ONEIDA TRIBE OF WISCONSIN STANDARD OPERATING PROCEDURE	**TITLE:** Distribution of Commercial Leases	**SOP NO.** 67.
DIVISION: Land Management	**APPROVED BY:** Land Commission	**DATE:** 10/15/2002 Amended: (insert date)
DEPARTMENT: Real Estate Services	**APPROVED BY:** Land Management Managers	**DATE:** 10/15/2002 Amended: (insert date)
AUTHOR: Sheila Huff Interim Commercial Leasing Specialist	**APPROVED BY:** HRD	**DATE:** N/A

1 PURPOSE

To grant tribal Commercial Leases in a manner that is fair and equitable for land that has been designated to be used for commercial purposes. This SOP does not apply to commercial leases granted pursuant to a condition of sale and land acquisition.

2 DEFINITIONS

2.1 **Availability List** - as used in this SOP, a list of properties available for commercial leasing

2.2 **Business day** - Office hours of the Oneida Tribe being Monday through Friday 8:00a.m. to 4:30p.m. not including holidays identified by the Human Resources Department.

2.3 **Business Plan** - plan developed by the Individual, Department, Corporation, Limited Liability Corporation which includes the economic cycle of prosperity followed by a decline then a return to prosperity.

2.4 **CAP Rate** - Capitalization rate-rate of return on a property will produce on the owner's investment

2.5 **Commercial Lease** - a lease issued by Land Management on behalf of the Tribe for commercial purposes

2.6 **LUTU (Land Use Technical Unit)** - a multi-disciplinary planning team consisting of representatives of tribal departments who analyze information to provide land use recommendations to Land Commission.

2.7 **LUTU Phase I** - a report generated by the LUTU team and reviewed by the Land Commission to make an initial determination of the best use for a piece of property.

2.8 **LUTU Phase II** - a report generated by the LUTU team and reviewed by the Land Commission to determine the feasability of a specified project on a piece of property.

2.9 **Oneida Tribe** - as used in this SOP, the Oneida Tribe includes all tribal divisions, departments, programs, services, enterprises, boards and commissions of the

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Oneida Tribe of Indians of Wisconsin.

2.10 **Tribal Corporations** - corporations chartered pursuant to the Oneida Tribal Constitution and corporations chartered pursuant to state law where the corporation is controlled by a tribally chartered corporation or the Oneida Tribe.

2.11 **Tribal Members** - individuals enrolled with the Oneida Tribe of Indians of Wisconsin

2.12 **Tribal Member Owned Business** - a for-profit business which is majority owned, managed and 51% minimal share of the net profits distributed to Oneida tribal members and is certified as Indian preference eligible by the Indian Preference Department. A Tribal Member Owned Business shall include, but is not limited to, a sole proprietorship, partnership, corporation, joint venture, or franchise.

2.13 **Triple Net Lease** - Leases which the lessee/tenant pays all of the operating expenses such as all real estate taxes, insurance, utilities, license fees, repairs and maintenance.

3 PROCEDURES

3.1 **Preparing the Availability List.** All tribal lands ready for commercial development will be compiled on a list as commercial lands become ready to be distributed. The proposed list will be placed on the Land Commission agenda. In order that land is considered ready for development, it must have the following items completed:

3.1.1 LUTU Phase I recommendation adopted by the Land Commission finding commercial use as a potential land use. **Note:** a LUTU Phase II will need to be completed and approved by the Land Commission prior to issuing a lease.

3.1.2 Tribal Zoning submits a written report to the Land Commission on the development.

3.1.3 The Title search has been completed and it shows no liens, outstanding leases, encroachments and restrictions which would prevent a clear title. Title searches are waived if acquisitions are less than six months old.

