LITTLE TRAVERSE BAY BANDS
OF ODAWA INDIANS

" CONTRACTING POLICY

Approved by Tribal Council 2/19/2006
Policy number
Exec A 300-02

The basic purpose of the contracting policy is to support the Tribe's program activities by obtaining the services needed in an a manor which is complaint with Tribal law, IRS code and Tribal Policy.

The special policies, procedures, and provisions required in contracting for construction, architectural and engineering, and related services are not covered in this manual. Construction services contracts require appropriate legal review for each project in excess of $25000. Small contractual agreements for repairs, maintenance and improvements will be handled through the contracts department.as a service contract.

A copy of any and all contracts for goods and or services entered into on behalf of the Tribal government shall be forwarded to the contracting department to maintain a central repository of all contracts. (excluding employment contracts and equipment maintenance contracts.)

1. **"SERVICE CONTRACTING":**
   A. **Service Contract** -
   Means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. A service contract may be either a non-personal or personal contract. It can also cover services performed by either professional or non-professional personnel whether on an individual or organizational basis. Some of the areas in which service contracts are found include the following:

   i Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment

   ii Routine recurring maintenance of real property

   iii Housekeeping and base services

   iv Advisory and assistance services

   v Operation of Government-owned equipment facilities, and systems

   vi Communications services

   vii Architect-Engineering (Subpart 36.6)

   viii Transportation and related services (Part 47)

   ix Research and development (Part 35)

   x Childcare Services (Including Foster/Adoptive Care)

   B. **Non-Personal Services Contract** - Means a contract made under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

C. **Personal Services Contract** - Means a contract that, by its express terms or as administered, makes the contractor personnel appear, in effect, Government employees but does not otherwise meet the criteria of an employee under IRS guidelines..

2. RESPONSIBILITES OF THE CONTRACTING DEPARTMENT

Standards of Conduct for Contracting Personnel - All Tribal Managers, and employees, who are involved in the Contracting activities must follow the standards of conduct set forth below, as well as Section 104, of the LTBB Personnel Policy Manuals Business Ethics and Conduct Code. Compliance with these standards is necessary so that the Tribe can meet the requirements contained in federal regulation and in OMB Circular A-102. Compliance is also necessary to uphold the Tribe's integrity and best interest among those with whom it does business.

i. Tribal Managers and employees will refrain from participating in contracting activities in which they have a real or probable conflict of interest. Such a conflict arises when the Tribal Manager, or employee, has a financial or other interest in a firm being considered for award of a contract. It also arises when an "immediate" family member (husband, wife, son, daughter, step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, step-child), or a business partner or associate of the Tribal officer, employee, or agent has an interest in the firm.

ii. Tribal officers, employees, and agents will not solicit or accept gratuities, favors, or gifts of monetary value from contractors, potential contractors, or parties to sub-agreements. (Excludes deminimis gifts such as coffee mugs, pens, small food baskets and candy.)

iii. Any Tribal officer, employee, or agent who has unknowingly obtained any benefit resulting from a contract awarded by the Tribe will immediately, upon discovery, report the benefit to his or her immediate superior. Failure to report such a benefit is a breach of the ethical standards governing Tribal contracting activities.

iv. No Manager, or employee, of the Tribe shall knowingly use confidential information for actual or anticipated personal gain.

v. Tribal Managers, or employees, engaged in contracting activities will at all times act in good faith when dealing with actual or potential contractors.

vi. Any Tribal Manager, or employee, who has doubts about the propriety of an action or decision, shall refrain from taking that action or making that decision. When advice or counsel would be helpful and proper, the Tribal Manager, or employee, should seek it.

RESPONSIBILITIES OF STAFF IN THE CONTRACTING PROCESS -

Program Personnel Responsibilities: Program personnel are responsible for identifying what services are needed and then communicating those needs to the Contracts Manager. Thus, preparation of contract requisitions is the responsibility of the Tribe's Program personnel. Those personnel must make sure that the contract requisition they submit provide clear, accurate, and complete descriptions of the program requirements. In addition, they must make sure-before submitting a contract requisition that securing of these services requested is allowable under the program budget and adequate finances are available to cover services being obtained. Any necessary approvals or clearances must be obtained prior to submittal of Contract Requisition to Contracts Manager and services starting.

