is not predicated upon gross negligence or intentional misconduct.

Section 2. Other Provisions. (a) A Director, officer, or employee of the Authority who has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 above, or in defense of any claim, issue or matter therein, shall be indemnified to the extent of his or her success against reasonable expenses, including attorneys' fees, actually and necessarily incurred by him or her in connection therewith and, except as limited by Section IX of the Ordinance of this Authority, any such person may enforce the right of indemnification granted by these By-laws by a separate action against the Authority, if an order for indemnification is not entered by the court in the action, suit or proceeding in which he was successful on the merits or otherwise.

(b) Any indemnification under Section 1 hereof, unless ordered by a court, shall be made by the Authority only as authorized in the specific case upon a determination that indemnification of the Director, officer, or employee is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Section 1. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion. Any such determination, once made may not be revoked by the Board of Directors, and upon the making of such determination, the Director, officer, or employee may enforce the indemnification against this Authority, except as limited by Section IX of the Ordinance of this Authority, by a separate action notwithstanding any attempted or actual subsequent action by the Board of Directors.

Section 3. Advances.

- a. The Authority may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a Director, officer, or employee who is a party to a proceeding because that individual is or was a Director, officer or employee of the Authority, if the director, officer or employee delivers to the Authority:
 - (i) a written affirmation of the Director's, officer's or employee's good faith belief that the Director, officer or employee has met the relevant standard of conduct described in Section; and
 - (ii) the Director's, officer's or employee's written undertaking to repay any funds advanced if the Director, officer or employee is not entitled to mandatory indemnification under Section 1 and it is ultimately determined that the Director, officer or employee has not met the relevant standard of conduct described in Section 1.

The undertaking required by clause (ii) shall be an unlimited general obligation of the Director, officer or employee seeking the advance, but need not be secured and may be accepted without reference to the financial ability of the Director, officer or employee to make repayment.

- b. A determination that an advance is permissible may be made:
 - (i) by the Authority's Board of Directors:
 - A. if there are two or more disinterested Directors, by the Authority's Board of Directors by a majority vote of all the

disinterested Directors, a majority of whom for this purpose constitutes a quorum, or by a majority of the members of a committee of two or more disinterested Directors appointed by a majority vote of all the disinterested directors; or

B. if there are fewer than two disinterested Directors, by a vote of the disinterested members of the Tribal Council.

(ii) if a disinterested vote under clause (i) is not obtainable, or if the disinterested members of the Board of Directors or the Tribal Council so direct, by independent legal counsel in a written opinion.

Section 4. Insurance. The Board of Directors may authorize the purchase and maintenance, at the expense of this Authority, of insurance on behalf of any person who is or was a Director, officer, employee or agent of this Authority, or is or was serving at the request of this Authority as a Director or other officer or agent or any corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Authority would have the power to indemnify him or her against such liability under the provisions of these By-laws or otherwise.

Section 5. Indemnification Not Exclusive; Limits. The indemnification and entitlement to advances of expenses provided by this Article shall not be deemed exclusive of any other rights to which an individual may be entitled under any agreement, vote of shareholders or disinterested Directors or otherwise, both as to action in the individual's official capacity and as to action in another capacity while a Director, officer, employee or agent of the Authority, and shall continue as to an individual who has ceased to be a Director, officer, employee, agent, trustee, partner, or fiduciary, and shall inure to the benefit of the heirs, personal representatives, executors and administrators of such a person.

Section 6. Amendment. No amendment, modification or repeal of this Article, in whole or in part, shall deny, diminish or otherwise limit the rights of any individual to indemnification or advances hereunder with respect to any action, suit or proceeding arising out of any conduct, act or omission occurring or allegedly occurring at any time prior to the date of such amendment, modification or repeal.

ARTICLE VIII

Fiscal Year

Section 1. Fiscal Year. The fiscal year of the Authority shall be the fiscal year of the Band, and until changed by the Board, shall be the twelve month period ending on September 30 of each year.

ARTICLE IX

Execution of Documents

Section 1. Execution of Documents. Unless the Board of Directors or its executive committee shall otherwise generally or in any specific instance provide: (a) any bill, note, check, or negotiable instrument may be executed or endorsed in the name and on behalf of the Authority by the President or Treasurer, acting singly, and (b) any other instrument, documents, deeds, bills of sale or other writings of whatever nature shall be executed in the name and on behalf of the Authority by the President or the Treasurer, acting singly, and either officer may seal, acknowledge and deliver the same.

ARTICLE X

Amendments

Section 1. Amendments. Pursuant to Section VI of the Ordinance, the Board of Directors shall have the power to amend these By-laws, provided that the notice of any regular or special meeting at which such action is to be taken shall either set out the text of the proposed amendment or shall summarize the changes to be effected by such amendment and provided further that such amendment shall be consistent with the Ordinance and with any other ordinance or resolution relating thereto adopted by the Tribal Council.

Section 2. Vote and Notice Required. These By-laws may be amended by a two-thirds majority vote of the Board, provided that at least seven (7) calendar days written notice thereof as provided in Section 1 of this Article has been given to each Director.

Legislative and PGA Board History

The initial Pokagon Gaming Authority By-Laws were approved by the Tribal Council, contemporaneous with the enactment of the Pokagon Gaming Authority Ordinance, on May 25, 2006 by adoption of Resolution No. 06-05-25-06, as provided in § VI.C(xi) of the Ordinance.

EXHIBIT C

LIST OF INITIAL BOARD OF DIRECTORS

John Miller	Chairperson/Chief Executive Officer
Matt Wesaw	Vice Chairperson
Judy Winchester	Secretary
Tom Wesaw	Treasurer
Butch Starrett	Member
Marie Manley	Member
Trudy Loeding	Member
John Warren	Member
Mickey Magnuson	Member
Faye Wesaw	Member
Gerald Wesaw	Member