Budget and Appropriations Act of 2013
Ordinance # 13-100-04

Article I. Purpose

1.01. Purpose. The purpose of this ordinance is to implement a method for preparing, adopting, and implementing a tribal budget for all tribal governmental operations. This ordinance is adopted pursuant to Article IV, Section 1 and Section 7(i), and Article V, Section 5(a)(6) and Section 5(c) of the Constitution.

1.02. Findings. The Tribal Council finds that:

a. It is necessary to set forth directions and processes for the formulation of the Tribe's annual budget.
b. It is necessary to provide a calendar for the timely adoption of the budget.
c. It is necessary to provide the membership with an opportunity to comment on the budget proposal.
d. It is necessary to provide sufficient disclosure of information about the budget and its underlying assumptions to allow the Tribal Council to make reasoned and informed decisions in the process of approving the annual budget and to give the membership insight into the financial status of the Tribe.
e. The Ogema's unilateral decision to cease government operations endangered the public welfare by denying essential services. Tribal Council believes that, in order to avoid the denial of services to members by an arbitrary and capricious decision, the budget and appropriations process must include mechanisms to prohibit such activity.

Article II. Adoption; Amendment; Repeal; Severability

2.01. *Adoption.* This Ordinance was affected by the following resolutions:

a. Repeal of the Budget and Appropriations Ordinance # 04-100-04, by Resolution #13-0313-042.

b. Adoption of the Budget and appropriations Act of 2013, by Resolution #13-0313-042.

c. Emergency adoption of amendments by Resolution #14-0326-095, to allow for net gaming revenue or other funds to be used to supplement or fund salaries, wages or fringe benefits of employee positions required by and/or funded by grant dollars upon authorization by Tribal Council Resolution. .

d. Resolution #14-0723-216, adopting emergency amendments of March 26, 2014 and inserting requirement that funds be restored to Government operating budget upon receipt of grant funding.

e. Emergency adoption of amendment by Resolution #16-0323-095 on March 23, 2016 removing the requirement of 5.06(g) for 90 days so that positions vital to the tribal government can be filled.

2.02. *Amendment.* This Ordinance may be amended in accordance with the provisions set forth in the Administrative Procedures Act – Ordinances.

2.03. *Repeal.* This ordinance may be repealed in accordance with the procedures set forth in the Administrative Procedures Act – Ordinances.

2.04. *Severability Clause.* If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.
2.05. *Title.* This ordinance shall be referred to as the "Budget and Appropriations Act of 2013".

Article III. Definitions
3.01. *General.* As used in this Ordinance, except where otherwise specifically provided or the context otherwise requires, the following terms and expressions shall have the following meanings. The word "shall" is always mandatory and not merely advisory.
3.02. "*Board*" means the Board of Directors of an enterprise or other governing body created by ordinance or tribal law and who is responsible for the operations of the enterprise.
3.03. "*Carried-over*" means the action by which funds may be moved from one fiscal year to the next.
3.04. "Director" means, for purposes of this act, a person with the management responsibility for an activity or group of activities and the management responsibility for the employees performing the activity or group of activities.
3.05. "Employees" for purposes of this act, excludes elected officials, Boards members, Election Board members, and members of legislatively created Commissions and Committees.
3.06 "*Investment*" means money or capital expended to promote the public good such as housing, roads, public buildings, utilities etc., or to gain profitable returns, such as interest, dividends, or appreciation in value.
3.07 "*Net Gaming Revenue*" means all revenues generated from all sources by a gaming enterprise less the operating expenses of the enterprise, less a capital replacement reserve approved by Tribal Council and less any debt service on borrowings of the enterprise plus depreciation and amortization expenses.
3.08 "*Operating Department*" means a discrete unit within the subdivisions of the Tribe which represents a single activity or related activities generated from a single office with a director assigned. A director may be responsible for a combination of funds, programs and/or departments each having an individual fund and/or program number assigned by the Finance Department. The term Operating Department encompasses all the funds, programs and departments assigned to a director including those programs funded exclusively or in part by grant funds whether with annual funding or multi-year funding.
3.09. "*Unexpended Funds*" means Tribal revenue not utilized during a fiscal year. Unexpended funds may include unbudgeted funds if such funds are identified at the conclusion of the fiscal year pursuant to Section 6.07.

