

1 **LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**
2 **ODAWA CONSTRUCTION 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, Inc. The Corporation shall
18 have its principal place of business at the 7500 Odawa Circle, Harbor Springs, Michigan 49740
19 or at such other location within the Tribe’s territories that the Board of Directors of the
20 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 **A.** The purpose of the corporation, as a tribally chartered corporation, is to promote economic
30 self-sufficiency and create jobs through construction of tribally owned projects or local projects
31 within the community, in accordance with WOS 2018-0X.
32

33
34 **ARTICLE IV: DEFINITIONS**

1
2 For purposes of this Charter the following terms shall have the meanings respectively
3 specified:
4

5 **a.** “*Board of Directors*” shall mean the Board of Directors of the Corporation
6 created by this Charter.
7

8 **b.** “*Corporation*” shall mean the “Odawa Construction, Inc., created by this Charter.
9

10 **d.** “*Felony*” shall mean only those offenses set forth under Tribal Statute or the
11 United States Indian Major Crimes Act (18 U.S.C. § 1153).
12

13 **e.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*”
14 means “*areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the*
15 *boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I,*
16 *paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.*” Little Traverse Bay
17 Bands Constitution, Article V(A)(1)(a).
18

19 **f.** “*Tribe*” or “*LTBB*” means the Little Traverse Bay Bands of Odawa Indians.
20

21 **g.** “*Tribal Constitution*” means the Little Traverse Bay Bands of Odawa Indians
22 Constitution as adopted by its membership on February 1, 2005.
23

24 **h.** “*Tribe Council*” means the elected body of nine Tribal members of Little
25 Traverse Bay Bands of Odawa Indians with duties found in the Tribal Constitution
26 Article VII. “*Tribal Council*”.
27

28 **ARTICLE V: RELATION TO TRIBE**
29

30 The Corporation shall constitute a governmental instrumentality of the Tribe, having
31 autonomous existence separate and distinct from the Tribe.
32

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

4
5 **b.** The Corporation shall have no power to exercise any regulatory or legislative
6 power; the Tribe reserves from the Corporation all regulatory, legislative and other
7 governmental power.
8

9 **ARTICLE VI: ASSETS**

10
11 The Corporation shall have only those assets of the Tribe formally assigned or leased to
12 it by the Tribal Council, together with whatever assets it acquires by other means as provided in
13 this Charter. No activity of the Corporation, or any indebtedness incurred by it shall encumber,
14 implicate or in any way involve assets of the Tribe or another Tribal Entity not assigned or
15 leased in writing to the Corporation.
16

17
18 **ARTICLE VII: BOARD OF DIRECTORS**

19
20 The management of the affairs of the corporation shall be vested in a Board of Directors, except
21 as otherwise provided in this Charter or in the bylaws of the corporation.
22

23 **ARTICLE VIII: BOARD OF DIRECTORS**

24
25 **a.** The management of the affairs of the corporation shall be vested in a Board of
26 Directors, except as otherwise provided in this Charter or in the bylaws of the
27 corporation. The Board shall consist of at least **LTBB Tribal Citizens**, and who
28 meet the eligibility requirements set out in subsection c. of this section and shall be
29 approved by Tribal Council for a set term, with the intent to have staggered terms:
30

- | (Name) | (Term) |
|----------|------------|
| 1. _____ | (XX/XX/XX) |

1 2. _____ (XX/XX/XX)

2
3
4 **b.** Compensation

5
6 1. The board members may be compensated a reasonable amount as
7 approved by Tribal Council, provided availability of funds.

8
9 2. Board members shall adhere to the approved travel policies for
10 reimbursement of travel expenses.

11
12 **c.** To serve on the Board a person must meet all of the following criteria:

13
14 1. A person must be at least eighteen years of age;

15
16 2. No person can serve on the Board within seven (7) years of completion of
17 a sentence or probation upon being convicted of a felony in tribal, state or federal
18 court, unless such conviction has been vacated or overturned.

19
20 3. To be considered, a person shall meet the following criteria:

21
22 **i.** A Bachelor's degree in Engineering.

23
24 **ii.** Preferably be an Engineer.

25
26 **iii.** Must possess leadership qualities, show good judgment, is
27 approachable, and is team focused.

