



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 09 2018

The Honorable Marshall Pierite
Tribal Chairman, Tunica Biloxi Tribe
P.O. Box 1589
Marksville, Louisiana 71351

Dear Chairman Pierite:

On October 2, 2018, the Eastern Regional Office, Bureau of Indian Affairs, transmitted the Tunica Biloxi Tribe's Fourth Amended Revenue Distribution Plan (Amendment) to the Office of Indian Gaming for review and approval.

We have completed our review of the Amendment adopted by the Tribe's Resolution No. TBNR-2018-001, dated July 5, 2018, and conclude that the Amendment does not violate the Indian Gaming Regulatory Act (IGRA) or our regulations at 25 C.F.R. Part 290. Pursuant to my delegated authority and Section 11 of IGRA, the Amendment is approved.

If you have any questions regarding this matter, please contact Ms. Debra DeLeon, Office of Indian Gaming, at (202) 219-4066.

Sincerely,

Tara Sweeney
Assistant Secretary – Indian Affairs

cc: Regional Director, Eastern Region

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TUNICA-BILOXI
TRIBE OF LOUISIANA



August 16, 2018

Paula Hart, Director
Office of Indian Gaming
Bureau of Indian Affairs
Department of the Interior
1849 C Street, NW, MS-3657
Washington, DC 20240

Re: Tunica-Biloxi Tribe of Louisiana Fourth Amended
Revenue Distribution Plan ("RDP")

Dear Ms. Hart:

As you know, the Tunica-Biloxi Tribe of Louisiana ("Tribe") has a Third Amended RDP that was approved by the Department of the Interior ("Department") on November 4, 2014. The Tribal Council suspended payments under this RDP on April 13, 2015, due to increased competition and other fiscal challenges experienced by the Tribe's gaming facility. Since then, and due to debt restructuring and other fiscal improvements, the Tribe's gaming facility is financially stable and able to support the resumption of minor per capita payments.

The Tribal Council deliberated carefully on the terms upon which per capita payments would be made. Accordingly, and as stated in the attached Resolution, the Tribe has revised its RDP and seeks the Department's approval of the Tribe's Fourth Amended RDP, attached.

The proposed Fourth Amended RDP allocates funds for the operation of tribal government and the provision of programs for the general welfare of tribal members. As required by federal regulations, the percentage set aside for government and program funds established in the proposed Fourth Amended RDP total 100 percent. 25 CFR§ 290.12 (a).

The proposed Fourth Amended RDP makes three principal changes to the Third Amended RDP that was approved by the Department. First, the proposed Fourth

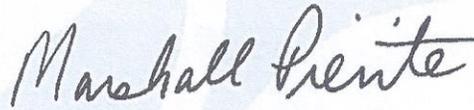
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Amended RDP provides for enhanced services for elderly tribal members (those 55 years and older). These include assistance for the acquisition of healthcare and one-time housing assistance. Second, the proposed Fourth Amended RDP limits Per Capita Payments to minor tribal members (those under the age of 18). This reflects the particular need of that segment of the tribal population for cash payments to support higher education and other general welfare needs of the young. In the Council's view, these enhanced programs and payments tend to balance each other so that all tribal members benefit equally under the proposed Amended Fourth RDP. See 25 CFR § 290.14. It should also be noted that all age eligible tribal members participate in these programs and payments, regardless of the member's place of residence. Third, the proposed Fourth Amended RDP creates a permanent endowment fund, which is intended to provide for permanent support of and stability for tribal programs and services.

Thank you for your consideration. The Tribal Council and I look forward to working with your office to obtain expeditious approval of the Tribe's Fourth Amended RDP.

Regards,

A handwritten signature in black ink that reads "Marshall Pierite". The signature is written in a cursive style with a large, prominent 'M' and 'P'.