Article IV. Balanced Budget
4.01. *Balanced Budget.* The tribal budget for the government of the Little River Band of Ottawa Indians shall be balanced meaning that budgeted expenses shall be equal to or less than budgeted revenues.

4.02. *Funding Availability.* Unless specifically stated in an appropriation, all expenditures by tribal government operations are subject to funding availability.
4.03. *Unexpended Funds.* Unexpended funds at the end of the fiscal year may be carried-over to the next fiscal year pursuant to Section 6.07. Unexpended Net Gaming Revenue shall be allocated in accordance with the Approved Revenue Allocation Plan, Revenue Allocation Ordinance and/or any other Approved Revenue Allocation Plan adopted into law.

Article V. Budget Formulation and Transmittal

5.01. *General.* The Ogema is responsible for preparing and presenting the tribal government budget proposal for approval by Tribal Council, in accordance with Article V, Section 5(a)(5) of the Tribal Constitution.
5.02. *Strategic Plan Required.* The Tribal Council shall develop a five year strategic plan in a form similar to Section 2 Paragraph 306(a) of the Government Performance and Results Act (GPRA) (P.L. 103-62). The initial strategic plan shall be developed no later than September 1, 2013. Thereafter the strategic plan shall be updated by Tribal Council no later than March 15th of each succeeding year. The strategic plan shall include but not be limited to the following:

a. The five-year strategic plan shall include but not be limited to a mission statement for the Tribe and long term results-oriented goals and objectives covering the major functions of each of the branches of government.
b. By February 15th of each year the Ogema, for the Executive Branch, the Chief Judge for the Judicial Branch and the Speaker for the Legislative Branch shall each prepare performance plans that establish the following for their respective branches of government:
    1. The performance goals and objectives for the upcoming budget year
    2. A description of how these goals and objectives are to be met, and
    3. A description of how the performance goals and objectives will be measured and verified.
    4. The performance plans shall be submitted to Tribal council no later than February 15th of each year.
c. By February 15th of each year the Ogema for the Executive Branch, the Chief Judge for the Judicial Branch and the Speaker for the Legislative Branch shall prepare and submit to Tribal Council a performance report that reviews their respective branch's success or failure in meeting their performance goals and objectives in the previous year.
d. The Ogema for the Executive Branch, the Chief Judge for the Judicial Branch and the Speaker for the Legislative Branch shall prepare for their respective branches of government a list of essential services in priority order so that in the event of a budget revenue shortfall essential services will be maintained in priority order. The lists of essential services for all three branches shall be published in the Currents in January of each fiscal year. The Ogema, Chief Judge and the Speaker shall be responsible for submitting their respective lists for the Currents.

5.03. *Estimate of Projected Revenues - Tribal Enterprises.* Each enterprise of the Tribe shall, through its Board, submit an estimate of projected revenues for the next fiscal year by March 1st of each year to the Ogema, with a copy forwarded to the Tribal Council. The estimate of projected

revenues shall include the following minimum information as identified in this section. An enterprise Board may elect to include additional information which would be helpful in allowing the Tribal Council and Ogema to interpret and apply the estimated projected revenues to the proposed Tribal budget.

a. Identification of the enterprise's fiscal year.
b. Net gaming revenue by month and in total for the year.
c. Monthly and total projected non-gaming revenues.
d. Expenses, capital expenditures, debt service payments and additions to the capital replacement reserve by month and in total for the year.
e. Total monthly and annual projected distributions to the Tribe.
f. Other information determined necessary and appropriate by the Board of the enterprise or as requested by the Tribal Council or the Ogema.

5.04. *Executive Summary Required.* By March 15th of each year, the Ogema shall provide Tribal Council with an executive summary of expected revenues for the current and upcoming fiscal year from each revenue source including but not limited to net gaming revenue, grants, rental fees, utility fees, sales or other taxes, and distributions from gaming and non-gaming enterprises or other revenue sources.

