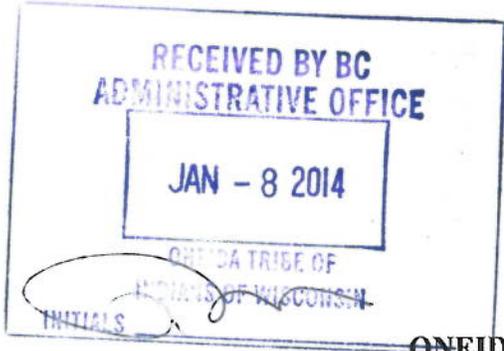


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SERVICE AGREEMENT

BETWEEN

ONEIDA TRIBE OF INDIANS OF WISCONSIN

AND

VILLAGE OF ASHWAUBENON

THIS AGREEMENT, by and between the ONEIDA TRIBE OF INDIANS OF WISCONSIN (the "Tribe"), a federally recognized and treaty Tribe, and the VILLAGE OF ASHWAUBENON (the "Village"), a village government organized under the laws of the State of Wisconsin (collectively, the "parties"),

WITNESSETH:

WHEREAS, the Tribe and the Village have been good neighbors and desire the spirit of cooperation between the two governments to continue; and

WHEREAS, the Oneida Reservation was established pursuant to the 1838 Treaty with the Oneida, 7 Stat., 566, and encompasses approximately 65,400 acres; and

WHEREAS, the boundaries of the Oneida Reservation and the boundaries of the Village overlap, and portions of the Village are within the Oneida Reservation; and

WHEREAS, the Tribe owns fee title to parcels of land located within the Village, and the Tribe may apply to have such parcels taken into trust by the United States; and

WHEREAS, the United States holds title to certain parcels of land within the Village in trust for the benefit of the Tribe ("Tribal Trust Lands"); and

WHEREAS, the Tribe and the Village provide services which benefit properties within the Oneida Reservation and the Village; and

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

WHEREAS, Tribal Trust Lands are exempt from state taxation due to the Tribe's status as a sovereign; and

WHEREAS, the Tribe and the Village enjoy a relationship of mutual trust and respect; and

WHEREAS, both the Tribe and the Village exercise jurisdiction and provide governmental services within their respective territories, and both recognize the importance of collaborative efforts to mitigate costs associated with providing governmental services; and

WHEREAS, the Tribe is willing to pay for services provided by the Village which benefit Tribal Trust Lands and the Village is willing to recognize the value of services provided by the Tribe by applying credits against the Tribe's payment for services; and

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

The Tribe and the Village hereby agree to the following terms and conditions:

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the following meanings:
 - a. "Class III Gaming" has the meaning ascribed to it in the Indian Gaming Regulatory Act, 25 U.S.C. § 2703(8).
 - b. "Gaming Compact" means an agreement entered into between the Tribe and the State of Wisconsin pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 - 2721, for the conduct of Class III Gaming on the Tribe's Indian lands within the State of Wisconsin.
 - c. "Governmental Purposes" means the use of land by Tribal programs, departments, or agencies in furtherance of Tribal governmental services or responsibilities, or the dedication of land for the promotion of the general health and welfare. Governmental Purposes include, but are not limited to, use of land for law enforcement facilities, social service facilities, health care facilities, governmental offices, parks and trails, and subsidized low-income housing. Governmental Purposes does not include the use of land for gaming facilities or other commercial activities which are intended to generate revenue.
 - d. "Oneida Reservation" or "Reservation" means the land set aside for the use and occupancy of the Tribe and its members pursuant to the 1838 Treaty with the Oneida, 7 Stat., 566, encompassing approximately 65,400 acres.
 - e. "Tribal Fee Land" means land to which the Tribe holds title in fee simple.
 - f. "Tribal Land" means Tribal Fee Land on the Reservation and Tribal Trust Land.
 - g. "Tribal Member" means a duly enrolled member of the Oneida Tribe of Indians of Wisconsin.
 - h. "Tribal Trust Land" means land to which the United States holds title for the benefit of the Tribe pursuant to federal law.