Marshall Pierite, Chairman

cc: Assistant Secretary - Indian Affairs Sweeney

TUNICA-BILOXI TRIBAL COUNCIL

RESOLUTION NO. ~~18~~

TBNR-2018-001

**A RESOLUTION TO AMEND THE
FEDERALLY APPROVED REVENUE DISTRIBUTION PLAN**

WHEREAS, the Tunica-Biloxi Tribe of Louisiana ("Tribe") was federally recognized by the United States Secretary of the Interior on July 27, 1981; and

WHEREAS, the Tunica-Biloxi Tribal Council ("Tribal Council") is the duly-elected governing body of the Tribe, as authorized by Article VII, Section 1, of the Constitution of the Tribe; and

WHEREAS, this Resolution is being adopted at a special meeting of the Tribal Council duly called, convened and held in compliance with the Constitution of the Tribe, at which not less than 5 members of the Tribal Council, constituting a quorum, are in attendance in accordance with the law and Constitution of the Tribe; and

WHEREAS, the Tunica-Biloxi Gaming Authority ("Authority") is an agency and governmental instrumentality of the Tribe pursuant to Resolution No. 33-15, adopted on October 24, 2005, by the Tribal Council, and Ordinance No. 1-05 and the Authority's Articles of Association approved by such ordinance; and

WHEREAS, the Authority was formed for the purpose of owning and overseeing certain gaming assets and enterprises, including the Paragon Casino Resort; and

WHEREAS, gaming is conducted at the Paragon Casino Resort in accordance with the Indian Gaming Regulatory Act of 1988 ("IGRA"), which limits the purposes for which net gaming revenues can of may be used; and

WHEREAS, the payment of net gaming revenues to individual tribal members on a per capita basis ("Per Capita Payments") is permitted by IGRA only if a tribe has in effect a plan for the allocation of net gaming revenues ("Revenue Allocation Plan") that has been approved by the Secretary of the Interior or his delagatee pursuant to 25 U.S.C. § 2710(b); and

WHEREAS, by Resolution #07-23-14 the Tribal Council adopted a "Third Amended Revenue Distribution Plan" ("RDP") as a Revenue Allocation Plan; and

WHEREAS, by letter dated November 4, 2014, the Assistant Secretary - Indian Affairs of the Department of the Interior approved the RDP on behalf of the Secretary of the Interior; and

WHEREAS, due to increased competition and other fiscal challenges, the Tribal Council on April 13, 2015, in accordance with Resolution No. 4-13-15, did temporarily suspend Per Capita Payments under the approved, RDP; and

WHEREAS, due to changed fiscal circumstances, the Tribe is now able to resume Per Capital Payments; and

WHEREAS, because of the differing needs of tribal members based upon age and other facts, revisions to the RDP are necessary to take into account the needs and best interests of tribal members.

BE IT THEREFORE RESOLVED BY THE TRIBAL COUNCIL OF THE TUNICA-BILOXI TRIBE OF LOUISIANA, AS FOLLOWS:

Section 1: Findings. The Tribal Council finds that (a) the Recitals in this Resolution are true and correct in all material respects; (b) the Tribe has the requisite power and authority to adopt this Resolution; and (c) the actions taken by this Resolution are financially sound and in the best interest of the Tribe and its members.

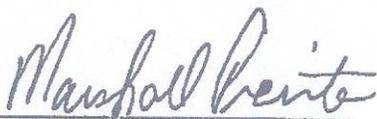
Section 2. Amended RDP. The Third Amended RDP is further amended to better serve tribal members in three principal respects: first, to reflect the elderly tribal members' need for additional services; second, to reflect the need of minor tribal members, i.e., those under age of eighteen (18), for additional income for costs of education and other necessary support; and third, to establish a permanent endowment fund. As a result, the Tribal Council has amended the RDP to provide enhanced services to elderly members and to restrict Per Capital Payments to minor tribal members, in accordance with the attached Fourth Amended RDP. This Fourth Amended RDP will take effect upon approval by the Department of the Interior.

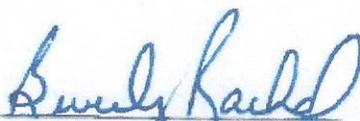
Section 3. Request federal approval of Fourth Amended RDP. The Tribal Council approves submission of the attached Fourth Amended RDP to the United States Department of the Interior for approval in accordance with 25 CFR Part 290.

