SERVICE AGREEMENT

BETWEEN

ONEIDA NATION IN WISCONSIN

and

CITY OF DE PERE

THIS AGREEMENT, entered into in duplicate, by and between the ONEIDA NATION IN WISCONSIN, a federally recognized and treaty tribe, P.O. Box 365, Oneida, Wisconsin 54155, hereinafter referred to as "Oneida Nation", and the City of De Pere, a local government organized under the laws of the State of Wisconsin, 335 S. Broadway, De Pere, Wisconsin 54115, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the Oneida Nation owns property within the City of De Pere; and

WHEREAS, the City, under the laws of the State of Wisconsin and the United States of America, is required to provide certain services to the Oneida Nation properties regardless of fee or trust status of the land; and

WHEREAS, the City derives revenue, among other things, from the taxation of real and personal property; and

WHEREAS, the Oneida Nation trust lands and personal property are exempt from the City taxation due to its status as a sovereign; and

WHEREAS, the Oneida Nation and the City enjoy a relationship of mutual trust and respect; and

WHEREAS, the Oneida Nation is willing to pay for services provided to it by the City and the City is willing to pay for services provided to it by the Oneida Nation; and

WHEREAS, it is mutually beneficial to both governments to put their understandings in writing.

NOW, THEREFORE, BE IT RESOLVED, that the Oneida Nation and the City mutually agree on the terms and conditions as follows:

1 TERM. Except for paragraphs 6 and 7, this Agreement and all the terms and provisions hereof are contingent upon, and shall not be enforceable or operative until final approval of the Minneapolis Area Office through delegated authority by the United States Department of the Interior, Secretary of the Interior, regarding the placement of Oneida Nation properties into trust by the United States of America for the benefit of the Oneida Nation. This Agreement shall terminate on December 31, 1998.

2. APPLICABILITY: Except for paragraphs 6 and 7 which shall apply to all properties within the City owned by the Oneida Nation, this Agreement applies only to those parcels of land and improvements thereon which are held in trust by the United States of America for the benefit of the Oneida Nation located within the boundaries of the City of De Pere, hereinafter referred to as "trust property."

3. CITY GOVERNMENTAL SERVICES: The City will provide fire protection services, police services, emergency services, rescue services, and all other services currently provided to like properties within the City of De Pere, hereinafter referred to as "governmental services" until such a time, if at all, the Oneida Nation requests or is able to provide any of the above enumerated services to lands it owns within the City. In the event the Oneida Nation provides any governmental service, the Oneida Nation will be the primary provider and hold the City harmless for said governmental service.

4. ONEIDA NATION GOVERNMENTAL SERVICES: The Oneida Nation will provide any governmental services to property within the City if requested by the City.

5. COMPENSATION. Compensation for the above mentioned governmental services provided to the Oneida Nation will be as follows:

   a. COST OF GOVERNMENTAL SERVICES (CITY): The City shall determine the costs of the services it provides to trust property as provided in this section. Through its annual budget, the City shall determine its entire "gross costs of operation." Any revenues received shall be

deducted therefrom and the result shall be referred to as "net cost of operation."

The City shall value all property within the City of De Pere (the City valuation) and, in the same manner, all trust property within the City (trust valuation). The net cost of operation shall be divided by the City valuation and the resulting ratio shall be referred to as the "service to valuation rate." The "service to valuation rate" shall be multiplied by the "trust valuation" and the product thereof shall result in the cost of governmental services.

The Oneida Nation recognizes that there are additional costs associated with providing services to commercial properties such as those contemplated by the Oneida Nation to be implemented on trust property. In recognition of those costs, the Oneida Nation agrees to pay the City annually Four Thousand Dollars ($4,000.00) for each parcel of trust property dedicated to commercial use. Acknowledging such payment, the parties shall not consider the value of personal property used for commercial purposes as part of the trust valuation.