Contracts Manager Responsibilities: The Tribe's Contracts Manager is responsible for assuring that all contracting activities are carried out properly and in a manner that best serves the interest of the Tribe. The Contracts Manager is the person with primary responsibility for representing the Tribe as it enters into agreements with contractors. As such, the Contracts Manager carries out many contracting responsibilities, including, but not limited to:

i Assisting the Program Directors in their planning for contracts and in their preparation of Contract Requisitions and statements of work.

ii Seeking competitive quotations, bids, and proposals whenever feasible, to ensure that the Tribe pays no more than is necessary to meets its requirements.

iii Determining whether potential contractors are responsible, i.e., have the financial resources, personnel, facilities, integrity and overall capability to successfully meet the needs of the Tribe.

Coordinating and conducting all proposal solicitation and evaluation activities according to federal regulations and tribal procedure when the Tribe seeks to enter into a contract for Professional Services:

- Reviewing the statement of work by program personnel.
- Determining whether competitive proposals can be sought and, if so, preparing and issuing a request for proposals and establishing a due date for proposals.
- Assisting program personnel in stating adequate proposal evaluation criteria.
- Deciding whether offers in excess of or different from the request for proposal's specifications should be considered.
- Issuing approved contracts.
- Ensuring that a contractor's performance is adequately monitored.
- Handling all amendments, modifications, terminations, disputes in regards to contracting.

- Documenting all contracting activities.

- Maintaining originals of all active contracts, noting payment terms and conditions to make sure that they are fulfilled.

    - Contracts manager will evaluate on an ongoing basis the adequacy of the contracting policy ensuring that the Tribe stays compliant with changes in federal law, Tribal Law and IRS,.

  The contracts manager will work with departmental managers to ensure compliance with the contracting policy and provide guidance to assist in assuring contractor compliance..

D. **TIMELINES FOR CONTRACTING** - Contract requisitions must be submitted to the contracts manager at least 14 days prior to the need for services to be rendered when the vender to provide the services is known and no bidding of the contract is required. (IE continuation of a personnel services contract or contract awarded by Tribal Council motion.) When bidding and RFQ's or RFP's are required the contract requisition must be submitted a minimum of 30 days in advance. When the process of selecting a vender will be lengthy the department head must contact the contracts manager as early as possible to set the process in motion and begin the contract requisition process.

E. **NON-COMPETITIVE CONTRACT:**

- DEVELOP CONTRACT BASED ON THE CONTRACT REQUISTION UTILIZING STANDARD CONTRACTING LANGUAGE.
- STANDARD CONTRACTS WILL BE USED FOR ALL CONTRACTS THE FORM AND CONTENT OF WHICH WILL BE APPROVED BY THE CFO AND LEGAL COUNSEL. ANY DEVIATIONS FROM THE STANDARD FORM WILL REQUIRE APPROVAL OF LEGAL COUNSEL AND/OR THE CFO DEPENDING ON THE COMPLEXITY OF THE ITEMS CHANGED.

- ALL CONTRACTS IN EXCESS OF $5000 WILL BE REVIEWED BY THE CFO BEFORE BEING PRESENTED FOR SIGNATURE TO THE TRIBAL ADMINISTRATOR OR THE CONTRACTOR.

- THE CONTRACTS MANAGER WILL REVIEW THE FINAL APPROVED CONTRACT WITH THE PROGRAM MANAGER BEFORE FINAL SIGNATURES ARE OBTAINED TO ENSURE THE PROGRAM MANAGER/DIRECTOR IS AWARE OF ANY CHANGED TERMS OR CONDITIONS.

- THE TRIBAL ADMINISTRATOR IS AUTHORIZED TO SIGN ALL CONTRACTS UP TO $25,000. CONTRACTS IN EXCESS OF THIS AMOUNT GO TO THE TRIBAL CHAIRMAN OR HIS DESIGNEE FOR REVIEW AND SIGNATURE. ANY CONTRACT CONTAINING A WAIVER OF SOVERIGN IMMUNITY MUST GO TO THE TRIBAL

CHAIRMAN. THE CHAIRMAN OR HIS DESIGNEE CAN ONLY SIGN A CONTRACT CONTAINING A WAIVER OF SOVERIGN IMMUNITY TO THE EXTENT THAT SUCH VAIVER HAS BEEN AUTHORIZED BY THE TRIBAL COUNCIL THROUGH STATUTE OR RESOLUTION..