CERTIFICATION

We, the undersigned Chairman and Secretary/Treasurer of the Tunica-Biloxi Tribe of Louisiana, certify that the Tribal Council of said Tribe is composed of 7 members, of whom 6, constituting a quorum, were present at a meeting thereof, duly called, noted, convened and held this 5th day of July, 2018; and that the foregoing Resolution was duly adopted by a vote of 5 members in favor, 0 opposed, and 0 abstaining.

ATTEST


Marshall Pierete, Chairman


Beverly Rachal, Secretary/Treasurer

Tunica-Biloxi Tribe of Louisiana

Tunica-Biloxi Tribe of Louisiana

**TUNICA-BILOXI TRIBE
OF LOUISIANA**

**FOURTH AMENDED
REVENUE DISTRIBUTION PLAN**

July 5, 2018

The Tribal Council of the Tunica-Biloxi Tribe of Louisiana ("Tribe") does hereby amend and adopt the following Fourth Amended Revenue Distribution Plan of the Tunica-Biloxi Tribe of Louisiana ("Plan"), by Tribe Resolution No. _____, duly adopted on July 5, 2018. Upon approval by the Bureau of Indian Affairs, the following new Plan shall supplant and replace the former Third Amended Revenue Distribution Plan of the TUNICA-BILOXI TRIBE OF LOUISIANA, approved by the United States Department of the Interior, by letter dated November 4, 2014, in its entirety.

The Net Gaming Revenues of the Tribe's gaming operations shall be allocated among the following six (6) programs (each, a "Program") in the following percentages:

A) **TRIBAL GOVERNMENT OPERATIONS AND PROGRAMS:**

Up to 30% of Net Gaming Revenue shall be allocated to the following funds in accordance with the annual Operating Budget of the Tribe:

General Government Administration Fund. This money will be used in conjunction with the existing Aid to Tribal Government Program, community programs, and any currently budgeted government administrative programs to ensure proper funding for governmental operations. This fund shall also provide funds for the Tribal Planning Department, the Tribal Social Service Department and programs, internal tribal communications (including newspaper, website, or otherwise), and the general and indirect costs of Tribal government.

Public Safety Fund. This money will be used in conjunction with the existing law Enforcement Programs and any other public safety program that may be available to the Tribe. This money will be administered by the same authority that administers the Law

Enforcement Program using guidelines similar to those already in effect, except that this money will not be limited to funding only the Law Enforcement Program. Upon the approval of the Tribal Council, portions of this money may be used for such programs as fire protection and prevention, ambulance service, as well as any other program that would be considered a public safety program.

Judicial System Fund. This money will be used in conjunction with any Judicial System grant money, which the Tribe may qualify for in the future and will be used for continued operations and/or the expansion of the existing tribal court system.

Public Works and Maintenance Fund. This money will be used in conjunction with the General Trust Program, the Road Maintenance Programs, and any other public works/maintenance program that may be available to the Tribe. This money will be administered by the same authority that administers the General Trust Programs and the Road Maintenance Program under guidelines similar to those currently in effect. This money, with Tribal Council approval, may be used to expand any areas of reservation infrastructure, including roads, drainage, water systems, etc. Also, this money may be used for the upkeep and maintenance of existing and future public works structures.

Tribal/Cultural Preservation Fund. This money will be used solely or in conjunction with any cultural program grants or funding that may be available to the Tribe. This money may upon Tribal Council approval be used to expand artifact preservation efforts including museum enlargement and maintenance, the purchase of related and useful equipment, or any other area of Tribal/cultural preservation and programming.

Reserve Fund. This fund shall be held to maintain funds to alleviate operating

deficits within the general Program category of tribal Government Operations and Programs.

B) **PROGRAMS FOR THE GENERAL WELFARE OF THE TRIBE AND ITS MEMBERS:**

Up to 41% of Net Gaming Revenue shall be allocated to the following funds in accordance with the annual Operating Budget of the Tribe:

Tribal Elder Health Insurance. This money will be used as assistance for elder healthcare for any elder over 55 years of age. This money will be administered by a Third Party Administrator designated or appointed by Tribal Council (to be other than the Tribal Council itself) under the guidelines and procedures approved by the Tribal Council.

Tribal Elderly Housing. This money will be used as housing assistance for any elder over 55 years of age as a one-time assistance when they turn 55 years of age. This money will be administered by the Tribal Administrator under the guidelines and procedures approved by the Tribal Council.

