# LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
# ODAWA ECONOMIC AFFAIRS HOLDING CORPORATE CHARTER

This Corporation is hereby organized, incorporated and granted its corporate powers, privileges and immunities under the laws of the Little Traverse Bay Bands of Odawa Indians as a Tribally chartered corporation for the purposes set forth in Article III of this charter. The Little Traverse Bay Bands of Odawa Tribal Council grants this corporate charter pursuant to its inherent sovereign authority and pursuant to Part Two of Comprehensive Business Codes of the Little Traverse Bay Bands of Odawa Indians, WOTC 12.114, *et seq.* This Charter creates a Tribal Corporation as defined at WOTC 12.115(B) as a corporation wholly owned by the Little Traverse Bay Bands of Odawa Indians for the benefit of the Tribe and its members, and its ownership is inalienable.

## ARTICLE I: NAME

The name of this Tribal Corporation is Odawa Economic Affairs Holding, Inc. The Corporation shall have its principal place of business at the 7500 Odawa Circle, Harbor Springs, Michigan 49740 or at such other location within the Tribe's territories that the Board of Directors of the Corporation shall determine.

## ARTICLE II: OWNERSHIP

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

## ARTICLE III: PURPOSE

The purpose of the corporation is to act as a general-purpose holding company that establishes uniformity and economic opportunities amongst the designated Tribally Chartered Corporations and LLCs by providing auditing services, reporting requirements, meeting policy and procedures, negotiating fire and utility services, insurance coverages, and other administrative services, in accordance with WOS 2018-015.

## ARTICLE IV: DEFINITIONS

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

**a.** *"Board of Directors"* shall mean the Board of Directors of the Corporation created by this Charter.

**b.** *"Corporation"* shall mean the "Odawa Economic Affairs Holding, Inc., created by this Charter.

**d.** *"Felony"* shall mean only those offenses set forth under Tribal Statute or the United States Indian Major Crimes Act (18 U.S.C. § 1153).

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

**f.** *"Tribe"* or *"LTBB"* means the Little Traverse Bay Bands of Odawa Indians.

**g.** *"Tribal Constitution"* means the Little Traverse Bay Bands of Odawa Indians Constitution as adopted by its membership on February 1, 2005.

**h.** *"Tribe Council"* means the elected body of nine Tribal members of Little Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII. "Tribal Council".

## ARTICLE V: RELATION TO TRIBE

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

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

**b.** The Corporation shall have no power to exercise any regulatory or legislative power; the Tribe reserves from the Corporation all regulatory, legislative and other governmental power.

## ARTICLE VI: ASSETS

The Corporation shall have only those assets of the Tribe formally assigned or leased to it by the Tribal Council, together with whatever assets it acquires by other means as provided in this Charter. No activity of the Corporation, or any indebtedness incurred by it shall encumber, implicate or in any way involve assets of the Tribe or another Tribal Entity not assigned or leased in writing to the Corporation.

## ARTICLE VII: BOARD OF DIRECTORS

The management of the affairs of the corporation shall be vested in a Board of Directors, except as otherwise provided in this Charter or in the bylaws of the corporation.

## ARTICLE VIII: BOARD OF DIRECTORS

**a.** The management of the affairs of the corporation shall be vested in a Board of Directors, except as otherwise provided in this Charter or in the bylaws of the corporation. The Board shall consist of at least three (3) to five (5) members with at least three (3) members being LTBB Tribal Citizens, and who meet the eligibility requirements set out in subsection c. of this section and shall be approved by Tribal Council for a set term, with the intent to have staggered terms:

| (Name) | (Term) |
|---|---|
| 1. Greg Karlis | 09/27/18 – 09/27/21 |
| 2. Cheryl Kishigo-Lesky | 09/27/18 – 09/27/21 |
| 3. Melissa Shomin | 07/23/20 - 07/23/23 |

4. Brent Bennington 08/20/20 - 08/20/23
5. VACANT

**b.** Compensation

**1.** The board members may be compensated a reasonable amount as approved by Tribal Council, provided availability of funds.