- DISTRIBUTION OF SIGNED AND COMPLETED CONTRACT TO THE PROGRAM MANAGER/DIRECTOR AND ACCOUNTING.

Note: =10 BUSINESS DAYS – "MINIMUM"

D. COMPETITIVE CONTRACTING:

- REVIEW OF CONTRACT REQUISITION BY CONTRACTS MANAGER, AND RETREIVAL OF INFORMATION FROM PROGRAM MGR. IF ALL NECESSARY INFORMATION IS NOT ON CONTRACT REQUISITION TO PREPARE A REQUEST FOR PROPOSAL (RFP).

- PREPARATION OF RFP BY CONTRACTS MANAGER

- MAILING OF RFP'S TO OFFERER'S.

- RECEIPT OF ALL RFP'S

- EVALUATION OF ALL RFP'S RECEIVED, REVIEW WITH PROGRAM MANAGER/DIRECTOR.

- DEVELOP CONTRACT BASED ON THE CONTRACT REQUISTION UTILIZING STANDARD CONTRACTING LANGUAGE.
- STANDARD CONTRACTS WILL BE USED FOR ALL CONTRACTS THE FORM AND CONTENT OF WHICH WILL BE APPROVED BY THE CFO AND LEGAL COUNSEL. ANY DEVIATIONS FROM THE STANDARD FORM WILL REQUIRE APPROVAL OF LEGAL COUNSEL AND/OR THE CFO DEPENDING ON THE COMPLEXITY OF THE ITEMS CHANGED.

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- DISTRIBUTION OF COPY OF CONTRACT TO THE PROGRAM MANAGER/DIRECTOR AND THE ACCOUNTING OFFICE.

SAMPLE INDEPENDENT CONTRACTING AGREEMENT

INDEPENDENT CONTRACTING AGREEMENT

Parties

1. The Little Traverse Bay Bands of Odawa Indians (hereafter "LTBB") is a federally recognized Indian Tribe.

2. **CONTRACTOR'S NAME,** (hereafter "Contractor") is an individual independent contractor.

AGREEMENT FOR SERVICES AND PAYMENT

3. **Services.** The Contractor shall perform the following services for the LTBB:

Comment [k1]:

SCOPE OF WORK HERE.

Any changes to the scope of work for this contract shall require prior written approval of the Contracts Manager or the Tribal Administrator for payment to be honored.

4. **Payment.** Contractor shall be paid a total not to exceed **$AMOUNT** dollars. Payment Terms: The Contractor shall submit invoices at the hourly rate of $_____ for actual hours worked to the program manager/director, who shall initial the invoice to indicate that services billed have been satisfactorily provided. The invoice shall then be given to accounting for processing of the payment against the issued purchase order. Invoices must be received by the accounting department no later than noon on Monday. A check will be issued on Wednesday or Thursday of that week if timely received and appropriately approved.

Expenses. The following expenses are reimbursable at their actual expense to contractor

5. **Termination.** Either party may terminate this contract on fourteen (14) days written notice to the other Party for any reason at which time all fees will be adjusted on a prorated basis as determined by the Tribal Administrator.

6. **Term.** This Agreement shall begin on, **BEGINNING DATE,** and shall terminate on, **ENDING DATE,** unless terminated earlier under paragraph 5. In the event that the project is incomplete at the expiration date, LTBB shall have the option of extending this agreement or terminating this agreement and adjusting any final payment to the percentage that the job is complete as determined by the Contracts Manager.

7. **Independent Contractor.** The Parties understand and agree that this Agreement is for independent contracting services. The L.T.B.B. provides no benefits to Contractor including, by way of example only, unemployment insurance, health insurance, worker's compensation insurance or any type of paid leave. Contractor is responsible for payment of all liability insurance, and applicable federal, state, and local income taxes.

8. **Disputes.** The Contractor acknowledges that LTBB is a sovereign government and therefore, retains all aspects of sovereignty including immunity from suit. If a dispute arises regarding any portion of this contract, LTBB may choose to waive its sovereign immunity and adjudicate the issue in LTBB Tribal Court if such waiver is explicitly authorized by the Tribal Council.