The Oneida Nation also recognizes its responsibility to pay the cost of street improvements benefiting trust property including, but not limited to, grading, graveling, storm and sanitary sewer and laterals, water mains and laterals, paving and any relays, reconstructions, overlays or repairs thereof. The Oneida Nation agrees to pay those costs attributable to trust land in the same manner and to the same extent as any other resident of the City would pay such costs. The City shall not take any action to levy assessments for such improvements but shall inform the Oneida Nation of the improvement and estimated cost thereof not less than thirty (30) days prior to commencement of the project. The City shall bill the Oneida Nation the cost of any such street improvement attributable to trust property upon completion of such improvement. The Oneida Nation shall pay such bill in full within thirty (30) days of receipt thereof. Any dispute concerning the reasonableness of the costs attributable to the trust property for the improvement shall be subject to the dispute resolution provisions of this Agreement.

b. <u>CREDIT FOR GOVERNMENTAL SERVICES PROVIDED BY ONEIDA NATION ON TRUST PROPERTY</u>: The parties expressly recognize the authority of the Oneida Nation to provide governmental services to trust property. Because trust property in De Pere is

geographically removed from the Oneida Nation Reservation lands, the provisions of governmental services by the Oneida Nation to the trust property is generally inconvenient or impracticable at this point in time. The Oneida Nation, however, anticipates it may be desirous of providing police service to the trust lands during the term of this Agreement.

In the event that the Oneida Nation determines to provide police services to some or all of the trust property, a credit shall be given to reduce the cost of government services as provided in this section. The City Annual Budgetary expenditure line item, entitled "police department," shall be divided by the gross cost of operations, and the ratio so determined shall be referred to as "police service ratio." The police service ratio shall be multiplied by the cost of governmental services attributable to that portion of trust property being entirely served by the Oneida Nation police. The product so determined shall be subtracted from the cost of governmental services attributable to that portion of the trust property and the difference thereof shall equal the adjusted cost of services attributable to such parcel.

c. ANNUAL MEETING TO ANALYZE COMPENSATION RATE: Representatives of the parties will meet as soon as possible after December 15th of each year to determine the annualized compensation rate in this paragraph.

d. PAYMENT: Cost of government service or adjusted cost of government services will be due on or before January 31st of each year by the Oneida Nation to the City. The City will generate an invoice for the Oneida Nation for the amount due and owed to the City.

6. MUTUAL AID: The Oneida Nation and the City reciprocally agree to provide law enforcement mutual assistance upon the request of the other party, notwithstanding any other jurisdictional provision or limitation. While acting in response to such request, the law enforcement personnel shall be deemed an employee of the requesting agency. The requesting party is deemed to be the primary responder of the mutual aid. The responding party is deemed to be the secondary responder.

7. JOINT PLANNING/COMPLIANCE WITH BUILDING/ZONING CODES:

a. To promote cooperative joint planning of the use and development of trust property and real property within City jurisdiction adjacent to trust property, there is hereby created the Oneida/De Pere Joint Planning

Committee ("Committee"). The Committee shall be comprised of six (6) members: three (3) selected by the Oneida Nation Business Committee and three (3) appointed by the Mayor, subject to the approval of the Common Council of the City of De Pere. The Director of Planning for the Oneida Nation and the Director of Planning and Economic Development of the City shall also serve as members of the Committee. Four (4) members shall be required to constitute a quorum. The Committee so constituted shall meet annually and will be charged with the responsibility of creating a zoning plan for trust properties and those real properties within 200 feet of the border of trust properties in areas zoned R-1, R-2, B-1, or B-2 and 500 feet in all other zones ("plan"). The zoning plan shall utilize zoning designations as defined in the De Pere Zoning Code. The Committee shall forward such zoning plan to the Oneida Nation Planning and Business Committees and the Plan Commission and Common Council of the City of De Pere. Action on the plan by the City shall be as required for zoning code amendments at Section 62.23, Wis. Stats. Upon approval by both parties, the plan shall constitute the zoning classification for the above described properties. Each party shall comply with all zoning requirements so established unless a deviation to the plan is approved and shall give the other party prior notice of any change of use within the area encompassed by the plan. Deviations from such plan will only be approved as a City zoning code amendment as prescribed by Section 62.23, Wis. Stats.. Any such code amendment will require a 3/4 vote of the Common Council for approval. Until such time as the joint plan is approved pertaining to a particular portion of trust property and the surrounding area, the current City of De Pere Zoning Code provisions shall apply and shall be binding on the parties.

