

COOPERATIVE GOVERNANCE AGREEMENT

BETWEEN

THE ONEIDA NATION

AND

THE VILLAGE OF ASHWAUBENON

THIS AGREEMENT, by and between the ONEIDA NATION (the "Nation"), a federally recognized treaty tribe organized under the laws of the United States, and the VILLAGE OF ASHWAUBENON (the "Village"), a municipal government organized under the laws of the State of Wisconsin (each a "party" and collectively, the "parties"),

WITNESSETH:

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

WHEREAS, the United States holds title to parcels of land within the Village in trust for the benefit of the Nation; and

WHEREAS, both the Nation and the Village provide services which benefit properties, residents, and the community within the Oneida Reservation and the Village; and

WHEREAS, the services provided by the Nation and the Village complement each other and are not intended to create duplication of services; and

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

WHEREAS, lands held in trust by the United States for the benefit of the Nation are exempt from taxation under federal law due to the Nation's status as a sovereign; and

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

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

WHEREAS, the officers and officials of the Village have a duty to uphold the laws of the United States and the State of Wisconsin, including complying with the terms of the 1838 Treaty; and

WHEREAS, it is mutually beneficial to the parties to put their understandings in writing;

The Nation 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 the agreement entered into by 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, and all amendments to such agreement.
 - c. "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, and any lands added thereto pursuant to federal law.
 - d. "Tribal Fee Land" means land to which the Nation holds title in fee simple.
 - e. "Tribal Land" means Tribal Fee Land on the Reservation and Tribal Trust Land.
 - f. "Tribal Member" or "Member" means a duly enrolled member of the Nation.
 - g. "Tribal Trust Land" means land to which the United States holds title for the benefit of the Nation pursuant to federal law.
 - h. "Year" means the fiscal year beginning on October 1st of a given calendar year and ending on September 30th of the following calendar year.
2. **TERM.** The term of this Agreement shall be five (5) years, commencing on January 1, 2023, and ending on December 31, 2027, and shall automatically renew for successive five (5) year terms, unless either party provides written notice of intent not to renew the

Agreement to the other party at least 180 days prior to the date on which the Agreement would otherwise automatically renew.

3. **LAW ENFORCEMENT MUTUAL ASSISTANCE.** The Oneida Police Department and the Ashwaubenon Public Safety Department will provide mutual assistance in the form of back-up/secondary assistance for police, ambulance, emergency medical or rescue services pursuant to the Public Safety Response and Mutual Assistance Agreement between the Nation and the Village, dated January 1, 2023, as from time to time amended.

4. **INTERGOVERNMENTAL COOPERATION.** The parties agree to work collaboratively to the greatest extent possible in order to foster positive intergovernmental relationships, achieve common goals, and realize efficiencies in the delivery of programs and services, including but not limited to the following efforts:

- a. Point of Contact. The parties hereby designate the following representatives as points of contact who shall have primary responsibility for ensuring compliance, receiving notice, and ensuring continued participation under this Agreement:

Village of Ashwaubenon:
Joel Gregozeski
Village Manager
Village of Ashwaubenon
2155 Holmgren Way
Ashwaubenon, WI 54304

Oneida Nation:
Melinda Danforth
Intergovernmental Affairs Coordinator
Oneida Nation
P.O. Box 365
Oneida, WI 54155

A party may only change its designated Point of Contact by providing written notice to the other party.

- b. Information Sharing. The parties will collaborate on mapping and share data bases concerning issues of mutual interest and concern, including but not limited to parcel information, zoning, land use, land ownership status, census information, archeological/historical background (with appropriate limitations on culturally sensitive sites and public access), utilities, roads and rights of way, etc.
- c. Resource Sharing. The parties agree to make equipment, supplies, and other physical assets available to each other on an at-cost or in-kind basis when permissible and feasible in order to facilitate the delivery of governmental services and to promote the common good.
- d. Cost Mitigation. The parties will actively explore ways to conserve resources through cooperation and agree to accept and review proposals from each other regarding potential cost saving measures related to the delivery of governmental programs and services.

- e. Grants and Funding Sources. The parties agree to support each other in seeking grants and other sources of funding, and agree, to the extent feasible, to share knowledge and expertise regarding grant opportunities and grant writing.
- f. Legislative Initiatives. The parties agree to share information regarding legislative initiatives on matters of mutual concern and in which their interests coincide, and each party agrees to consider the interests of the other party in determining whether to support or oppose legislative proposals.
- g. Environmental Protection. The parties each provide programs and services which protect the environment and promote human health and agree to coordinate such activities to the extent possible and to work together on public education, stormwater management, responses to spills, clean sweep programs, and the like.
- h. Departmental Meetings. The parties' designated Points of Contact will facilitate meetings between corresponding departmental staff of the parties in order to identify issues of concern, address emergent issues, and promote intergovernmental cooperation.

