

**COOPERATIVE GOVERNANCE AGREEMENT BETWEEN
ONEIDA NATION AND TOWN OF ONEIDA**

THIS AGREEMENT, by and between the ONEIDA NATION (the "Nation"), a federally recognized Indian Tribe and Treaty Tribe, and the TOWN OF ONEIDA (the "Town"), a town government organized under the laws of the State of Wisconsin (collectively, the "parties"),

WITNESSETH:

- WHEREAS,** the Nation and the Town enjoy a relationship of mutual trust and respect; and
- WHEREAS,** the Nation and the Town have been and continue to be 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 Town overlap, and the Town is entirely within the Oneida Reservation; and
- WHEREAS,** both the Nation and the Town provide services which benefit people and properties within the Oneida Reservation and the Town, and both agree that a cooperative intergovernmental agreement provides the best framework to ensure the services provided are based in good governance principles and best practices; and
- WHEREAS,** the Town derives revenue from the taxation of real property, among other things; and
- WHEREAS,** Oneida Trust Lands are exempt from state taxation due to the Nation's status as a sovereign; and
- WHEREAS,** both the Nation and the Town 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 Nation and Town are willing to recognize the value of services provided by each respective government, and
- WHEREAS,** it is mutually beneficial to both governments to put their understandings in writing; and
- WHEREAS,** the Town of Oneida is a Wisconsin Municipality created in 1910 located in Outagamie County, Wisconsin.

THEREFORE, the Nation and the Town hereby agree to the following terms and conditions:

1. **DEFINITIONS.** For the 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 Nation and the State of Wisconsin pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §2701, et seq., for the conduct of Class III Gaming on the Nation's Indian lands within the State of Wisconsin.
- c. "Governmental Purposes" means the use of land by the Nation's programs, departments, or agencies in furtherance of the Nation's 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, and parks and trails. Governmental Purposes does not include the use of land for gaming facilities or other commercial activities which are intended to generate revenue.
- d. "Neighborhood, Peace and Safety Laws" means zoning, building code, nuisance, land use, and fire regulations.
- e. "Oneida Reservation" or "Reservation" means the land set aside for the use and occupancy of the Nation and its members pursuant to the 1838 Treaty with the Oneida, 7 Stat., 566, encompassing approximately 65,400 acres.
- f. "Tribal Fee Land" means land to which the Nation holds title in fee simple.
- g. "Tribal Land" means Tribal Fee Land on the Reservation and Trust Land.
- h. "Tribal Member" means a duly enrolled member of the Oneida Nation.
- i. "Tribal Trust Land" means land to which the United States holds title for the benefit of the Nation pursuant to federal law.

2. **TERM.** The initial term of this Agreement shall be five (5) years, commencing on August 1, 2016 and ending on July 31, 2021, and shall automatically renew for additional successive five (5) year terms, unless either party serves notice of non-renewal on the other party during the period of July 1 through July 31 in a year in which the Agreement would otherwise automatically renew.

3. **TOWN OF ONEIDA FIRE DEPARTMENT AND FIRST RESPONDERS.** The Nation recognizes and supports the Town's commitment to ensure the safety of the entire community through the operation of the Town Fire Department and First Responder program. The Nation and the Town agree the Fire Department and First Responders engage at emergencies involving properties owned by the Nation or tribal members.

In order to assist the Fire Department to be prepared to respond to fire emergencies on commercial properties and apartment complexes and other multi-family units owned and controlled by the Nation and located within the Town, the Nation shall:

- a. Make all floor plans for buildings located on such properties available to the Town Fire Department, and meet at least triennially with the Town Fire Department, commencing in 2016, to ensure all floor plans are current.
- b. In the event the Town Fire Department determines it needs to view or conduct drills on such properties in order to better prepare to respond to a fire emergency, the parties shall coordinate regarding the safety procedures to be followed and a time for the Town Fire Department officers to view or conduct drills on such properties.
- c. The Oneida Nation agrees to provide to the Town of Oneida Fire Department all pre-fire plans for business buildings which are located on Oneida Nation lands and are under the Oneida Nation's control and pre-fire plans for the location of all fire hydrants now existing and when installed in new construction. This information is valuable to the Town Fire Department as it responds to fires within the jurisdiction of both parties to this agreement.