2. **TERM.** The term of this Agreement shall be five (5) years, commencing on January 1, 2014, and ending on December 31, 2018, unless earlier terminated pursuant to section 13 below.

3. **LAW ENFORCEMENT.**

- a. The Oneida Police Department and the Village Police Department will continue to provide mutual aid in the form of back-up/secondary assistance for police, ambulance, emergency medical or rescue services pursuant to the Law Enforcement Mutual Aid Agreement Between the Tribe and the Village dated December 1, 1995, as from time to time amended.
- b. This Service Agreement does not affect the Emergency Medical Services Agreement between the parties effective May 1, 2013.
- c. The Tribe is not required to purchase an alarm permit, but will assume the cost for false alarms in accordance with fees and costs established Village-wide for false alarms. The Tribe will further cooperate with the Village in joint fire inspections since the Village performs fire services for Tribal Lands.

4. **NEIGHBORHOOD PEACE AND SAFETY**

- a. Tribal law addresses zoning, building, nuisance and land use regulations (“Peace and Safety Regulations”) which are applicable to the Tribe, Tribal Members, and individuals and businesses leasing, occupying or otherwise using Tribal Land in accordance with tribal law. Village ordinances addressing Peace and Safety Regulations do not apply to Tribal Members on the Reservation.
- b. The Village and the Tribe agree to work together to continue improving the neighborhood services each government provides. The Village and the Tribe recognize that communication between the parties is the best way to achieve this goal.
- c. The Tribe will enact Peace and Safety Regulations at least as stringent as the Village’s Peace and Safety Regulations to be applicable to the Tribe, Tribal Members, and individuals and businesses leasing, occupying or otherwise using Tribal Land in accordance with tribal laws in those portions of Reservation located within the Village.
- d. The Village agrees to forward Peace and Safety Regulation issues concerning the Tribe, Tribal Members, and individuals and businesses leasing, occupying or otherwise using Tribal Land to the appropriate tribal staff. If necessary, the tribal staff shall then disseminate the concern to more appropriate tribal staff who shall address the concern. The Tribe agrees to identify at all times at least one contact person for such issues. The Tribe further agrees to send the final summary report outlining the resolution/findings of the Tribe’s investigation to the Village at the

conclusion of the Tribe's process. In the event the Tribe's process is not completed within 30 days after receiving notification from the Village, the Tribe will provide monthly written updates on its efforts to address the issue. In the event the Village is not satisfied with the Tribe's resolution of an issue, the Village may initiate dispute resolution in accordance with this Agreement.

- e. The Tribe agrees not to permit any gasification or waste-to-energy facility to be located within the Village.

5. STORM WATER MANAGEMENT.

- a. The Village and the Tribe are subject to certain federal mandates regarding storm water management on the Reservation. The Village and the Tribe will work together to meet the storm water management standards set forth by the Environmental Protection Agency and to reduce the impact storm water has on our environment.
- b. The Village and the Tribe agree to work together on education and response to spills which may threaten the health and safety of their citizens and other initiatives as the parties may in the future agree.
- c. The Village includes storm water management charges on water utility bills for those properties located within the Village except for Tribal Land. The Village and the Tribe agree these storm water management charges are inapplicable to Tribal Land, but are applicable to Tribal Fee Land located outside the Reservation boundaries.
- d. The Village agrees not to impose storm water management charges on Tribal Land. The Tribe will not challenge the Village's imposition of storm water management charges on Tribal Fee Land located outside the Reservation boundaries.
- e. The Tribe agrees to share in the long-term maintenance costs to maintain the regional storm water retention pond (Glory Road Pond) located on parcel VA-35-32-A-1 which further treats runoff from Tribal parcels VA-35-33, VA-35-46, VA-35-47, VA-35-45, and portions of VA-35-34 and VA-35-35 in the drainage area. Long-term maintenance costs include such things as dredging of the storm water pond, inlet/outlet structure repair/replacement and bank stabilization/landscaping. The Tribe will be charged a percentage of the total cost based upon the percentage of contributory flow within the watershed drainage area. The percentage will be further reduced by 50% to take into account existing storm water pond treatment on the Tribal parcels identified in this paragraph. Therefore, the resulting charge rate will be 29.4% of the future long-term maintenance costs will be charged to the Tribe. Said amounts will be invoiced upon completion of the improvements and due and payable within 30 days of the invoice.
- f. The Village shall maintain the Babcock Pond located on Parcel VA-149. Maintenance of this pond shall be paid through the Village's Storm Water Utility on