5. LAND USE REGULATIONS AND NEIGHBORHOOD SERVICES.

- a. The Oneida Code of Laws contains zoning, building, nuisance, and other land use regulations ("Land Use Regulations") which are applicable to the Nation, Tribal Members, and individuals and businesses leasing, occupying or otherwise using Tribal Land. Village ordinances do not apply to the Nation or Tribal Members on the Reservation.
- b. The parties agree to work together to improve neighborhood services and recognize that communication between the parties is the best way to achieve this goal. The parties shall each identify a contact person responsible for communication regarding land use regulation issues, and Tribal staff and Village staff shall meet quarterly.
- c. The Village agrees to refer land use regulation issues concerning the Nation, Tribal Members, and individuals and businesses leasing, occupying or otherwise using Tribal Land to the Nation's contact person and appropriate tribal staff. The Nation agrees to refer land use regulation issues concerning nonmembers on non-tribal land to the Village's contact person and appropriate Village staff.
- d. The Nation agrees not to permit any gasification or waste-to-energy facility to be located within the Village.
- e. The parties' contact persons and staff members are listed in Attachment A, which the parties shall update from time to time as necessary, but not less than annually.

6. **STORM WATER**

- a. The Village and the Nation are subject to certain federal mandates regarding storm water management on the Reservation. The Village and the Nation 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 Nation 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 Nation 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 Nation will not challenge the Village's imposition of storm water management charges on Tribal Fee Land located outside the Reservation boundaries.
- e. The Nation 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 Nation 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 of 29.4% of the future long-term maintenance costs will be charged to the Nation. 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.

7. **PUBLIC IMPROVEMENTS.** To the extent the Village assesses the cost of public improvements against properties benefitted by such improvements, the Nation agrees to pay the actual, proportional cost of all public improvements benefitting Tribal Land including, but not limited to, grading, graveling, storm and sanitary sewer and laterals, water mains and laterals, sidewalks, paving and relays, reconstructions, overlays or

repairs thereof, to the same extent and on the same basis as such costs are charged to other property owners. The Nation 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 Nation 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 Nation may submit regarding the project. The Village will bill the Nation the cost of any such street improvement attributable to the Tribal Land upon completion of such improvement. The Nation will pay such bill in full within thirty (30) days of receipt thereof.

8. COMPENSATION.

- a. Annual Payment. In consideration of the services provided by the Village, and the promises and agreements stated herein, the Nation shall make an annual payment (the "Annual Payment") to the Village in accordance with the following municipal services payment formula:

$$\begin{aligned} &\text{Net Cost of Police Services} \times \text{Nation's Percentage for Police Services} \\ &\quad + \\ &\text{Net Cost of Fire Services} \times \text{Nation's Percentage for Fire Services} \\ &= \text{Annual Payment} \end{aligned}$$

For purposes of the foregoing formula, the following terms shall have the following meanings:

The Net Cost of Police Services means the cost of Village police services funded by the Village's property tax revenues in the preceding fiscal year, and does not include costs funded by grants, payments made by the Nation, or other revenues.

The Net Cost of Fire Services means the cost of Village fire services funded by the Village's property tax revenues in the preceding fiscal year, and does not include costs funded by grants, payments made by the Nation, or other revenues.

The Nation's Percentage for Police Services means the value of Tribal Trust Land located within the Village less the value of the Nation's Casino Complex located at 2020 Airport Drive, 2040 Airport Drive and 2100 Airport Drive and divided by the value of all land within the Village, including the value of Tribal Trust Land.

The Nation's Percentage for Fire Services means the value of Tribal Trust Land located within the Village divided by the value of all land within the Village, including the value of Tribal Trust Land.

By Means of Example:

$\$4,172,827$ (Net Cost of Police Services) \times 5.69 % (Nation's Percentage for Police Services) = $\$23,749.00$

+

$\$3,428,363$ (Net Cost of Fire Services) \times 6.724% (Nation's Percentage for Fire Services) = $\$230,531.00$

= $\$254,280$ (Annual Payment)

Upon the request of either party, the parties shall meet and confer to come to agreement on the value of Tribal Trust Land located within the Village.

The Nation may make Annual Payments in the form of cash or cash equivalents, in-kind and non-monetary contributions, and cooperative governance project payments.