3.2 **Assembling the application.** Commercial Leasing Specialist assembles application packets to include:

3.2.1 Application developed by Commercial Leasing Specialist;

3.2.2 Information regarding qualifications pursuant to this SOP;

3.2.3 Survey of land to be leased, when available; and Enrollment verification form.

3.2.4 A Deadline Date and contact person

3.2.5 Lease Application

3.2.6 Land Survey with legal description if available

3.2.7 Zoning Information on the land use

3.2.8 Other helpful Information

3.3 **Public Notice.** Commercial Leasing Specialist drafts the public notice to include:

3.3.1 Acreage, length of lease and location of parcel available for leasing

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3.3.2 Location of application pick-up and drop-off
3.3.3 Application deadline
3.3.4 Method of determining who will be awarded the lease. Commercial Leasing Specialist

3.4 **Posts notice.** Commercial Leasing Specialists posts notices at the following places:
3.4.1 Kalihwisaks
3.4.2 DOLM website
3.4.3 at DOLM.
3.4.4 Oneida Tribal Intranet

3.5 **Receiving applications.** DOLM administrative staff date stamps and time applications when received and forwards to the Commercial Leasing Specialist to rank.

3.6 **Applicant Qualifications.** Commercial Leasing Specialist will collect all applications.
3.6.1 If the applicant is an individual, the applicant must meet the following minimum criteria:
3.6.1.1 Must have submitted application prior to the application deadline;
3.6.1.2 Must have minimum credit score of 550;
3.6.1.3 Must have maximum debt to income ratio of 40%;
3.6.1.4 Must be current with all current tribal leases and/or loans;
3.6.1.5 Must be at least 21 years of age;
3.6.1.6 Must not have filed for bankruptcy within past three calendar years;
3.6.1.7 If applying as a tribal member, ensure enrollment verification form is attached;
3.6.1.8 Any tribal debt must be paid within 10 business days of being notified of the opportunity to lease; and
3.6.1.9 A current business plan in place incorporating present and projected use of tribal land.
3.6.2 If the applicant is applying as a tribal member business, the applicant must meet the following minimum criteria:
3.6.2.1 Must have submitted application prior to the application deadline;
3.6.2.2 Must be current with all current tribal leases and/or loans;
3.6.2.3 Must not have filed for bankruptcy within past three calendar years;
3.6.2.4 Any tribal debt must be paid within 10 business days of being notified of the opportunity to lease

3.7 **Ranking the applicants.** Commercial Leasing Specialist ranks the applicants according to the Oneida Tribal Priorities.
3.7.1 The Oneida Tribal Priorities are prioritized as follows:
3.7.1.1 Oneida Tribe
3.7.1.2 Tribal Corporations
3.7.1.3 Individual Tribal Members and Tribal Member Owned Business.

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3.7.1.4 All others not listed above

3.7.2 If Land Management receives no qualified applicants, the Land Commission may consider:

3.7.2.1 re-advertising

3.7.2.2 advertising the option to lease in other newspapers

3.7.2.3 leasing below the reserve when applicants timely submitted an application

3.7.2.4 offering lease to tribal department for the reserve lease payment

3.7.3 The Commercial Leasing Specialist will send all inquiries for commercial property received from the Oneida Tribe and Tribal Corporations including the calculation of land lease fees to the land commission for approval.

3.8 **Calculating Lease Fees:**

3.8.1 The annual lease fee will be determined by multiplying the actual purchase price or the appraised value by the CAP rate.

3.8.2 The minimum CAP rate will be 3% lower than the local markets CAP rate for tribal departments only.

3.8.3 The maximum CAP rate will be the local CAP rate.

3.8.4 All land leases will be triple net with the exception of Tribal Departments.

3.9 **Land Commission Prioritization.** The Commercial Leasing Specialist submits a summary of scoring to the Land Commission. The Land Commission may request the Commercial Leasing Specialist to negotiate higher land lease fees and/or terms of the lease before making a selection. The Oneida Land Commission will select one first priority, one second priority and one third priority in that order. Once a selection is made, the next step is to start the leasing process by providing the applicant with a copy of the Division of Land Management Standard Operating Procedure for Leasing on tribal fee or tribal trust land. If applicant can not meet the deadline to develop, the second priority will be exercised.

4 RECORDS. All applications are filed with Commercial Leasing Specialist for one (1) year.

5 REFERENCES

5.1 Real Property Law

5.2 Oneida Zoning Ordinance

5.3 Oneida Land Use Plan approved by LC on 7/1/2003

5.4 Administrative Procedures Act

4.5 Due Process Guidelines

6 FLOW CHART

6.1 Flow chart attached. How to Distribute Commercial Lands

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