



Waganakising Odawak

Little Traverse Bay Bands of Odawa Indians
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ADMINISTRATION OF LAND ACQUISITION AND DUE DILIGENCE POLICY

I. Purpose

The purpose of this Policy is to provide guidance with a specified structure that delineates the roles of Land and Reservation Committee, Legislative Office, Enjinaaknegeng, the Executive Branch and Tribal Council to assess and approve the purchase of land parcels.

II. Submission of Potential Land Parcel

- A. Tribal Citizens, LTBB Staff, Committee Members, Tribal Councilors and others may submit potential land parcels to the Legislative Office for consideration by the Land and Reservation Committee.
- B. Upon receipt of a land parcel submission, the Legislative Office shall request from the person(s) submitting the proposed land parcel for consideration to provide the following:
 - 1. Contact information for the person submitting the land parcel;
 - 2. Location (address) of the land parcel;
 - 3. Size of parcel (acreage);
 - 4. Asking or listing price of the parcel;
 - 5. Any maps and/or aerial views; and
 - 6. Any historical or cultural information, and any other pertinent relevant information related to the parcel for consideration.
- C. All land parcel submissions for consideration received by the Legislative Office shall be issued a Land Parcel number and forwarded to the Land and Reservation Committee for consideration. The submission and Land Parcel number will also be sent to Enjinaaknegeng to be entered in the Land Consideration Database.

III. Land Parcel Initial Assessment

- A.** In accordance with Waganakising Odawak Statute 2008-002 Land and Reservation the Land and Reservation Committee shall have the authority to request documents and information related to land and reservation from the Judiciary and Executive Departments, Programs and staff; including legal counsel and consultants.
- B.** The Land and Reservation Committee may determine, based on the particular property, the extent of due diligence information for the *Staff Review and Analysis Reports*, if any, that is needed before making a recommendation to Tribal Council to purchase. All parcel information received by the Land and Reservation Committee regardless of their determination to request *Staff Review and Analysis Reports* or to motion to pursue a parcel will be shared with Tribal Council.
- C.** The request for *Staff Review and Analysis* will be in the form of a Land and Reservation Committee motion that will include a deadline date for submission to the Land and Reservation Committee.
- 1.** Enjinaaknegeng shall send an email based on the information obtained by the person(s) who submitted the information about the parcel for consideration to the Executive Office and to the respective departments to request the *Staff Review and Analysis* due diligence information along with the established deadline.
- D.** All requested *Staff Review and Analysis Reports* will be sent to Enjinaaknegeng. Enjinaaknegeng will retain a copy of the information for record keeping purposes. Enjinaaknegeng will compile the information into a completed *Staff Review and Analysis Report* file that includes the Due Diligence Checklist and update the Land Consideration Database.
- E.** Based on the *Staff Review and Analysis Reports* collected, if any of the information required or request is incomplete Enjinaaknegeng will communicate the deficiency to the respective department(s) and acquire the necessary information. Once the information is satisfactorily submitted to Enjinaaknegeng it is compiled into a file for the Land and Reservation Committee and Enjinaaknegeng will transmit the file to the Legislative Office for record keeping via email. The Legislative Office will forward the information to the Land and Reservation Committee for consideration at their next Land and Reservation Committee Meeting.
- F.** The Land and Reservation Committee will enter into closed session if necessary to review the *Staff Review and Analysis Reports* including the Due Diligence Checklist.
- G.** The Land and Reservation Committee will return to open session and motion via a Confidential Memo as to whether or not to pursue the parcel they considered

and make a recommendation to Tribal Council to purchase.

- H. If the Land and Reservation Committee decides by affirmative motion to pursue and recommend to Tribal Council to pursue, a Confidential Memo and the entire Land Parcel File will be sent to the Legislative Office to forward to the Tribal Council for consideration of a motion to pursue or not pursue.
- I. If the Land and Reservation Committee decides not to pursue the entire Land Parcel File is sent to Tribal Council for consideration of a motion to pursue or not pursue.

IV. Pre-offer

A. Tribal Council / Land and Reservation Committee Due Diligence

- 1. Pursuant to this Policy, generally, a *Staff Review and Analysis Report* will be completed on all parcels prior to an offer being made on a land parcel.
- 2. Under unique circumstances, Tribal Council or the Land and Reservation Committee may, by affirmative motion, temporarily suspend one or more aspects of the *Staff Review and Analysis Report* that will be completed post-offer (see Section VII. Post Purchase Assessments, Analysis or Studies).

B. Staff Reviews and Analysis

- 1. **Planning Department Site Review.** The Planning Department conducts a site review and analysis to determine if the parcel is suitable for the intended use as specified by Tribal Council. A report is prepared and submitted to the Land and Reservation Committee that will include the following:
 - a. The location's suitability for the intended use;
 - b. How the LTBB Zoning requirements impact the location; and
 - c. Any other recommendations from the Department.
- 2. **Natural Resources and Environmental Services Review.** An assessment is prepared by the Natural Resources Department and Environmental Services that specifies findings (an abridged Phase I Environmental) of features such as:
 - a. Wetlands;
 - b. Endangered Species;
 - c. Habitat;
 - d. Aquifer; and

