

## **GAMING REVENUE ALLOCATION PLAN**

### **SECTION I. STATEMENT OF POLICY**

To promote the general welfare of the Tribe and its members, this Plan is intended to allocate the revenues from the Tribe's Gaming Enterprise. This Plan combines both the per capita plan and the revenue allocation plan of the Tribe. This Plan repeals and replaces any previously adopted Revenue Allocation Plan.

### **SECTION II. DEFINITIONS**

- A.** "Council" means the duly elected governing body of the Little Traverse Bay Bands of Odawa Indians.
  
- B.** "Members" means those persons who are duly enrolled in the Little Traverse Bay Bands of Odawa Indians.
  
- C.** "Minor" means persons under 18 years of age.
  
- D.** "Need based public benefit program" means programs which use the amount of the applicant's monthly or annual income as one factor in determining eligibility.
  
- E.** "Net Revenues" means gross revenues of tribal gaming activities less amounts paid out as, or paid for, prizes and total operating expenses, including debt service, lease payments, and payments made to the State of Michigan and local units of government under the Tribe's class III compact with the State of Michigan.
  
- F.** "Plan" means this Per Capita Distribution and Revenue Allocation Plan.
  
- F.** "Revenue Allocation Plan" means the revenue allocation plan included in Section III providing a percentage allocation of uses of funds derived from Tribal gaming operations.
  
- H.** "Tribe" means the Little Traverse Bay Bands of Odawa Indians.

- I. “Distributable Net Revenues” means, for any period, Net Revenues less (1) capital expenditures with respect to Tribal gaming operations, and less (2) Net Revenues retained for application or use (including cash-on-hand or reserves) by Tribal gaming operations, and less (3) any Net Revenues not permitted under the terms of any Gaming Business Financing to be applied to purposes unrelated to the Tribal gaming operations. The term “Gaming Business Financing” means any debt incurred by or on behalf of the Tribe intended to be payable from or secured by Net Revenues.
- J. “Tribal gaming operations” means all gaming operations owned by the Tribe and all commercial operations owned by the Tribe that are related to or support gaming operations; *provided* that no convenience store or gasoline station owned by the Tribe shall be considered part of the Tribal gaming operations unless gaming occurs on the premises of such store or station.

### **SECTION III. APPROPRIATIONS AND APPLICATION OF TRIBAL GAMING REVENUES**

**A.** In order to provide for the general welfare of the Tribe and its members, the Council shall review in the months of March and September of each year the income, expenses and management of Tribal gaming operations, and after due consideration of the need to fund Tribal government operations and programs, the overall needs of the Tribe and its members, and the need to promote tribal economic development, shall decide whether to make any changes to the Revenue Allocation Plan providing for appropriate percentage allocation of Tribal Gaming Revenues within the annual budget of the Tribe. An affirmative vote of at least a majority of the members of the Council shall be required to approve any changes to the Revenue Allocation Plan.

**B.** The initial allocation of Distributable Net Revenues shall be as follows: 40% for Tribal governmental operations and programs, 25% for the general welfare of the Tribe or its members, 13% to promote economic development, 2% for charitable donations and up to 20% for per capita payments to the Tribal membership. The annual amount of the payment will be determined each year, however in no event shall the total amount distributed to the membership exceed 20%

of the distributable net revenue of the Tribe's gaming operations. Any amount of the 20% left over after annual per capita distributions shall be added to the general welfare fund.

**C.** The portion allocated to Tribal Government Operations shall help fund: the Council's activities, Executive offices, Accounting Department, Computer System, Personnel Department, Property and Procurement Office, Newsletter, Legal Department, Legal Fees, Investigation and audits, Tribal Courts, Constitutional Reform, etc.

**D.** The portion allocated to General Welfare of the Tribe and its members shall help fund: Education Administration, Tribal Scholarships, Community Education, Headstart support, employee assistance and training, Public Works Department, new homes and mobile homes, repairs and maintenance, Health Department, Tribal Elders Program, etc.

**E.** The portion allocated to Economic Development shall help fund: the Economic Development Department, Planning Department, Business loans, land acquisitions, purchase of businesses, casino expansion, etc.

**F.** The charitable donations will be decided by the Council based on requests or perceived needs based on a donations policy to be developed by Tribal Council.

#### **SECTION IV. ELIGIBILITY**

**A.** Persons who are duly enrolled members of the Tribe under the Tribal Constitution and Enrollment Statute midnight on November 30 of each year shall be eligible to receive a per capita distribution as determined under Section III (B) to be mailed out between December 1 and January 1 of each year.

**B.** Individual Tribal members will be allowed to have their check mailed to an address other than their own, only if a notarized statement is received at least 10 days prior to the actual distribution date. The check will be made payable only to the Tribal member.