**2.** Board members shall adhere to the approved travel policies for reimbursement of travel expenses.

**c.** To serve on the Board a person must meet all of the following criteria:

**1.** A person must be at least eighteen years of age;

**2.** No person can serve on the Board within seven (7) years of completion of a sentence or probation upon being convicted of a felony in tribal, state or federal court, unless such conviction has been vacated or overturned.

**3.** To be considered, a person shall meet the following criteria:

**i.** Must have experience and knowledge in one of the following skills sets: business, accounting or administration.

**ii.** Preferably a bachelor's degree.

**iii.** Must possess leadership qualities, show good judgment, is approachable, and is team focused.

**d.** Ex-Officio Positions. The Board may vote to appoint Ex-Officio members to the board as needed, provided that the Ex-Officio is a non-voting position.

**e.** If a vacancy in the board occurs, the board shall nominate a person for the vacant position. Tribal Council shall fill such position by a majority vote of council. Such

vacancy shall be for either the remainder of the vacant term, or for new term. Such motion shall be considered an amendment to this charter and attached as an addendum to this charter.

**f.** Board members shall not be of the same immediate family. For purposes of this section immediate family means 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, child, step-child.

**g.** No board member may participate in making any decision that involves a personal or financial interest or an interest of his or her immediate family, unless such interest is held in common with the Tribe and its Citizens.

## ARTICLE IX: CORPORATE POWERS

The Corporation shall have the power to:

**a.** To purchase, receive, solicit, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, and otherwise deal in personal or real property of every description, or any interest therein, wherever situated. Provided that in accordance with the Tribal Constitution, before any real property may be sold, convey, or otherwise dispose of all or any part, must be approved by a majority vote by referendum of the LTBB Tribal Citizens, or by a quorum of LTBB Tribal Citizens at an annual membership meeting.

**b.** To lease real property and improvements from the Little Traverse Bay Bands of Odawa Indians.

**c.** To make contracts or agreements, incur liabilities and borrow money from any source, upon such terms and rates and interests as the Board of Directors may determine; to issue notes, bonds and other obligations and secure any of its obligations by specifically mortgaging, pledging or assigning its corporate property or income as collateral for its corporate debts or liabilities, as approved by Tribal Council.

**d.** To lend or invest money for its corporate purposes.

**e.** To conduct its affairs, carry on its operations, and exercise the powers granted under this Corporate Charter in any state, territory, district, or possession of the United States or in any foreign country.

**f.** To elect or appoint officers and agents of the corporation and define their duties and fix their compensation

**g.** To sue and be sued but only in accordance with Article X of this Charter.

**h.** To have and exercise all powers incidental, necessary or convenient to the conduct of corporate business, not inconsistent with applicable law, and to engage in any and all activities which will directly or indirectly carry out the purposes as set forth in Article III.

## ARTICLE X: SOVEREIGN IMMUNITY

**a.** The Corporation is a distinct legal entity from the Little Traverse Bay Bands of Odawa Indians with its own assets. While the Tribe is the sole owner, the Corporation's corporate activities, transactions, obligations, liabilities and property are not those of the Tribe. Nothing in this charter waives or permits the corporation to waive the Tribe's sovereign immunity from suit.

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

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

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

**3.** Any waivers of sovereign immunity made pursuant to (1) or (2) above shall only expose the assets owned or held by the Corporation and shall not

subject other Tribal assets to liability. Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Tribal Corporation. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, transaction, property or funds, if any, of the Tribal Corporation subject thereto. Neither the power to sue and be sued provided in this Charter, nor any express waiver of sovereign immunity by resolution of the Corporation's Board of Directors or the Tribal Council shall be deemed a consent to the levy of any judgment, lien or attachment upon any property of the Tribal corporation other than property specifically pledged or assigned, or any property of the Tribe, or a consent to suit with respect to any land within the exterior boundaries of the Reservation or consent to the alienation, attachment or encumbrance of any such land.

