

1 **LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**
2 **ODAWA CONSTRUCTION ADMINISTRATION HOLDING CORPORATE CHARTER**

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

14
15 **ARTICLE I: NAME**

16
17 The name of this Tribal Corporation is Odawa Construction Administration Holding, Inc.
18 The Corporation shall have its principal place of business at the 7500 Odawa Circle, Harbor
19 Springs, Michigan 49740 or at such other location within the Tribe’s territories that the Board of
20 Directors of the Corporation shall determine.

21
22 **ARTICLE II: OWNERSHIP**

23
24 The Corporation shall be 100% owned and controlled by the Little Traverse Bay Bands
25 of Odawa Indians, (Tribe).

26
27 **ARTICLE III: PURPOSE**

28
29 The purpose of the corporation is to act as a general purpose holding company that promotes
30 economic self-sufficiency through governmental contracts and other contracts in the area of
31 Construction and creates jobs through its non-gaming, for-profit enterprises, joint ventures and
32 investments, in accordance with WOS 2018-009.

1
2 **ARTICLE IV: DEFINITIONS**
3

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

- 6
- 7 **a.** *“Board of Directors”* shall mean the Board of Directors of the Corporation
8 created by this Charter.
9
- 10 **b.** *“Corporation”* shall mean the “Odawa Construction Administration Holding,
11 Inc., created by this Charter.
12
- 13 **d.** *“Felony”* shall mean only those offenses set forth under Tribal Statute or the
14 United States Indian Major Crimes Act (18 U.S.C. § 1153).
15
- 16 **e.** *“Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians”*
17 means *“areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the*
18 *boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I,*
19 *paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.”* Little Traverse Bay
20 Bands Constitution, Article V(A)(1)(a).
21
- 22 **f.** *“Tribe”* or *“LTBB”* means the Little Traverse Bay Bands of Odawa Indians.
23
- 24 **g.** *“Tribal Constitution”* means the Little Traverse Bay Bands of Odawa Indians
25 Constitution as adopted by its membership on February 1, 2005.
26
- 27 **h.** *“Tribe Council”* means the elected body of nine Tribal members of Little
28 Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution
29 Article VII. *“Tribal Council”*.
30

31 **ARTICLE V: RELATION TO TRIBE**
32

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

ODAWA CONSTRUCTION ADMINISTRATION HOLDING CORPORATE CHARTER

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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 two (2) 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 1. _____ (XX/XX/XX)

2
3 2. _____ (XX/XX/XX)

4
5
6 **b.** Compensation

7
8 1. The board members may be compensated a reasonable amount as
9 approved by Tribal Council, provided availability of funds.

10
11 2. Board members shall adhere to the approved travel policies for
12 reimbursement of travel expenses.

13
14 **c.** To serve on the Board a person must meet all of the following criteria:

15
16 1. A person must be at least eighteen years of age;

17
18 2. No person can serve on the Board within seven (7) years of completion of
19 a sentence or probation upon being convicted of a felony in tribal, state or federal
20 court, unless such conviction has been vacated or overturned.

21
22 3. To be considered, a person shall meet the following criteria:

23
24 **i.** A Bachelor's degree in business administration, with a
25 concentration in management or accounting; or at least six (6) years as a
26 business owner, preferably a business related to construction.

27
28 **ii.** Preferably some construction field experience or experience in the
29 construction trades.

30
31 **iii.** Must possess leadership qualities, show good judgment, is
32 approachable, and is team focused.

1
2 **d.** If a vacancy in the board occurs, Tribal Council shall fill such position by a majority
3 vote of council. Such vacancy shall be for either the remainder of the vacant term, or for
4 new term. Such motion shall be considered an amendment to this charter and attached as
5 an addendum to this charter.

6
7 **e.** Board members shall not be of the same immediate family. Further, a person shall
8 not serve on the board if the Tribal Chairperson or Vice-Chairperson, or a Tribal
9 Councilor is an immediate family member. For purposes of this section immediate
10 family means husband, wife, son, daughter, step-son, step-daughter, father, step-father,
11 father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law,
12 sister, step-sister, sister-in-law, child, step-child or person whose relationship with the
13 board is similar to that of person who are related by blood or marriage.

14
15 **f.** No board member may participate in making any decision that involves a
16 personal or financial interest or an interest of his or her immediate family, unless such
17 interest is held in common with the Tribe and its Citizens.

18
19
20 **ARTICLE IX: CORPORATE POWERS**

21
22 The Corporation shall have the power to:

23
24 **a.** To purchase, receive, solicit, take by gift, devise, or bequest, or otherwise acquire,
25 own, hold, improve, use, and otherwise deal in personal property of every description, or
26 any interest therein, wherever situated.

27
28 **b.** To lease real property and improvements from the Little Traverse Bay Bands of
29 Odawa Indians.

30
31 **c.** To make contracts or agreements, incur liabilities and borrow money from any
32 source, upon such terms and rates and interests as the Board of Directors may determine;

1 to issue notes, bonds and other obligations and secure any of its obligations by
2 specifically mortgaging, pledging or assigning its corporate property or income as
3 collateral for its corporate debts or liabilities, as approved by Tribal Council.
4

5 **d.** To lend or invest money for its corporate purposes.
6

7 **e.** To conduct its affairs, carry on its operations, and exercise the powers granted
8 under this Corporate Charter in any state, territory, district, or possession of the United
9 States or in any foreign country.
10

11 **f.** To elect or appoint officers and agents of the corporation and define their duties
12 and fix their compensation
13

14 **g.** To sue and be sued but only in accordance with Article X of this Charter.
15