5.05. *Information to be Provided to the Executive Branch.* By May 15th of each fiscal year, the Tribal Council shall provide to the Office of the Ogema a not to exceed amount available to fund government expenditures for the coming fiscal year. The amount shall be based upon an analysis of the previous three fiscal years' budgets and the estimates of projected revenues reported under Section 5.03 and 5.04.

5.06. *General Budget Provisions.* The Ogema shall prepare a proposed Tribal Budget for the upcoming fiscal year by July 31 of each fiscal year

The following general provisions shall govern the proposed Tribal budget:

a. All program revenue, 3rd party billing, fees, rental income, taxes and any other revenue shall be allocated to the operating department responsible for generating those revenues. If department revenue exceeds department expense the excess may be allocated to other departments. Gross gaming tax shall be allocated in accordance with Section 6 of the Gross Gaming Revenue Tax Ordinance #09-100-05.
b. Net gaming revenue shall be allocated in accordance with the Approved Revenue Allocation Plan, Revenue Allocation Ordinance and/or any other approved Revenue Allocation Plan adopted into law.
c. Expenditures funded by grant dollars, Tribal matching funds and in-kind dollars required by a grant document shall be segregated from expenditures funded by net gaming revenue or other funding sources.
d. Net gaming revenue or other funds may be used to supplement or fund salaries, wages or fringe benefits of employee positions required by and/or funded by grant dollars upon authorization by Tribal Council Resolution. . Upon receipt of the grant funding for a position temporarily funded by Tribal dollars, the Accounting Department shall restore the funds to the Government's operating budget.

e. The director of each operating department shall present their department budget and their goals and objectives in person to the Ogema, Tribal Manager, CFO and representatives of Tribal Council. If the Ogema, Tribal Manager or CFO is unable to attend a presentation, he/she may appoint a designee to attend provided that only one such designee is appointed for each department budget presentation. Additional attendees are permitted at the discretion of the Ogema and/or Tribal Council.
f. The director of each operating department shall sign a statement indicating their agreement or the reasons they may disagree with the financial information and goals and objectives included in their department's budget. If changes are proposed to the department's budget during the budget approval process the director shall indicate in writing their agreement with those changes or the reasons why they do not agree.
g. Any position in the approved budget that becomes vacant during the budget year shall be posted in accordance with the Indian Preference in Employment Ordinance #11-600-02 within 14 days of becoming vacant and shall be filled within 90 days of becoming vacant. Positions that are vacant at the effective date of this Act shall be filled within 90 days of the effective date of this Act. Positions not posted or filled in accordance with this section shall be eliminated from the budget. Tribal Council in its sole discretion by resolution may increase the time limit for a position to be filled. Positions removed from the budget may be reinstated through a budget modification in accordance with Section 6.05.

5.07. *Appropriations.* Not later than March 1, June 1, September 1, and December 1 of each year, the Tribal Council shall, by resolution, appropriate funds for expenditure for the following fiscal quarter.

a. Once appropriated, funds shall remain available for expenditure for the purpose they were budgeted and appropriated, subject to any budget modifications made pursuant to section 6.05, until the funds are expended or until the end of the fiscal year.
b. Spending in any fiscal quarter shall not exceed the amount appropriated by Tribal Council for the fiscal quarter plus the total of funds appropriated in previous quarters but not yet expended.
c. Tribal Council can appropriate additional funds at their discretion only by resolution or the Ogema can recommend budget modifications pursuant to Section 6.05

5.08. *Overall Reporting Requirements.* The budget proposal submitted by the Ogema shall include an executive summary and shall include pertinent information used to develop the budget proposal.

a. The Ogema's executive summary shall include but not be limited to:
    1. A discussion of new programs being offered and changes to existing programs.
    2. A discussion of new initiatives to improve operating efficiency or to improve member services.
    3. A list of the overall goals and objectives to be met in the budget year.
    4. A list of potential risks and opportunities that could materially impact the budget.
b. The Chief Financial Officer (CFO) shall provide the following along with other information that may have a material impact on the budget:

1. *Assumptions* - A list of the assumptions used to develop the budget including but not limited to the rates of overall inflation, salary/wage increases, medical insurance inflation etc.
2. *Revenues* - A list of revenues by source, by department/program, by month.
3. *Department funding* - For departments with mixed funding, list the amount provided by each revenue source such as net gaming revenue, grants, program revenues etc.
4. *Cash flows* - A schedule of cash flows by month showing major receipts, expenditures, capital spending and debt service payments.
5. *Indebtedness* – A schedule of all debt outstanding including bonds and enterprise debt along with a schedule of redemption and debt service payments by month.
6. *Capital expenditures* - A schedule of capital spending by month for the budget year and for each of the next three years indicating which items are strategic in nature, are to support new programs and those that are replacements of existing equipment or are safety requirements.

c. The Ogema or the CFO shall provide a schedule of changes to employee positions included in the budget to include new hires, vacancies to be filled; positions eliminated and proposed changes to the organization chart. The schedule shall include but not be limited to:
    1. Proposed changes to the organization chart and proposed job descriptions for the positions to be added or changed.
    2. A list of the positions to be eliminated, the preference category of the incumbent, why the position is no longer needed and if services to members will be diminished.
    3. Where each new position fits on the approved organization chart.
    4. The need/justification for each new position
    5. Indicate how each new position will be funded e.g. grants, net gaming revenue or program revenue.
    6. For grant funded positions indicate when the grant funding will end.
    7. The starting date for each new hire
    8. The starting date for each replacement position that will be filled.
    9. The salary/wage rate for each new and each replacement employee
    10. The termination date for positions to be eliminated.

d. The Ogema or the CFO shall provide a schedule of wage rate increases or decreases that includes but is not limited to the following:
    1. For rate increases that are based on an individual employee's performance provide the method used to evaluate performance, the range of percentages used and the total dollar amount for the year of all the performance based increases.
    2. If cost of living or inflationary increases are anticipated indicate the percentage of the increase, the rationale for the increase, the employees receiving the increases and the total dollar amount for the year of all the cost of living increases.
    3. If adjustments to the wage grid are anticipated provide the rationale for the adjustments, the methodology used, the timing of the changes, employees affected and the overall dollar impact of the changes for the year.

4. If bonus or other one time payments are anticipated indicate the rationale for the payments, how the amounts were determined, the individual employees receiving the bonuses, the timing of the payments and the total dollar amount of all bonuses for the year.

5.09. *Operating Department Reporting Requirements.* The budget proposal submitted by the Ogema shall include the following information for each operating department. For purposes of this section "operating department" encompasses the Tribal Council and the Tribal Court.

a. A list of goals and objectives for each fund, department and/or program within each operating department.
b. A narrative of each program or service offered to include the number of members served, the need for each program, how each program offered serves the needs of the members and the number of members who cannot be served because of limited funding or other resource limitations.
c. A list of any additional or future programs that should be offered, the estimated cost of the new program, the need for the program, the number of members expected to be served and the potential funding sources.
d. A listing of capital expenditure items (building & equipment) the department will need to function for each of the next three years (See the "Capital Outlay" Section 5.09.i.27)
e. A list of initiatives that can be pursued to improve department efficiency or initiatives that can reduce expenses without impacting service delivery.
f. A list of impediments that limit the department's ability to deliver services to members or other departments.
g. Detail of any safety concerns for employees or members and a list of safety clothing or equipment that is needed but not included in the budget proposal.
h. A written statement signed by the director that he/she is in agreement with or the reasons they may disagree with the financial information, goals and objectives included in their department's budget pursuant to Section 5.06f.
i. The director shall provide the following information for each line item in the department's budget:
    1. *Salaries, payroll taxes & fringe benefits* - 1). Provide salary, overtime and on-call wages by individual, by month listing at a minimum the hourly pay rate. 2). Provide the need for, or the justification for each new position and indicate the expected hire date. 3). Provide the date vacant positions are expected to be filled. 4). Indicate which employees are on a four day (32 hour) schedule or are part time or temporary employees or interns. 5). List any positions to be eliminated. 6). The CFO and Human Resources are responsible for providing the insurance rates, payroll tax rates, workers' compensation rates and the rates for any other employee benefits that are to be used in each department's budget. If the rates are changing from the prior year budget the CFO shall provide a schedule listing those changes.
    2. *CHS – EHAP* - Provide expenses by month and indicate the number of members to be served.