b. BUILDING AND RELATED CODE COMPLIANCE. The Oneida Nation, in keeping with its commitment to the construction of high quality improvements, shall construct any and all improvements to trust property in accordance with state and local building, electrical, plumbing, heating, and ventilation, fire prevention, and other property use and maintenance regulations. To assure compliance with such code requirements, the Oneida Nation shall permit appropriate City inspectors to enter and remain on trust property for the purpose of conducting compliance inspections and shall not object to the issuance of orders and other enforcement actions taken by such officers on or pertaining to trust properties.

8. LIABILITY FOR PROVISION OF SERVICES:

a. PROVISION OF GOVERNMENTAL SERVICES BY CITY. By this Agreement, the City acknowledges the provision of governmental services to trust properties. Nothing in this Agreement is intended to increase the liability of the City in regard to the provision of such services but, instead, is to require the City to provide governmental services to the same extent and in the same manner as it would any other resident of the City. The Oneida Nation, by this Agreement, expressly requests and, where necessary, permits, and shall fully cooperate with, all efforts of the City to provide services as provided by this Agreement.

b. RELEASE OF CITY LIABILITY IN REGARD TO PROVISION OF POLICE SERVICES. In the event that the Oneida Nation should determine to provide police services to some or all of the trust property as contemplated at Section 5, paragraph b, of this Agreement, the Oneida Nation shall release the City from any and all responsibility for its Police Department to respond to the subject Oneida trust properties except through, and limited to, strict compliance with the protocol of the mutual aid procedures referenced in Section 6 hereof.

9. NEGOTIATIONS: The parties agree to meet at least ninety (90) days before the expiration date of this Agreement to negotiate a subsequent Agreement.

10. ENTIRE Agreement: This Agreement contains the entire Agreement of the parties and supersedes all prior oral and written Agreements between the parties on the subject matter of services.

11. MODIFICATION/TERMINATION: No modification or termination of this Agreement will be effective unless set forth in writing and signed by both parties.

12. DISPUTE RESOLUTION. If either party believes that the other party has failed to comply with any requirement of this Agreement, it shall invoke the following procedure:

a. The party asserting the noncompliance shall serve written notice on the other party. The notice shall identify the specific section alleged to have been violated and shall specify the factual basis for alleged noncompliance. The parties shall thereafter meet within thirty (30) days in an effort to resolve the dispute.

b. If the dispute is not resolved to the satisfaction of the parties within ninety (90) days after service of the notice set forth in the above paragraph, either party may pursue any remedy which is otherwise available to that party to enforce or resolve disputes concerning the provisions of this Agreement.

c. Nothing in this section shall be construed to preclude, limit or restrict the ability of the parties to pursue, by mutual Agreement, alternative methods of dispute resolution, including, but not limited to mediation or arbitration; provided that neither party is under any obligation to agree to such alternative method of dispute resolution.

