WAGANAKISING ODAWAK STATUTE # 2020-006
TRIBAL GOVERNMENT BUDGET FORMULATION and MODIFICATION STATUTE

SECTION I. PURPOSE AND SHORT TITLE

The purpose of this Statute is to mandate a process and deadlines for the Tribal Government to follow in the formulation and implementation of the annual Tribal governmental budget. It may be cited as the "Budget Act." This Statute repeals and replaces Waganakising Odawak Statute 2015-016, 2005-11, 2007-003 and 2007-004 and WOS 2008-004 Process for Appropriation of Supplemental Funding Statute.

SECTION II. DEFINITIONS

A. "Chief Financial Officer" or "CFO" is the Little Traverse Bay Bands of Odawa Indians tribal government Chief Financial Officer.

B. "Committee" means the Tribal Council standing Appropriation and Finance Committee consisting of the Treasurer and two Councilors.

C. "Fringe Benefits" means the non-wage expenses for the benefit of employees that includes, but is not limited to, Health, Dental and Vision Insurance, Disability Insurance, Unemployment Benefits, Worker's Compensation Insurance and Employer-Portion of FICA Insurance.

D. "Fund" means a segregated, self-balancing account used to record revenues, expenditures, assets, liabilities and other financial transactions for a specific purpose, activity or objective.

E. "Fund type" for the purposes of this statute means funds distinguished by the monies or revenue source, i.e. Grant/Federal Contract Funds, Cost recovery, and General Fund.

F. "General Fund Balance" also known as "Prior Period funds" means the prior years' unrestricted general fund dollars that were budgeted but not expended in the year they were budgeted and that are returned to the general fund unrestricted balance available for appropriation in subsequent years.

G. "Governmental Branches" mean the Legislative, Executive and Judiciary branches of government and for the purposes of this statute shall also include the Election Board and Prosecutor; and sub-entities including tribally chartered corporations.

H. "Indirect Costs" means the expenses that are incurred in joint usage of internally servicing a government program and are not directly assign or identify with a direct program or function, such as Accounting, Human Resources, and Administration.

I. "Indirect Cost Rate" means the formula used by United States Department of the Interior that pools all of the indirect costs on an annual basis through an allocable, approved plan.

J. "Maintenance or Space Costs" means the costs of all the government office building upkeep, allocated on a square foot basis. Costs include the wages and fringe of maintenance staff, cleaning and maintenance supplies and equipment, repairs made for regular upkeep, snow removal and lawn care, and utilities, including telephone and internet service.

K. "LTBB" or "Tribe" or "Tribal" means the Little Traverse Bay Bands of Odawa Indians.

L. "Tribal-wide Budget Worksheet" means the worksheet that lists governmental departments and individual programs, i.e. Emergency funds, Burial Assistance funds, that is attached to the Resolution and it becomes the approved budget for that fiscal year

M. "Tribal Council" means the elected body created under Article VII of the Little Traverse Bay Bands of Odawa Indians Tribal Constitution.

N. "Treasurer" means the Little Traverse Bay Bands of Odawa Indians Treasurer as provided for in the Constitution.

SECTION III. FISCAL YEAR

The fiscal year shall be from January 1 to December 31.

SECTION IV. APPROPRIATION AND FINANCE COMMITTEE

A. In accordance with the Tribal Treasurer Responsibility Statute, the Committee has the authority to request documents and information and shall report to the full Tribal Council through the Treasurer's report.

B. Tribal Council shall request a recommendation by the Committee prior to approving any action required by this Statute.

SECTION V. ANNUAL BUDGET CALENDAR

A. By **January 21st** of the year prior to the Annual Budget Fiscal year, a budget calendar will be approved by Tribal Council and posted on the Tribal website.

B. The budget calendar shall include the dates for the following:

1. The Annual Meeting
2. Accounting Department distribution for Budget Procedures
3. Report of the General Fund Balance to Tribal Council
4. Allocation Amounts of General Funds for Branches of Government
5. Deadline for Cost Recovery budget submissions to Tribal Council
6. Deadlines for General Fund Budget submission to Tribal Council
7. Deadline for Grant/Federal Contract Funds that are reoccurring or anticipated submission to Tribal Council
8. Department / Branch Hearings
9. Proposed final budget available to Tribal Citizens
10. Public Hearing
11. Final Annual Budget approved by Tribal Council

SECTION VI. ANNUAL MEETING

In accordance with the Tribal Constitution, the Executive Branch is responsible to call an annual meeting of the Tribal Membership each spring. The date of the annual meeting will be provided to Tribal Council and included in the Annual Budget Calendar.