3. *Tribal Activities & Client Services* - 1). Provide total expenses by month, 2). list the programs offered, 3). list the number of members served, 4). list the cost of each program, and 5). list any other expenditure in excess of $5,000.
4. *Professional services* - 1). Provide expenses by month, 2). list vendors with total expenses in excess of $5,000 for the year 3). Provide the reason and the justification for the expenses.
5. *Stipends* - Provide a schedule of stipends to include the number of meetings, the number of persons receiving stipends, the reason for the stipends, the amount of the stipends and the month payments will be made
6. *Property & casualty insurance* - Provide a list of insurance coverage to include the types of coverage, the amount of coverage, changes from prior years and the amount of premiums and the deductible for each type of coverage.
7. *Elders' insurance* - Provide premium cost, the number of members served and indicate any changes in the program.
8. *Vehicles* - 1). Provide a list of and the need for each vehicle. 2). identify ownership (Tribe/GSA) of each vehicle, 3). comment on each vehicle's serviceability and its adequacy for the department's needs.
9. *Rental & leasing* - Provide a list of items rented/leased, their cost and the need for each item.
10. *Property repair & maintenance* - Provide a list of major repairs planned and a schedule of future maintenance projects.
11. *Dues & subscriptions* - Provide a list of expenses that cost over $100 each.
12. *License fees & permits* - 1). Provide a list of each software expenditure over $1,000 and all other expenditures with an individual cost over $100. 2). List licenses and/or certifications that are required by law, regulation or job description and the cost of those licenses/certifications. 3). If continuing education is required to maintain licenses/certifications specify the number of hours required and the cost of the training on the "Travel & Training" line Section 5.09i22.
13. *Advertising* - Provide a list of all expenditures over $500 each.
14. *Printing costs* - Provide a list of major print projects.
15. *Postage & freight* - Provide a list of major mailing projects.
16. *Equipment repair & maintenance* - Provide a list of major repairs planned and a schedule of future maintenance projects.
17. *Small equipment & furniture* - Provide a list of all expenditures over $500 each.
18. *Supplies* - Provide a list of all expenditures over $500 each.
19. *Books & reference materials* - Provide a list of all expenditures over $100 each.
20. *Taxes* - Provide a list of property tax payments by location.
21. *Service fees* - Provide a list of bank and investment fees.
22. *Travel & training* - 1). Provide a list of the trainings included in the budget 2). describe how each training will aid the department in the attainment of its goals & objectives. 3). list the cost of each training, 4). list the cost of travel associated with each training, 5). list the names of the persons being trained and their preference

status. 6). Indicate which trainings have the option to be group trainings locally. 7). Indicate if the training is mandated by grant, regulation or to maintain licenses/certifications.

23. *Uniforms* - Provide a list of the types of uniforms required, the cost and the reason they are required.
24. *Meals & entertainment* - Provide a list of expenditures over $100 each.
25. *Utilities* - Provide a list of actions to be taken to reduce energy and water consumption.
26. *Phones* - Provide a list of cell phones and justify the need for each phone.
27. *Capital outlay* - 1). Provide a list of each item costing $5,000 or more and lasting more than one year (the capitalization limits), 2). indicate when each item will be purchased 3). indicate the need for each expenditure. 4). Indicate if each expenditure is a). a replacement, b). a safety requirement or c). required for new programs/services or d). are strategic in nature.

5.10. *Budget Hearing.* The Ogema shall present the following to the membership in a public meeting:

a. The proposed Tribal budget for comment and review no later than August 15th of each fiscal year.
b. The final approved Tribal budget shall be presented in the month of January following the presentation of the proposed budget the preceding August.

5.11. *Tribal Council Draft Budget Review Work Session.* The Ogema shall present a draft budget to Tribal Council no later than September 1st. The Tribal Council shall review the tribal budget proposal in a work session and shall present any comments in writing to the Ogema no later than September 15th. The Tribal Council may provide assistance and input during formulation of the budget at the request of the Ogema.