28
29 **d.** If a vacancy in the board occurs, Tribal Council shall fill such position by a majority
30 vote of council. Such vacancy shall be for either the remainder of the vacant term, or for
31 new term. Such motion shall be considered an amendment to this charter and attached as
32 an addendum to this charter.

1 e. Board members shall not be of the same immediate family. Further, a person shall
2 not serve on the board if the Tribal Chairperson or Vice-Chairperson, or a Tribal
3 Councilor is an immediate family member. For purposes of this section immediate
4 family means husband, wife, son, daughter, step-son, step-daughter, father, step-father,
5 father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law,
6 sister, step-sister, sister-in-law, child, step-child.
7

8 f. No board member may participate in making any decision that involves a
9 personal or financial interest or an interest of his or her immediate family, unless such
10 interest is held in common with the Tribe and its Citizens.
11

12 **ARTICLE IX: CORPORATE POWERS**

13 The Corporation shall have the power to:
14

15 a. To purchase, receive, solicit, take by gift, devise, or bequest, or otherwise acquire,
16 own, hold, improve, use, and otherwise deal in personal property of every description, or
17 any interest therein, wherever situated.
18

19 b. To lease real property and improvements from the Little Traverse Bay Bands of
20 Odawa Indians.
21

22 c. To make contracts or agreements, incur liabilities and borrow money from any
23 source, upon such terms and rates and interests as the Board of Directors may determine;
24 to issue notes, bonds and other obligations and secure any of its obligations by
25 specifically mortgaging, pledging or assigning its corporate property or income as
26 collateral for its corporate debts or liabilities, as approved by Tribal Council.
27

28 d. To lend or invest money for its corporate purposes.
29

30 e. To conduct its affairs, carry on its operations, and exercise the powers granted
31 under this Corporate Charter in any state, territory, district, or possession of the United
32 States or in any foreign country.
33
34

1
2 **f.** To elect or appoint officers and agents of the corporation and define their duties
3 and fix their compensation
4

5 **g.** To sue and be sued but only in accordance with Article X of this Charter.
6

7 **h.** To have and exercise all powers incidental, necessary or convenient to the
8 conduct of corporate business, not inconsistent with applicable law, and to engage in any
9 and all activities which will directly or indirectly carry out the purposes as set forth in
10 Article III.
11

12 **ARTICLE X: SOVEREIGN IMMUNITY**
13

14 **a.** The Corporation is a distinct legal entity from the Little Traverse Bay Bands of
15 Odawa Indians with its own assets. While the Tribe is the sole owner, the Corporation's
16 corporate activities, transactions, obligations, liabilities and property are not those of the
17 Tribe. Nothing in this charter waives or permits the corporation to waive the Tribe's
18 sovereign immunity from suit.
19

20 **b.** The Corporation may effectuate limited waivers of its sovereign immunity for
21 conducting day-to-day business if the waivers are made in accordance with either of the
22 following methods:
23

24 **1.** Tribal Council may expressly authorize a limited waiver of sovereign
25 immunity on a case-by-case basis through a specific resolution.
26

27 **2.** The Corporation may waive its sovereign immunity pursuant to
28 transactions or agreements that the Tribal Corporation may execute in the course
29 of its ordinary business affairs.
30

31 **3.** Any waivers of sovereign immunity made pursuant to (1) or (2) above
32 shall only expose the assets owned or held by the Corporation and shall not
33 subject other Tribal assets to liability. Waivers of sovereign immunity are
34 disfavored and shall be granted only when necessary to secure a substantial

1 advantage or benefit to the Tribal Corporation. Waivers of sovereign immunity
2 shall not be general but shall be specific and limited as to duration, grantee,
3 transaction, property or funds, if any, of the Tribal Corporation subject thereto.
4 Neither the power to sue and be sued provided in this Charter, nor any express
5 waiver of sovereign immunity by resolution of the Corporation's Board of
6 Directors or the Tribal Council shall be deemed a consent to the levy of any
7 judgment, lien or attachment upon any property of the Tribal corporation other
8 than property specifically pledged or assigned, or any property of the Tribe, or a
9 consent to suit with respect to any land within the exterior boundaries of the
10 Reservation or consent to the alienation, attachment or encumbrance of any such
11 land.

