

WAGANAKISING ODAWAK STATUTE 2009-022
ASSET DISPOSITION

SECTION I. PURPOSE

The purpose of this Statute is to establish the law that governs the encumbrance of Tribal lands, the encumbrance of intangible assets and the encumbrance and disposition of non-real estate tangible assets in accordance with the Little Traverse Bay Bands Constitution.

SECTION II. POLICY INTENTION

The intent of this Statute is to provide the minimum standards for the disposal of assets and the subsequent reporting in financial records.

SECTION III. DEFINITIONS

- A. “*Book value*” or “net book value” means historical cost of a capital asset less any related accumulated depreciation.
- B. “*Capital Asset*” means tangible property which cannot easily be converted into cash and which is usually held for a long period, including equipment.
- C. “*Competitive Bidding*” means a transparent process for disposal of an asset which may include soliciting bids, competitive negotiation using a request for proposals, fixed pricing, public auctions, on-line auctions or sealed bids.
- D. “*Disposal*” means to relinquish ownership of an asset in a conclusive manner by sale, exchange, transfer, involuntary conversion, abandonment or donation.
- E. “*Donation*” means property that may be used for other tribal purposes that will benefit Tribal Citizens in the areas of social, educational, cultural and health activities.
- F. “*Intangible Asset*” means something of value that cannot be physically touched, such as a brand, franchise, trademark, or patent.

- G. *“Real Property”* means land and things permanently attached to the land, such as trees, buildings, and stationary mobile homes.
- H. *“Surplus property”* means tangible personal property, including minor equipment, office furniture, computer equipment, vehicles, and items determined to be obsolete, over stocked or no longer need by the owner.
- I. *“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).
- J. *“Tribe”* means the Little Traverse Bay Bands of Odawa Indians.

SECTION IV. DISPOSAL OF CAPITAL ASSETS

- A. Capital assets retired from service shall be disposed of in the most efficient and cost effective manner possible.
- B. Capital assets shall be disposed of in a manner that is environmentally responsible.
- C. Capital assets with a book value greater than \$10,000 shall be disposed of by competitive bidding. All other assets may be deemed as surplus.

SECTION V. DISPOSAL OF TANGIBLE PROPERTY

- A. Tangible personal property shall be designated as surplus.
- B. Any surplus shall be disposed of without warranty.
- C. Surplus property shall be disposed of by either competitive bidding, by donation or by disposal.

D. Surplus property shall be disposed of in a manner that is environmentally responsible.

E. Information technology and communication equipment shall have all data and software removed from the equipment prior to disposal.

SECTION VI. DISPOSAL OF REAL PROPERTY

Disposal of real property shall have prior approval by Tribal Council in accordance with the Constitutional requirements.

SECTION VII. DISPOSAL OF INTANGIBLE ASSETS

Disposal of intangible property shall have prior approval by Tribal Council.

SECTION VIII. FIRST REFUSAL

All capital assets and tangible property shall be offered to governmental departments and enterprises before disposal by any other method.

SECTION IX. REGULATIONS

The Executive may develop Regulations as it deems necessary for the implementation of the intent of this Statute and shall forward such Regulations to the Tribal Council for approval.

SECTION X. SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws or ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

SECTION XI.

EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on July 26, 2009 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Melvin L. Kiogima	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Dexter McNamara	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Marvin Mulholland	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Rita Shananaquet	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Alice Yellowbank	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Gerald V. Chingwa	<u> </u>	<u> </u>	<u> </u>	<u>X</u>
Regina Gasco Bentley	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Beatrice A. Law	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Date: 07/26/09

Beatrice Law, Legislative Leader

Date: 07/26/09

Regina Gasco Bentley, Secretary

Received by the Executive Office on 07/27/09 by LF

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: 08/10/09

Frank Ettawageshik, Tribal Chairperson