#### **SECTION V. PROTECTION OF INTEREST OF MINORS, LEGAL**

**LTBB Revenue Allocation Plan adopted by Resolution 100503-01, renewed by Resolution 062704-07, Approved by Department of Interior September 2, 2004; amended by Resolution 100905-06, approved by Department of Interior February 6, 2006, and amended by Resolution 061106-22, approved by Department of Interior July 17, 2006, Page 3**

## INCOMPETENTS, AND UNKNOWN WHEREABOUTS

**A.** The annual per capita payment to minors and other legally incompetent persons who are entitled to receive such payment under Section IV shall be drawn in the name of the child or incompetent person but sent to their parent or legal guardian after the parent or legal guardian submits the following signed, notarized statement to the Tribe. A signed notarized statement must be received by the Tribe each year before a check for the minor or incompetent will be sent:

I AM A PARENT OR LEGAL GUARDIAN OF

\_\_\_\_\_ (child or ward's name),

BORN \_\_\_\_\_ (birth date), TRIBAL MEMBERSHIP # \_\_\_\_\_. I

UNDERSTAND AND AGREE THAT THIS CHILD OR WARD IS ENTITLED TO RECEIVE A PER CAPITA DISTRIBUTION CHECK FROM THE NET GAMING REVENUES OF THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS. I WILL ENSURE THAT THESE FUNDS ARE USED FOR THE HEALTH, EDUCATION OR WELFARE OF MY CHILD OR WARD AND FOR ABSOLUTELY NO OTHER PURPOSE., AND UNDERSTAND THAT I MAY BE REQUIRED TO SUBMIT AN ACCOUNTING OF THE EXPENDITURE OF THESE FUNDS TO THE TRIBE.

**B.** Minor children who may be wards of the Tribal Court or any other court of competent jurisdiction will have their checks forwarded to the Tribal Court and the Judge will determine to whom the funds will be disbursed for the child's health, education and welfare and require such accounting as the Court deems appropriate.

**C.** In the event that the per capita distribution exceeds \$2,500.00 annually, then the funds for minors and incompetents will not be distributed under subsection A above, but rather placed in a trust account to be released to the member upon reaching the age of 21. Early withdrawals can only be made upon petition to and order of the Tribal Court upon a finding of the Tribal Court that such early withdrawal is needed for the health, education or welfare of the child or incompetent where no other funding is reasonably available.

**D.** Incompetent qualified Tribal member---To be deemed incompetent under this Plan, a

qualified tribal member over the age of 18 must be declared incompetent by a court of competent jurisdiction prior to any disbursement of monies to any individuals. His/her guardian must inform the Tribe, with sufficient written evidence, that he/she is the incompetent's legal guardian along with the guardian and incompetent's current address(es) prior to the aforementioned disbursement. If the Tribe does not receive such notification, then the Tribe may release his/her share to the individual at his/her last known address and the Tribe will bear no further responsibility for the individual's funds.

**E.** Members whose whereabouts are unknown shall have their money held until their whereabouts are known or until reasonable proof of death is presented to the Tribal Court at which time the monies due to the member shall be distributed to their estate. If no heirs can be determined by the Tribal Court, the monies shall be returned to the Tribe.

#### **SECTION VI. TAXATION**

The membership will be informed that the payment is subject to all applicable federal taxes. Federal income tax will be withheld from the payment when required by the use of the withholding tables provided by the Internal Revenue Service for the "Distribution of Indian Gaming Profits to Tribal Members" at 26 CFR 3402(r)-1 or any successor regulation. Members shall also be informed that this payment may potentially effect their eligibility for needs based public benefits programs.

#### **SECTION VII. ATTACHMENT**

The funds distributed to Tribal members under this Plan shall not be subject to attachment to satisfy any lien, judgement or any other debt, except for enforcement of child support orders entered in the LTBB Tribal Court. Such orders include those entered in original LTBB Tribal Court actions and orders entered by the Tribal Court granting full faith and credit to support orders from other jurisdictions after filing in, and review by, the LTBB Tribal Court.

#### **SECTION VIII. DISPUTE RESOLUTION PROCEDURE**

**A.** Determination by Tribal Council. Should a dispute arise regarding the allocation of net gaming revenues of the annual per capita payment, any LTBB Tribal member with such a dispute

shall make a written submission to the Tribal Council for a determination on the controversy. The submission shall include facts regarding the nature of the controversy, actions taken up to the time of the written submission and by whom, the member's request for relief and any legal or factual support for the request. The Tribal Council, by at least quorum, shall review the written submission and determine whether an allocation/distribution or denial thereof is consistent with the terms and purpose of this Plan and Section 11 (b)(3) of the Indian Gaming Regulatory Act [25 U.S.C. § 2710 (b)(3)]. The Tribal Council, in making its determination, may accept written or oral evidence in support of its submissions. The Tribal Council shall inform the parties involved in the controversy in writing of its decision and the reasons supporting its decision, addressing the terms and purposes of the Plan and Section 11 (b)(3) of the Indian Gaming Regulatory Act.

**B.** Appeal to the Tribal Court. Any party to the controversy may appeal any decision made by the Tribal Council under Section (A) above to the Tribal Court in accordance with the Tribal Court Statute and Tribal Court Rules.

**C.** Scope of Dispute Resolution. The procedures listed in (A) and (B) above are not intended to provide a forum for amending the Plan. Any amendments to the Plan must be approved by official action of the Tribal Council, and by the Secretary of the Interior under Section 11 (b)(3) of the Indian Gaming Regulatory Act.