EARNINGS IN EXCESS OF $600.00 IN ONE YEAR WILL BE REPORTED TO THE INTERNAL REVENUE SERVICE AS EARNED INCOME.

The undersigned Parties have read, understood all the terms of, and freely enter into this Agreement. This Agreement is not binding until all parties have signed.

1.) _____ **Dated:** ___/___/2004
Tribal Administrator

2.) _____ **Dated:** ___/___/2004
Contractor's Signature

3.) _____ **Dated:** ___/___/2004
Contracts Manager

The Independent Contracting Agreement may also include one or more of the following:

Invoices and Payment

Invoices shall contain sufficient supporting data for the Tribe to ensure that the services covered by the invoice were performed in a satisfactory manner. Contractors providing legal, medical, accounting, management, or consulting services shall provide detailed information concerning the services covered by the invoices; summary statements will not be accepted. Invoices shall list the date of invoice, and other data as required by the Tribe.

Taxes

Materials provided under this agreement are exempt from State taxes. Contractor shall obtain necessary forms from LTBB's Contracts Manager or legal department to implement these exemptions.

Bonding/Insurance

A. If the Contractor will perform any of the required services on Tribal property, it shall maintain liability insurance in the amount of _____ _____ and shall furnish the Contracts Manager with a certificate of such insurance.

B. If this contract is for legal, medical, architectural, engineering, or accounting, services, the contractor shall maintain errors and omissions insurance in the amount of $_____, and shall furnish the Contracts Manager with a certificate of such insurance.

Permits and Licenses

The Contractor shall be responsible for obtaining all necessary federal, state, or local permits or license for performance of the work, without additional charge to the Tribe.

Changes

a. The Contracts Manager may at any time, by written order, make changes within the general scope of this contract in any one or more of the following:
   (1) Description of services to be performed
   (2) Time of performance (hours of the day, days of the week, etc.)
   (3) Place of performance of the services

b. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracts Manager shall make an equitable adjustment in the contract price, the delivery schedule or both and shall modify the contract.

c. The Contractor must submit any "proposal for adjustment" (referred to as proposal) under this clause within 30 days from the date of receipt of the written order. However, if the Contracts Manager decides that the facts justify it, the Contracts Manager may receive and act upon a proposal submitted before final payment of contract.

d. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracts Manager shall have the right to prescribe the manner of the disposition of the property.

e. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

Inspection

a. "Services" as used in this section, includes services performed, workmanship, and material furnished or utilized in the performance of services.

b. The Tribe has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract. The Tribe shall perform inspections and tests in a manner that will not unduly delay the work.

c. If any of the services do not conform with contract requirements, the Tribe may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the Tribe may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

d. If the Contractor fails to promptly perform the services again or to take the necessary requirements, the Tribe may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Tribe that is directly related to the performance of such service or (2) terminate the contract for default.

Disputes

"Claim" as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment of interpretation of contract terms, or other relief arising under or relating to this contract. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. It may be converted to a claim, by complying with the submission requirements of this clause, if it is disputed either as to liability or amount or if it is not acted upon in a reasonable time.

Any claim by the Contractor shall be submitted in writing to the Tribe's Contracts Manager for a written decision. A claim by the Tribe against the Contractor shall be subject to a written decision by the Contracts Manager. The Contracts Manager may consult with the TribalAdministrator regarding proper disposition of the claim. The Contracts Manager, and Tribal Administrator's decision shall be final.

The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracts Manager and Tribal Administrator.

Termination for Convenience

a. The Tribe may terminate performance of work under this contract in whole, or in part if the Contracts Manager determines that a termination is in the Tribe's best interest. The Contracts Manager shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