4. NEIGHBORHOOD PEACE AND SAFETY

- a. Each party retains all of its legislative and enforcement powers. Where feasible, the parties may enter into Memoranda of Agreement to address areas which may need more detailed processes to implement joint enforcement efforts of the parties.
- b. Nothing in this Agreement is meant to impair any individual from bringing a private cause of action against Tribal Members for actions including, but not limited to, trespass or contract disputes.
- c. Nothing in this Agreement is meant to exempt Tribal Members from the application of state criminal laws.
- d. The Nation has laws which address zoning, building, nuisance, land use and fire safety regulations ("Peace and Safety Regulations"), and which are applicable to the Nation, Tribal Members, and individuals and businesses leasing, occupying or otherwise using Tribal Land. These include, but are not limited to, the following chapters of the Nation's Code of Laws, found on the Nation's website:
 - 1) Chapter 66, Building Code;
 - 2) Chapter 68, Condominium Ordinance;
 - 3) Chapter 69, Zoning and Shoreland Protection Law
<https://oneida-nsn.gov/government/register/laws/>
- e. The Nation will enact Peace and Safety Regulations at least as stringent as the Town's Peace and Safety Regulations to be applicable to the Nation, Tribal Members, and individuals and businesses leasing, occupying or otherwise using Tribal Land located in the Town.

- f. Town ordinances addressing Peace and Safety Regulations may have fees associated with permits which are less costly than those charged by the Nation. To maintain consistency within the Town limits, the Nation will match the Town permit fee (if the fee is lower) for Tribal Members for activities occurring in the Town.

In addition, the Nation and the Town will collaborate to explore the possibility of establishing shared/ reciprocal permitting processes.

- g. Each party agrees to designate one representative who will serve as a single point of contact for all matters relating to this section. The parties' designated representatives are listed in Attachment A, and the each party shall update its designated representative from time-to-time as necessary through written notice to the other party. The Town agrees to forward Peace and Safety Regulation issues concerning the Nation, tribal members, and individuals and businesses leasing, occupying or otherwise using Tribal Land to the Nation's designated representative for follow-up action.

5. COOPERATIVE ROAD MAINTENANCE, REPAIR AND CONSTRUCTION

- a. **Initial Meeting and Annual Meetings.** Within three months of the effective date of this Agreement, the parties agree to meet to establish an initial set of priorities for maintenance, repair, and construction of Town, Nation, and BIA roads. These priorities may be adjusted as needed by agreement of both parties.

The parties further agree to meet twice annually to discuss issues related to road maintenance, repair and construction. The first meeting shall take place within two weeks of the Town's determination to lift the weight limits on roads due to the spring thaw. At this meeting the parties shall validate road inventories, set priorities for maintenance, repair and construction, and review long-term plans. The second meeting shall take place within the first two weeks of September. At this meeting the parties shall review road inventories to determine what maintenance and repairs are required before winter.

- b. **Tribal Contribution to Town Road Maintenance and Repair.** The Town may allocate such portion of the compensation set forth in section 8 of this Agreement towards road repair and maintenance as it deems to be in the best interest of the Town.
- c. **Contact Persons.** Each party agrees to identify at least one individual who will serve as a contact person for road maintenance and repair issues. The parties' contact persons are listed in Attachment A, which the parties shall update from time-to-time as necessary, but not less than annually.

- 6. **POLICE SERVICE.** The Town recognizes and supports the Nation's commitment to ensure the safety of the entire community through the operation of the Nation's Police Department. The Nation agrees to ensure best practices are followed between the Nation's Police Department and Outagamie County Sheriff's Department for proper policing protocols and communication between the agencies.

7. **ENVIRONMENTAL PROTECTION AND LAND USE.**

- a. The parties recognize both governments provide services, activities and events which benefit the community as a whole (e.g. waste disposal, household clean sweep event). When feasible, the parties agree to work cooperatively on such services, activities, and events to ensure environmental goals, including water protection and habitat restoration, are being achieved for the benefit of the entire community and in accordance with any approved plans, subject to the Town's obligations to Outagamie County under the Responsible Unit Scope of Services Agreement between the Town and Outagamie County and any executed amendments thereto ("RU Agreement").
- b. The Nation agrees to provide solid waste collection services to all Town residents who voluntarily choose to purchase these services from the Nation, provided that the Town promotes the voluntary service by informing residents that greater participation lowers the cost of services. The Nation agrees to ensure that its contractor accounts, on a "tonnage" percentage basis, any solid waste collected from nonmember Town resident households that is tipped at the Brown County solid waste transfer station, and reports such accounting to the Outagamie County Director of Solid Waste or his or her designee. The accounting shall include monthly household collection totals.
- c. The parties agree to discuss the possibility of the Nation providing recycling collection services to Town residents as soon as is practical and consistent with the Town's obligations under the RU Agreement. Any agreement reached by the parties regarding the Nation's provision of recycling collection services may be memorialized in an amendment or addendum to this Agreement or in a separate Memorandum of Understanding.