5.12. *Presentation of the Tribal Budget to Tribal Council.* Following consultation with the Tribal Council and the receipt of Tribal Council comments (Section 5.11) the Ogema shall submit the Tribal budget proposal, with any revisions, to the Tribal Council no later than October 15th. The budget so submitted shall be in digital/electronic format.

a. The budget submission shall include the signed statements of the directors as required in Section 5.06 f.
b. The Tribal Council has the right to review individual budget submissions with individual directors. The Ogema shall ensure that the directors will be available for such reviews.
c. The Tribal Council may adjust the budget proposal by making line item increases, reductions, deletions or additions.

5.13. *Enactment and Execution of Tribal Budget.*

a. The tribal budget for the next fiscal year shall be approved by the Tribal Council during the month of October.
b. Tribal Council shall provide the Ogema with a digital/electronic copy of the approved tribal budget along with a report detailing any line item increases, reductions, deletions or additions to the budget proposal submitted by the Ogema and the justification for those changes.

c. Within seven (7) calendar days after Tribal Council approves a budget the Ogema shall notify Tribal Council in writing of his/her approval or disapproval of that budget.
    1. If the Ogema approves the tribal budget, as presented, he/she shall sign the tribal budget and return a copy of the executed tribal budget to the Recorder within the seven (7) day period.
    2. If the Ogema disapproves of the tribal budget presented by the Tribal Council, he/she shall return it to the Recorder within the seven (7) day period, specifying the line item modifications he/she objects to.
d. The Tribal Council shall then meet within fourteen (14) calendar days to reconsider the tribal budget and the Ogema's objections. If, after reconsideration, the Tribal Council again approves the tribal budget by an affirmative vote of six (6) of the nine (9) Tribal Council members, the approved tribal budget shall be returned to the Ogema, who shall sign it notwithstanding his/her objections
e. If, after reconsideration, fewer than six (6) Tribal Council members approve the budget, it shall be returned to the Ogema, without the amendments, who shall approve it.

5.14. *Continuing Budget Resolutions.* If a budget is not approved by December 31 the Tribal Council shall pass a continuing budget resolution to fund tribal operations for the month of January. If a budget is not approved by January 31, then the Tribal Council shall pass another continuing resolution for the month of February and for each successive month as necessary. The continuing resolution(s) shall include but not be limited to the following provisions:

a. A not to exceed limit for aggregate spending
b. No new employment positions, new contracts or new capital expenditures shall be authorized without approval by Tribal Council resolution.
c. Charitable contributions shall be made in accordance with the Approved Revenue Allocation Plan, Revenue Allocation Ordinance and/or any other Approved Revenue Allocation Plan adopted into law regardless of the amount budgeted for such contributions.
d. Per capita distributions shall be made in accordance with the Approved Revenue Allocation Plan, Revenue Allocation Ordinance and/or any other Approved Revenue Allocation Plan adopted into law regardless of the amount budgeted for such Per capita distributions.

5.15. *Continuing Budget Responsibilities.* Within five (5) days after the passage of a continuing budget resolution, the Ogema for the Executive Branch, the Chief Judge for the Judicial Branch and the Speaker for the Legislative Branch shall notify Tribal Council in writing of the following:

a. Any potential shortfall of funding for the period covered by the continuing budget resolution
b. Any diminution of services to members expected to occur because of a lack of funding provided by the continuing resolution
c. Any requests for the authorization of new capital expenditures, new employment positions and new contracts expected to be presented to Tribal Council during the period covered by the continuing resolution

d. Tribal Council shall in its sole discretion modify the continuing resolution to compensate for the items reported in Section 5.15 a. b. & c.

5.16. *Tribal Court Budget.* Upon enactment of the tribal budget, that portion approved for the Tribal Court shall not be reduced or diminished without the consent of the Chief Judge provided that, the Chief Judge shall:

a. follow the functional budgeting policies as set forth in this ordinance and regulations adopted for the expenditure of funds; and
b. make all efforts to participate in budget reductions when determined necessary by Tribal Council and the Ogema and where budget reductions are applied across the entire tribal budget.

