

1 **LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**
2 **ODAWA ECONOMIC DEVELOPMENT MANAGEMENT, INC. CORPORATE**
3 **CHARTER**
4

5 This Corporation is hereby organized, incorporated and granted its corporate powers,
6 privileges and immunities under the laws of the Little Traverse Bay Bands of Odawa Indians,
7 (Tribe) as a Tribally chartered corporation for the purposes set forth in Article II. The Little
8 Traverse Bay Bands of Odawa Tribal Council grants this corporate charter pursuant to its
9 inherent sovereign authority through enactment of Odawa Economic Development Management,
10 WOS _____ and pursuant to Part Two of Comprehensive Business Codes of the
11 Little Traverse Bay Bands of Odawa Indians, WOTC 12.114, *et seq.* This Charter creates a
12 Tribal Corporation as defined at WOTC 12.116(B) as a corporation wholly owned by the Little
13 Traverse Bay Bands of Odawa Indians for the benefit of the Tribe and its members, and its
14 ownership is inalienable.
15

16
17 **ARTICLE I: NAME and PRINCIPAL PLACE OF BUSINESS**
18

19 By this Charter, the Tribe creates the Odawa Economic Development Management, Inc.
20 (the Corporation). The Corporation shall have its principal place of business at the
21 _____, Petoskey, Michigan, or at such other location within the Tribe's
22 territories that the Board of Directors of the Corporation shall determine.
23

24
25 **ARTICLE II: OWNERSHIP**
26

27 The Corporation shall be 100% owned and controlled by the Little Traverse Bay Bands
28 of Odawa Indians, (Tribe).
29

30
31 **ARTICLE III: PURPOSES**
32

33 The Corporation is organized for the purpose of developing, constructing, owning,

1 leasing, operating, managing, maintaining, promoting and financing the Odawa Economic
2 Development Management, Inc. and engaging in any other lawful activity, subject to any
3 limitations imposed by the Odawa Economic Development Management Statute, any contract,
4 indenture or other instrument by which the Corporation is bound. The Tribe intends that the
5 Corporation shall assume all obligations, responsibilities and duties of the Tribe under gaming
6 law existing at the date of enactment of this Charter, with the sole exception of the power of
7 gaming regulation, gaming licensing and enforcement of applicable law, which powers are
8 reserved to the Tribe.
9

10 11 **ARTICLE IV: DEFINITIONS** 12

13 For purposes of this Charter the following terms shall have the meanings respectively
14 specified:
15

- 16 **a.** “*Board of Directors*” shall mean the Board of Directors of the Corporation
17 created by this Charter.
18
- 19 **b.** “*Corporation*” shall mean the Odawa Economic Development Management, Inc.,
20 created by this Charter.
21
- 22 **d.** “*Felony*” shall mean only those offenses set forth under Tribal Statute or the
23 United States Indian Major Crimes Act (18 U.S.C. § 1153).
24
- 25 **e.** “*Gaming Commercial Enterprises*” means any existing and future establishment
26 of the Tribe (i) upon which Gaming takes place, (ii) which is authorized and licensed
27 under applicable law, and (iii) which the Council designates for ownership, lease,
28 development, construction, operation or management by the Company, including without
29 limitation any Class III Gaming facilities established in accordance with the Compact
30 including the Odawa Casino Resort and ancillary enterprises and activities and other
31 tribally owned enterprises or businesses.
32
- 33 **f.** “*Obligations*” shall mean any notes, bonds, interim certificates, debentures or
34 other evidences of indebtedness issued by the Corporation under this Charter.

1
2 **ig.** “*Obligee*” shall mean any holder of an Obligation, and any agent or trustee for
3 any holder of any Obligation.
4

5 **jh.** “*Non-gaming Economic Affairs*” means economic development enterprises and
6 activities not related to the gaming commercial enterprises.
7

8 **ki.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*”
9 means “*areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as*
10 *the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article*
11 *I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.*” Little Traverse Bay
12 Bands Constitution, Article V(A)(1)(a).
13

14 **lj.** “*Tribe*” or “*LTBB*” means the Little Traverse Bay Bands of Odawa Indians.
15

16 **mk.** “*Tribal Constitution*” means the Little Traverse Bay Bands of Odawa Indians
17 Constitution as adopted by its membership on February 2, 2005.
18

19 **nl.** “*Tribe Council*” means the elected body of nine Tribal members of Little
20 Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution
21 Article VII. “*Tribal Council*”.
22
23