Tribal Land parcels VA-30, VA-147, VA-147-3, VA-147-4, VA-147-5, and VA-155 and occupants of said parcels shall pay Storm Water Utility fee in accordance with Village policy.

6. **STREET IMPROVEMENTS.** The Tribe agrees to pay the actual, proportional cost of street improvements benefitting Tribal Land 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, to the same extent as such costs are charged to other property owners. The Tribe agrees to pay those costs in accordance with the following procedure: The Village will not take any action to levy assessments for such improvements but will inform the Tribe of the proposed improvement and the estimated cost thereof not less than thirty (30) days prior to commencement of the project. The Village agrees to give due consideration to all comments which the Tribe may submit regarding the project. The Village will bill the Tribe the cost of any such street improvement attributable to the Tribal Land upon completion of such improvement. The Tribe will pay such bill in full within thirty (30) days of receipt thereof.

7. **COMPENSATION.**

- a. The Tribe agrees to pay the total Annual Service Agreement Payment on or before July 1st of each year of the term of this agreement. The base Annual Service Agreement Payment is \$283,709.00 and was originally calculated based upon the Gross Entitlement Formula utilized by the State of Wisconsin and depicted in Exhibit A. This calculation is the net cost (costs less any state provided revenues) for three defined services; police, fire and waste. The total cost and revenue figures are pulled from the annual State Report completed by the Village of Ashwaubenon and submitted to the state each year. An additional \$32,000 is added to this base figure pursuant to paragraph (e) below.
- b. In 2015 and remaining years of this Agreement, the Annual Service Agreement Payment shall be \$283,709 adjusted annually in a percentage equal to the percent change in corresponding increase or decrease of the 2014 Village's tax rate. [For example, if the 2015 Village tax rate increases 2%, the Annual Service Agreement Payment would be increased 2% to an amount of \$289,383.18.]
- c. Annual Meeting. The Parties may choose to meet annually or more frequently if necessary discuss issues between the parties.
- d. Invoices and Payment. On or before June 1st of each year, the Village will submit an invoice to the Tribe reflecting the net cost of governmental services for the previous year. The Tribe will make payment to the Village on or before July 1st of each year, unless the Tribe disputes the invoice by initiating the dispute resolution procedures set forth in section 12 below, in which case the Tribe may make partial payment or may withhold payment.

- e. The Village contracts with Green Bay Metro to provide transit and paratransit services within the Village. Paratransit services may extend only $\frac{3}{4}$ mile beyond any regular transit route. The Village has assumed additional costs in modifying this transit route in order to ensure paratransit services to Tribal Lands. Therefore, the Tribe agrees to an addition \$32,000 in payment as part of this Service Agreement as reflected in the formula of Paragraph 7 (c)(iv) above.
8. **LAND INTO TRUST.** The Village will not oppose the Tribe's applications to place Tribal Fee Land located on the Oneida Reservation into trust during the term of this Agreement if the Tribal Fee Land meets either of the following criteria: 1) the Tribe has held fee title to the land for a period of three (3) years or more prior to the date of the application; or 2) prior to the Tribe's acquisition, a tax exempt entity held title to the property for a period of five (5) years or more. If a parcel of land does not meet either of the above-listed criteria, the Village may comment on or object to an application to place the parcel in trust as provided for in 25 C.F.R. Part 151.
9. **INFORMATION SHARING.** The Tribe and the Village will collaborate on mapping and share databases concerning issues of mutual interest and concern such as, but not limited to, parcel information, zoning, land use, land ownership status, census information, archeological/historical background (with certain limitations on sensitive sites and public access), utilities, roads and rights of way, etc.
10. **COST MITIGATION.** The Tribe and the Village shall designate representatives to accept and review proposals regarding potential cost saving measures related to governmental services provided by both the Tribe and the Village.
11. **DISPUTE RESOLUTION.**
- a. **Negotiation.** If either party believes the other has failed to comply with the requirements of this Agreement, or if a dispute arises over the proper interpretation of any provision of this Agreement or the valuation of Tribal Trust Land, then either party may initiate negotiation by serving a written notice on the other identifying the specific provision or provisions of the Agreement in dispute and specifying in detail the factual basis for any alleged non-compliance and/or the interpretation of the provision of the Agreement or the valuation of Tribal Trust Land. Within thirty (30) days of service of such notice, representatives designated by each party shall meet in an effort to resolve the dispute through negotiation.
- b. **Mediation.** If either party believes the other has failed to comply with the requirements set forth in this Agreement, or if there is a dispute over the proper interpretation of any provision of this Agreement or the valuation of tribal trust property, the parties may agree in writing to settle the dispute by non-binding mediation.