5.17. *Election Board Budget.* Upon enactment of the tribal budget, that portion approved for the election board shall not be reduced or diminished without the consent of the election board provided that, the election board shall:

a. follow the functional budgeting policies as set forth in this ordinance and regulations adopted for the expenditure of funds; and
b. make all efforts to participate in budget reductions when determined necessary by Tribal Council and the Ogema and where budget reductions are applied across the entire Tribal Budget.

5.18. *Prosecutor's Budget.* The budget for the Prosecutor's office shall provide adequate funding and shall not be reduced or diminished during the budget year in accordance with Article V, Section 5.02 of the Office of the Prosecutor Ordinance # 11-400-09.

Article VI. Administration of the Tribal Budget

6.01. *Monthly Budget Report.* In accordance with Article V, Section 5(a)(5) of the Constitution, the Ogema shall ensure that monthly financial reports are prepared and delivered to the Tribal Council describing the financial condition and needs of the Tribe.

6.02. *Quarterly Review of Performance versus the Budget.* Within 30 days after the end of each calendar quarter the Ogema shall submit to Tribal Council, as required by Article V, Section 5(a)(5) of the Constitution, a report on the activities of the quarter including but not limited to:

a. A discussion of material differences between budget & actual revenue and expenditures.
b. A forecast of the next quarter's revenue and expenditures.
c. A discussion of the performance in the quarter versus the goals and objectives.
d. A discussion of changes made or anticipated to be made to programs and/or services.
e. An evaluation of the Tribe's cash position and the performance of its investments.
f. Grant disbursements received in the quarter and a forecast of grant disbursements expected in the next quarter.
g. The risks or opportunities that could have a material impact on the rest of the year.

6.03. *Recommendations for Changes to the Budget.* If the quarterly review indicates that revenues will be less than anticipated, the Ogema may recommend, and the Tribal Council may approve, reductions in appropriations to keep expenditures balanced with the reduced level of revenue. Such reduction in appropriations shall not impact amounts required for base funding and amounts required for per capita distributions and for debt service payments. If the revenues exceed, or if

expenditures are less than the amounts estimated, the Ogema may recommend and the Tribal Council may approve supplemental appropriations or a reallocation of funds.

6.04. *Public Disclosure*. The Quarterly Review of Performance versus the Budget and the recommendations for changes to the budget (Sections 6.02 and 6.03) shall be made available for inspection by tribal members as required by Article V, Section 5(a)(5) of the Constitution.

6.05. *Budget Modifications; Authorization.*

a. Modifications to a line item within a department, fund or program budget, which do not alter the scope of the program, but simply re-allocate funds within the program budget from one line to another may be authorized and approved without Tribal Council approval, provided that, the combined amount of all individual modifications to a single program budget may not exceed 10% of the total original program budget. Modifications in excess of 10% of the total original program budget, or proposed modifications made after the total of previous modifications reach 10% of the total original program budget, require Tribal Council approval. For grant programs with multiple year budgets the 10% limitation shall be applied to the total budget divided by the number of years budgeted.
b. The authority to approve budget modifications as described in Section 6.05a shall be exercised by:
    1. The Ogema for the executive branch
    2. The Chief Judge for the judicial branch
    3. The Speaker for Tribal Council
    4. The Election Board by resolution of the Election Board.
    5. The Prosecutor for the Prosecutor's office
c. Modifications to approved budgets which do not fall within the limits defined in Section 6.05a. require a supplemental appropriation that must be approved by Tribal Council.
d. Any change in the scope of a program, such as the expansion or elimination of program activities, or any reduction in amounts appropriated for the purchase or provision of direct services to tribal members, must be approved by Tribal Council resolution.

6.06. *Disbursements*. No funds appropriated by the Tribe shall be disbursed except by bank check, wire transfer, ACH, credit card or other banking instrument or process. All disbursements shall be made pursuant to applicable procurement and disbursement regulations, policies and procedures approved by the Tribal Council or in accordance with contract or grant requirements.