SECTION VII. BUDGET PROCEDURES

Each year, **by February 1st**, the CFO shall distribute to Department Managers, Department Directors, and the Branch Managers or other appropriate authorized staff, the Budget Procedures that includes any updates that may impact the budget or budget process including, but not limited to the following:

A. Budget templates

B. Budget Planning Rates for:

1. Indirect Cost Rate
2. Fringe Benefit Rate
3. Space Costs
4. Cost of Living (COLA)

SECTION VIII. GENERAL FUND REVENUES ANNUAL BUDGET

A. Any unrestricted general fund dollars that were budgeted but not expended in the year they were budgeted shall automatically be returned to the general fund unrestricted balance, known as the "General Fund Balance", unless otherwise approved by Tribal Council. General Fund Revenues are the unrestricted monies received by the Tribal Government from enterprises and other sources. For Budget purposes the General Fund includes current year anticipated revenue, any remaining unrestricted funds from prior years known as the General Fund Balance and any funds that have been restricted as Supplemental Funding, but are unspent. Each year, by **February 1st**, the Office of the Treasury, with information and assistance from the Accounting Department, shall report to Tribal Council the General Fund

Amounts that include approximate amount of the "General Fund Balance" and the anticipated amount of revenue that may be utilized to formulate the budget.

B. Each year, by **February 15th**, Tribal Council shall approve the Governmental Branches allocation amounts of general funds that each branch of government may utilize for their base budget for the following Fiscal Year.

C. The allocated amounts of general funds will be based on anticipated revenues, anticipated outlays, available funds and historical numbers for the last three (3) years of actual spending by Governmental Branches.

D. Tribal Council may also, by Tribal Resolution, allocate and restrict any anticipated revenue, any remaining unrestricted funds from prior years known as the General Fund Balance and any funds that have been restricted as Supplemental Funding, but are unspent from the prior year to be set aside for the proposed Governmental Branches budgets.

SECTION IX. COST RECOVERY FUND ANNUAL BUDGET

A. Cost Recovery Revenues include Fringe Benefits, Maintenance, Indirect Costs and other restricted revenues.

B. The budget shall be based on anticipated Cost Recovery Revenues in the year being planned, current fund balance for the Cost Recovery Pool, anticipated outlays, and historical numbers for the last three (3) years of actual spending by Governmental Branches.

SECTION X. GRANT/FEDERAL CONTRACT BUDGET

A. Grant/Federal Contract Revenues are recurring or anticipated monies that are received by the Tribe that includes but not limited to Indian Health Services, IHS; Bureau of Indian Affairs, BIA 638; Native American Housing Assistance and Self Determination Act, NAHASDA; and any other reasonably anticipated funds.

B. Tribal Council shall approve the Grant/Federal Contract Revenues budget as part of the Tribal-wide budget by the annual meeting.

SECTION XI. BUDGET SUBMISSIONS

A. All proposed Governmental Branches budgets whether utilizing General Fund Revenues, Grant/Federal Contract Revenues shall be submitted to Legislative Office by **March 15th** of each year. Such budgets shall be made available to the Chief Financial Officer.

1. If there is a deletion of any program or service, a justification as to why the program or service is no longer needed or not sustainable shall be provided with the proposed budget by the Branch of Government.

2. If there are any additions to program or service, a justification as to why the program or service is necessary shall be provided with the proposed budget by the Branch of Government.

B. Based on the input from the public hearings, Tribal Council may make deletions or additions to Governmental Branch budgets. If there is any deletions or additions, Tribal Council shall notify the appropriate entity after all public hearings have been conducted.

SECTION XII. BUDGET HEARINGS

A. Budget Hearings may be held by Tribal Council, the Committee or both.

B. All hearings shall be posted, held in open session and shall not require a quorum of Tribal Council and/or Committee.

C. Governmental Branch hearings are held to gather information from one or more Department Managers, Department Directors, Branch Managers or other appropriate authorized staff.

D. Any Department Managers, Department Directors, and the Branch Managers or other appropriate authorized staff may request a time for a Governmental Branch hearing.

E. All Governmental Branch hearings shall be held during the first full week of April.

F. A Public hearing for Tribal Citizenship input shall be held during the second full week of April. At the Public hearing, copies of the draft budget will be provided to the Tribal Citizens.

SECTION XIII. APPROVAL PROCESS

1. Tribal Council shall approve the annual budget by the annual meeting.

2. The annual budget shall be approved by Tribal Resolution and shall include an attached detailed worksheet of the tribal-wide budget.

3. The Tribal Council approved budget shall be available for Tribal Citizens at the Annual Meeting, in accordance with the Constitution.

4. The budget shall be deemed enacted if not expressly vetoed by the Tribal Chair within thirty (30) days of submission.

5. If the Chair vetoes the budget, then he or she must submit an Executive proposed signed Tribal Resolution and new proposed budget along with the veto to Tribal Council within the thirty (30) day time period allowed for the veto.

6. The Chair's veto and proposed budget must be made available to Tribal Citizens and posted to the Tribe's website.

7. Tribal Council may enact a budget by either overriding the veto by an affirmative vote of seven (7) Councilors or alternatively enact the Chair's submitted signed Tribal Resolution with the proposed budget by an affirmative majority vote of Tribal Council. In enacting the Chair's proposed budget, Tribal Council shall approve it as presented and shall not make any changes, additions or deletions to the proposed budget.