Education Fund. This money will be used as an Education Program which may be available for the benefit of tribal members. This money will be administered by the Education Director under the guidelines and procedures approved by the Tribal Council. All tribal members who meet the qualifications for benefits from this fund will have fair and equal access to this fund, regardless of where the member may reside.

Hardship/Catastrophe Fund. This money will be set aside for the benefit of any tribal member who may have met with a personal disaster, calamity, or who may have serious financial difficulties. This may include but is not limited to: a house fire, a weather related disaster, or death of a tribal member. This program will be designed to provide immediate but temporary relief to those who qualify. This fund will not be used as a welfare

system and would not provide long-term benefits. This fund will be administered prudently by an authority approved by the Tribal Council. The Tribal Council will approve any rules, regulations, and qualification guidelines, so that this program will be administered prudently and fairly. No member shall be disqualified from benefits based upon residence.

Health and Housing Assistance. This money will be used as Health and Housing Assistance for any tribal member over the age of 18 years to assist with their Health and Housing according to the General Welfare Exclusion. This money will be administered by the Tribal Administrator under the guidelines and procedures approved by the Tribal Council.

Reserve Fund. This fund shall be held to maintain funds to alleviate operating deficits within the General Program category of General Welfare of the Tribe and its members.

C) **TRIBAL ECONOMIC DEVELOPMENT PROGRAM:**

Up to 10% of the Net Gaming Revenue shall be allocated to the following funds in accordance with the annual Operating Budget of the Tribe:

Tribal Saving/Investment Fund. This money shall be used to build a long-term savings and investment fund for the Tribe until such time as the Tribal Council determines to utilize some of the funds. This money will be administered by the Tunica-Biloxi Economic Development Corporation Board of Directors or through their appointed agent.

Reserve Fund. This fund shall be held to maintain funds to alleviate operating deficits within the General Program category of Economic Development Program.

D) **SURPLUS ACCOUNT:**

Upon the Tribal Council's determination that any of the above Program categories are adequately funded for the purposes for which they have been established, any excess monies held

in any reserve fund within the various Program categories may be transferred to the Surplus Account. The monies transferred to the Surplus Account shall be first used to alleviate any deficit in any Program Fund established under A, B, and C above, and then second, to establish any new fund, and then lastly, at the discretion of the Tribal Council, to the Minor Per Capita Payments.

E) **MINOR PER CAPITA PAYMENTS:**

Up to 16% of Net Gaming Revenue shall be allocated to the Minor Per Capita Payment Fund, from which Per Capita Payments shall be distributed in accordance with the following provisions:

1. Pending the availability of funds, it is the intention of the Tribal Council to establish a trust account on behalf of each minor enrolled in the Tribe under the criteria established in the Tribe's Enrollment Ordinance, as it may be amended. A lump sum will be deposited into the trust account for each enrolled minor (under the age of 18) until such time as the deposits from the Tribe total \$20,000.00, provided that the deposits shall not exceed the 16% cap.
2. Also pending the availability of funds, for those minors whose deposits total less than \$20,000.00, at the time this plan is approved, additional deposits will be made until the receipts from the Tribe total \$20,000.00, provided that the deposits shall not exceed the 16% cap.
3. Per Capita Payments made to minors (under eighteen years of age) will be placed in a Trust for the benefit of the minor until he/she reaches the age of twenty-one (21) years. The Trustee of the Trust shall be the Tribe or such other Corporate Trustee as the Tribe may select. To maintain eligibility to receive the Per Capita Payments, each tribal minor must do the following: a. maintain permanent mailing address on file with the Tribal Office, b).

maintain a valid Social Security Number on file with the Tribal Office, and c). the parent or legal guardian of the tribal minor must sign a letter of acknowledgment advising that any Per Capita Payment received as a result of this Revenue Distribution Plan will be subject to federal income taxation, pursuant to the Indian Gaming Regulatory Act of 1988, and such acknowledgment must be maintained on file with the Tribal Office. Any funds held in that member's Trust shall remain in Trust until the member reaches the age of twenty-one (21) years. After attaining the age of eighteen (18) years, the member may be allowed to withdraw funds held in that Trust subject to the reasonable policies, restrictions, and procedures established by the Tribal Council in the most current version of the Master Trust Document at the time the trust access request is submitted to the office of the Trust Program Director.