**c.** Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a federally recognized Indian tribe with respect to the existence of the Tribal Corporation are hereby expressly reserved, including sovereign immunity from suit in any state, federal or tribal court. Nothing in this Charter shall be deemed or construed to be a waiver of sovereign immunity from suit of the Tribe or to be a consent of the Tribe to the jurisdiction of the United States or of any state with regard to the business affairs of the Tribal corporation or the Tribe or any cause of action, case or controversy.

## ARTICLE XI: MANAGEMENT OF CORPORATION

The Board of Directors is empowered and directed to adopt bylaws consistent with this Charter and all applicable law to set out management of the Corporation and regulation of its affairs.

## ARTICLE XII: INSULATION FROM SHIFTS IN TRIBAL POLITICS

**a.** Board members can only be involuntarily removed during their term for one or more of the following reasons:

**1.** The Board member(s) intentionally or negligently took action or inaction to harm the interests of the Corporation or Tribe;

**2.** The Board member(s) is convicted on any crime that could harm the credibility or function of the Corporation;

**3.** The Board member(s) is convicted of a felony;

**4.** The Board member(s) failed to act in good faith, or with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, or in a manner he or she reasonably believes to be in the best interests of the Corporation.

**5.** The Board member(s) fail to meet the financial performance measures or show any substantial action toward achieving such measures.

**b.** Removal of a Board member(s) for one or more of the reasons set out in subsection (a) above can only be accomplished by either an affirmative vote of three-fourths (¾) or more of the Board or by majority vote of Tribal Council.

**c.** Member(s) of the Board of Directors appointed under Article III serve 3-year terms and there shall be no limitation on the amount of terms that may be served.

## ARTICLE XIII: ATTORNEYS

The Corporation may utilize the services of Tribal attorney(s) with prior approval by Tribal Council. The Corporation with Board approval may hire the services of outside attorneys as necessary, with Tribal Council approval.

## ARTICLE XIV: DURATION and DISSOLUTION

The Corporation shall continue in perpetuity unless and until dissolved by a majority vote of Tribal Council members eligible to vote. No such action shall take effect before the expiration of 30 days from the date of Tribal Council approval to dissolve. Upon dissolution of this Tribal corporation, its assets shall be distributed at the direction of the Tribal Council, or its designee, as follows:

**a.** Any property held upon an express condition requiring its return, transfer or other

disposition shall be distributed accordingly;

**b.** Any property or assets required to be distributed or transferred in any manner according to federal law shall be distributed or transferred accordingly;

**c.** Claims of creditors of the Tribal corporation approved by the Tribal Council shall be paid accordingly from the assets or funds of the corporation; and

**d.** Remaining assets shall be transferred to another Tribal corporation, to the Tribe, or distributed or transferred as the Tribal Council directs.

## ARTICLE XV: REGISTERED AGENT

The Registered Agent of the Corporation is:

Name: Shanna Kishigo, Executive Director
Address: Odawa Economic Affairs Holding, Inc.
406 East Lake Street, Unit 5
Petoskey, MI 49770

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

## ARTICLE XVI: DISTRIBUTIONS TO TRIBAL GOVERNMENT and PROFIT ALLOCATION PLAN

**a.** Tribal Council may direct the Board of Directors to either distribute annually a fair and reasonable profit to the Tribal government beyond the amount required to maintain adequate funds in the Corporation for debt service, and maintenance and growth of business operations; or to submit a profit allocation plan for Tribal Council approval that contains the following: an allocation of amount or percentage; a timeline; a plan of distribution; and expected results.

**b.** The Corporation shall have no power to issue any shares of stocks to declare and pay any dividends.

## ARTICLE XVII: REPORTING AND AUDIT REQUIREMENTS

The Corporation shall provide quarterly reports to Tribal Council setting out the Corporation's assets, liabilities, equity, revenue and expenses in reasonable detail, and general Corporate activities along with Profit and loss statement of all designated tribally chartered corporations, non-gaming enterprises, joint ventures and investments.

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

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

***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 by adoption of Statute # 2018-015 on July 12, 2018.

Date: 9/30/2020 Emily Proctor

Date: 9/30/2020 Julie Shananaquet