8. If the veto is not overridden within the time period as set forth in the Administrative Procedures Act, nor has Tribal Council approved the Chair's proposed budget, the last enacted budget will take effect at the beginning of the fiscal year.

SECTION IX. ALLOCATION OF GENERAL FUND BALANCE

A. Upon approval of the budget, Tribal Council may allocate and restrict any anticipated revenue, any remaining unrestricted funds from prior years known as the General Fund Balance and any funds that have been restricted as Supplemental Funding, but are unspent from the prior year.

B. The funds will be restricted by Resolution and will identify a specific classification of how the funds may be used, i.e. Supplemental Funding, Economic Development, Investment, sinking fund, or other specific use.

C. Funds shall only be used for the restricted use as stated in the enacted Resolution.

SECTION XIV. SUPPLEMENTAL FUNDING PROCESS

A. Supplemental funding shall be appropriated by Resolution from the monies that have been designated and restricted for Supplemental Funding.

B. A request for supplemental funding shall include the following information:

1. The reason for the requested supplemental funding:
   - **a.** Emergency
   - **b.** Specific additional service or program
   - **c.** Deficiency budget;

2. A brief narrative;

3. The amount requested;

4. Required signatures;

5. From where the funding is being requested, i.e. "prior year funds".

C. All requests must be received in accordance with Tribal Council and/or Committee Policy. Such policies shall include dates and deadlines for submissions, posting requirements and the approval process.

D. Special Tribal Council or Committee meetings may be called for emergency funding requests.

E. Any monies not expended during the fiscal year shall revert to General Fund Balance funds.

SECTION XV. BUDGET MODIFICATIONS

A. No monies can be moved between two different revenue sources. Revenue sources are General Funds, Cost Recovery, and Grant/Federal Contract Funds.

B. Within a fiscal year, no more than 4% of the total amount of either budget can be moved between two different departments or individual program not within a specific department as listed on the approved Tribal-wide Budget Worksheet, without Tribal Council approval. Such requests shall be posted for comment on the Tribal website for at least seven (7) days prior to Tribal Council approval. Tribal Council shall act on the request within thirty (30) days of receipt of the request.

C. Operating Budget Modifications are the transfer of monies between line-items within an individual fund within the same fiscal year are allowable, within the following criteria:

1. Prior to approving any budget modification involving space costs, the CFO shall ensure that all space costs are adequately funded.

D. All budget modifications must be reviewed by the CFO to ensure that no material change in an existing service or program is altered either in nature or scope. If there is a material change in an existing service or program by either a change in the nature or scope of the service or program, then the budget modification shall be submitted to Tribal Council for approval.

SECTION XVI. ADDITIONAL REVENUES

A. If actual revenues during a fiscal period exceed the projected revenues, the CFO, on a quarterly basis, will report to Tribal Council the amount of excess funds, the date of the receipt of the funds and the funding source.

B. If actual revenues during a fiscal period fall short of projected revenues, Tribal Council shall take necessary actions to ensure that funding for approved budgets is available by adding additional sources of revenue to the budget or shall declare a budget emergency.

SECTION XVII. EMERGENCY BUDGETS/RECISSIONS

A. At any time during the fiscal year the Treasury Office, based on a revenue analysis and other factors, may recommend to Tribal Council to declare a budget emergency.

B. If Tribal Council declares a budget emergency, Tribal Council shall provide guidance and criteria for amended budgets that must be submitted by the Governmental Branches within the timeframe provided by Tribal Council. All amended budgets must be passed by Tribal Resolution.

C. Upon the declaration of a budget emergency by Tribal Council, Tribal Council shall take necessary steps to notify Tribal Citizens of the impact of the budget emergency.

SECTION XVIII. SYSTEMATIC REDUCTIONS OF BUDGETS

Only through an approved Resolution may any systematic cuts to budgets occur.

SECTION XIX. CHECK SIGNERS

The Tribal Chair shall have the authority to designate check signers and file the appropriate authorized forms to carry out this function.

SECTION XVIII. 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 XIX. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

SECTION XXI. OTHER RELATED STATUTES

See Waganakising Odawak Statute (WOS) 2014-001 Tribal Treasurer Responsibility, WOS 2011-013 Treasury Statute, and WOS 2011-009 Accounting Statute, or as may be amended.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on January 9, 2020 at which a quorum was present, by a vote of 7 in favor, 0 opposed, 0 abstentions, and 2 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington Jr.				X
Fred Kiogima	X			
Tamara Kiogima	X			
Melissa Pamp	X			
Leroy Shomin	X			
Marty Van De Car	X			
Marcella R. Reyes	X			
Julie Shananaquet	X			
Emily Proctor				X

Date: 1/10/2020 Emily Proctor

Emily Proctor, Legislative Leader

Date: 1/10/2020 Julie Shananaquet

Julie Shananaquet, Tribal Council Secretary

Received by the Executive Office on 1-14-20 by JL Jr

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: 2-10-2020 Regina Gasco-Bentley

Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on 02.10.2020 by Linda Roberts