8. **COMPENSATION.**

- a. **Annual Payment.** As compensation for services provided by the Town to Tribal Trust Properties, the Nation shall make annual payments to the Town, in accordance with the following schedule:

2016 – 2020	\$150,000/year
2021 – 2025	\$165,000/year
2026 – 2030	\$180,000/year
2031 and thereafter	\$195,000/year

The Nation's obligation to make payments shall immediately cease in the event either party serves a notice of non-renewal on the other party pursuant to section 2, or this Agreement is terminated pursuant to section 15.

- b. **Invoices and Payment.** On or before September 1st of each year, the Town will submit an invoice to the Nation reflecting the amount agreed upon in this agreement. The Nation will make payment to the Town on or before November 1st of each year.
- c. **Town Fire Department and First Responders.** Town Fire Department and First Responders. The Nation recognizes the financial and human resources the Town must commit to maintaining the Town Fire Department, and both parties agree that a collaborative approach to identify additional funds for the Town Fire Department is necessary. The parties therefore agree as follows:

- 1) The Town will, where appropriate, utilize the Nation's resources and technical capabilities of seeking and acquiring grants, and the Nation commits to actively seek and apply for grants on behalf of the Town Fire Department, as approved by the Town.
- 2) Where necessary, the parties agree to work cooperatively to apply, report, and manage any awarded grants under separate memoranda of agreement or similar government-to-government documents.

9. **ONEIDA LAND INTO TRUST.** The Town will not oppose the Nation's applications to place Tribal Fee Land into trust during the term of this Agreement.

10. **INFORMATION SHARING.** The Nation and the Town will collaborate on mapping and share data bases concerning issues of mutual interest and concern such as, but not limited to, fees charged for permits, 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. In order to support and foster mutual cooperation under this Agreement, the Nation and the Town shall meet at least once annually in the month of March.

11. **COST MITIGATION.** The Nation designates its Chairman and the Town designates its Chairman (or their delegates) to accept and review proposals regarding potential cost saving measures related to governmental services provided by both parties (e.g. road improvement as identified in section 5).

12. **DISPUTE RESOLUTION.**

- a. **Open Communication.** The parties agree the first step solving disagreement is to practice open communication. The parties therefore agree to meet in person to lay out the premises of disagreements which may arise, and to discuss proposed solutions. The parties will work to achieve consensus on solutions and make good faith efforts toward implementing identified resolutions.
- b. **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, 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. 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.
- c. **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, the parties may agree in writing to settle the dispute by non-binding mediation.

13. **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 matters addressed herein. This Agreement does not affect the current Payment In Lieu of Taxes Agreement currently in place between the Town and the Nation relating to property under the control of the Oneida Housing Authority.
14. **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.
15. **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 Nation 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.
16. **NOTICE.** Notice provided under this Agreement must be in writing and must be sent by certified mail, return receipt requested, to:
Oneida Nation Chairman, P.O. Box 365, Oneida, WI 54155
and/or
Oneida Town Chairman, N6593 County Rd H, Oneida, WI 54155
17. **SEVERABILITY.** If any provision of this Agreement is determined to be invalid under the laws of the United States, the Nation or the State, such invalidity will not affect the validity of the remaining provisions of this Agreement.
18. **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.
19. **NO THIRD PARTY BENEFICIARIES.** This Agreement is made and entered into for the sole protection and benefit of the Nation and the Town, 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.

TOWN OF ONEIDA

Date: 27 July 2017

By: Gary F. Schaumberg
GARY SCHAUMBERG, Chairman

Date: 7-27-17

By: Terry Hoek
TERRY HOEK, Supervisor

Date: July 27, 2017

By: Randall L. Robertson
RANDALL L. ROBERTSON, Supervisor

Seal of Town of Oneida

Date: 7/28/17
CSO

ONEIDA NATION

By: Cristina Danforth
CRISTINA DANFORTH, Chairwoman

Date: 7-28-17

By: Melinda Danforth
MELINDA DANFORTH, Vice Chairwoman

Seal of the Oneida Nation

ATTACHMENT A

Pursuant to sections 4.g. and 5.c. of this Agreement, the contact persons are as follows:

For the Oneida Nation:

James Petitjean
N7332 Water Circle Place
P.O. Box 365
Oneida, WI 54155
Phone number is: 920-869-1600, ext. 4574

For the Town of Oneida:

Jennifer Andersen, Town Clerk
N6593 County Rd. H.
Oneida, WI 54155
Phone number: 920-833-2211