- c. Arbitration. If a dispute is not resolved within ninety (90) days of service of notice as provided for in subparagraph (a) above, either party may serve on the other a written demand for arbitration, and the dispute shall thereafter be resolved by arbitration which shall be conducted in conformance with the rules set forth below and such other rules as the parties may in writing agree.
 - i. Arbitration Panel. Each party shall appoint one arbitrator. The two party-appointed arbitrators shall then appoint a third arbitrator, and the three arbitrators shall constitute the panel.
 - ii. Cost of Arbitration. The cost of arbitration shall be borne equally by the parties, with one-half (1/2) of the cost charged to the Tribe and one-half (1/2) of the cost charged to the Village, and each shall bear its own expenses.
 - d. Limited Waiver of Immunity. The Village and Tribe specifically waive sovereign immunity or governmental immunity and consent to suit in Brown County Circuit Court solely for the limited purposes of compelling arbitration in accordance with the provisions of this Agreement or enforcement of any arbitration award rendered pursuant to this Agreement.
12. **ENTIRE AGREEMENT.** This agreement constitutes the entire agreement of the parties and supersedes all prior oral and written agreements between the parties on the subject matter of payment for governmental services which benefit Tribal Trust Lands within the Village.
13. **AMENDMENT.** Either party may propose amendments to this Agreement at any time. No amendment or modification of this Agreement will be effective unless the amendment or modification is set forth in writing and agreed to and executed by both parties. The parties may agree to non-binding mediation for disputes regarding proposed amendments, but such disputes shall not otherwise be subject to dispute resolution or arbitration.
14. **TERMINATION.** This Agreement may be terminated in one of two ways: 1) this Agreement will immediately terminate and cease to be effective in the event the Tribe ceases to conduct Class III Gaming pursuant to a Gaming Compact with the State of Wisconsin; or 2) the parties may terminate this Agreement by mutual agreement, provided that such agreement is reduced to writing and signed by both parties. Upon termination, neither party shall have any further obligation under this Agreement, except that the dispute resolutions provisions set forth in Paragraph 11 above shall survive termination of this Agreement. In the event this Agreement terminates because the Tribe ceases to conduct Class III Gaming pursuant to a Gaming Compact with the State of Wisconsin, the parties agree to engage in good faith discussions regarding the possibility of entering into a successor agreement.
15. **NOTICE.** Notice provided under this Agreement must be in writing and must be sent by certified mail, return receipt requested, to the appropriate representative(s) of the party receiving notice as set forth in Attachment C.

16. **SEVERABILITY.** If any provision of this Agreement is determined to be invalid under the laws of the United States, the Tribe or the State, such invalidity will not affect the validity of the remaining provisions of this Agreement.
17. **PRESERVATION OF JURISDICTION.** Nothing in this Agreement is intended to be a grant of jurisdiction from one party to another. This Agreement is not intended to alter the existing jurisdiction of any party, and by approving this Agreement, neither party is agreeing or conceding to any jurisdiction of the other party which would not otherwise exist under the law.
18. **NO THIRD PARTY BENEFICIARIES.** This Agreement is made and entered into for the sole protection and benefit of the Tribe and the Village, and is not intended to create any right, benefit, obligation, or cause of action, whether direct or indirect, for any person or entity not a signatory to this Agreement.