24 **ARTICLE V: RELATION TO TRIBE**

25
26 The Corporation shall constitute a governmental instrumentality of the Tribe, having
27 autonomous existence separate and distinct from the Tribe.
28

29 **a.** For purposes of civil jurisdiction, regulatory jurisdiction and taxation, the
30 Corporation shall be deemed a subordinate arm of the Tribe and shall be entitled
31 to all of the privileges and immunities of the Tribe.
32

- 1
2 **a.** To purchase, receive, solicit, take by gift, devise, or bequest, or otherwise acquire,
3 own, hold, improve, use, and otherwise deal in personal property of every description, or
4 any interest therein, wherever situated.
5
6 **b.** To lease real property and improvements from the Little Traverse Bay Bands of
7 Odawa Indians, with prior approval of the Tribal Council.
8
9 **c.** To make contracts or agreements, incur liabilities and borrow money from any
10 source, upon such terms and rates and interests as the Corporation may determine; to
11 issue notes, bonds and other obligations and secure any of its obligations by specifically
12 mortgaging, pledging or assigning its corporate property or income as collateral for its
13 corporate debts or liabilities, with prior approval of the Tribal Council.
14
15 **d.** To lend or invest money for its corporate purposes.
16
17 **e.** To conduct its affairs, carry on its operations, and exercise the powers granted
18 under this Corporate Charter in any state, territory, district, or possession of the United
19 States or in any foreign country.
20
21 **f.** To elect or appoint officers and agents of the Corporation and define their duties
22 and fix their compensation.
23
24 **g.** To sue and be sued but only in accordance with Article IX of this Charter.
25
26 **h.** To have and exercise all powers incidental, necessary or convenient to the
27 conduct of corporate business, not inconsistent with applicable law, and to engage in any
28 and all activities which will directly or indirectly carry out the purposes of the
29 Corporation as set forth in Article III.
30
31

32 **ARTICLE IX: SOVEREIGN IMMUNITY**

- 33
34 **a.** The Corporation is a distinct legal entity from the Little Traverse Bay Bands of

1 Odawa Indians with its own assets. While the Tribe is the sole owner, the Corporation's
2 corporate activities, transactions, obligations, liabilities and property are not those of the
3 Tribe. Nothing in this charter waives or permits the Corporation to waive the Tribe's
4 sovereign immunity from suit.
5

6 **b.** The Corporation may effectuate limited waivers of its sovereign immunity for
7 conducting day-to-day business if the waivers are made in accordance with either of the
8 following methods:
9

10 **1.** Tribal Council may expressly authorize a limited waiver of sovereign
11 immunity on a case-by-case basis through a specific resolution.
12

13 **2.** The Corporation may waive its sovereign immunity pursuant to
14 transactions or agreements that the Corporation may execute in the course of its
15 ordinary business affairs.
16

17 **3.** Any waivers of sovereign immunity made pursuant to (1) or (2) above
18 shall only expose the assets owned or held by the Corporation and shall not
19 subject other Tribal assets to liability. Waivers of sovereign immunity are
20 disfavored and shall be granted only when necessary to secure a substantial
21 advantage or benefit to the Corporation. Waivers of sovereign immunity shall not
22 be general but shall be specific and limited as to duration, grantee, transaction,
23 property or funds, if any, of the Corporation subject thereto. Neither the power to
24 sue and be sued provided in this Charter, nor any express waiver of sovereign
25 immunity by resolution of the Corporation's Board of Directors or the Tribal
26 Council shall be deemed a consent to the levy of any judgment, lien or attachment
27 upon any property of the Corporation other than property specifically pledged or
28 assigned, or any property of the Tribe, or a consent to suit with respect to any land
29 within the exterior boundaries of the Reservation or consent to the attachment or
30 encumbrance of any such land.
31

32 **c.** Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a
33 federally recognized Indian tribe with respect to the existence of the Corporation are
34 hereby expressly reserved, including sovereign immunity from suit in any state, federal or

1 tribal court. Nothing in this Charter shall be deemed or construed to be a waiver of
2 sovereign immunity from suit of the Tribe or to be a consent of the Tribe to the
3 jurisdiction of the United States or of any state with regard to the business affairs of the
4 Corporation or the Tribe or any cause of action, case or controversy.
5

6 7 **ARTICLE X: MANAGEMENT OF CORPORATION**

8
9 The Board of Directors is empowered and directed to adopt bylaws consistent with this
10 Charter and all applicable law to set out management of the Corporation and its activities.
11

