

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

Land Acquisition 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, and the Executive Branch to assess proposed land parcels for the potential of acquisition.

II. Submission of Potential Land Parcel

- A.** Tribal Citizens, 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) that is submitting the proposed land parcel to provide the following: contact information for the person submitting the land parcel, location of the land parcel, size of parcel, whether the land parcel is located within the exterior boundaries of the LTBB Reservation, know asking price or State Equalized Value (SEV), map and/or aerial view, any historical or cultural information, any other relevant information.
- C.** Any land parcel submissions received by the Legislative Office shall be forwarded to the Land and Reservation Committee for consideration.

III. Land Parcel Initial Assessment

- A.** The Land and Reservation Committee may determine, based on the particular property, the extent of due diligence information that is needed before making a recommendation to Tribal Council.
- B.** The request for due diligence information will be in the form of a motion that will include a deadline date for submission to the Committee.
- C.** Enjinaaknegeng shall send an email to the respective departments and request the due diligence information along with the established deadline.
- D.** All requested due diligence information will be sent to both the Legislative Office and to Enjinaaknegeng. The Legislative Office will retain a copy of the information for record keeping purposes. Enjinaaknegeng will compile the information into a *Staff Review and Analysis Report*, enter it into the data base and prepare a checklist with the dates of the items completed.

- E. Based on the checklist, if any of the information required or request is incomplete, then Enjinaaknegeng will communicate to the respective departments and acquired the necessary information. Once the inform is compiled and complete, Enjinaaknegeng will transmit the *Staff Review and Analysis Report*, along with the completed checklist, to the Legislative Office for record keeping and to the Committee for assessment.
- F. The Committee will make its determination upon receipt of the *Staff Review and Analysis Report* and completed checklist as to whether or not to pursue a parcel and make a recommendation to Tribal Council.

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 IV. Post Offer).

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 records related to the parcel purchase by the Legislative Senior Financial Analyst and the LTBB Chief Financial Officer and submitted to the Land and Reservation Committee.

C. Land and Reservation Committee

1. Based on the *Staff Review and Analysis Report* the Committee shall determine whether or not additional information is needed.
2. The Committee may determine if an Appraisal is needed. Appraisals are costly and can be time consuming, it may not be required for every potential land parcel. Factors to consider in deciding whether a potential purchase warrants an appraisal include how the listing price compares to the state equalized value (SEV), easily identifiable comparable sales, and how quickly parcels are selling on the current market.
3. Based on the intended use and whether the parcel includes an existing business or is any type of income property the Committee may determine that a preliminary Market Study and financial review of records needs to be conducted before proceeding with an offer.

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, then they will proceed with the following steps:

1. **Executive Inclusion.** Notify the Executive with the intended offer and parcel specifics.
2. **Fund Availability.** Determine whether the funds are available to complete the purchase which includes:
 - a. Pre-closing inspections;
 - b. The purchase price;
 - c. Closing Fees; and
 - d. Title Policy, Surveys and Recording Fees for Trust Acquisition with the Bureau of Indian Affairs.
3. **Appropriation of Funds.** Tribal Council will determine whether the funds are already appropriated to the Acquisition Fund. If there are not funds available, Tribal Council must appropriate the needed funds by a Tribal Resolution to take effect upon the Executive's signature or veto override.

V. Post Offer: Acquisition Negotiation and Contingencies

- A. **Offer/Purchase Negotiation.** General Counsel will proceed with an offer to negotiate the price and report to Tribal Council through a Confidential Memo the progress of the purchase.
- B. **Clear Title.** A clear title issued by a reputable title insurance company is obtained and General Counsel shall review the commitment to assure there are no easements or other restrictions that may impair the intended use. Any discrepancies are reported immediately to Tribal Council.
- C. **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.
- D. **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.
- E. **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.
 1. **Funds Disbursement.** Enjinaaknegeng will ensure the Accounting Department is provided the appropriation Tribal Resolution and final signed purchase agreement to document any needed earnest money and

final closing disbursements.

2. **Signatures.** The Tribal Treasurer, or General Counsel on behalf of the Treasurer, may sign offers and acceptances within the authorized parameters.


VI. 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.

VII. Effective Date

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

This Policy was approved by Tribal Council on December 16, 2021.

	<u>12/17/2021</u>
Marcella Reyes, Tribal Council Secretary	Date

