

Title: **Policy for Management of Capital Project Funds**

Policy: To ensure that all budgets, contracts and expenditures from the capital project fund established for the purpose of constructing buildings, infrastructure or other assets are properly authorized and executed. Proper Internal control will be followed to ensure that only valid and authorized transactions are entered into, recorded and paid. Procedures will be implemented to ensure:

1. compliance with budgets;
2. approved scope;
3. approved contracts and other payments;
4. the accuracy of amounts invoiced;
5. that amounts are in accordance with contract terms;
6. that the contracts and expenditures are properly approved;
7. that payments are timely made.

Purpose: To develop procedures for approving budgets, scope, design, contracts, change orders, purchase orders, and general conditions. Further, to document the process to approve payments due under contracts, purchase orders or other general conditions.

Scope: This procedure applies to all transactions for the capital projects funds established by Tribal Council action.

Definitions:

1. **“Work Group”** refers to the committee appointed by the Executive as required by the Tribal Council action approving the plan for the development and/or construction of a building, infrastructure or other asset. The Executive may include a Council member in the workgroup but such Council members’ participation must be approved by Tribal Council action.
2. **“Owner’s Representative”** means the person selected by the Executive to represent the Tribe in communications with the architects, engineers and contractors in order to complete the project and to provide general management of the project (namely, budget, schedule, and quality)
3. **“CFO”** means the Chief Financial Officer of LTBB.
4. **“Legal”** means the Legal Department of the LTBB.
5. **“Guaranteed Maximum Price” GMP** means a construction contract whereby the general contractor agrees to a maximum price of a construction project prior to having completed drawings and specifications.
6. **“Tribal Chairman”** means the current Tribal Chairman duly elected by the members of the LTBB and includes the Chairperson under the constitution.

Procedure:

1.0 Budgets:

- 1.1 The project will have a Project Budget approved by Tribal Council Resolution which includes ALL costs related to the project.
- 1.2 Reallocation of line items and contingency within the Project Budget that do not affect the approved Project Description will be reviewed and agreed upon by the Work Group and approved by the Owner's Representative, CFO and the Tribal Chairman or his/her designee.
- 1.3 An increase in the overall Project Budget OR a material change in the Project Description (scope) will require a Resolution by the Tribal Council.
- 1.4 All design, quality, schedule and other documents will be reviewed and agreed upon by the Work Group.

2.0 Contracts and Contract Change Orders:

- 2.1 The construction services contract will be approved by the work group unless above 1 million dollars then by Tribal Council.
- 2.2 All initial financing agreements and initial loan documents will be approved by Tribal Council Resolution if any. Any subsequent document which would alter the terms and conditions or understanding of same by the Tribal Council will be approved by Tribal Council Resolution. The Tribal Chairman or his designee will be authorized to sign any such documents following the Tribal Council Resolution.
- 2.3 All other contracts and change orders, including change orders to the construction contract will be reviewed and or approved in the order as follows:
 - 2.3.1 First by Owners Representative *Review and approve*
 - 2.3.2 Chief Financial Officer *Review and approve*
 - 2.3.3 Legal *Review and negotiate legal terms as necessary*
 - 2.3.4 Tribal Chairman or his/her designee *Review and signature*
- 2.4 Where standard contracts, change orders, and Independent Contractor Agreements are used that the Legal Department has previously approved the format, legal review will not be required.

3.0 Construction Change Directives (Field Orders) and GMP Amendments

Capital Project EXEC-A 190-00

Revised

Effective date: Tribal Resolution 050706-09

MANAGEMENT OF CAPITAL PROJECTS

3.1 At times during the construction process it is necessary to direct minor changes in the project in the field as to not cause delay to the project and unduly increase the project cost or completion schedule. When schedule does not allow for the standard process of a Change Order, a Construction Change Directive with a not-to-exceed cost maybe used when reviewed and or approved in the order as follows:

- 3.1.1 First by Owners Representative *Review and approve*
- 3.1.2 Chief Financial Officer *Review and approve*
- 3.1.3 Tribal Chairman or his/her designee *Review and signature*

Construction Change Directives will be added to the contract by the standard Change Order review and approval process. The Owners Representative will track all pending Construction Change Directives and the status of each Construction Change Directive will be included in the Monthly Report to Tribal Council.

3.2 IF the construction contract requires Owner approval of all subcontracts and cost items within the GMP. The GMP Amendment will note these items and is for items within the GMP and will not effect the GMP contract amount. The GMP Amendment will be reviewed and or approved in the order as follows:

- 3.2.1 First by Owners Representative *Review and approve*
- 3.2.2 Chief Financial Officer *Review and approve*
- 3.2.3 Tribal Chairman or his/her designee *Review and signature*

4.0 Purchase orders:

4.1 Purchase orders rather than contracts will be used for a variety of goods and services where it is appropriate to due so given the nature of the transaction. If the PO is for less than \$5,000 it may be approved by the Owners Representative, CFO and the Tribal Chairman or his/her designee. All purchase orders under \$5,000.00 for a given month, will be included in the Monthly Report to Tribal Council.

