



Mille Lacs Band of Ojibwe Indians

*Executive Branch of Tribal Government
Office of the Chief Executive*

Via E-mail

August 8, 2024

Sheldon Boyd, Speaker of the Assembly
Carolyn Beaulieu, District I Representative
Wendy Merrill, District II Representative
Harry Davis, District III Representative

Re: FY 2024 Referenced Funding Agreement and Retained Services Addendum Pursuant to
Band's Tribal Transportation Program Agreement for FY 2023-2026

Dear Band Assembly:

On July 19, 2023, the Band Assembly approved Resolution 20-04-29-23 (Adopting the FY 2023-2026 Mille Lacs Band Transportation Improvement Plan, FY 2023 Tribal Transportation Program Agreement Retained Services Addendum, and FY 2023 Referenced Funding Agreement with the U.S. Department of Interior – Bureau of Indian Affairs).

My office is now in receipt of the enclosed request for a Joint Resolution approving an FY 2024 Referenced Funding Agreement and FY 2024 Retained Services Addendum which, I believe, are being requested pursuant to the plan approved by Resolution 20-04-29-23.

I am forwarding this request to you because it is for a Joint Resolution, which must be initiated by the Band Assembly. A quick review of the Tribal Register reveals that the Mille Lacs Band used Joint Resolutions from January of 1986 through August of 2020.¹ Although I was the District I Representative when the Band Assembly stopped approving Joint Resolutions, I was always uncomfortable with the change. Now that I am Chief Executive, I am even more convinced that we should have never changed course the way we did.

In 2008, Secretary-Treasurer Herb Weyaus requested that Solicitor General Rjay Brunkow issue a Solicitor's Opinion answering what the source of power was to adopt resolutions for the general welfare of the Band and what limits, if any, could be put in place to limit the scope of that power. Solicitor General Brunkow concluded that, although Joint Resolutions do not carry the weight or importance of Band law, "[e]xpressions of policy in the form of a joint resolution are certainly still a vital and useful practice for Band Government and should continue to be utilized for matters that do not carry the gravity of Band law." *Solicitor General's Opinion 34-08*, p. 4.

¹ During this period, Joint Resolutions were used to approve such matters as land leases, enrollments, the Minors' Trust Program, and the 2006 enrollment moratorium, as well as to enter into litigation, waive sovereign immunity, ratify agreements, etc. After 2020, the Band shifted to approving land leases by resolution and enrollments by Resolutions of the Joint Session of the Band Assembly.

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To my knowledge, this Solicitor's Opinion was never annulled. If the Band Assembly elects to continue approving agreements by Joint Resolution, I will not have any objections. I know that, in the past, there has been some concern about what happens when the Band Assembly approves a Resolution and the Chief Executive refuses to sign. But Solicitor General Brunkow also addressed this possibility, writing that a "joint resolution passed by Band Assembly but not signed by the Chief Executive simply becomes a Band Assembly resolution." *Solicitor General's Opinion 34-08*, p. 4.

With all that being said, please consider this letter a request to ratify the enclosed agreements by either Resolution or Joint Resolution—whichever method you prefer. If you elect to ratify by resolution, I will submit a corresponding letter of support to our federal partner. Both Commissioner of Community Development Tracy Burr and I also welcome any additional conversation you may wish to have. We have additional agreements which have arrived at my office for signature, so your guidance on this matter is much appreciated.

Miigwech,



Virgil Wind
Chief Executive

CC:

Darcie Big Bear, Parliamentarian/Clerk of the Band Assembly
Tracy Burr, Commissioner of Community Development
Caleb Dogeagle, Solicitor General
Jared Miller, Legislative Counsel

Enclosures:

1. Memorandum from Brian Scheinost, Director of Public Works, to Virgil Wind, Chief Executive
2. FY 2024 Referenced Funding Agreement and FY 2024 Retained Services Addendum Pursuant to Mille Lacs Band of Ojibwe's Tribal Transportation Program Agreement with the Bureau of Indian Affairs
3. Resolution 20-04-29-23