13. LIMITED WAIVER OF SOVEREIGN IMMUNITY: The Oneida Nation waives its right to sovereign immunity for the limited purposes of permitting the City to secure enforcement of this Agreement and, insofar as necessary, to permit the City to provide governmental services, including enforcement of relevant codes, on trust properties. In regard to enforcement of this Agreement, and only upon exhaustion of the 90 day period referenced in Section 12, paragraph b, the Oneida Nation consents to be sued in the in personam jurisdiction of the United States District Court for the Eastern District of Wisconsin, the United States Court of Appeals for the 7th Circuit, and the United States Supreme Court. If, and only if, the United States District Court for the Eastern District of Wisconsin lacks jurisdiction or refuses to take jurisdiction, then, and only then, the Nation consents to be sued in the in personam jurisdiction of the Brown County Court wherein action may be brought for enforcement of this Agreement. In any such action, the Oneida Nation agrees not to raise sovereign immunity as a defense.

14. NOTICE: Notice provided under this Agreement will be in writing and must be sent by Certified Mail, Return Receipt Requested, to the parties at the following addresses, unless otherwise stated in this Agreement:

ONEIDA NATION	CITY OF DE PERE
Chairperson	Mayor
Oneida Nation in Wisconsin	City of De Pere
P.O. Box 365	335 S. Broadway
Oneida, Wisconsin 54155	De Pere, Wisconsin 54115

15. SEVERABILITY: In the event that any provision is held to be invalid, the invalidity if any such provision shall in no way affect any other provision herein contained.

16. INTENT: This Agreement is intended to be interpreted within the scope of matters specifically addressed herein. Nothing is intended to restrict or limit the jurisdiction or responsibilities of the parties unless specifically addressed herein.

IN WITNESS WHEREOF the parties have set their hands and seal on the date below listed

ONEIDA NATION

8-17-95
Date

By: Loretta V. Metoxen
Loretta V. Metoxen, Vice-chairwoman

8/17/95
Date

By: Julie Barton
Julie Barton, Secretary

CITY OF DE PERE

August 17, 1995
Date

By: Nancy J. Nusbaum
Nancy J. Nusbaum, Mayor

August 17, 1995
Date

By: David G. Minten
David G. Minten, Clerk/Treasurer

FIRST AMENDMENT TO SERVICE AGREEMENT

BETWEEN

ONEIDA NATION IN WISCONSIN

and

CITY OF DE PERE

THIS AGREEMENT, entered into in duplicate, by and between the ONEIDA NATION IN WISCONSIN, a federally recognized and treaty tribe, P.O. Box 365, Oneida, Wisconsin 54155, hereinafter referred to as "Oneida Nation", and the City of De Pere, a local government organized under the laws of the State of Wisconsin, 335 S. Broadway, De Pere, Wisconsin 54115, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the City and the Oneida Nation have entered into a Service Agreement dated August 17, 1995 regarding trust properties; and

WHEREAS, the City and the Oneida Nation have cooperated and coordinated governmental services and desire to continue cooperation and coordination between the two governments.

NOW THEREFORE BE IT RESOLVED, that the City and the Oneida Nation mutually agree on the terms and conditions as follows:

1. The term of this agreement will begin on January 1, 1999 and terminate when the Gaming Compact between the Oneida Nation and the State of Wisconsin, including renewals and extensions, ends.

2. The City will provide an annual report, in January for the proceeding fiscal year, to the Oneida Nation which covers all governmental services provided to the Oneida Nation properties pursuant to the Service Agreement dated August 17, 1995 and this Amendment.

3 All other conditions and terms, except those mentioned above, contained in the Service Agreement dated August 17, 1995 will remain the same.

4. No modification or termination of this Agreement will be effective unless set forth in writing and signed by both the City and the Oneida Nation.

IN WITNESS WHEREOF the parties have set their hands and seal on the date below listed.

CITY OF DE PERE

1-6-99
Date

By: Michael J. Walsh
Michael J. Walsh, Mayor

1-6-99
Date

By: David G. Minten
David G. Minten, Clerk/Treasurer

Seal of the
City of De Pere

ONEIDA NATION

12-22-98
Date

By: Gary L. Jordan
Gary Jordan, Vice-Chairman

12/22/98
Date

By: Julie Barton
Julie Barton, Secretary

Seal of the Sovereign
Nation of the Oneida