

AGREEMENT BETWEEN  
THE NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR  
AND THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS FOR THE  
ASSUMPTION BY THE TRIBE OF CERTAIN RESPONSIBILITIES PURSUANT TO  
THE NATIONAL HISTORIC PRESERVATION ACT (16 U.S.C. 470)

WHEREAS, sovereign Indian tribes are uniquely suited to make decisions about historic resources on tribal lands; and

WHEREAS, enhancing the role of Indian tribes in the national historic preservation partnership will result in a stronger and better national effort to identify and protect historic and cultural resources for future generations of all Americans; and

WHEREAS, Section 101(d)(2) of the National Historic Preservation Act provides that, "A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3),... with respect to tribal lands"; and

WHEREAS, in accordance with Section 101(d)(2)(A) of the Act, the Tribal Council of The Little Traverse Bay Bands of Odawa Indians (Tribe) has requested approval to assume certain of those functions on lands within the exterior boundaries of the Tribe's Reservation and on those lands outside the reservation boundaries held in trust by the Secretary for the benefit of the Tribe; and

WHEREAS, in accordance with Section 101(d)(2)(B) of the Act, the Tribe has designated a Tribal Historic Preservation Officer to administer the tribal historic preservation program; and

WHEREAS, in accordance with Section 101(d)(2)(C) of the Act, the Tribe has provided to the Secretary acting through the National Park Service a plan that describes how the functions the Tribe proposes to assume will be carried out; and

WHEREAS, Section 301 of the Act defines "tribal lands" to include all lands within the exterior boundaries of an Indian Reservation and lands held in trust by the Secretary for the benefit of the Tribe; and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed the Tribe's plan for conformance with the applicable Federal regulations, 36 CFR 60, and 36 CFR 61, and has determined that the plan meets the requirements of those regulations; and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed the plan and has determined in accordance with Section 101(d)(2)(D)(i) that the Tribe is fully capable of carrying out the functions specified in the Tribe's plan. Now, therefore,

THE NATIONAL PARK SERVICE AND THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS DO HEREBY AGREE AS FOLLOWS:

1. The Little Traverse Bay Bands of Odawa Indians assumes responsibility on lands within the Reservation's exterior boundaries and on tribal trust lands for the following functions set out in Section 101(b)(3) of the Act:

- A. Direct and conduct a comprehensive, Reservation-wide survey and maintain an inventory of historic and culturally significant properties;
- B. Identify and nominate eligible properties to the National Register of Historic Places and otherwise administer applications for listing historic properties on the National Register;
- C. Develop and implement a comprehensive, Reservation-wide historic preservation plan covering historic, archeological, and traditional cultural properties;
- D. Administer the tribal program of Federal assistance for historic preservation within the Tribe;
- E. Advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;
- F. Cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal agencies, State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;
- G. Provide public information, education and training, and technical assistance in historic preservation;
- H. Consult with the appropriate Federal agencies in accordance with Section 106 of the Act on:
  - i. Federal undertakings that may affect historic and culturally significant properties within the boundaries of the Reservation;
  - ii. the content and sufficiency of any plans to protect, manage, or to reduce or mitigate harm to such properties.

2. In accordance with the Tribe's plan noted above, the State Historic Preservation Officer (SHPO) of Michigan, in consultation and cooperation with the Tribe, retains responsibility for the functions in Section 101(b)(3), as follows:

A. Cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of the Act;

B. Advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance, such as historic preservation income tax credits.

3. The SHPO, in accordance with Section 101(d)(2)(D)(iii) of the Act, may exercise the historic preservation responsibilities along with the tribal preservation official on land within the reservation's exterior boundaries that is neither owned by a tribal member nor held in trust for the tribe by the Secretary, provided that the owner of such property requests the SHPO's participation;

4. In evaluating the significance of and impact on historic and cultural resources, the Tribal Historic Preservation Officer will consult, as needed, with individuals who meet the Secretary's Standards for the discipline or disciplines that correspond to the resource under consideration. In any case where the individual consulted is not a staff member the Tribal Historic Preservation Officer will retain a record of the consultation.

5. The Little Traverse Bay Bands of Odawa Indians Tribal Council will serve as the Tribal Historic Preservation Officer's Advisory Review Board (Advisory Board) for the purposes of this agreement. The Tribal Historic Preservation Officer will, in accordance with Section 101(d)(4)(C), provide for the appropriate participation in the historic preservation program by the tribe's traditional cultural authorities through membership on its Advisory Board and through such other means as the Officer deems appropriate. Before making any decision pursuant to this agreement that affects a property of significance to another tribe whose traditional lands are within the Tribe's tribal lands, the Tribal Historic Preservation Officer will consult with the appropriate representative(s) of that other tribe. The Tribal Historic Preservation Officer will provide for the appropriate participation of the interested public by soliciting public comments in a manner described in the Tribe's plan.

