

**WAGANAKISING ODAWAK STATUTE # 2012-015**  
**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. This statute repeals and replaces WOS 2009-022.

**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. “*Fixtures*” means goods or items that have become permanently affixed to the land that materially or substantially contribute to the overall purpose and nature of the land, or related to, or associated in use to the land in such a way that it is regarded as part of it.
- G. “*Intangible Asset*” means something of value that cannot be physically touched, such as a brand, franchise, trademark, or patent.
- H. “*Real Property*” means land and fixtures.
- I. “*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.
- J. “*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).
- K. “*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 the following shall require prior approval by Tribal Council:

- A. Land, in accordance with the Constitutional requirements.
- B. Fixtures.
- C. Other actions including, but not limited to, demolition of buildings, substantial changes to the nature and scope of natural resources, and/or an increase or decrease in the square footage of buildings by more than fifty percent.

#### **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 August 19, 2012 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Belinda Bardwell	X			
Bill A. Denemy	X			
Kevin Gasco	X			
John Keshick	X			
Aaron Otto	X			
Winnay Wemigwase	X			
John Bott	X			
Regina Gasco Bentley	X			
Melvin L. Kiogima	X			

Date: 8/19/12

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Legislative Leader Melvin L. Kiogima

Date: 8-19-12

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Regina Gasco Bentley, Secretary

Received by the Executive Office on 8-20-12 by \_\_\_\_\_

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: 9-18-12

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Dexter McNamara, Tribal Chairperson