4. All funds held in Trust for a minor tribal members shall be invested by the Trustee with the care and skill as a man/woman of ordinary prudence, discretion, and intelligence would exercise in the management of his/her own affairs, not in regard to speculation, but in regard to the permanent disposition of his/her funds, considering the probable income as well as the probable safety of his/her capital. Notwithstanding the foregoing, no more than 60% of the total of all funds held in Trust for a minor tribal member shall be invested in equity securities. For purposes of this paragraph, "equity securities" shall include stocks traded on major U.S. or foreign exchanges, or the NASDAQ system, convertible equity securities, American Depository Receipts (ADRs), equity mutual funds, or the percentage of any mutual fund invested in equity securities. All funds held in a minor tribal member's Trust not invested in equity securities, shall be invested in money market funds, investment grade bonds, or mutual funds investing in investment grade bonds.

5. Prior to the Trust beneficiary reaching the age of eighteen (18) years, the Trustee may allow the parent or legal guardian of a minor tribal member to recommend investment options selected by the Trustee for the funds held in the minor's Trust, subject to the reasonable policies, restrictions and procedures adopted by the Trustee, and further subject to the restrictions of paragraph 4 above. The Trustee shall not be bound by such recommendations. After a minor tribal member reaches the age of eighteen (18) years, the Trustee may allow the beneficiary to exercise limited investment discretion over the funds held in his/her Trust, subject to the reasonable policies, restrictions, and procedures established by the Trustee.

6. A parent(s)/legal guardian(s) receiving a disbursement of net revenue awarded to a minor tribal members by the Plan, shall have the responsibility for maintaining adequate records to verify that the expenditure of the disbursement was used for the health, education, or welfare of the minor. Failure to provide the aforementioned information to the Tribe when requested shall be grounds for the Tribe to discontinue disbursements to the parent(s)/legal guardian(s).

F) TUNICA-BILOXI PERMANENT ENDOWMENT FUND:

There shall be a permanent, interest-bearing endowment fund, which shall be established and the principal of such fund shall remain unencumbered, unappropriated and unspent. Up to 3% of the Net Gaming Revenue shall be budgeted and deposited into the permanent endowment fund. In each annual budget, the Tribal Council may include up to 90% of the available interest from the permanent fund for services specified in Sections A, B, and C, and for reasonable and customary fund administrative fees. The remaining interest shall become principal of the permanent endowment. The guidelines for the management and operation of this permanent endowment funds shall be set by the Tribal Council.

G) **GENERAL PROVISIONS:**

1. Dispute Resolution: Any dispute or controversy arising under this Plan shall be resolved by the Tribal Council after a hearing in accordance with the rules adopted by the Tribal Council. At its discretion the Tribal Council may refer any matter to the Tribal Court of the Tunica-Biloxi Tribe of Louisiana for resolution.

2. Tax Notification: The Tribe shall cause to be prepared and mailed to each tribal minor receiving Per Capita Payments during the calendar year an IRS Form 1099 (or other IRS information reporting form as provide under IRS regulations) notifying the tribal minor of his/her tax liability for Per Capita Payments. Parent(s)/legal guardian(s) or persons charged with the preparation of a tribal minor's annual tax filing shall be notified in January of each year and encouraged to file a return with the IRS regardless of whether taxes are owed on any of the trust assets (i.e., principal, interest earnings) so as to create a definitive record of tax reporting and to avoid unnecessary and unwarranted attempts by the IRA to tax funds that have already been taxed previously or which did not require tax payment under the effective tax schedule for a given year.

3. Tax Withholding: The Tribe shall withhold all required federal income tax payments from each tribal minor's Per Capita Payments in accordance with applicable IRS regulations.

4. Eligibility: Per Capita Payments hereunder shall be made according to the specifications set forth herein under the laws of the Tribe, including without limitation the Tribe's enrollment laws. Disputes concerning the allocation of New Gaming Revenues and the distribution of Per Capita Payments shall be resolved in accordance with section F(1) above.

END OF PLAN