6. The Tribe will carry out its responsibilities for review of Federal undertakings pursuant to Section 106 of the Act in accordance with the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation. In the event that the Tribe seeks to substitute its own review procedures for those established by the Council, such substitution is subject to a separate negotiation with the Council, pursuant to Section 101(d)(5) of the Act.

7. The Little Traverse Bay Bands of Odawa Indians will consider nominations to the National Register of Historic Places in accordance with 36 CFR 60. In accordance with the Tribe's plan and consistent with Item 4 above, the Tribal Historic Preservation

Officer will ensure that the Tribal Historic Preservation Officer's Advisory Board has access to appropriately qualified individuals in carrying out its review of National Register nominations.

8. The Tribal Historic Preservation Officer will provide to the National Park Service a brief annual written report on the Tribe's accomplishments pursuant to this agreement. The report will include, at a minimum, the number of additional properties surveyed and added to the Tribe's inventory, the number of Federal undertakings reviewed pursuant to Section 106 of the Act, and a description of any educational activities and programs carried out. The report shall not be construed as requiring the provision of information that the Tribe deems to be sensitive or culturally inappropriate.

9. As of the date of this agreement, the Little Traverse Bay Bands of Odawa Indians' Tribal Historic Preservation Officer is Mr. Wesley Andrews. The Tribe will notify the National Park Service whenever there is a vacancy in the position and whenever a successor is designated by the Tribe.

10. The National Park Service will, in accordance with Section 101(d)(1)(A) of the Act foster communication, cooperation, and coordination among the Tribe, the State Historic Preservation Officer, and Federal agencies in the administration of the national historic preservation program. All such efforts by NPS will be on an as-needed basis and will be based on consultation with the Tribe to ensure that tribal values are fully respected.

11. The National Park Service, upon execution of this agreement, will notify all Federal Preservation Officers, the Advisory Council on Historic Preservation, the State Historic Preservation Officer of Michigan, the National Association of Tribal Historic Preservation Officers, and the National Conference of State Historic Preservation Officers that the Little Traverse Bay Bands of Odawa Indians has assumed formal responsibility on lands within the Reservation's exterior boundaries for all of the functions set out in Item 1 above. In particular, such notice shall make clear that the Tribe has assumed the role of the State Historic Preservation Officer on lands within the Reservation's exterior boundaries for the purposes of consultation on Federal undertakings pursuant to Section 106 of the National Historic Preservation Act.

12. The National Park Service will consult with the Little Traverse Bay Bands of Odawa Indians to determine what technical assistance the Tribe needs and wants in order to enhance its participation in the national historic preservation program. Based on that consultation, NPS will make available to the Tribe such technical assistance as is appropriate and feasible. The Tribe is eligible for grants-in-aid from the Historic Preservation Fund to assist in carrying out the duties it has assumed under this agreement. However, nothing in this Memorandum of Agreement requires the National Park Service to provide financial assistance to the Tribe to carry out the functions it has assumed under this agreement. Only a separate grant agreement, cooperative agreement or contract obligates NPS to provide funding for tribal activities.

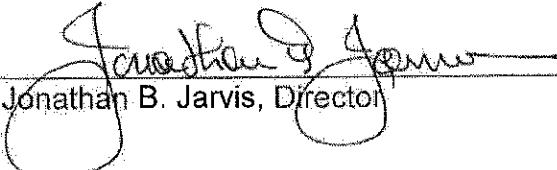
13. The National Park Service, pursuant to Sections 101(d)(2) and 101(b)(2) of the Act, and in direct consultation with the Tribe, will carry out a periodic review of the Tribe's program pursuant to the Act, to ensure that the Tribe is carrying out the program in conformance with the Tribe's plan and with this agreement. To the greatest extent feasible, the review will be a collegial process that involves both NPS and the Tribe in a mutual evaluation and assessment of the program. Generally, such a review will occur every four years.

14. The Little Traverse Bay Bands of Odawa Indians may terminate this agreement for any reason by providing the National Park Service sixty days' written notice of such termination. The National Park Service may terminate this agreement upon determining that the Tribe has not carried out its assumed responsibilities in accordance with this agreement, the Act, or any other applicable Federal statute or regulation. Unless circumstances warrant immediate action, NPS will not terminate the agreement without first providing the Tribe a reasonable and appropriate opportunity to correct any deficiencies.

15. This agreement may be amended only by a written instrument executed by the Little Traverse Bay Bands of Odawa Indians and the National Park Service.

16. This agreement shall become effective upon signature by the Director of the National Park Service or his designee, which signature shall not occur until after the Tribal Chairperson of the Little Traverse Bay Bands of Odawa Indians has signed the agreement.

FOR THE NATIONAL PARK SERVICE:

  
Jonathan B. Jarvis, Director                      2-26-16  
Date

FOR THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS:

  
Regina Gasco Bentley, Tribal Chairperson                      11-2-15  
Date