12 13 **ARTICLE XI: INSULATION FROM SHIFTS IN TRIBAL POLITICS**

14
15 **a.** Member(s) of the Board of Directors appointed under Article VII shall serve a
16 three (3) or five (5) year term. However, a Board member can only be involuntarily
17 removed during their term for one or more of the following reasons:
18

- 19 **1.** The Board member(s) intentionally or negligently took action to harm the
20 interests of the Corporation or Tribe;
- 21
22 **2.** The Board member(s) is convicted on any crime that could harm the
23 credibility or function of the Corporation;
- 24
25 **3.** The Board member(s) is convicted of a felony;
- 26
27 **34.** The Board member(s) failed to act in good faith, or with the care that an
28 ordinarily prudent person in a like position would exercise under similar
29 circumstances, or in a manner he or she reasonably believes to be in the best
30 interests of the Corporation.
31

32 **b.** Removal of a Board member(s) for one or more of the reasons set out in
33 subsection (a) above can only be accomplished by an affirmative vote of three-fourths
34 ($\frac{3}{4}$) or more of the Tribal Council members eligible to vote.

1
2 c. Any changes to this charter by Tribal Council shall only be adopted upon the
3 affirmative vote of three-fourths (¾) or more of those Tribal Council members eligible to
4 vote.
5

6
7 **ARTICLE XII: ATTORNEYS**
8

9 The Corporation may utilize services of an attorney or attorney(s) as provided for by the
10 Odawa Economic Development Management Statute, or such other attorneys as approved by
11 Tribal Council.
12

13
14 **ARTICLE XIII: DURATION and DISSOLUTION**
15

16 The Corporation shall continue in perpetuity unless and until dissolved upon adoption of
17 a resolution requiring dissolution by an affirmative vote of three-fourths (¾) or more of the
18 Tribal Council members eligible to vote. No such resolution shall take effect before the
19 expiration of 90 days from the date of adoption. Upon dissolution of this Corporation, its assets
20 shall be distributed at the direction of the Tribal Council, or its designee, as follows:
21

- 22 (a) Any property held upon an express condition requiring its return, transfer or other
23 disposition shall be distributed accordingly;
24
25 (b) Any property or assets required to be distributed or transferred in any manner
26 according to federal law shall be distributed or transferred accordingly;
27
28 (c) Claims of creditors of the Corporation approved by the Tribal Council shall be
29 paid accordingly from the assets or funds of the Corporation; and
30
31 (d) Remaining assets shall be transferred to another Corporation, to the Tribe, or
32 distributed or transferred as the Tribal Council directs.
33
34

1 **ARTICLE XIV: REGISTERED AGENT**

2
3 The Registered Agent of the Corporation is:

4
5 Name: Legislative Office Manager
6 Address: Little Traverse Bay Bands Odawa Indians
7 7500 Odawa Circle
8 Harbor Springs, MI 49740
9

10 Provided, the Board of Directors may change the Registered Agent by taking official
11 action and notifying Tribal Council and the Department of Commerce of the change.
12
13

14 **ARTICLE XV: DISTRIBUTIONS TO TRIBAL GOVERNMENT**

15
16 The Board of Directors shall distribute funds annually with fair and reasonable profits to
17 the Tribal government beyond the amount required to maintain adequate funds in the
18 Corporation for debt service, and maintenance and growth of business operations. The
19 Corporation shall have no power to issue any shares of stocks to declare and pay any dividends.
20
21

22 **ARTICLE XVI: REPORTING AND AUDIT REQUIREMENTS**

23
24 The Corporation shall provide reports to Tribal Council as required by Odawa Economic
25 Development Management Statute.
26

27 The Corporation shall obtain an annual financial audit by an independent public
28 accountant, the results of which will be provided to Tribal Council within 120 days of the end of
29 its fiscal year.
30

31 The Corporation shall keep correct and complete books and records of account and shall
32 keep minutes of its meetings. All books and records of the Corporation, except for sensitive
33 proprietary information, may be inspected by any LTBB citizen at the location where the records
34 are normally kept at any reasonable time.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

ARTICLE XVII. POLITICAL ACTIVITY

The Corporation, and its officer, agents and employees when acting on behalf of the Corporation, shall not contribute to or otherwise support or assist any political party or candidate for Tribal or any other public office.

Certificate of Adoption

As Tribal Secretary and Legislative Leader, we certify that this Charter was formally adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians on _____.

Date: _____

Date: _____