12
13 **c.** Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a
14 federally recognized Indian tribe with respect to the existence of the Tribal Corporation
15 are hereby expressly reserved, including sovereign immunity from suit in any state,
16 federal or tribal court. Nothing in this Charter shall be deemed or construed to be a
17 waiver of sovereign immunity from suit of the Tribe or to be a consent of the Tribe to the
18 jurisdiction of the United States or of any state with regard to the business affairs of the
19 Tribal corporation or the Tribe or any cause of action, case or controversy.

20
21 **ARTICLE XI: MANAGEMENT OF CORPORATION**

22
23 The Board of Directors is empowered and directed to adopt bylaws consistent with this
24 Charter and all applicable law to set out management of the Corporation and regulation of its
25 affairs.

26
27 **ARTICLE XII: INSULATION FROM SHIFTS IN TRIBAL POLITICS**

28
29 **a.** Board members can only be involuntarily removed during their term for one or
30 more of the following reasons:

31
32 **1.** The Board member(s) intentionally or negligently took action to harm the
33 interests of the Corporation or Tribe;
34

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

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

5
6 4. The Board member(s) failed to act in good faith, or with the care that an
7 ordinarily prudent person in a like position would exercise under similar
8 circumstances, or in a manner he or she reasonably believes to be in the best
9 interests of the Corporation.

10
11 5. The Board member(s) fail to meet the financial performance measures or
12 show any substantial action toward achieving such measures.

13
14 **b.** Removal of a Board member(s) for one or more of the reasons set out in
15 subsection (a) above can only be accomplished by either an affirmative vote of three-
16 fourths (¾) or more of the Board or by majority vote of Tribal Council.

17
18 **c.** Member(s) of the Board of Directors appointed under Article III serve 3-year
19 terms and there shall be no limitation on the amount of terms that may be served.

20
21 **ARTICLE XIII: ATTORNEYS**

22
23 The Corporation may utilize the services of Tribal attorney(s) with prior approval by
24 Tribal Council. The Corporation with Board approval may hire the services of outside attorneys
25 as necessary, with Tribal Council approval.

26
27 **ARTICLE XIV: DURATION and DISSOLUTION**

28
29 The Corporation shall continue in perpetuity unless and until dissolved by a majority vote
30 of Tribal Council members eligible to vote. No such action shall take effect before the expiration
31 of 30 days from the date of Tribal Council approval to dissolve. Upon dissolution of this Tribal
32 corporation, its assets shall be distributed at the direction of the Tribal Council, or its designee,
33 as follows:

1 **a.** Any property held upon an express condition requiring its return, transfer or other
2 disposition shall be distributed accordingly;

3
4 **b.** Any property or assets required to be distributed or transferred in any manner
5 according to federal law shall be distributed or transferred accordingly;

6
7 **c.** Claims of creditors of the Tribal corporation approved by the Tribal Council shall
8 be paid accordingly from the assets or funds of the corporation; and

9
10 **d.** Remaining assets shall be transferred to another Tribal corporation, to the Tribe,
11 or distributed or transferred as the Tribal Council directs.

12
13 **ARTICLE XV: REGISTERED AGENT**

14
15 The Registered Agent of the Corporation is:

16
17 Name: Executive Director

18 Address: Odawa Construction, Inc.

19
20 Provided, the Board of Directors may change the Registered Agent by taking official
21 action and notifying Tribal Council and the Department of Commerce of the change.

22
23 **ARTICLE XVI: DISTRIBUTIONS TO TRIBAL GOVERNMENT**

24
25 The Board of Directors shall distribute annually fair and reasonable profits to the Tribal
26 government beyond the amount required to maintain adequate funds in the Corporation for debt
27 service, and maintenance and growth of business operations. The Corporation shall have no
28 power to issue any shares of stocks to declare and pay any dividends.

29
30 **ARTICLE XVII: REPORTING AND AUDIT REQUIREMENTS**

31
32 The Corporation shall provide quarterly reports to Tribal Council setting out the
33 Corporation's assets, liabilities, equity, revenue and expenses in reasonable detail, and general
34 Corporate activities.

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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 # _____ on _____.

Date: _____

Date: _____