b. After receipt of a Notice of Termination, unless otherwise directed by the Contracts Manager, the Contractor shall immediately proceed with the following directions, regardless of any delay in determining adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.
(2) Place no further subcontracts or orders (referred to as subcontracts in this section) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
(3) Terminate all subcontracts to the extent they relate to the work terminated,
(4) Assign to the Tribe, as directed by the Contracts Manager, all right, title and interest of the Contractor under the subcontracts terminated, in which case the Tribe shall have the right to settle or to any termination settlement proposal arising out of those terminations.
(5) With approval or ratification to the extent required by the Contracts Manager, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this section.
(6) As directed by the Contracts Manager, transfer title and deliver to the Tribe (i) the fabricated or un-fabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawing, information, and other property that, if the contract had been completed, would be required to be furnished to the Tribe.
(7) Complete performance of the work not terminated.
(8) Take any action that may be necessary, or that the Contracts Manager may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Tribe has or may acquire an interest.
(9) Use its best efforts to sell, as directed or authorized by the Contracts Manager, any property of the types referred to in subparagraph (6) above; provided, however that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracts Manager. The proceeds of any transfer or disposition will be applied to

reduce any payments to be made by the Tribe under this contract, credited to the Tribe under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracts Manager.

c. After termination, the Contractor shall submit a final termination settlement proposal to the Contracts Manager in the form and with the certification prescribed by the Contracts Manager. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracts Manager upon written request of the Contractor within this 1-year period. However, if the Contracts Manager determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracts Manager may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

d. Subject to paragraph "c" above, the Contractor and the Contracts Manager may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (e) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

e. If the Contractor and the Contracts Manager fail to agree on the whole amount to be paid because of the termination of work, the Contracts Manager shall pay the Contractor the amounts determined by the Contracts Manager.

f. The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect of the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

g. The Contractor shall have the right to appeal, under the Disputes section, from any determination made by the Contracts Manager, except that if the Contractor failed to request a time extension, there is no right to appeal.

h. In arriving at the amount due to the Contractor under this clause, there shall be deducted:

(1) All un-liquidated advance or other payments to the Contractor under the terminated portion of this contract.

(2) Any claim which the Tribe has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Tribe.

i. If the termination is partial, the Contractor may file a proposal with the Contracts Manager for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracts Manager shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within

90 days from the effective date of termination unless extended in writing by the Contracts Manager.

j. Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Tribe, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracts Manager, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

Termination for Default

a. (1) The Tribe may, subject to paragraphs "c" and "d" below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to-
- Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- Make progress, so as to endanger performance of this contract.
- Perform any of the other provisions of this contract.

(2) The Tribe's right to terminate this contract under the provisions above, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracts Manager) after receipt of a notice from the Contracts Manager specifying the failure.

b. If the Tribe terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracts Manager considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Tribe for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

c. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor.

d. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform.

e. The Tribe shall pay the contract price for completed services performed and accepted.

f. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Tribe.

g. The rights and remedies of the Tribe in this clause are in addition to any other rights and remedies provided by law or under this contract.

Gratuities

The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the Tribal Chairman or a designee determines that the Contractor or its representative (1) offered or gave a gratuity (e.g., entertainment or gift) to an officer, agent, or employee of the Tribe and (2) intended by the gratuity to obtain a contract or favorable treatment under a contract. The facts supporting this determination may be reviewed by LTBB courts. If this contract is so terminated, the Tribe is entitled to pursue the same remedies as in a breach of the contract.

Covenant Against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except a bona fide employee or bona fide established selling agent maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Tribe shall have the right to annul this contract without liability or in its discretion to deduct from the contract price, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Notice

Notices to either party shall be given by addressing the communications to the address set forth in this agreement or to such other address as shall be later given in writing, and depositing the same in the United States mails, postage paid.

Controlling Law

Except to the extent that the federal law may control, this agreement shall be governed by the laws of the Little Traverse Bay Bands of Odawa Indians.

Successors and Assigns

This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

No Agency

This agreement shall not constitute either party a legal representative or agent of the other, nor permit it to incur any liability or obligation of any kind, express or implied, against or in the name of, or on behalf of, any other party, except as may be specifically provided herein.

Equal Opportunity

a. Except to the extent Tribal and Indian Preferences are allowable under federal and LTBB law, the Contractor will not discriminate against any employee or applicant for employment because of race, age, religion, or sex. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, age, religion, or sex. Such action shall

include, but not be limited to, the following: Employment, up-grading, demotion, or transfer; recruitment of recruitment advertising; payoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

b. The Contractor will, in all solicitations or advertisements for employees place by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, age religion, or sex.