- b. In-Kind and Non-Monetary Contributions. The value of rights, goods and services which the Nation provides or transfers to the Village shall be counted as part of the Annual Payment, provided the Village accepts and agrees to such in-kind and non-monetary contributions. In-kind and non-monetary contributions shall be valued at the fair market value of the rights, goods or services, or the actual price paid by the Nation to acquire the rights, goods or services. For example, if the Nation acquires and transfers ownership of \$100,000 in firefighting equipment to the Village in March of a given year, the Nation shall receive a credit of \$100,000 against the Annual Payment for that year. Under no circumstances shall Nation's internal costs be considered in-kind or non-monetary contributions.
- c. Cooperative Governance Projects Payments. Payments directly to a vendor or agency as part of a joint or cooperative project between the Village and Nation shall be counted as part of the Annual Payment. The Nation shall receive a dollar-for-dollar credit for all expenditures made by the Nation in furtherance of such projects. For example, if the Nation pays \$100,000.00 to fund cooperative governance projects in March of a given year, the Nation shall receive a credit of \$100,000.00 against the Annual Payment for that year.

Cooperative Governance Projects. Cooperative governance projects are intended to facilitate or enhance governmental services and/or to promote economic development. By way of illustration but not limitation, cooperative governance projects may include: the construction, maintenance, and repair of roads, bridges, pedestrian pathways, and related infrastructure; the construction, maintenance, and repair of storm sewers, storm water treatment facilities, and related infrastructure; the construction, maintenance, and repair of buildings, public facilities, and related infrastructure; the purchase of land; the procurement of leases, easements, or rights-of-way; and the purchase of machinery, equipment, and tools; contracted lobbying

services for the benefit of the Village; contracted grant-writing services for the benefit of the Village.

Cooperative Governance Project Proposals. Either party may propose a cooperative governance project to the other party at any time during the term of this Agreement, and the parties' designated representatives shall thereafter meet to discuss the proposed project within thirty (30) days. Each party shall designate three (3) representatives to review and respond to cooperative governance project proposals. With respect to each approved project, the parties' designated representatives shall by mutual agreement determine the amount of credit to which the Nation shall be entitled for cooperative governance project payments and in-kind and non-monetary contributions to fund or facilitate the project.

The parties' designated representatives are listed on Attachment A, which the parties shall update from time to time as necessary, but not less than annually.

- d. Invoices and Payment. On or before September 1st of each year, the Village will submit an invoice to the Nation reflecting the Annual Payment for that year as specified in subsection 8(a) above. On or before September 30th, the Nation shall pay the Annual Payment less any amounts taken as credits for in-kind and non-monetary contributions and cooperative governance project payments, and the Nation shall itemize the amounts of such credits in writing. In the event the Village disputes the amounts taken as credits by the Nation, the Village shall initiate the dispute resolution procedures set forth in section 11 below within thirty (30) days of receipt of the Nation's itemization.

9. **PARKS, FORESTRY AND RECREATION.** The Nation desires to support the recreation scholarship program and other activities of the Village's Parks, Recreation and Forestry Department, and will contribute \$150,000 to the Village's Parks, Recreation and Forestry Department in three installments of \$50,000 in 2023, 2024 and 2025 when the Nation makes the Annual Payment for those years. The Village agrees to consult with the Nation regarding the expenditure of these funds.

10. **LAND INTO TRUST.**

- a. The Village will not oppose applications by the Nation to have land taken into trust during the term of this Agreement if the following criteria are satisfied: (1) the Nation has held fee title to the land in question for a period of three (3) years or more prior to the date of the application, or prior to the Nation's acquisition, a tax exempt entity held title to the land in question for a period of five (5) years or more; (2) the Nation has not been determined to be in material noncompliance with the terms of this Agreement pursuant to the dispute resolution procedures set forth in subsection 11(d) below; or if the Nation has been determined to be in material noncompliance with the terms of this Agreement pursuant to the dispute resolutions procedures set forth in subsection 11(d) below, such noncompliance has been cured or corrected by satisfaction and mutual agreement by the Parties; (3) The Nation properly noticed the

Village with its intent to acquire land into trust, as more particularly described below. If these criteria are not satisfied, the Village may object to the application as provided for in 25 C.F.R. Part 151.