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

VILLAGE OF ASHWAUBENON

Date: 12-24-13

By: Michael W. Aubinger
Michael W. Aubinger, President

Date: 12.30.13

By: Dawn A. Collins
Dawn A. Collins, Clerk

Seal of Village of Ashwaubenon

ONEIDA TRIBE OF INDIANS

Date: 12 '13 + 13

By: Edward Delgado
Edward Delgado, Chairman

Seal of the Oneida Tribe of Indians of Wisconsin

**2012 Municipal Services Worksheet
Oncida Tribe and Village of Ashwaubenon**

Section 1: Intergovernmental Revenue

A.	Current Village Revenues from Oneida Tribe (excluding service agreement)	\$	-
B.	Net Municipal Property Tax Levy	\$	10,522,316
C.	Total Revenues	\$	10,522,316
D.	Percentage of Revenue Provided by Municipal Taxes (PR) (1)		100.00%
Equalized Full Value of Improvements			
E.	Oneida Tribe Buildings	\$	8,587,000
F.	Village Buildings	\$	1,472,777,400
G.	Total Improvements	\$	1,481,364,400
H.	Tribe Percentage of Total (TPT) (2)		0.580%

Section 2: Calculation of Municipal Services Payment

	Service (3)	Service Amount (4)	Service Provided (5)	Gross Payment (6)
I.	Police Costs	\$ 4,473,910		
J.	Police Revenues	\$ 239,598		
K.	Net Police Service Cost (NPSC)	\$ 4,234,312	Yes	\$ 24,545
L.	Fire Costs	\$ 4,077,913		
M.	Fire Revenues	\$ 811,681		
N.	Net Fire Service Cost (NFSC)	\$ 3,266,232	Yes	\$ 227,164
O.	Waste Costs	\$ 727,729		
P.	Waste Revenues	\$ 130,787		
Q.	Net Waste Service Cost (NWSC)	\$ 596,942	No	\$ -
Total Gross Payment				\$ 251,709

Footnotes

- (1) **Percentage of Revenue Provided by Municipal Taxes (PR):**
This percentage provides the amount of the village's revenue that is provided by the village's own property tax levy. The percentage is reduced by any revenues provided by the Oneida Tribe (outside of the Municipal Service Agreement).
- (2) **Tribe Percentage of Total (TPT):**
This percentage provides the ratio of Oneida Tribe building property values compared to Village of Ashwaubenon building property values. The TPT is the Tribe values divided by the combined Tribe and Village values. Note: the police service uses a smaller Oneida Tribe Building value because the village does not provide service to the Radisson Hotel & Gaming facilities.
- (3) **Service:**
These are the three services used in the State's Municipal Payment calculation; police, fire and waste services. This section provides the total cost of each of the services and offsets the costs by any state or other source revenue funding to generate the net cost.
- (4) **Service Amount:**
Service Amounts (both costs and revenues) are totals generated from the State Financial Report C. This report is filed by the village to the state using audited financials. The Financial Report C is an extensive report that categorizes all the villages revenues and expenditures.
- (5) This column answers whether the Village of Ashwaubenon provides this service to the Tribe. If no, then the Gross Payment is zero.
- (6) **Gross Payment:**
The "Gross Payment" is the amount of the corresponding total "Service Amount" that would be allocated to the Oneida Tribe. The calculation is as follows:

$$\text{Service Amount} \times \text{Percentage of Revenue Provided by Municipal Taxes (PR)} \times \text{Tribe Percentage of Total (TPT)}$$
 or

$$\text{Line K} \times \text{Line D} \times \text{Line H (for the police service line)}$$

For example; the Gross Payment for Police Service is:

$$\$4,234,312 \times 100\% \times 0.580\% = \$ 24,545$$