16 **h.** To have and exercise all powers incidental, necessary or convenient to the
17 conduct of corporate business, not inconsistent with applicable law, and to engage in any
18 and all activities which will directly or indirectly carry out the purposes as set forth in
19 Article III.
20

21 **ARTICLE X: SOVEREIGN IMMUNITY**
22

23 **a.** The Corporation is a distinct legal entity from the Little Traverse Bay Bands of
24 Odawa Indians with its own assets. While the Tribe is the sole owner, the Corporation's
25 corporate activities, transactions, obligations, liabilities and property are not those of the
26 Tribe. Nothing in this charter waives or permits the corporation to waive the Tribe's
27 sovereign immunity from suit.
28

1 **b.** The Corporation may effectuate limited waivers of its sovereign immunity for
2 conducting day-to-day business if the waivers are made in accordance with either of the
3 following methods:
4

5 **1.** Tribal Council may expressly authorize a limited waiver of sovereign
6 immunity on a case-by-case basis through a specific resolution.
7

8 **2.** The Corporation may waive its sovereign immunity pursuant to
9 transactions or agreements that the Tribal Corporation may execute in the course
10 of its ordinary business affairs.
11

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

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

1 Tribal corporation or the Tribe or any cause of action, case or controversy.

2
3 **ARTICLE XI: MANAGEMENT OF CORPORATION**

4
5 The Board of Directors is empowered and directed to adopt bylaws consistent with this
6 Charter and all applicable law to set out management of the Corporation and regulation of its
7 affairs.

8
9 **ARTICLE XII: INSULATION FROM SHIFTS IN TRIBAL POLITICS**

10
11 **a.** Board members can only be involuntarily removed during their term for one or
12 more of the following reasons:

13
14 **1.** The Board member(s) intentionally or negligently took action to harm the
15 interests of the Corporation or Tribe;

16
17 **2.** The Board member(s) is convicted on any crime that could harm the
18 credibility or function of the Corporation;

19
20 **3.** The Board member(s) is convicted of a felony;

21
22 **4.** The Board member(s) failed to act in good faith, or with the care that an
23 ordinarily prudent person in a like position would exercise under similar
24 circumstances, or in a manner he or she reasonably believes to be in the best
25 interests of the Corporation.

26
27 **5.** The Board member(s) fail to meet the financial performance measures or
28 show any substantial action toward achieving such measures.

29
30 **b.** Removal of a Board member(s) for one or more of the reasons set out in
31 subsection (a) above can only be accomplished by an affirmative vote of three-fourths
32 ($\frac{3}{4}$) or more of the Board or a majority vote of Tribal Council.

33
34 **c.** Member(s) of the Board of Directors appointed under Article III serve 3 year

1 terms and there shall be no limitation on the amount of terms that may be served.

2
3 **ARTICLE XIII: ATTORNEYS**
4

5 The Corporation may utilize the services of Tribal attorney(s) with prior approval by
6 Tribal Council. The Corporation with Board approval may hire the services of outside attorneys
7 as necessary, with Tribal Council approval.
8

9 **ARTICLE XIV: DURATION and DISSOLUTION**
10

11 The Corporation shall continue in perpetuity unless and until dissolved by a majority vote
12 of Tribal Council members eligible to vote. No such action shall take effect before the expiration
13 of 30 days from the date of Tribal Council approval to dissolve. Upon dissolution of this Tribal
14 corporation, its assets shall be distributed at the direction of the Tribal Council, or its designee,
15 as follows:
16

- 17 **a.** Any property held upon an express condition requiring its return, transfer or other
18 disposition shall be distributed accordingly;
19
20 **b.** Any property or assets required to be distributed or transferred in any manner
21 according to federal law shall be distributed or transferred accordingly;
22
23 **c.** Claims of creditors of the Tribal corporation approved by the Tribal Council shall
24 be paid accordingly from the assets or funds of the corporation; and
25
26 **d.** Remaining assets shall be transferred to another Tribal corporation, to the Tribe,
27 or distributed or transferred as the Tribal Council directs.
28

29 **ARTICLE XV: REGISTERED AGENT**
30

31 The Registered Agent of the Corporation is:

32
33 Name: Executive Director

1 Address: Odawa Construction Administration Holding, Inc.

2
3 Provided, the Board of Directors may change the Registered Agent by taking official
4 action and notifying Tribal Council and the Department of Commerce of the change.

5
6 **ARTICLE XVI: DISTRIBUTIONS TO TRIBAL GOVERNMENT**

7
8 The Board of Directors shall distribute annually fair and reasonable profits to the Tribal
9 government beyond the amount required to maintain adequate funds in the Corporation for debt
10 service, and maintenance and growth of business operations. The Corporation shall have no
11 power to issue any shares of stocks to declare and pay any dividends.

12
13 **ARTICLE XVII: REPORTING AND AUDIT REQUIREMENTS**

14
15 The Corporation shall provide quarterly reports to Tribal Council setting out the
16 Corporation's assets, liabilities, equity, revenue and expenses in reasonable detail, and general
17 Corporate activities.

18
19 The Corporation shall obtain an annual financial audit by an independent public
20 accountant, the results of which will be provided to Tribal council within 120 days of the end of
21 its fiscal year.

22
23 The Corporation shall keep correct and complete books and records of account and shall
24 keep minutes of its meetings. All books and records of the corporation, except for sensitive
25 proprietary information, may be inspected by any LTBB citizen at the location where the records
26 are normally kept at any reasonable time.

27
28 ***Certificate of Adoption***

29
30 As Tribal Secretary and Legislative Leader, we certify that this Charter was formally
31 adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians by adoption of
32 Statute # _____ on _____.

33
34 Date: _____

ODAWA CONSTRUCTION ADMINISTRATION HOLDING CORPORATE CHARTER

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2 Date: _____
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