- b. Notice Requirements. At least sixty (60) days prior to submitting an application to have land within the Village taken into trust, the Nation will send written notice to the Village which includes the following information: (1) the street address, (2) the tax parcel number(s), (3) the acreage, (4) the current use of the land, (5) the Nation's proposed use of the land after trust acquisition, and (6) any proposed development or improvements to the land. Within thirty (30) days of receiving such notice, the Village shall identify in writing any issues or matters pertaining to the land, and the parties shall thereafter meet to discuss such issues or matters. Prior to submitting the application, the Nation shall inform the Village in writing of the measures it will take to address any issues or matters raised by 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, 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.
- b. Peacemaking. 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 attempt to settle the dispute through peacemaking.
- 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, and peacemaking has been unsuccessful, the parties may agree in writing to attempt to settle the dispute by non-binding mediation.
- d. Arbitration. If a dispute is not resolved within one hundred twenty (120) days of service of the notice provided for in subsection (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 Nation and one-half (1/2) of the cost charged to the Village, and each shall bear its own expenses.
 - e. **Limited Waiver of Immunity.** The Village and the Nation specifically waive sovereign 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 subjects addressed herein.
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 reduced to 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 four ways: (1) this Agreement will immediately terminate and cease to be effective in the event the Village no longer provides services to the Nation; (2) the Nation may immediately terminate this Agreement in the event the Nation for any reason ceases to conduct Class III Gaming pursuant to a Gaming Compact with the State of Wisconsin, or the Nation's ability to conduct Class III Gaming at the locations at which the Nation conducts Class III Gaming as of the date of execution of this Agreement is diminished or impaired through adverse court decision(s) or otherwise; (3) the parties may terminate this Agreement by mutual agreement, provided that such agreement is reduced to writing and signed by both parties; (4) this Agreement will terminate and cease to be effective upon the date it would otherwise automatically renew under section 2 above in the event either party provides notice of intent not to renew the Agreement at least 180 days prior to such date and the party has not withdrawn such notice. Upon termination, neither party shall have any further obligation under this Agreement, except that the provisions of section 11 above shall survive termination of this Agreement. In the event the Nation terminates this Agreement because the Nation ceases to conduct Class III Gaming pursuant to a Gaming Compact with the State of Wisconsin or the Nation's ability to conduct Class III Gaming at the locations at which the Nation conducts Class III Gaming as of the date of execution of this Agreement is diminished or impaired through adverse court decision(s) or otherwise, the parties agree to engage in good faith discussions regarding the possibility of entering into a successor agreement.
15. **NOTICE.** Notice provided by a party under this Agreement must be in writing and sent either by e-mail, read receipt requested, or certified mail, return receipt requested, to the appropriate representative(s) of the other party as set forth in Attachment A.

16. **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.
17. **PRESERVATION OF JURISDICTION.** Nothing in this Agreement is intended to be a grant of jurisdiction from one party to the other. 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 Nation 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.
19. **CHOICE OF LAW.** This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

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

ONEIDA NATION

By: Tehassi Hill
Tehassi Hill, Chairman
Date: _____

By: Lisa Liggins
Lisa Liggins, Secretary
Date: 12/22/22

Seal of the
Oneida Nation

VILLAGE OF ASHWAUBENON

By: Mary Kardoskee
Mary Kardoskee, President
Date: 12/20/22

By: Kris Teske
Kris Teske, Clerk
Date: 12/20/22



ATTACHMENT A

General Contacts

Notices under section 2, subsection 8(c), subsection 11(a), subsection 11(d), section 13 and section 14

Mary Kardoskee
Village President
2155 Holmgren Way
Ashwaubenon, WI 54304
920-492-2301
mkardoskee@ashwaubenon.gov

Tehassi tasi Hill
Chairman
P.O. Box 365
Oneida, WI 54155
920-869-4420
thill7@oneidanation.org

All notices and invoices

Joel Gregozeski
Village Manager
2155 Holmgren Way
Ashwaubenon, WI 54304
920-593-4403
jgregozeski@ashwaubenon.gov

Melinda Danforth
Intergovernmental Affairs Director
P.O. Box 365
Oneida, WI 54155
920-562-0290
mdanforj@oneidanation.org

Law Enforcement

Notices under Public Safety Response and Mutual Assistance Agreement

Brian Uhl
Chief of Public Safety
2155 Holmgren Way
Ashwaubenon, Wisconsin 54304
920-492-2995
buhl@ashwaubenon.gov

Eric Boulanger
Chief of Police
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920-869-2239
eboulan1@oneidanation.org

Legal Services

Notices under section 2, subsection 11(a), subsection 11(d), section 13 and section 14

Patrick Leigl
Village Attorney
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920-593-4407
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James Bittorf
Deputy Chief Counsel
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Oneida, WI 54155
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Public Works

Notices under subsection 8(c)

Brian Rickert

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2155 Holmgren Way
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920-593-4504
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Steve Birr

Village Engineer
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Shannon Stone

Director of Public Works
P.O. Box 365
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ssstone@oneidanation.org

Troy Parr

Community Development
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Oneida, WI 54155
920-1600 ext. 4529
tparr@oneidanation.org

Development/Inspection

Notices under section 4

Aaron Schuette

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Troy Parr

Community Development
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