- e. Potential for contamination.
3. **Geographic Information Systems (GIS) Provisions.** The LTBB GIS will provide the following mapping of the parcel and the surrounding area:
- a. Location of the parcel in relation to the exterior boundary of the LTBB Reservation;
 - b. Close up of the parcel;
 - c. Topography; and
 - d. Natural Features in conjunction with the Natural Resources Department.
4. **Tribal Historic Preservation Officer (THPO) Review.** Research and compile a land use history report to determine the presence or absence of historic properties, burial sites, sacred sites, traditional cultural properties, traditional knowledge, traditional ecological knowledge, and possible Native American Graves Protection and Repatriation Act impacts.
5. **Senior Financial Analyst Review.** A review will be conducted of financial records related to the parcel purchase including any tax liability by the Legislative Senior Financial Analyst and submitted to the Land and Reservation Committee. The following will be considered:
- a. Pre-closing inspections;
 - b. The purchase price;
 - c. Closing Fees;
 - d. Title Policy, Surveys, Taxes and Recording Fees for Trust Acquisition with the Bureau of Indian Affairs; and
 - e. The balance of the funding available for Land Purchases.
6. **Funding.** If there are not enough funds available in the Restricted Account for Land Purchases, and prior to Tribal Council making a motion to purchase, a Tribal Resolution appropriating funds must be adopted.

C. Land and Reservation Committee

- 1. Based on the *Staff Review and Analysis Report* the Land and Reservation Committee shall determine whether additional information, such as an appraisal, survey, inspection, Phase 1 or Market Study or a review of financial and lease records is required to proceed with their final recommendation on the parcel.
- 2. The Land and Reservation Committee may request an opinion from General Counsel or any of the staff involved with the *Staff Review and*

Analysis process about obtaining additional information.

3. If additional information has been determined to be required the Land and Reservation Committee will make a motion delineating what is required and if there is funding available based on the Senior Financial Analysis *Staff Review and Analysis* for the consideration parcel.

D. Land and Reservation Committee Recommendation to Tribal Council. Based on the *Staff Review and Analysis Report* and any additional information, the Committee may recommend to Tribal Council to make an offer on a land parcel.

E. Tribal Council Decision. If Tribal Council decides to pursue the acquisition of the land parcel, they will proceed with the following steps:

1. **Motion to pursue.** Tribal Council will vote by motion to pursue or not pursue the land parcel by utilizing land parcel number in a Confidential Memo directing the General Counsel to proceed to negotiate the asking price and report back to Tribal Council through a Confidential Memo the final negotiated price for approval. The Confidential Memo may also contain an amount that General Counsel may not exceed.

V. Pre-Purchase Assurances

- A. **Certified Motion.** Tribal Council shall by affirmative vote of a Certified Motion through a Confidential Memo vote to purchase the parcel based on the negotiation by General Counsel. The Certified Motion shall include the designation and assignment of the parcel, if known, and intent for any existing lease contingencies or agreements that may exist.
- B. **Signatures.** The Tribal Treasurer, or General Counsel on behalf of the Treasurer, may sign offers and acceptances within the authorized parameters contained in the Confidential Memo or Certified Motion.
- C. **Funds Disbursement.** Enjinaaknegeng will ensure the Accounting Department is provided the appropriation by Tribal Resolution or the Certified Motion to execute the purchase through a Purchase Agreement signed by both parties and any other documents required by the Accounting Department needed for final closing disbursements.

VI. Executed Purchase

All land parcel purchases differ based on the type of land, structures and possible existing leases or other agreements, including easements. Typically, the closing of a land purchase is handled through the Seller(s), Buyer(s), Real Estate Agent(s) and/or a Title Company

who assure that the Title for the land is clear of liens and there are no contingencies that would prevent the purchase. If there are contingencies that may postpone the purchase General Counsel will notify Tribal Council immediately with potential remedies.

VII. Post Purchase Assessments, Analysis or Studies

In cases where the Land and Reservation Committee did not request any additional information as delineated in Section IV(C) prior to purchase, and after the purchase has been executed the following inspections, analysis or studies may be requested by the Legal Department as may be required for the Trust Application Process.

- A. Building Inspections.** When a structure(s) is present, a building inspection will be completed by an independent contractor and a building safety inspection will be conducted through the LTBB Safety Coordinator.
- B. Phase I Environmental Assessment.** A complete Phase I Environmental Assessment will be conducted by LTBB Environmental Services or an outside contractor. If the Phase I reveals potential environmental conditions requiring further study such as a chemical analysis of soil borings, then an outside firm may be hired for a Phase II Study.
- C. Boundary Survey.** When a survey by a licensed surveyor is not already recorded or provided by the Seller, a new boundary survey will be obtained by an outside firm.

VIII. Enjinaaknegeng Land Files

- A. LTBB Land Files.** When new acquisitions have been finalized, the closing documents, reports, surveys, assessments, appraisals and inspections are to be sent to the Enjinaaknegeng Executive Assistant. A land file specific to the acquired parcel will be created and retained by Enjinaaknegeng permanently.
- B. LTBB Land Holding Database.** Enjinaaknegeng maintains the LTBB Land Holding Database. When there is a new acquisition of a parcel, then it is entered into the database and a new report shall be published.
- C. Surveys.** All surveys are sent to both the Planning and GIS Departments when received by Enjinaaknegeng.
- D. Warranty Deeds.** All copies of warranty deeds, once they have been placed in trust will be sent to GIS for mapping.

IX. Effective Date

This Policy and Procedure take effect immediately upon Tribal Council approval.

This Policy was approved by Tribal Council on September 15, 2022.

Marcella R. Reyes 09/16/2022
Marcella Reyes, Tribal Council Secretary Date