4.2 Purchase orders greater than \$5,000 will be processed for approval as specified in 2.3 except that legal review may not be required depending on purchase order items.

5.0 General Conditions, Travel and Meetings:

5.1 Some general condition items (such as meeting and travel costs for the work group, materials testing, surveys, permits and fees) may need to be paid directly by the Tribe rather than by the General Contractor. These costs will be paid from the invoice pursuant to normal payment policies of the Tribe when approved by the Owners Representative, CFO and Tribal Chairman or his/her designee. If such costs exceed \$5,000 per month to a single vendor then a purchase order shall be used and meet the approval process set forth in 2.3 except legal review may not be required depending on purchase order items.

MANAGEMENT OF CAPITAL PROJECTS

6.0 Payments:

- 6.1 Payments required under the terms of an approved contract or purchase order as specified above will be reviewed and approved by the Owner's Representative, CFO, and Tribal Chairman or his/her designee before being sent to Tribal accounts payable for payment.
- 6.2 Payments from invoices for general conditions will be approved as stated above and paid by the Tribal accounting office.
- 6.3 Exhibits and Certifications required by the financing documents, if any, after closing that require LTBB signature will be reviewed and or approved in the order as follows:
 - 6.3.1 First by Owners Representative *Review and approve*
 - 6.3.2 Chief Financial Officer *Review and approve*
 - 6.3.3 Tribal Chairman or his/her designee *Review and signature*

7.0 Dispute Resolution:

- 7.1 If a vendor/contractor has a dispute regarding contract terms or payment the vendor/contractor will first address such issues with the Owners Representative. If the Owners Representative cannot resolve the issue the vendor/contractor may address their complaint to the CFO. If resolution cannot be determined then the Owners Representative and the CFO will review the issue with Legal Counsel and then bring the issue to the Work Group for their review. If resolution can still not be achieved the vender/contractor may then follow the contractual dispute resolution process.

8.0 Monthly Reports:

- 8.1 A monthly report will be provided by the Owner's representative to the Tribal Chairman and Tribal Council covering budget, scope, schedule and other issues of which the Tribal Council should be made aware.

Capital Project Approval Process

Project name _____

Date _____

Contract _____

Change Order _____

Purchase order _____

Notice to proceed _____

GMP Amendment _____

Name of Contractor/ Vendor _____

Nature of work to be performed or product to be purchased _____

Current Contract Amount _____

Change Amount _____

New Contract Total _____

Within Project budget (yes or no) _____

ALL OF THE FOLLOWING INDIVIDUALS MUST REVIEW AND SIGN OFF ON THIS DOCUMENT BEFORE IT IS PRESENTED TO THE CHAIRMAN OR HIS/HER DESIGNEE SHALL REVIEW AND SIGN THIS FORM AND ANY CONTRACT DOCUMENTS.

Name	Signature	Date
OWNERS'S REPRESENTATIVE _____		

Comments _____

CFO _____
Comments _____

LEGAL REVIEW _____
Comments _____

TRIBAL CHAIRMAN _____
Comments _____

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
7500 Odawa Circle
Harbor Springs, MI 49740

TRIBAL RESOLUTION # 050706-09

Approval of Policy for Management of Capital Project Funds

WHEREAS the Waganakising Odawak Nation, known as the Little Traverse Bay Bands of Odawa Indians, and its citizens are vested with inherent sovereignty and right to self-governance;

WHEREAS the Little Traverse Bay Bands of Odawa Indians is a federally recognized Indian Tribe under Public Law 103-324, and is a party to numerous Treaties with the United States the most recent of which being the Treaty of Washington of March 28, 1836 (7 Stat. 491) and the Treaty of Detroit of 1855 (11 Stat. 621);

WHEREAS The Tribal Constitution in Article VII(D)(2) delegates to the Tribal Council the power “to Approve or disapprove policies, resolutions and regulations presented from the Executive branch;”

WHEREAS the Tribal Council reviewed the “Policy for Management of Capital Projects Capital Project Funds” presented by the Executive in the Executive Report to the Tribal Council dated May 7, 2006;

THEREFORE, BE IT RESOLVED that Tribal Council approves the “Policy for Management of Capital Projects Capital Project Funds” presented by the Executive in the Executive Report to the Tribal Council dated May 7, 2006 effective immediately.

CERTIFICATION

As the Legislative Leader and Tribal Council Secretary, we certify that this Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on May 7, 2006 at which a quorum was present, by a vote of 6 in favor, 1 opposed, 1 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Regina Gasco Bentley	X			
Fred Harrington, Jr.	X			
Dexter McNamara				X
Mary Roberts	X			
Rita Shananaquet		X		
Alice Yellowbank	X			
Shirley Oldman			X	
Melvin L. Kiogima	X			
Beatrice A. Law	X			

Date: May 11, 2006

Beatrice A. Law, Legislative Leader

Date: May 11, 2006

Melvin L. Kiogima, Secretary

Received by the Executive Office on May 17, 2006 By Ellie Payton

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: May 29, 2006

Frank Ettawageshik, Tribal Chairperson