Use of Indian Business Concerns

a. As used in this clause, the term "Indian business concern" means Indian organizations or an Indian-owned economic enterprise as defined in 25 CFR 271.2.

b. The Contractor agrees to give preference to qualified Indian business concerns in the awarding of any subcontracts entered into under the contract consistent with the

c. If no Indian business concerns are available under the conditions in paragraph (b) above, the Contractor agrees to accomplish the maximum amount of subcontracting, as the Contractor determines is consistent with its effecient performance of the contract, with small business concerns, labor surplus area concerns, or small disadvantaged business concerns, the definition for which are contained in Subpart 19.1 and 20.1 of the Federal Acquisition Regulation. The Contractor is not, however, required to establish a small business, labor surplus, or minority business sub-contracting program as described in sections 19.7 and 20.3 of the Federal Acquisitions Regulation.

Indian Employment Preference

a. The Contractor shall give preference in employment for all work performed under the contract, including subcontracts, to qualified LTBB members and other Indians in accordance with LTBB law, and, to the extent feasible consistent with the the efficient performance of the contract, provide employment and training opportunities to LTBB members and other Indians to enable them to perform under the contract.

b. If the Contractor or any of its subcontractors is unable to fill its employment opening after giving full consideration to Indians as required in paragraph (a) above, these employment openings may then be filled by other persons under the conditions set forth in the Equal Opportunity clause of this contract.

c. The Contractor agrees to include this clause or one similar thereto in all subcontracts issued under the contract.

Signed on behalf of Tribe	Signed on behalf of Contractor
Name	Name
Title	Title
Date	Date

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:

Deleted: Statute

Deleted: enacted

	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: _____

_____
Beatrice A. Law, Legislative Leader

Date: _____

_____
Melvin L. Kiogima, Secretary

Received by the Executive Office on _____ By _____

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: _____

_____
Frank Ettawageshik, Tribal Chairperson

1:40 p.m.: Elders Report (no report)

3:08 p.m. Recess called
3:20 p.m. Meeting resumes

4:02 p.m. Public Comment opened: Harvey Gibson
4:12 p.m. Public Comment closed

Motion made by Secretary Kiogima and supported by Treasurer Oldman to accept the verbal and written Executive Report as given by Frank Ettawageshik for February 19, 2006, which included 2 confidential reports.
Vote: 7 Yes, 0 No, 0 Abstained, 2 Absent (Councilor Shananaquet, Councilor Yellowbank)
Motion Carried

Motion made by Treasurer Oldman and supported by Councilor McNamara to adopt the LTBB of Odawa's Contracting Policy # EXEC -A 300-02.
Vote: 7 Yes, 0 No, 0 Abstained, 2 Absent (Councilor Shananaquet, Councilor Yellowbank)
Motion Carried

Motion made by Councilor McNamara and supported by Treasurer Oldman to adopt Tribal Resolution# 021906-01 Request for funding from the United States Department of Treasury, Community Development Financial Institutions Program, Technical Assistance Component, Little Traverse Bay Bands of Odawa Indians FY 2006 Application for Technical Assistance.
Roll Call Vote: Councilor Bentley – yes, Councilor Harrington - yes, Councilor McNamara - yes, Councilor Roberts - Yes, Councilor Shananaquet – Absent, Councilor Yellowbank - Absent, Treasurer Oldman - yes, Secretary Kiogima - yes Legislative Leader Law - yes
Motion Carried

Motion made by Treasurer Oldman and supported by Councilor Roberts to adopt Tribal Resolution # 021906-02 Requests for Funding from the U.S Department of the Interior, National Park Service, Native American Graves Protection and Repatriation Act Program Little Traverse Bay Bands of Odawa Indians Expanding NAGPRA Consultation – Information Sharing Project.
Roll Call Vote: Councilor Bentley – yes, Councilor Harrington – Absent, Councilor McNamara - yes, Councilor Roberts - Yes, Councilor Shananaquet – Absent, Councilor Yellowbank – Absent, Treasurer Oldman - yes, Secretary Kiogima - yes Legislative Leader Law - yes
Motion Carried

Motion made by Councilor Roberts and supported by Councilor Bentley to adopt Tribal Resolution # 021906-03 Request for Funding from the U.S Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, Environmental Regulatory Enhancement