6.07. *Carry-Over of Unexpended Funds.*

a. *Carry-Over of Grant and Special Revenue Funds*. Funds remaining within the Indian Health Service, Bureau of Indian Affairs or other Special Revenue Fund program budgets may be carried over to the next fiscal year. The Ogema shall present recommendations to Tribal Council of which funds are to be carried-over to the next fiscal year. The carry-over of funds to the next fiscal year will be subject to any applicable laws, regulations or conditions; provided that Tribal Council approval, by resolution shall be required for any extension or reallocation that amends the terms of any applicable grant or contract.
b. *Carry-over of Net Gaming Revenue*. Unexpended net gaming revenue shall be allocated to investment in accordance with the provisions of the Approved Revenue Allocation

Plan, Revenue Allocation Ordinance and/or any other Revenue Allocation Plan adopted into law.

c. *Carry-over of Gross Gaming Tax Revenue.* Unexpended gross gaming tax revenue shall be allocated in accordance with the provisions of Section 6 of the Gross Gaming Tax Ordinance #09-100-05.

d. *Year End Close Process and Calendar.* The date the accounting books, including encumbrances of the Tribe, are closed for the prior fiscal year or February 28, whichever is later, will be the cut-off date for including revenues and expenditures in the fiscal year. Revenue and expenditures applicable to the fiscal year and received prior to the cut-off date will be recorded as transactions made during the year. Invoices for expenditures authorized in the preceding fiscal year but received after the cut-off date will be charged to the succeeding year if there are no unexpended funds available. If unexpended funds are available, those funds shall be used to cover those invoices. Encumbrances still open at the cut-off date shall be voided.

e. *Approval of Fund Carry-overs.* No later than March 31 of each fiscal year the Ogema, for the executive branch, the Chief Judge for the Tribal Court and the election board shall each recommend to Tribal Council the funds to be carried-over and the unexpended fund use requests for their respective budgets. Tribal Council has the sole authority to approve the funds to be carried-over or to cover prior year invoices.

6.08. *Depository Accounts.* The Tribal Council shall authorize the depository account or accounts for tribal funds. At a minimum, separate accounts shall be required for the General Fund, Per-Capita funds and Special Revenue funds.

6.09. *Criminal Action.*

a. *Funds.* An officer, agent, servant, or employee of the Tribe who transfers or otherwise diverts the funds of the Tribe for individual benefit, or issues false checks, drafts, warrants, vouchers or other evidences of credit or authorizes, approves or requests an appropriation for expenditure of funds outside the scope of an approved contract shall be guilty of a misdemeanor and subject to a fine up to $5000.00 and/or up to one year imprisonment for each offense. For purposes of this section a contract shall mean an agreement between the Tribe and one or more parties that creates obligations that are enforceable at law.

b. *Information.* An officer, agent, servant, or employee of the Tribe who shall knowingly deliver, publish or give out for publication any false statement relating to the finances, funds, moneys, or balances in any fund of the Tribe shall be guilty of a misdemeanor subject to a fine up to $5000.00 and/or up to one year imprisonment for each offense.

c. *Investigation* The Prosecutor shall investigate all allegations of violations of this Act.

Article VII. Authorizations

7.01. *Authorization of Check Signers.* Within thirty (30) days of the swearing in of a new Ogema or new member(s) of Tribal Council, the Tribal Council shall adopt a resolution which identifies:

a. the person(s) who may sign checks or other banking instruments on behalf of the Tribe;

b. the account(s) under which that person(s) is authorized to sign.

7.02. *Removal of Check Signers.* As soon as is practical but no later than three (3) days after the Ogema or a member of Tribal Council resigns or is removed from office or upon the swearing in of a new Ogema or Tribal Council member(s) the out-going Ogema and/or Council member(s) shall be removed as an authorized check signer(s).

7.03. *Signatures.* All signatures shall be original in ink and not created by electronic or other mechanical means with the exception of payroll checks, per-capita checks and other checks authorized by Tribal Council resolution which may be endorsed by electronic or mechanical means.

CERTIFICATION

I, Joseph Riley, II, Tribal Council Recorder, do hereby certify that this is a true and correct copy of the Budget and Appropriations Act of 2013 permanently adopted by Tribal Council on March 23, 2016.

Joseph Riley, II, Tribal Council Recorder

Seal: