



# MILLE LACS BAND OF OJIBWE

*Executive Branch of Tribal Government*

## DEPARTMENT OF ADMINISTRATION COMMISSIONER'S ORDER 2022-08

### **A Commissioner's Order Implementing Matters Raised on March 24, 2022 to the Administration Policy Board**

#### **Section 1. Purpose**

The purpose of this Commissioner's Order is to rescind Commissioner's Order 2022-07 to implement matters related to personnel, contracts, and grants due to the Administration Policy Board's lack of quorum.

#### **Section 2. Source of Authority**

This Commissioner's Order is issued pursuant to 4 MLBS §§ 7(h), 7(k), 9(a) and 10 (g).

#### **Section 3. Matters Implemented**

(a) The following matters contained in Attachment 1, dated April 22, 2022, are hereby implemented by this Commissioner's Order:

- (1) Executive Branch personnel matters related to new hires, job changes, and transfers within the Department of Health & Human Services and Department of Education;
- (2) Executive Branch personnel matters related to the Leave of Absence, noted for record, within the Department of Health & Human Services;
- (3) Executive Branch personnel matters related to the Separation of Employment within the Department of Health & Human Services and Department of Community Development;
- (4) Approval of contracts for the Department of Community Development, Department of Administration, and Department of Justice;
  - (i) Jensen Backhoe contract with the Department of Community Development – Replacing onsite septic system at private home located in District 1, using IHS funds;
  - (ii) Momentum ECM, LLC contract with the Department of Administration – Providing continued support through September 30, 2022 of all online forms for Aanjibimaadizing previously through Minokaw (purchased by Momentum) including all application systems and Rosetta Stone; and
- (5) Approval of Other: Department of Administration, Mille Lacs Band of Ojibwe 477 Master Plan for Fiscal Years 2022-2025 to the Department of Interior, Bureau of Indian Affairs pursuant to the Public Law 102-477, the "Indian Employment, Training and Related Services Demonstration Act of 1992".

#### **DISTRICT I**

43408 Oodena Drive Onamia, MN 56359  
(320) 532-4181 Fax (320) 532-4209

#### **DISTRICT II**

36666 State Highway 65 McGregor, MN 55760  
(218) 768-3311 Fax (218) 768-3903

#### **DISTRICT IIA**

2605 Chiminising Drive Isle, MN 56342  
(320) 676-1102 Fax (320) 676-3432

#### **DISTRICT III**

45749 Grace Lake Road Sandstone, MN 55072  
(320) 384-6240 Fax (320) 384-6190

#### **URBAN OFFICE**

1404 East Franklin Avenue Minneapolis, MN 55404  
(612) 872-1424 Fax (612) 872-1257

(b) The following matters contained in this Commissioner's Order, Attachment 1, dated April 22, 2022, are hereby implemented and forwarded to the Band Assembly for further action:

(1) Approval of the Department of Justice and Department of Community Development's contracts:

(i) Lockridge Grindal Nauen P.L.L.P. contract with the Band (at the direction of the Office of Solicitor General) to provide legal services relating to Talon Metal Corp.'s proposed mining operation near Tamarack, Minnesota.

(ii) Ron's Roll-Offs - \$30,000.00 – to provide dumpsters for the 2022 District 3 Community Clean up scheduled for April 30 – May 6 as submitted

(iii) Aufderworld Corporation - \$43,610.32 – to provide and install audio sound system equipment at both East Lake and Chiminising Community Centers as submitted

(iv) HUOT Construction & Services, Inc - \$61,027.10 – to provide materials and labor for an Elder home renovation project in Sandstone funded through by Elder renovation line item as submitted

(v) Heritage Exteriors and Restoration, Inc. - \$72,517.56 – to provide material and labor for an Elder home renovation in District 1 to address poor roof condition requiring replacement, as submitted

(2) Approval of Request for Appropriations for the Department of Natural Resources for Fiscal Year ending September 30, 2022;

#### **Section 4. Effective and Expiration Dates**

(a) This Commissioner's Order will become effective when signed.

(b) This Commissioner's Order will expire on the earlier of December 31, 2022 or the next date that the Administration Policy Board convenes to conduct business and has quorum.

**Issued on April 22, 2022:**



Maria Costello  
Assistant Commissioner of Administration

**Seal of the Band**





# MILLE LACS BAND OF OJIBWE

*Executive Branch of Tribal Government*

For Commissioner's Order 2022-08  
Attachment 1 of 1  
April 22, 2022  
Administration Policy Board Matters

#### **DISTRICT I**

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**ADMINISTRATION POLICY BOARD  
REGULAR MEETING  
MARCH 24, 2022  
DISTRICT 1 GOVERNMENT CENTER UPSTAIRS MEDIA ROOM**

The Assistant Commissioner of Administration called the meeting to order at 11:00 a.m.

**MEMBERS PRESENT**

Maria Costello, Assistant Commissioner of Administration  
Nicole Anderson, Commissioner of Health & Human Services  
Kelly Applegate, Commissioner of Natural Resources

**MEMBERS ABSENT**

Peter Nayquonabe, Commissioner of Administration  
Commissioner of Community Development, vacant  
Commissioner of Education, vacant

**NO QUORUM PRESENT**

**OTHERS PRESENT**

Byron Ninham, Interim Executive Director of Education  
Ryan Simafranca, Deputy Commissioner of Community Development  
Angel Oehrlein, Senior Executive Assistant of Administration

**The Assistant Commissioner of Administration stated due to lack of a quorum, per law no business can be conducted through a regular meeting. All business will be completed through Commissioner's Orders until a quorum is available at the next Administration Policy Board Meeting.**

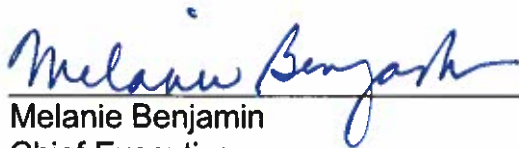
The meeting adjourned at 11:01 a.m. due to lack of quorum.



\_\_\_\_\_  
Maria Costello  
Assistant Commissioner of Administration



\_\_\_\_\_  
Date



\_\_\_\_\_  
Melanie Benjamin  
Chief Executive



\_\_\_\_\_  
Date



# DRAFT AGENDA

## Administration Policy Board Agenda District 1 Government Center Upstairs Media Room March 24, 2022

1. **CALL MEETING TO ORDER**
2. **ROLL CALL – Commissioner of Administration, Assistant Commissioner of Administration, Commissioner of Community Development, Commissioner of Education, Commissioner of Health & Human Services, Commissioner of Natural Resources**
3. **AGENDA APPROVAL**
4. **NOTE OF APPROVED MINUTES**  
March 10, 2022 – Regular APB
5. **UNFINISHED BUSINESS**
6. **PERSONNEL**  
**New Hires, Job Changes, Transfers**  
**Health & Human Services**  
Bernadine Przybilla – Transfer from FT Client Access Specialist to FT Interim Behavioral Health Administrative Assistant, effective 3/14/22  
  
**Education**  
Leann Benjamin – Transfer from FT Child Advocacy Center Administrator to FT Interim Curriculum Specialist, effective 3/21/22
7. **Annual Appraisals/Wage Corrections/Changes**
8. **Leave of Absence – Furlough Actions**
9. **Leave of Absence – noted for record**  
**Health & Human Services**  
Barbely Laws – FT CHR D1, return from leave of absence, effective 3/8/22
10. **Separation of Employment - reason will be included on draft but DO NOT state in minutes**  
  
**Health & Human Services**  
Lori Van Kempen – FT Accounts Receivable Specialist, **resignation**, effective 3/17/22  
Matthew Stiehm – FT Lead Investigator, **resignation**, effective 3/16/22  
Joanne Boyd – FT WIC Clerk, **resignation – failure to return from LOA**, effective 3/9/22  
  
**Community Development**  
Dawn Day – FT Maintenance Tech 1, **job abandonment**, effective 3/8/22  
Toni Doust – FT Maintenance Tech 2, **resignation**, effective 12/21/21  
Raymond Doust – FT Maintenance Tech 1, **resignation**, effective 3/9/22

# DRAFT AGENDA

11. **JOB DESCRIPTIONS**

12. **CONTRACTS/GRANTS**

**Community Development**

SCR, Inc - \$24,950.00 – to provide materials and labor for the installation of a new security camera system for the Mino Bimaadiziwin Transitional Housing building, replacing the obsolete system with a new IP based HD video surveillance system as submitted

Jensen Backhoe - \$20,395.00 – to provide materials and labor for replacing an onsite septic system at private home located at 38221 US Hwy 169, Onamia with IHS funds, as submitted

**Administration**

Momentum ECM, LLC - \$24,975.00 – to provide continued support of all online forms for Aanjibimaadizing previously through Minokaw (purchased by Momentum), including the applications systems for HAF, CERA, CERA-HUD, and Rosetta Stone. Contract will allow to maintain current applications, collect data for reports and continue to create all online applications through this fiscal year through September 30, 2022, as submitted

13. **FINANCE**  
**Budget Revisions**

14. **OTHER**  
**Administration**

Aanjibimaadizing – Public Law 102-477 Plan approval FY 2023 – FY 2025 as submitted

**ADMINISTRATION POLICY BOARD  
REGULAR MEETING  
MARCH 10, 2022  
DISTRICT 1 GOVERNMENT CENTER UPSTAIRS MEDIA ROOM**

The Assistant Commissioner of Administration called the meeting to order at 11:57 a.m.

**MEMBERS PRESENT**

Maria Costello, Assistant Commissioner of Administration  
Nicole Anderson, Commissioner of Health & Human Services  
Kelly Applegate, Commissioner of Natural Resources

**MEMBERS ABSENT**

Peter Nayquonabe, Commissioner of Administration  
Commissioner of Community Development, vacant  
Commissioner of Education, vacant

**NO QUORUM PRESENT**

**OTHERS PRESENT**

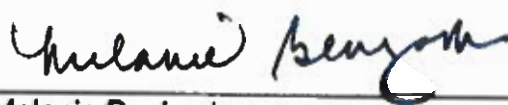
Baabiitaw Boyd, Deputy Commissioner  
Byron Ninham, Interim Executive Director of Education  
Kristian Theisz, Director of Community Support  
Stacey Sanchez, Human Resources Director  
Angel Oehrlein, Senior Executive Assistant of Administration

**The Assistant Commissioner of Administration stated due to lack of a quorum, per law no business can be conducted through a regular meeting. All business will be completed through Commissioner's Orders until a quorum is available at the next Administration Policy Board Meeting.**

The meeting adjourned at 11:58 a.m. due to lack of quorum.

  
\_\_\_\_\_  
Maria Costello  
Assistant Commissioner of Administration

3/10/22  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Melanie Benjamin  
Chief Executive

3/14/2022  
\_\_\_\_\_  
Date



## COMMUNITY DEVELOPMENT DEPARTMENT

March 10, 2022

### MEMORANDUM

TO: Commissioner of Community Development, OMB, OSG & APB

FROM: Carla Dunkley – Project Management Compliance Officer *CD*

CC: Brian Scheinost – Director of Public Works

RE: Jensen Backhoe, LLC Contract for 38221 US Hwy 169, Onamia IHS Septic Installation

Attached for approval is a contract for **Jensen Backhoe, LLC** to install a new onsite septic system and abandon the existing system for the home located at 38221 US Hwy 169 with I.H.S. funds. The rfp for installation was posted on the Band's website and sent to more than five qualified contractors per Band procurement (see attached bid memo). The following bids were received:

	<u>Base Bid</u>
EZ Excavating, LLC	\$26,880.00
MPJ Enterprises, LLC	\$34,645.05
R & R / B & T	\$56,306.00*
<b>Jensen Backhoe</b>	<b>\$20,395.00</b>

\*Only B & T has a MN Installer license & would need to perform the majority of the work to qualify. R & R Landscaping and Construction is being mentored by B & T Sales.

It is my recommendation that the MLB Community Development enter into a contract with **Jensen Backhoe, LLC** for an amount of **\$20,395.00** for installation of the onsite septic system.

As the new mound will be installed in the same location as the old, the site will need to dry after the old materials are removed. Once the soils are adequately dry, the new mound can be constructed. The contractor will be responsible for pumping the tanks until construction is complete. Contract expiration date is October 31, 2022 due to the weather dependent nature of the work.

The contract is funded by IHS Line Item: 7247-104-1260-1.

3450

APB00014 *OK PD 3/10/22*



CONSTRUCTION CONTRACT between MILLE LACS BAND of OJIBWE (OWNER)  
And Jensen Backhoe, LLC (CONTRACTOR)

Project #15016 is at:  
38221 US Hwy 169, Onamia  
IHS Septic System

CONTRACT entered into as of the 10<sup>th</sup> day of March in the year 2022.

BETWEEN the Owner:  
Mille Lacs Band of Ojibwe  
43408 Oodena Drive  
Onamia, MN. 56359

OMB APPROVAL  
Date: 3/14/22  
Signature: [Signature]  
Vendor # 45534  
Oblg # 036831  
Account # 7247-104-1260-1  
Contract Sum: \$20,395.00

and the Contractor

Jensen Backhoe, LLC  
510 2<sup>nd</sup> St. NW  
Hinckley, MN 55037

OSG APPROVAL  
Date: 3/21/2022  
Signature: [Signature]

ADMINISTRATION POLICY BOARD  
Date:  
Signature

BAND ASSEMBLY APPROVAL  
Date:  
Signature

THIS CONTRACT AND ALL OF ITS TERMS AND CONDITIONS ARE TO BE GOVERNED UNDER  
THE LAWS OF THE MILLE LACS BAND OF OJIBWE INDIANS.

Section 1  
NOTICE.

*Inclusion of address, phone, fax and email are mandatory*

- |   |   |
|---|---|
| (A) The Owner's representative is:<br>Commissioner of Community Development -<br>Contracting Officer<br>43408 Oodena Dr<br>Onamia, MN 55359<br>320-532-7508 | Contracting Officer's designee:<br>(Carla Dunkley) -- C.O. Designee<br>Project Management Compliance Officer<br>43408 Oodena Dr<br>Onamia, MN 56359<br>320-630-2495 |
|---|---|

The Contractor's representative(s) is (are):  
[Name] Scott Jensen  
[Address] 510 2<sup>nd</sup> St. NW, Hinckley, MN 55037  
[Phone] 612-390-9014  
[Fax]  
[Email] scottjensen@centurylink.net

The Contractor's representative(s) is(are):  
[Name]  
[Address]  
[Phone]  
[Fax]  
[Email]

(B) All notices are to be sent to the stated representatives, unless a change in the information above is required. If a change in the above referenced information is required, then a notice of a change of representatives must be provided in writing within five (5) working days, including any change of address, phone, fax or email.

(C) Notices to either party shall be given by addressing the communications to the stated representative. Any notice given is effective upon receipt by U.S. Mail, postage prepaid, or upon personal delivery with acknowledgement of receipt. Notice may also be given through electronic format, by fax or email, using the attached coversheet entitled Legal Notice.

Section 2  
WORK/WORK STATEMENT/SCOPE

- (A) Objectives: to precisely identify desired end objectives of the project and associated requirements.
- (B) Definitions: For purposes of this contract, the term "Project" will be synonymous with the word "Work." Work shall be defined as the tasks completed in order to achieve the final creation or renovation of the desired structure.
- (C) Please attach a **Schedule of Values** that outlines the project first in general terms and dates, then provides a detailed breakdown of each construction phase, the materials needed for each phase, the cost of those materials and the estimated completion date for each. Schedules of values, which should be considered an itemized list of supplies, labor and completion phases should provide the Contracting Officer with a clear understanding of the anticipated percentage of completion for each phase and its cost. Schedules of Values need to be attached to this document upon completion of the Work.

See attached RFP for 38221 US Hwy 169, Onamia Onsite Septic System dated 2/18/22, I.H.S. Specifications for BE-17-L02 including Environmental Systems, LLC design dated 7/28/21, and MN Chapter 7080.

(C) Responsibility: identify all Mille Lacs Band and Contractor participation or cooperation that is needed for the success of the project, as well as the nature and extent of all task responsibilities. All tasks requiring Mille Lacs Band support (e.g. Band-furnished equipment, facilities, materials or other government assistance) should be stated specifically.

(D) Milestones/Schedule of Values: generate a schedule for the sequence of tasks to be performed by a contractor and a similar schedule for related responsibilities of the Owner.

Section 3  
**CONTRACT SUM**

The Contract Sum is: Twenty Thousand Three Hundred Ninety-Five Dollars and 00/100 (\$20,395.00), subject to adjustments as determined by the Owner or Contract Officer.

Section 4  
**DATE OF COMMENCEMENT AND CONTRACT TIME**

~~The date of commencement of the Work is the date the Mille Lacs Band Office of Management and Budget (OMB) issues the 1<sup>st</sup> payment after receipt of Contractor's 1<sup>st</sup> Application for Payment. The Contract Time shall be measured from the date of commencement.~~

Section 5  
**PAYMENTS**

Progress Payments

(A) All pay applications for payment are subject to the Office of Management and Budget (OMB) processing schedule. Once an application for payment is received, and Certificates for Payment issued by the Owner, along with the approval of the Commissioner of Community Development, or his/her designee, the Owner shall make payment within thirty (30) days as provided below.

*Project Manager shall choose one of the following payment schedules marked in subsection (B), all other provisions of this section shall still apply.*

(B) Payment schedule based on a Schedule of Values that will be determined by the attachment of an Application and Certificate of Payment as well as a Continuation Sheet. Each of these documents will be considered part of the overall contract as approved by the Contracting Officer or his/her designee.

(B)(2) *This option is available only for road construction contracts. Unit price work. Work to be paid for on the basis of unit prices in an attached sheet. Unit price work will be subject to an attached set of conditions.*

*Substantial Completion*

(C) The Contractor shall achieve Substantial Completion of the Work not later than **October 31, 2022.**

(D) The Substantial Completion date of the Work is the date when construction is sufficiently complete so that the Owner can occupy or utilize the building for its intended purpose. Only two (2) extensions may be given for substantial completion of a project.

(E) The Work is not substantially completed if it fails to conform to approved Drawings and Specifications, any Change Order, or if construction defects remain that prevent occupancy or utilization of the building.

*Liquidated Damages*

(F) Liquidated Damages. Should the Contractor fail to substantially complete the Work within the time allowed in this Contract, the Contractor shall pay the owner as liquidated damages no more than \$100.00 per day for each consecutive calendar day that Substantial Completion remains unmet, but not to exceed \$500.00 per week. Liquidated damages shall be assessed according to a graduated scale listed as follows:

Contract Type	Contract Price	Liquidated Damages
Renovation only	\$0.00 -- \$50,000.00	\$100.00 per day completion unmet
	\$50,001.00 – higher	\$200.00 per day completion unmet
Residential (full construction)	\$0.00 – 150,000.00	\$300.00 per day completion unmet
	\$150,001.00 – higher	\$400.00 per day completion unmet
Commercial (full construction)	\$0.00 --	\$400.00 per day completion unmet

If the Contractor and Owner have mutually agreed to a signed Change Order and/or Addendum granting an extension of time to reach Substantial Completion, then the liquidated damages shall be calculated from the date agreed to in the Addendum and/or Change Order. In no way shall the costs for liquidated damages be construed as a penalty. Owner and Contractor agree that the sum is a reasonable and proper measure of the damages that cannot be calculated with any degree of certainty, which the Owner will sustain if the Contractor fails to substantially complete the Work according to the Schedule of Values and/or Substantial Completion deadlines in this Contract.

(G) In the event that the contractor fails to cure defects in performance as provided in section 8 of this Contract, the Owner shall have the right, but not the obligation, to complete the punch list items. Final Payment in the amount of Two Thousand Thirty Nine Dollars and 50/100 (\$2,039.50) shall be made when punch list items are done and keys are exchanged. Final Payment (RETAINAGE) shall be paid within thirty (30) days of i) completion of the punch list items in a good and workmanlike manner and (ii) submission of all closeout documentation to the Owner.

(H) Lien Waivers.

(1) For each Application for Payment, the Contractor shall provide lien waivers for the General Contractor, Subcontractors, Sub-subcontractors, and suppliers for Work performed since the previous payment application was submitted to the Owner before the Contractor has the right to receive any payment on its current Application for Payment. All lien waivers shall be provided in the form attached as Exhibit A.

(2) In the event Contractor fails to pay any Subcontractors, Owner shall have the right, but not the obligation, to pay the Subcontractor directly upon receipt of a lien waiver from the Subcontractor, and subtract the amount paid from the Contract Sum.

i. Any payments made by Owner pursuant to this paragraph will be subject to a reasonable administration fee which will be deducted from the Contract Sum. Contractor shall be notified by a written statement when an administration fee is deducted from the Contract Sum.

(I) Changes.

(1) The Band's Contracting Officer may at any time, in writing, make reasonable and /or necessary changes within the general scope of the contract.

(2) If any change is requested by the Contractor that causes an increase or decrease in the cost of, or the time required for performance of any part of the Work under the contract, the Contract Officer is authorized to make an equitable adjustment of a maximum of five percent (5%) in the contract sum. An equitable adjustment will be a fair adjustment made within a reasonable time. Adjustment of a contract in excess of five percent (5%) of the Contract sum must be approved by the Band Assembly for contracts over \$100,000.00. The Contracting Officer may also make an equitable adjustment in the schedule of values. Failure of the parties to agree to any adjustment shall be covered under the

Disputes Clause as a claim. However, nothing in this section or the Disputes Clause shall excuse the Contractor from proceeding on the work.

- (3) Change order mark-up limit of 10% on all labor and materials.
- (4) No payments will be made for additional work performed under the terms of this contract without written approval from the Owner prior to work being performed.

#### Section 6

#### **TERMINATION BY OWNER FOR CONVENIENCE**

(A) The Owner may at any time and for any reason terminate this Contract for convenience. A termination notice citing this section will be delivered in writing to the Contractor's representative and will set forth a date upon which the termination will be effective.

(B) Upon receipt of this notice from the Owner, the Contractor shall immediately cease to incur any costs that may be chargeable to the Owner under this Contract.

(C) In a termination for convenience, the contractor shall also prepare to discontinue performance of the Work in the manner set out below.

- 1. The Contractor agrees that upon receipt of notice from the Owner it shall:
  - i. cease any and all Work under the Contract in the manner directed by the Owner in the notice;
  - ii. take whatever action(s) necessary, or which may be directed by the Owner, for the protection and preservation of the Work;
  - iii. terminate all existing subcontracts and purchase orders except for work directed in the notice to be performed prior to the effective date of termination;
  - iv. enter into no further subcontracts and purchase orders; and
  - v. assign subcontracts and purchase orders to the Owner as directed.

(D) Following a termination for convenience, the Owner shall be responsible only for payment for services rendered before the effective date of termination. The Owner agrees that it will pay the Contractor within thirty (30) calendar days from the Contractor's submission of a final Application for Payment to the OMB, if the application is approved by the Owner.

(E) Under no circumstance shall the Owner be charged equipment rental in excess of seventy-five percent (75%) of the value of that item (or for any item with a value of \$500 or less) acquired by the Contractor to the date of termination. The Owner will not pay termination charges for any subcontracts, and the Owner shall not be liable for any lost profits or consequential damages.

i) From this amount shall be subtracted the aggregate of all previous payments made by the Owner and other credits due to the Owner. The Owner shall be immediately refunded any amount by which payments to the Contractor exceed the amount of payment to which the Contractor is entitled.

(F) To the extent that the Owner elects to accept legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall execute, deliver and take all steps necessary to effect the legal assignment of such subcontracts, purchase orders and agreements prior to receiving the payments referred to in this Section.

#### Section 7

#### **TERMINATION BY OWNER FOR CAUSE**

(A) The Owner may terminate this contract for cause upon default by the Contractor. Any notice of default will be delivered to the Contractor, and the Contractor's Surety, in writing. The Owner's right to terminate a contract may be exercised if the Contractor does not cure such default within ten (10) business days after receipt of notice from the Contracting Officer specifying default. More time to cure may be provided if deemed reasonable by Owner.

(B) The Contract may be terminated for cause if the Contractor shall be deemed in default. The Contractor shall be deemed in default if the Contractor:

1. Persistently or repeatedly fails or refuses to supply enough properly skilled workers or proper materials;
2. Fails to make payment to Subcontractors for materials or labor in accordance with respective agreements between the Contractor and Subcontractors;
3. Persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction over the Work;
4. Fails to deliver the supplies or perform the services within the time specified in the contract or any agreed upon extension;
5. Fails to make progress, so as to endanger performance of the contract;
6. Fails to maintain the appropriate insurance under § 13 and § 15 of this Contract;
7. Fails to perform any of the other provisions of the contract; or
8. Violates the requirements contained in the Mille Lacs Band of Ojibwe Commercial Practices Act, Chapter 5 regarding TERO Compliance. See 18 MLBSA § 401-428; or
9. Is otherwise in material breach of a provision of this Contract.

(C) Any complaint received by the Administration Policy Board regarding a contractor's failure to comply with TERO rules, will be investigated immediately. If the complaint is determined to be worthy of further consideration, the Administration Policy Board shall notify the parties of an appointed time and day for a hearing and settlement discussions. At this time, the Band may terminate the contract for convenience immediately. If settlement is not achieved, the Administration Policy Board may render its own decision based on the evidence and testimony presented. Any decision of the Administration Policy Board under this statute may be appealed to the Court of Central Jurisdiction under 24 MLBSA § 2501. If the Administration Policy Board issues a final decision rendering the complaint against the contractor unfounded, the contractor may seek reimbursement of the contract sum.

(D) This Contract will be terminated for cause if, after written notice and hearing, the Administration Policy Board determines that the Contractor or its representative offered a gratuity to an official, agent or employee of the Band, and intended by the gratuity to obtain a contract or favorable treatment under a contract.

(E) If the Owner terminates this contract, it may acquire supplies or services similar to those terminated to complete the Work. The Contractor will be liable to the Owner for any dollar amounts exceeding the Contract Sum for those supplies or services required to finish the Work.

(F) When the Owner terminates the Contract for one of the reasons stated in subsections A-D of this section, the Contractor shall not receive further payment until the Work is finished.

(G) When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner:

1. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery owned by the Contractor;
2. accept assignment of subcontracts; and
3. finish the Work by whatever reasonable method the Owner may deem expedient.

(H) If the unpaid balance of the contract sum exceeds the costs of finishing the Work, including compensation for administrative and necessary consultant services, and other costs incurred by the Owner, then such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the

Contractor shall pay the difference to the Owner. The amount to be paid shall be certified by the Owner, upon application, and this obligation for payment shall survive termination of the Contract.

(I) Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

(J) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable or justified, the termination shall be deemed a termination for convenience, and the right and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Band.

#### Section 8

#### **SUSPENSION BY THE OWNER FOR CONVENIENCE**

(A) The Owner may, for convenience, order the Contractor to suspend the Work for such a period of time as the Owner may deem appropriate. The suspension notice will be communicated by the Owner's representative and will be effective immediately. A confirmation of this suspension will be delivered in writing to the Contractor's representative within twenty-four (24) hours from the decision to suspend.

(B) In the event of a suspension under this section, the Contract Sum will be adjusted for increases in cost. Adjustments to the Contract Sum shall include lost profit.

(C) The Contract Time will be adjusted to coincide with any Work delay caused by suspension unless the Contract Time is subject to non-adjustment for the reasons set out below.

1. No adjustment of Contract Time shall be made to the extent that performance of the Work is, was, or would have been suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
2. No adjustment of contract time shall be made if an equitable adjustment is made under another provision of the contract.

#### Section 9

#### **TERMINATION BY THE CONTRACTOR**

(A) The Contractor may terminate this contract if the Work is stopped for a period of forty-five (45) calendar days through no act or fault of the Contractor, subcontractors, their agents or employees or any other persons or entities performing portions of the Work. The Contractor may also terminate the contract if the Work is stopped for a period of thirty (30) calendar days, through no act or fault of the Contractor, subcontractors, their agents or employees, for any of the following reasons:

1. issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
2. an act of government, such as a declaration of national emergency which requires all work to be stopped;
3. because the Owner has not issued a Certificate of Payment and has not notified the Contractor of the reason for withholding certifications; or
4. because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract.

(B) The Contract may be terminated if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the contractor, subcontractors, their agents, employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract with respect to matters important to the progress of the Work.

(C) The Contractor may terminate the contract if, through no act or fault of the Contractor, subcontractors, their agents, employees or any other persons or entities performing portions of the Work under contract with the Contractor, as a result of repeated suspensions, delays or interruptions of the entire Work by the Owner, the Work is delayed for more than one-hundred percent (100%) of the total number of days scheduled for completion, or 120 working days in any 365 day period, whichever is less.

(D) If one of the reasons described in subsections (A) or (C) exists, the Contractor may, upon ten (10) calendar days written notice to the Owner, terminate the contract and seek to recover from the Owner payment for work executed and for proven loss with respect to materials, equipment, tools, construction equipment and machinery, including reasonable overhead, profits and damages.

#### Section 10

#### **DISPUTE RESOLUTIONS**

(A) The Contractor agrees that all disputes which arise under this Contract, to the exclusion of subsections 7(C) and 7(D), will be adjudicated in the Court of Central Jurisdiction for the Mille Lacs Band. The contractor also agrees that, by signing this contract, the contractor consents to the personal jurisdiction of the Court of Central Jurisdiction. This contract will be deemed a service contract provided for the needs of Band members. *See* 5 MLBSA 113(e). The Contractor agrees that all interpretations of this Contract will be based upon the laws of the Mille Lacs Band.

(B) Any claim by the contractor shall be submitted in writing to the Band's Contracting Officer for a written decision. A claim by the Band against the Contractor, to the exclusion of subsections 7(C) and 7(D), shall be subject to a written decision by the Contracting Officer.

1. "Claim" as used in this section, means a written decision, demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of the contract terms, or other relief arising under or relating to the contract.

(C) A voucher, invoice or other routine request for payment that is not in dispute when submitted is not a claim. It may be converted to a claim, by complying with the submission requirements of this section, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(D) The Contracting Officer's decision shall be final unless the Contractor appeals the matter within ten (10) days of the Contracting Officer's decision to the Court of Central Jurisdiction for the Mille Lacs Band. The Court shall review the decision of the Contracting Officer under an arbitrary and capricious standard.

(E) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal or action under the contract, and comply with any decision of the Contracting Officer or the Band's Court of Central Jurisdiction.

#### Section 11

#### **ADDITIONAL REMEDIES**

(A) Notwithstanding the remedies provided in other paragraphs of this Contract, the Owner reserves the right to commence legal action against the Contractor seeking monetary damages, liquidated damages, declaratory or injunctive relief as allowed by law, or any other relief in order to enforce any of its rights under this agreement.

(B) Except for defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor.



(C) If the failure to perform is caused by the default of a subcontractor and if the cause of the default is beyond the control, and without the fault or negligence of either the Contractor or the subcontractor, the Contractor shall not be liable for any excess cost for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(D) The Owner shall pay the contract sum for completed services performed and accepted. The Owner may withhold from these amounts any sum the Contacting Officer determines to be necessary to protect the Owner against loss. Failure to agree on such a sum will be a dispute under the Disputes Clause.

(E) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Owner.

(F) The right and remedies of the Owner in this clause are in addition to any other rights and remedies provided by the law or under the contract.

## Section 12 JURISDICTION

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this contract. See 5 MLBSA 111. Contractors, by signing this agreement, consent to the personal jurisdiction and the subject matter jurisdiction of the Court of Central Jurisdiction. Contractors seeking relief for claims shall be afforded the opportunity to seek relief in tribal court only to the extent of the contents of a properly filed claim under this contract's dispute resolution section. No claims will be permitted beyond the Contract Sum.

## Section 13 INDEMNIFICATION – REIMBURSEMENT- INSURANCE – WORKERS COMPENSATION – SUBROGATION WAIVERS

(A) To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the Mille Lacs Band of Ojibwe and all its members, entities, officers, agents and employees, from all suits, liens, charges (including attorneys' fees, costs & disbursements), damages, and liabilities relating to personal or bodily injury, sickness, illness, death, and damage to or destruction of property in any manner connected with the execution of the Work provided for in this Contract.

(1) Indemnification for property damage under this section consists of any work or omission of Work contracted to be done by Contractor or his subcontractors, employees, or agents.

(2) Indemnification for the aforementioned damage could also occur when the Contractor, Subcontractors or suppliers use materials, equipment, instrumentalities, or other property, regardless of whether or not harm is caused in part by a party indemnified. Excluded from this list are claims, loss, damage, costs or expenses resulting from risks that the Owner is required to insure against.

(3) The Contractor also agrees, without limiting any indemnification under subsection (1), to indemnify and hold harmless the Owner, its agents and employees, from such claims, damages, or liabilities for which the Owner, its agents and employees may be liable.

(4) The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this section.

(5) The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this section.

(B) In claims against any person or entity indemnified under subsection (A) by an employee of the Contractor, a subcontractor, or anyone directly or indirectly employed by them, the indemnification obligation under subsection (A) shall not be limited by an amount or type of damages, compensation or benefits payable under workers' compensation acts, disability benefit acts or other employee benefit acts.

(C) To the fullest extent permitted by law, and without limiting any other indemnification obligation of the Contractor, the Contractor shall indemnify and defend the Mille Lacs Band of Ojibwe and all of its members, entities, directors, officers, assigns, lenders, agents and employees from any claims, liens, charges (including attorneys' fees), or encumbrances (including but not limited to mechanic's liens or bond claims) in connection with the performance of the Work. This indemnification shall not include instances where the Owner has failed to make payments when required under the Contract Documents. The Owner shall be entitled to recover from the Contractor all costs and expenses incurred in enforcing this Agreement, including attorneys' fees. Upon request of the Owner, the Contractor shall within 60 days remove any liens filed against the Owner or its property. If the Contractor fails to remove the liens, then the Owner is authorized to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred. The Contractor is not required to insure over the indemnity obligations to the extent such obligations are imposed in this subsection (C).

#### Section 14

#### **BONDING REQUIREMENT**

a. In construction contracts that are federally funded or deemed commercial, bonding is required. These types of contracts shall demand a performance bond of not less than twenty percent (20%) of the total contract price, but not to exceed \$500,000.00. A performance bond requirement is to ensure that, if a contractor defaults, the Band may request that the surety pay the expenses incurred to complete the construction contract.

b. In addition, all construction contracts identified as federally funded or commercial, shall be covered by a payment bond equal to one payment installment to cover subcontractors/ suppliers as determined by the Contracting Officer or his agents. The payment bond must contain language stating that if the contractor fails to make a payment to its subcontractors/suppliers, the surety will make the necessary payment.

c. For all Band funded residential construction projects, a performance bond is required for contracts in excess of \$50,000.00. The performance bond shall be at a minimum twenty (20%) percent of the contract price, but not in excess of \$500,000.00.

*See Miller Act, 40 U.S.C. 3131 – 3134. See also 7 MLBSA 17 (amended Oct. 14, 2005).*

#### Section 15

#### **CONTRACTOR'S LIABILITY INSURANCE**

(A) The Contractor shall purchase and maintain from a state authorized company such insurance as will protect the Contractor, defined as the business owner and personnel, from such claims set forth below and for which the Contractor may be legally liable:

- (1) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- (2) claims for damages because of bodily injury, sickness, disease, or death of the Contractor's employees;

- (3) claims for damages because of bodily injury, sickness, or death of any person other than the Contractor's employees;
- (4) claims for damages insured by usual personal injury liability coverage;
- (5) claims for damages, other than to the Work itself because of destruction of tangible property, including loss of use.
- (6) claims for damages because of bodily injury, death of a person or property damage arising out of use of a motor vehicle;
- (7) claims for bodily injury or property damage arising out of completed operations; and
- (8) claims involving contractual liability insurance applicable to the Contractor's obligations under Indemnification subsection (A).

(B) The insurance required by this section shall be written for coverage seen in subsection (C) or otherwise as required by law, whichever coverage is greater. Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until either the date when coverage ends or one year after project completion whichever is later.

(C) The insurance provided by the Contractor shall be written for not less than the following, or greater if required by law: Workers' Compensation - (Policy to include a waiver of subrogation in favor of the Owner.) Employer's Liability - Bodily injury by accident - \$500,000 each accident; bodily injury by disease - \$500,000 contract limit; bodily injury by disease - \$500,000 each employee. Commercial General Liability - (without limit to Premises Operations; Independent Contractors; Contractual Liability; Products and Completed Operations; Explosion, Collapse and Underground Liability ("XCU"); Broad Form Property Personal Injury and Advertising Liability (employment exclusion deleted; Incidental Medical Malpractice; Amendment of Pollution Exclusion-hostile fire; Cross-liability and severability of interest; Minimum Coverage \$1,000,000 C.S.L. Commercial Automobile Coverage \$1,000,000 D.S.L. All of the above insurance shall be on an occurrence policy form. The Contractor shall maintain the required insurance continuously before commencing work to a period of at least twelve months after final completion. The Contractor's Contractual Liability Insurance shall cover the Contractor's obligations under Indemnification subparagraph (1) and any other contractual defense or indemnity obligation of the Contractor under this contract.

(D) The Contractor shall not allow insurance required by this Agreement to lapse, be cancelled, be reduced in limits or coverage, non-renewed, materially changed or have restrictive modifications added during the life of the Agreement. All insurance policies and certificates of insurance shall contain a provision that afforded coverage shall not be cancelled, reduced in limits of coverage, materially changed, or have restrictive modifications added, without sixty (60) days prior written notice to the Owner. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to the commencement of the Work. Failure of the Owner to object to a lack of a Certificate of Insurance or to the coverages indicated thereon or provided by the Contractor shall not constitute a waiver by the Owner of any of the Contractor's obligations. If insurance coverage is required to remain in force after final payment and is reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the close-out documentation. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, shall be furnished by the Contractor to the Owner with reasonable promptness.

(E) Commercial General Liability insurance required to be provided by the Contractor shall include the Owner as a named additional insured using ISO Form 2010. Policies for such insurance shall provide that such insurance is primary.

(F) In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may either purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or suspend/terminate this contract.

(G) Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

(H) The Contractor and any of its subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers' Compensation Policy in favor of the Owner. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though they would otherwise have a duty of indemnification, did not pay the insurance premium and irrespective of an insurable interest.

#### Section 16

#### WAGES, HOURS, AND SAFETY

##### (A) Labor Standards, Hours and Wages

All contracts in excess of \$5,000, related to the Work and involving employment for construction must comply with federal and state labor laws, wherever applicable. Specifically, contractors, subcontractors and other contract parties shall comply with the Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. § 3701 *et seq.*), the Fair Labor Standards Act (FLSA) of 1938 (29 U.S.C. § 201 *et seq.*) and the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101) *whenever Federal dollars are used in the construction contract process.*

(1) Under the requirements of Subsection (A), each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of eight (8) hours and a standard work week of forty (40) hours. Work in excess of the standard work day or work week is permissible provided that the worker is compensated at a rate of not less than one and one half (1 ½) times the basic rate of pay for all hours worked in excess of eight (8) hours in a calendar day or forty (40) hours in the work week. The Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. *See 7 MLBSA § 19(e).*

(2) All construction contracts, regardless of the source of the contract's funding, must comply with the Davis-Bacon Act (40 U.S.C. § 276(a) *et seq.*). Under the Act, laborers and mechanics must be paid no less than the minimum wage as determined by the Secretary of Labor. All contracts over \$75,000.00, regardless of funding, must comply with COMMUNITY DEVELOPMENT COMMISSIONER'S ORDER 001-06, dated October 30, 2005.

(3) Every contractor and subcontractor, regardless of the source of the contract's funding, will be prohibited from inducing a person employed in the construction, prosecution, completion or repair of any public works project to give up any compensation to which they are entitled in exchange for the award of any Band construction contract. *See Copeland "Anti-Kickback Act" (40 U.S.C. § 276(c)). The Mille Lacs Band will prosecute and report all suspected or reported violations to appropriate law enforcement officials. See 7 MLBSA § 19(c).*

##### (B) Environmental Compliance

(1) Contracts in excess of \$10,000.00 shall require compliance with all codes of federal regulations and all applicable standards regarding environmental protections. **Violations and suspected violations will be reported by the Owner to the BIA and the EPA.**

(2) In addition to the requirement set forth in subsection (1), contracts and subcontracts in excess of \$100,000.00 require compliance with all applicable standards or requirements issued under the Clean Air Act (42 U.S.C. § 7401-7661 *et seq.*). Contracts in excess of \$100,000.00 must also comply with the Clean Water Act (33 U.S.C. § 1251) and United States' Executive Order 11738. United States' Executive Order 11738 is a declaration that governs the administration of the Clean Air Act in connection with federal grant construction projects. **This**

**Executive Order requires the reporting of violations by the Owner to the grantor agency.**  
*See also 7 MLBSA § 19(h).*

(3) Compliance for all Contracts shall be required regarding mandatory standards and policies for energy efficiency requirements under the Energy Policy and Conservation Act (42 U.S.C. § 6201 *et seq.*)

(4) In addition, all contracts with the Band as the Owner shall comply with Tribal Law regarding protection of Tribal Cultural Resources (10 MLBSA § 2-5, 301-313) and Environmental Law (11 MLBSA § 103-123). No contractor or subcontractor shall be permitted to use hazardous materials in their construction efforts. Hazardous materials shall be defined as asbestos, toxic chemicals, waste, acids, alkalis, irritants, contaminants or other pollutants.

(C) Construction Compliance

(1) The contractor, subcontractor, agents and employees associated with the Work, shall comply with the Fair and Equitable Housing Act (42 U.S.C. § 3601 *et seq.*) as well as the Equal Credit Opportunity Act (15 U.S.C. § 1691). Compliance shall be required for minimum wage and maximum labor hours, "in any agreement relating to a federal, state or agency financial assistance housing program." *See* FAIR AND EQUITABLE HOUSING ACT (42 U.S.C. § 3601 §§ 114.14).

(2) The contractor, subcontractor, agents and employees associated with the Work, shall comply with ISO Rules and the Federal Building Codes (10 C.F.R. § 434, 10 C.F.R. § 435). In addition, the contractor, subcontractor, agents and employees associated with the Work, shall comply with Minnesota state law regarding building codes. Contractors, subcontractors, employees and agents shall be responsible for compliance with the Administration of State Building Codes (MN Rules Chapters 1300.0100 – 1300.6300; 1303.1600; 1303.1900; 1305.0010-.7100; 1309.0010 -.0703), the Minnesota Plumbing Code (MN Rules Chapters 4715.0100 – 4715.6000) and the Minnesota Energy Code (MN Rules Chapters 7670.0100 – 7670.1115). Finally, the contractor, subcontractor, agents, employees and others associated with the Work, shall be responsible for familiarity and compliance with the International Building Codes (I.B.C. Rules 101.3 – 3401.3), the International Residential Codes (I.R.C. Rules R302 – P2902) and the International Fuel and Gas Codes (I.F.G.C. Rules 106.1 – 506.3 *et seq.*).

(3) Acceptance of Nonconforming Work. If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

Section 17

WARRANTIES

The Contractor shall provide to the Owner any commercial warranty normally offered to the public. The Owner will not accept delivery of supplies and equipment "as is" unless the Contracting Officer has previously agreed in writing to accept supplies in such condition. The Contractor shall comply with the Minnesota Statute on Warranties (MN STAT. § 327B.02, 327B.03) and Housing Warranties (MN STAT. § 327A.01 – 327A.05). In addition, the Contractor shall comply with Minnesota state law regarding contractor licensing (MN STAT. § 327B.04 – 327B.09). Finally, the Contractor shall comply with Band law regarding Commercial Practices (18 MLBSA § 1-10, 101-112, 301) and Procurement of Construction Contracts (7 MLBSA § 1-36).

## Section 18

### COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been retained to solicit or obtain this Contract upon an agreement or understanding for a commission, brokerage or contingent fee, except a bona fide employee or bona fide established selling agent maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Band shall have the right to terminate the Contract without liability and separate from the termination sections listed previously in this Contract. In this instance, the Band shall be able to deduct from the contract sum or otherwise recover the full amount of such commission.

## Section 19

### PATENTS AND COPYRIGHTS

This Contract is subject to all Mille Lacs Band requirements and regulations pertaining to reporting and copyright/patent rights under any contract for research, development, experiments, or demonstration work, and with respect to any discovery or invention which arises in the course of such contract. *See* 7 MLBSA § 19(f).

## Section 20

### INDIAN PREFERENCE

(A) A contractor shall give preferential employment under the contract, including subcontracts, to Band members and qualified Indians. Qualified Indians are persons defined under 25 C.F.R. § 273.2(j), see below, that meet posted or available job requirements. *Andrus v. Glover Construction Co.*, 446 U.S. 608 (1980) (footnote 3, citing 20 BIAM Bull. 1 (March 3, 1976)); *See also* 25 C.F.R. § 162.5a (1978); 41 C.F.R. § 14H-3.215-70 (1977).

An Indian is defined under the Indian Self-Determination and Education Assistance Act as a person who is a member of an Indian tribe. 25 C.F.R. § 273.2(j). The Act also defines Indian tribes as, "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 25 C.F.R. § 273.2(g).

Contractor shall also provide employment and training opportunities to Indians regardless of age, religion or sex that are not fully qualified to perform under the contract where such would be consistent with contract performance. The contractor shall comply with all Indian preference requirements established by the Mille Lacs Band. Failure to comply with these requirements may lead to termination for cause under section 8 of this contract. *See* 18 MLBSA § 401-428; 7 MLBSA § 21-24; *see also* INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT, 25 C.F.R. § 273.45; *see also* Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. § 1701(3) and 25 C.F.R. § 135).

(B) Indian Preference shall mean awarding a contract or a subcontract with a priority first given to qualified Mille Lacs Band Members. The second priority shall be given to qualified members of other federally recognized Indian tribes. The third priority will be given to all other non-Indian persons. *See* 25 U.S.C. § 450e; *See also* MLB EXECUTIVE ORDER 122-97, August 19, 1997.

(C) If a contractor or any of its subcontractors are unable to fill employment openings after giving full consideration to Indians as required in subsection (A), these employment openings may then be filled by other persons under the conditions set forth in the Equal Employment Opportunity clause of the contract. The contractor agrees to include this clause or one similar in all subcontracts issued under the contract.

(D) Indian Preference shall also mean that contracts bid by Band member contractors that are within 10% of the lowest competitive bid shall be given the opportunity to negotiate an acceptable bid. See 25 U.S.C. § 450e.

#### Section 21

#### **EQUAL OPPORTUNITY**

During the performance of a contract and after complying with the Indian Employment Preference clause of the contract the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, age, religion or sex. The contractor will take affirmative action that applicants are employed and that employees are treated during employment without regard to their race, age, religion or sex. Such action shall include, but not be limited to the following: Employment upgrading; demotion or transfer; layoff or termination; rates of pay or other forms of competition.

(B) The contractor will, in all solicitation or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, age, religion or sex.

(C) The contractor will include provisions of these sections in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Mille Lacs Band may direct to enforce such provisions, including sanctions for non-compliance. See Indian Self-Determination Act (25 C.F.R. § 450e). If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor *may request* the Mille Lacs Band to enter such litigation to protect the interest of the Mille Lacs Band. However, nothing in this paragraph shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any court of competent jurisdiction.

(D) If no Indian business is available under the conditions of subsection (B), then the contractor agrees to accomplish the maximum amount of subcontracting with small or minority businesses if available.

#### Section 22

#### **USE OF INDIAN BUSINESSES**

(A) As used in this section, the term "Indian Businesses" means Indian organizations or an Indian owned economic enterprise as defined in the code of Federal Regulations or the laws of the Mille Lacs Band. See INDIAN BUSINESS DEVELOPMENT PROGRAM (25 C.F.R. § 286.1 – 286.22).

(B) The contractor agrees to give preference to qualified Indian businesses in the awarding of any subcontracts entered into under this contract. The contractor shall comply with any preference requirements regarding Indian businesses established by the Mille Lacs Band.

#### Section 23

#### **BUY INDIAN PROVISIONS**

All contractors and subcontractors who conduct business on lands under the jurisdictions of the Mille Lacs Band of Ojibwe pursuant to a contract or subcontract with the Band shall comply with the provisions of the Buy Indian Act (25 U.S.C. § 47).

#### Section 24

#### **ASSIGNMENTS**

No contract or subcontract awarded by the Mille Lacs Band of Ojibwe or any of the rights or interests or obligations therein may be assigned without the written approval of the Contracting Officer.

Section 25

TAXES

- A) The Owner is exempt from Minnesota State Sales Tax. For the purchase of supplies for construction, the Owner shall be the consumer and the state tax exemption will apply. The Owner shall provide the successful Contractors with a copy of their exemption certificate. Contractors must supply this copy when purchasing materials for construction, as well as Form ST8TG from the Minnesota Department of Revenue. *See also* MN STAT § 297.71-.74. Once the Contractor completes the purchase, the Contractor shall supply the Owner with copies of the Form ST8TG and other documentation of material costs. This exemption does not apply for the purchase of materials in road construction. 22 MLBSA § 508.
- B) The Administrative Policy Board may assess an Employment Rights Fee for the following:
  - 1) Contractors and subcontractors receiving contracts of \$100,000.00 or more shall pay 0.5% of the total contract sum pursuant to 22 MLBSA § 601. *See also* 18 MLBSA § 417.
- C) Contractor must also comply with the following:
  - 1) The Contractor has met the hiring goals of the TERO Compliance Officer, or
  - 2) The TERO Compliance Officer determines that the Contractor has made a substantial effort to train and employ Indian workers. 18 MLBSA § 401-428.

Section 26

UTILITIES

Contractors shall pay utility bills associated with the work at the construction site until the Contract has been closed out. The contract will be deemed finished and closed out when keys are turned in and punch list items completed.

Section 27

AUDIT

- A) To the extent required by law, the contractor agrees that the Mille Lacs Band, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purpose of making audits, examination, excerpts and transcriptions. The Contractors shall maintain all records kept in the normal course of business for three years after the Mille Lacs Band makes final payments and all other pending matters are closed.
- B) In addition, for the sake of potential audits, please include documentation of all physical changes to the Work in the project's close-out documentation.

Section 28

AMENDMENT

This Contract may be amended or modified only by a written instrument, added as an addendum and consecutively numbered. Each addendum must be signed by the parties, and approved, if necessary, by the Mille Lacs Band, through the Mille Lacs Band of Ojibwe's Band Assembly.

Section 29

SEVERABILITY

If any provision of this contract, or its application to the Owner and the Contractor is held invalid, the remainder of the contract and the application of other provisions to the Owner and the Contractor shall not be affected.



Section 30

**RATIFICATION**

This contract is effective and enforceable once it is finally ratified by the Band Assembly pursuant to 3 MLBSA § 2(f) cited below.

The Band Assembly shall have power:

- (f) To ratify agreements, contracts, cooperative and reciprocity agreements and memoranda of understanding.

Section 31

**SOVEREIGNTY AND WAIVER OF RIGHTS**

Any waiver regarding this contract must be explicit, written and authorized by the Owner; nor will provisions in § 12 of this contract waive the Sovereign Immunity of the Mille Lacs Band of Ojibwe. Furthermore, claims beyond the scope of this Contract will not be permitted. Injunctive relief is an acceptable alternative. This contract will not govern any separate bonding agreement. Nothing else in this contract shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in the Court of Central Jurisdiction. *See* 2 MLBSA § 5. Nothing in this contract shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any other court of competent jurisdiction. *See* 2 MLBSA § 5. Any waiver of rights by the Owner, under this Contract, in one single instance, does not create a continuous and overall waiver of rights. *See* 2 MLBSA § 5.

Section 32

**ENTIRE AGREEMENT**

(A) This Contract, including Forms and Addenda, constitutes the entire agreement between the parties regarding this subject matter. No representations have been made by any party, or any agent of any party, other than the terms and conditions set forth in this document. All prior and contemporaneous conversations, possible and alleged agreements, representations, covenants or omissions concerning the subject matter are void and have not been relied upon in any way by the Owner and the Contractor.

(B) The terms and conditions of this Contract are contractual in nature, and not a mere recital. This Contract shall constitute a legal, valid, and binding obligation of the parties, enforceable in accordance with its terms, and shall inure to the benefit of the parties.

This Contract is entered into as of the day and year first written above and is executed in at least three (3) original copies, of which one is to be delivered to the Contractor, and the remainder to the Owner.

IN WITNESS WHEREOF, we, the undersigned, have executed this Contract on the dates indicated below.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Commissioner of Community Development

Dated: 3/17/22 By: \_\_\_\_\_  
Contractor: Jensen Backhoe, LLC  
[Signature] PRESIDENT  
Contractor or his/her Representative

OMB approval: [Signature] Dated: 3/11/22

OSG approval: [Signature] Dated: 3/21/2022

**RATIFICATION**

Pursuant to the provisions of 3 MLBSA §2(f), this Contract was presented to the Band Assembly and is ratified on \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Sheldon Boyd  
Speaker of the Assembly

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# INTEROFFICE MEMORANDUM

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**TO:** CARLA DUNKLEY, PROJECT MANAGEMENT  
COMPLIANCE MANAGER

**FROM:** EMILY DUVEN, DEPUTY SOLICITOR GENERAL

**SUBJECT:** JENSEN BACKHOE CONTRACT 38221 US HWY 169

**DATE:** 3/21/2022



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The Office of the Solicitor General has completed its review of the contractual documents. See 7 MLBSA § 26(b)(2).

The office has approved the contract, *i.e.*, sanctioned the substantive legal provisions contained therein.

Please contact us if you have any further questions or concerns. We can be reached at (320) 532-7894.

/s/ Emily Duvén

Deputy Solicitor General

**Bid Tally Sheet**  
**March 10, 2022**  
**38221 US Hwy 169 I.H.S. Septic**  
**Mille Lacs Band of Ojibwe**  
**Present:**

CARLA DUNKLEY  
 Mike Moilonen  
 MAN JENARO  
 Emily Duven  
 KATHARINA BOYD JR

Bidders	Base Bid	Comments
ET Excavating	26,880 -	
MPS Enterprises	34,645.05	
R & T Services	56,300 -	R & R not eligible
Jensen Backhoe	20,395 -	



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## INTEROFFICE MEMORANDUM

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**TO: APB AND BAND ASSEMBLY**  
**FROM: TAMMY WICKSTROM, EXECUTIVE DIRECTOR AANJIBIMAADIZING**  
**DATE: MARCH 19, 2022**  
**SUBJECT: MOMENTUM LASER FICHE**

---

Minokaw Data Systems was purchased by a company called Momentum. Staff from Minokaw are working at Momentum. These staff and this company has built all online forms for Aanjibimaadizing. It has also built the applications systems for HAF, CERA, CERA-HUD, and Rosetta Stone.

Aanjibimaadizing makes revisions to current forms on a regular basis. The program is also continuing our move to all online forms.

This contract will allow us to maintain current applications, collect data for reports, and continue to create all online applications during this fiscal year.

Please contact me with questions.

Tammy Wickstrom  
Executive Director of Aanjibimaadizing

## **MILLE LACS BAND OF OJIBWE** **SERVICE CONTRACT**

The parties to this Contract shall be referred to as follows:

The Mille Lacs Band of Ojibwe Indians, a federally recognized Indian Tribe, shall be referred to as the "Band." **Momentum ECM, LLC** shall be referred to as the "Contractor."

1. The Contractor shall perform the following services: **RET Bulk hours purchase up front** at the following location (if applicable): **43500 Migizi Dr Onamia, MN 56359.**
  2. The Band appoints **Maria Costello, Commissioner of Administration** as Contracting Officer to represent the Band in its dealings with the Contractor. This Contracting Officer may accept or reject, in whole or in part, the work performed under this Contract.
  3. The Contractor shall perform the above services by the **1st** day of **March, 2024.** The Band may terminate this Contract upon the Contractor's refusal or inability to perform the services outlined herein.
  4. The Contractor shall return to the Band any property of the Band that has come into the Contractor's possession during the term of this Contract upon request by the Band or at the termination of this Contract.
  5. The Contractor agrees that all information and knowledge pertaining to this Contract and the services to be rendered are the property of the Band and no such information or knowledge shall be divulged to anyone other than the Band.
  6. The Contractor agrees that all rights, titles, and interests in and to any and all work products arising out of this Contract are the property of the Band.
  7. The Contractor agrees that during and subsequent to the term of this Contract it will without further consideration assign all rights, titles, and interests in any copyrightable material produced in connection with this Contract to the Band, and shall assist in every proper way, entirely at its own expense, to secure, maintain, and defend for the Band's benefit copyrights and any extensions and renewals thereof on any and all such materials produced.
  8. The Contractor shall abide by all applicable Band, Federal, and State laws pertaining to the work performed.
  9. In consideration for the services to be performed by the Contractor, the Band agrees to pay the sum of: **not to exceed \$Twenty Four Thousand Nine Hundred and Seventy Five Dollars no /00 Dollars (\$24,975.00)** to the Contractor on the following terms: **Upon completion of work and submission of necessary documents for payment, and with the approval of the Commissioner of Administration or his/her designee. All invoices are subject to OMB processing schedule.**
- All payments will be issued in conformance with the policies and procedures of the Band's Office of Management and Budget (OMB).
10. All contracts require OMB approval; contracts over \$7,500 require approval from the Solicitor General and the Administration Policy Board; and contracts over \$25,000 require the approval of Band Assembly. If such approval is not obtained, this Contract is not binding on the Band.

11. The Contractor shall hold the Band harmless of any liabilities arising out of the performance of the services contained in this Contract.
12. It is expressly understood and agreed by the parties that the Contractor is an independent contractor and shall in no event be considered an employee of the Band. The Band will not withhold any State or Federal taxes on the payment to be made hereunder and will not provide any fringe benefits to the Contractor.
13. The Contractor is an independent contractor and has no authority to incur any expenses or obligations on behalf of the Band.
14. It is prohibited to assign any rights, interests or obligations under this Contract without the written approval of the Contracting Officer.
15. The Contractor agrees that any and all disputes which arise under this Contract will be adjudicated in the Court of Central Jurisdiction for the Mille Lacs Band and that said Court has personal jurisdiction over the Contractor. The Contractor agrees that all interpretations of this Contract will be based upon the laws of the Band.

**CONTRACTOR**

**MILLE LACS BAND OF OJIBWE INDIANS**

E-SIGNED by Corey Robert  
on 2022-03-15 13:52:53 GMT  
Signature of Contractor      Date      March 15, 2022

Contracting Officer      Date

**Momentum ECM LLC**  
Name of Contractor      #53304

**Owner**  
Title

**2230 Vartan Way, Suite 185**  
**Harrisburg, PA 17110**  
Address

Line Item: **4300-281-6770-4**

Phone

**82-3829983**  
SS#7 FED ID #

OMB REVIEW Final 3/14/22  
Initial & Date  
Print Name: Joni Wall  
Title: Financial Analyst  
CONTRACT # 036835

OSG REVIEW Danielle Opendine Malliver DOM  
Over \$7,500 Initial & Date  
Print Name: Danielle Opendine Malliver  
Title: Deputy Solicitor General

APB REVIEW \_\_\_\_\_  
Over \$7,500 Initial & Date  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

BAND ASSEMBLY REVIEW \_\_\_\_\_  
Over \$25,000 Initial & Date  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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## NEGOTIATED PROCUREMENT JUSTIFICATION

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**TO:** OSG  
**FROM:** Aanjibimaadizing  
**SUBJECT:** Contract for MOMENTUM  
**DATE:** March 21st,2022

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The attached contract for services satisfies the statutory requirements for negotiated procurement, and, therefore, no formal advertising, including receipt of sealed bids, is necessary. 7 MLBSA § 13. *Please complete the entire form, including appropriate usage of the drop-down menus.*

The proposed contract term will extend until March 1st,2024.

The proposed contract amount is \$24,975.00.

In order to dispense with formal advertising each of the following conditions must be present:

I.  It is impractical and unfeasible to use procurement by formal advertising for the following reason: This contract will allow us to maintain current applications, collect data for reports, and continue to create all online applications during this fiscal year.;

**AND**

II. One or more statutory exceptions seemingly exist – that is to say –

- A.  public exigency will not permit the delay incident to advertising;
- B.  the contract is for professional services;
- C.  the contract is for services rendered by a university;
- D.  no acceptable bids have been received after formal advertising;
- E.  the purchase is for highly perishable goods ;
- F.  the purchase is for materials where the prices are established by law;



- G.  the purchase is for technical items requiring standardization of parts with existing equipment;
- H.  the purchase is for experimental developments ;
- I.  the purchase is for supplies purchased for authorized resale;
- J.  the purchase is for technical supplies requiring substantial initial investment;
- K.  the contract or purchase is otherwise statutorily authorized by and through MLBSA § .

I support the above assertion with the following factual description of the services to be provided: Minokaw Data Systems was purchased by a company called Momentum. Staff from Minokaw are working at Momentum. These staff and this company has built all online forms for Aanjibimaadizing. It has also built the applications systems for HAF, CERA, CERA-HUD, and Rosetta Stone.

#### **REMINDER**

Regardless of the foregoing stipulations, all contracts over the amount of \$5,000.00 must be submitted for review by the Office of the Solicitor General, and the Office of Management & Budget must receive every executed contract for fiscal approval. 7 MBLSA § 26(b)(1)-(2).

#### **CAUTION**

Band statute does not provide for the formal or informal designation of a preferred vendor on the sole basis of past performed services. *But cf.* 18 MLBSA § 413 (affording Indian preference to a Tribal Employment Rights Ordinance Board (“TERO”) Indian Certified Entity within the contracting process).

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# INTEROFFICE MEMORANDUM

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**TO:** TAMMY WICKSTROM,  
EXECUTIVE DIRECTOR AANJIBIMAADIZING  
**FROM:** DANIELLE OXENDINE MOLLIVER, DEPUTY SOLICITOR GENERAL  
**SUBJECT:** MOMENTUM SERVICES CONTRACT 036835  
**DATE:** 3/21/2022



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The Office of the Solicitor General has completed its review of the submitted contractual documents: Procurement Memo and Service Contract between MLBO and Momentum, ECM, LLC. See 7 MLBSA § 26(b)(2).

The Office has approved the contract, *i.e.*, sanctioned the substantive legal provisions contained therein.

Please contact me if you have any further questions or concerns. I can be reached at (320)733-3537.

*/s/ Danielle Oxendine Molliver*

Danielle Oxendine Molliver, Deputy Solicitor General



Momentum  
2330 Vartan Way, Suite 185  
Harrisburg, PA 17110  
United States

MQ2021	1191 v2
Date	03-11-2022
Expires	04-08-2022
Contact	Ned Weizenegger

Prepared for Mille Lacs Band Housing Authority  
Tammy Wickstrom  
43408 Oodena Dr,  
Onamia, MN 56359  
United States  
E: tammy.wickstrom@millelacsband.com

ACCEPT QUOTE

## Momentum Standard Proposal

### One-Time Fees

Category	Item	Qty	Price	Total
Labor / Labor	RET Bulk Hours Purchase up front Retainer Hour Block	150	\$185.00	\$27,750.00 <sup>†</sup>
Labor / Labor	RET100DISC 10% Discount Retainer Hour Block - 100 Hours (10% Discount)	150	(\$18.50)	(\$2,775.00) <sup>†</sup>

<sup>†</sup> tax subject to state

**Total One-Time** \$24,975.00 USD

Please contact us if you have any questions

ACCEPT QUOTE

### Cost Breakdown

Category	One-Time Fees
Labor / Labor	\$24,975.00
<b>Total</b>	<b>\$24,975.00 USD</b>

#### TERMS

Client hereby engages Momentum ECM, LLC (Provider) to render the services described in the Statements of Work and/or Quotes on the terms and conditions as set forth (herein referenced "Service Proposal"). This Service Proposal is valid for 30 days from the date listed. In consideration of the services to be performed by Provider, Client agrees to pay Provider in the manner, and at the rates, set forth in the Service Proposal. Travel rates may apply to remote clients. Terms are Due Upon Receipt. Late payments will incur finance charges of 1.5% of the unpaid monthly charges every 30 days. Beyond 90 days collection procedures will begin and services will be interrupted. Client waives the right to dispute any invoice which Client has not disputed in writing within 14 days from receiving the invoice. Momentum requires payment by ACH. Momentum does not charge a sales tax to clients out of the state of PA. Clients are responsible to pay the "Use" tax to their state directly as outlined by that state's sales tax law. Client agrees to remit payment in full for all invoices upon cancellation of services, prior to further assistance by Provider for password, network information, client data, or any other such information exchange. Provider will delete all Client data in its possession on the effective date of service cancellation.

#### LIABILITY

Damages shall be limited to the trailing six months of monthly recurring Client Service Proposal revenue paid to Provider by Client, or \$50,000, whichever is less. It is agreed that the Client is exclusively responsible for maintaining reliable backup of all Client data.

**MISCELLANEOUS PROVISIONS**

These Terms and Conditions and the attached Service Proposal contains the entire understanding of the parties hereto relating to the subject matter hereof and supersedes all prior and collateral agreements, understandings, statements and negotiations of the parties. These Terms and Conditions may only be amended or modified by an instrument in writing signed by duly authorized representatives of both parties hereto.

**RESOLUTION OF DISPUTES**

The parties agree to the following dispute resolution provisions and expressly waive any right to civil or administrative proceedings on any claim within the scope of these provisions. It is expressly intended that the entire relations of the parties be within the scope of this provision. Any unresolved Dispute shall be determined by common law arbitration rendered by the arbitrator and may be entered in any court of competent jurisdiction. The parties agree upon one neutral arbitrator with no relationship to either party to settle every Dispute. However, if the parties are unable to agree on an arbitrator within fifteen (15) days after a written request for arbitration, either party may petition for the appointment of an arbitrator. The decision of the arbitrator shall be final and not subject to review by any court except on the grounds stated in the applicable arbitration statute. The arbitrator shall be without authority to award punitive damages. Each party shall bear their own expenses in arbitration and shall divide equally any advance costs of arbitration. The arbitrator may award reimbursement of costs borne by the prevailing party, including but not limited to arbitration costs, reasonable attorney's fees, & reasonable expert witness fees. The signer of this Service Proposal, in addition to representing that his/her signature legally binds the Client and that all actions have been taken by the Client to duly grant this authority, does, by his/her execution, personally and individually undertake and assume the full performance hereof including payment of amounts due hereunder. A Purchase Order can also be delivered to Momentum in lieu of a signed quote. A purchase order delivered to Momentum still agrees to the terms stated in this quote.

**Mille Lacs Band Housing Authority Signature**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Date*

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## INTEROFFICE MEMORANDUM

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**TO: ADMINISTRATION POLICY BOARD AND BAND ASSEMBLY**  
**FROM: TAMMY WICKSTROM, EXECUTIVE DIRECTOR OF AANJIBIMAADIZING**  
**DATE: MARCH 22, 2022**  
**SUBJECT: PUBLIC LAW 102-477 PLAN APPROVAL FY2023-FY2025**

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Please review and approve the Public Law 102-477 Plan for the Mille Lacs Band of Ojibwe for fiscal years FY2023-FY2025. The plan has not undergone major substantive changes. All changes are detailed below.

The goals have been updated and are listed below.

- Create youth mentorship/internship and training opportunities in all Mille Lacs Band districts that will synchronize with *Anishinaabe values*, for example, servant leadership to look at the well-being of people and community. This will ensure youth have a positive ongoing relationship with tribal government and promote healthy relationships with adults in the community. These opportunities will be measured by the number of youth placed in mentorships/internships and the number of youth who have completed these opportunities.
- Develop Ojibwe language resources, materials, and training to be used long term with Aanjibimaadizing clients and all Mille Lacs Band members to increase the use of language, number of speakers, and improve the health and education of the community holistically. Measured by the number of books, resources, and materials available at the end of this three-year plan in comparison to current resources.
- Build and strengthen our training program in the following areas: outreach to potential clients, emphasis on the importance of gaining new knowledge including digital literacy, which will help in job advancement. In addition, this will help clients see the importance in self-growth, by growing their skills. This will be measured by the number of clients attending trainings or the number of clients gaining employment, thus advancing their careers.
- Increase indigenous business development of individuals and companies by promoting skills to build human capital, business plans/development and problem solving. Measured by the

number people attending small business classes and number of people obtaining a small business development grant.

The Other changes to the plans include the following:

- All data and graphics included in this plan has been updated based on the latest information available where relevant.
- Child care assistance will now be available to Band members in Urban.
- Increased definition of supportive services.
- Added information in *Issues and Barriers* section to include housing data, substance use disorder data and information on suicide statistics.
- Determination of child care assistance co-payments was changed to align more closely with State of MN income levels.
- JOM funds will be added to the 477 Plan.

Please contact me with questions or comments.

Miigwech



# **Mille Lacs Band of Ojibwe**

## **477 Master Plan**

**October 1, 2022 through September 30, 2025**

**FY22-FY25**

**43408 Oodena Drive, Onamia, MN 56359**

**Phone: 320-532-7407 Toll Free: 800-922-4457 Fax: 320-532-3785**

**Tammy Wickstrom, Executive Director**

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# **Mille Lacs Band of Ojibwe**

## **477 Master Plan**

**October 1, 2022 through September 30, 2025**

**FY22-FY25**

**43408 Oodena Drive, Onamia, MN 56359**

**Phone: 320-532-7407 Toll Free: 800-922-4457 Fax: 320-532-3785**

**Tammy Wickstrom, Executive Director**

Name of Tribe: **Mille Lacs Band of Ojibwe**

Band Authorized Signatory: **Melanie Benjamin**

Commissioner's Telephone: **320-532-7487**

### **Certification and Signature**

The attached and signed joint resolution **18-03-97-19** certifies the Mille Lacs Band of Ojibwe support for the submission and continued operation of this P.L. 102 – 477 Plan, which incorporates Native Employment Works (NEW), Temporary Assistance for Needy Families (TANF), Workforce Innovation and Opportunity Act (WIOA) funds for both adult and youth, Job Training Partnership Act (JTPA), and Child Care and Development Funds (CCDF) as described herein effective for the period October 1, 2022 through September 30, 2025.

## **The Mille Lacs Band of Ojibwe 477 Program (hereinafter Program) Funding:**

### **477 Program Description**

The Mille Lacs Band 477 Program provides services to Tribal members seeking to establish self-sufficiency for themselves and their families pursuant to this Plan and in accordance with P.L. 102-477, as amended. The following funding streams from the sources listed are incorporated into this Plan and will be utilized to achieve Band objectives pursuant to this Plan and in accordance with P.L. 102-477, as amended:

#### ***Department of Health and Human Services***

- Native Employment Works (NEW) - \$61,723
- Temporary Assistance for Needy Families (TANF) - \$4,550,816
- Child Care Development Fund (CCDF)-FY 2016 - \$191,580

#### ***Department of Labor***

- Workforce Innovation and Opportunity Act (WIOA) Adult Services - \$52,249
- Workforce Innovation and Opportunity Act (WIOA) Youth Services - \$23,295

#### ***Department of the Interior***

- Job Placement and Training (JPT) - \$64,031
- Welfare Assistance - \$155,003
- Johnson O'Malley (JOM) - \$48,900

The estimated annual allocation of the combined grant funds total is \$5,147,597. The Mille Lacs Band of Ojibwe (MLBO) will authorize up to 10% of the total program funds to be utilized for economic development initiatives within the program which will be used to enhance entrepreneurial opportunities for tribal membership. This limits the maximum total allocation for these initiatives to be \$514,760 per year. Funds that are not earmarked for economic development and which are not utilized during the grant year may be used for 477 program supportive services to eligible clients. The Program will work in cooperation with our P.L. 102-477 federal program partners for review prior to the expenditure of carryover funds for this initiative.

In accordance with the Administration of Children and Families guidance, the MLBO stipulates TANF funds shall be administered through this program in such a manner as to allow for a determination that funds from specific programs, or an amount equal to the amount attracted from each program are consistent with statutory requirements, regulations, policies and procedures unless a specific waiver is granted by the appropriate secretary of the awarding agency.

# **Approaches to Services, Program Goals and Eligibility**

## **Services**

The Program has adopted a culturally appropriate name, Aanjibimaadizing, which translates as, *changing lives*. Aanjibimaadizing is operated as a division of the MLBO Department of Administration. The goals of the Program are centered on our mission statement which is:

*To assist our fellow Anishinaabe with education, training, work experiences, cultural participation, and support services to be prosperous and change their life.*

The Program's goals concentrate on empowering its participants to end dependency on government assistance with an acquired purpose, or an occupation that will contribute to the well-being of their community and family. All program services are offered to support obtaining and retaining employment, improving or creating a position of job readiness, and addressing barriers that prevent our clients from simply filling their employability development plan.

## **Recruitment**

Aanjibimaadizing has offices in the District 1, District 2, District 3 and the Urban area. Youth Services are provided in District 1, District 2, District 2a, District 3 and the Urban Area. The offices are open to walk in clients. Clients can also call or email. Aanjibimaadizing also has information on the MLBO website, at their aanji.org website, and an informational Facebook account. Other MLBO departments make referrals to the programs on a weekly basis.

## **Mille Lacs Band of Ojibwe P.L. Law 477 Goals 2022-2025**

- Create youth mentorship/internship and training opportunities in all Mille Lacs Band districts that will synchronize with *Anishinaabe values*, for example, servant leadership to look at the well-being of people and community. This will ensure youth have a positive ongoing relationship with tribal government and promote healthy relationships with adults in the community. These opportunities will be measured by the number of youth placed in mentorships/internships and the number of youth who have completed these opportunities.
- Develop Ojibwe language resources, materials, and training to be used long term with Aanjibimaadizing clients and all Mille Lacs Band members to increase the use of language, number of speakers, and improve the health and education of the community holistically. Measured by the number of books, resources, and materials available at the end of this three-year plan in comparison to current resources.
- Build and strengthen our training program in the following areas: outreach to potential clients, emphasis on the importance of gaining new knowledge including digital literacy, which will help in job advancement. In addition, this will help clients see the importance in self-growth, by growing their skills. This will be measured by the number of clients attending trainings or the number of clients gaining employment, thus advancing their careers.

- Increase indigenous business development of individuals and companies by promoting skills to build human capital, business plans/development and problem solving. Measured by the number people attending small business classes and number of people obtaining a small business development grant.

### **Mille Lacs Band of Ojibwe Goals**

The Band’s Chief Executive issued a directive at the State of the Band in January 2022 to first stream-line policies and procedures and secondly to improve relationships with Band members with a focus on enhancing customer service skills. The Commissioner of Administration also directed the Aanjibimaadizing program to create “youth mentorship and training opportunities” to develop workforce skills in the Mille Lacs Band youth.

The Chief Executive, as well as community surveys, have identified that Ojibwe language revitalization efforts are integral to sustaining our way of life and our inherent rights as a sovereign nation. Culturally relevant practices, teachings and trainings will be provided to clients. The Tribe is confident in their ability to self-determine needs. The elders have determined that language revitalization is the key to self-sufficiency and our well-being.

### **Client Goals**

Participant goals will be tracked in the electronic data system. Outcomes will be demonstrated and reviewed on a quarterly basis. The 477 Statistical report and anecdotal data will be used to demonstrate program effectiveness. The program would like 75% of clients to have some measure of demonstrated success at completing outcomes.

### **Eligibility**

To be eligible for 477 services, an applicant must meet at minimum these 5 eligibility criteria:

- A signed and dated application
- Proof of residency in the service area
- Tribal Membership
- Selective Service Registration for males over the age of 18
- Employability Development Plan (EDP) that is signed and dated

Other components of the program may need additional documentation, including income. Those requirements will be spelled out in the policies and procedures. Aanjibimaadizing will serve a majority of low-income participants.

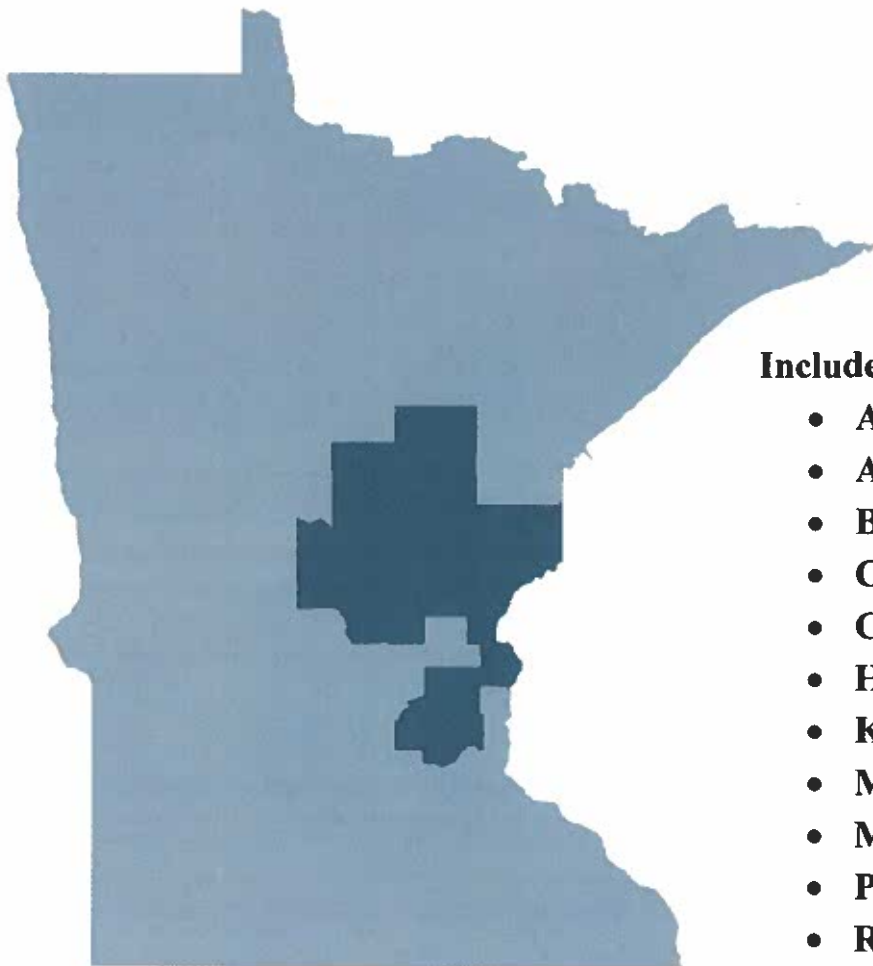
When determining eligibility, the following guidelines also apply:

- A percentage of earned income is disregarded for work expense. This percentage is established by the MLBO APB (Administrative Policy Board) and is currently set at 42%.

- All child support payments made for the support of children not living in the assistance units' households shall be deducted from the gross earned income calculation.
- Other income exclusions will be defined in the program policies and procedures.
- Employment income earned from working with the Census Bureau will be disregarded.
- Per Capita payments will be considered disregarded income.
- Stimulus payments from the federal, state, or tribal government will be disregarded.

The Mille Lacs Band of Ojibwe is one of the largest employers in Minnesota, employing 2,450 people in tribal government and its business enterprises. In Minnesota, there were 205,714 job vacancies the 4th quarter of 2021, with more than half being located in the Metro area according to Minnesota Employment and Economic Development. For employment opportunities internally and with employers working on MLBO projects, TERO (Tribal Employment Rights Office) provides hiring preference for tribal members. Being registered with our program provides our clients an avenue to being job-ready. The program will work closely with TERO, MLBO government departments, MLBO gaming and non-gaming businesses, private and public partnerships to recruit partners to assist clients in obtaining and retaining employment.

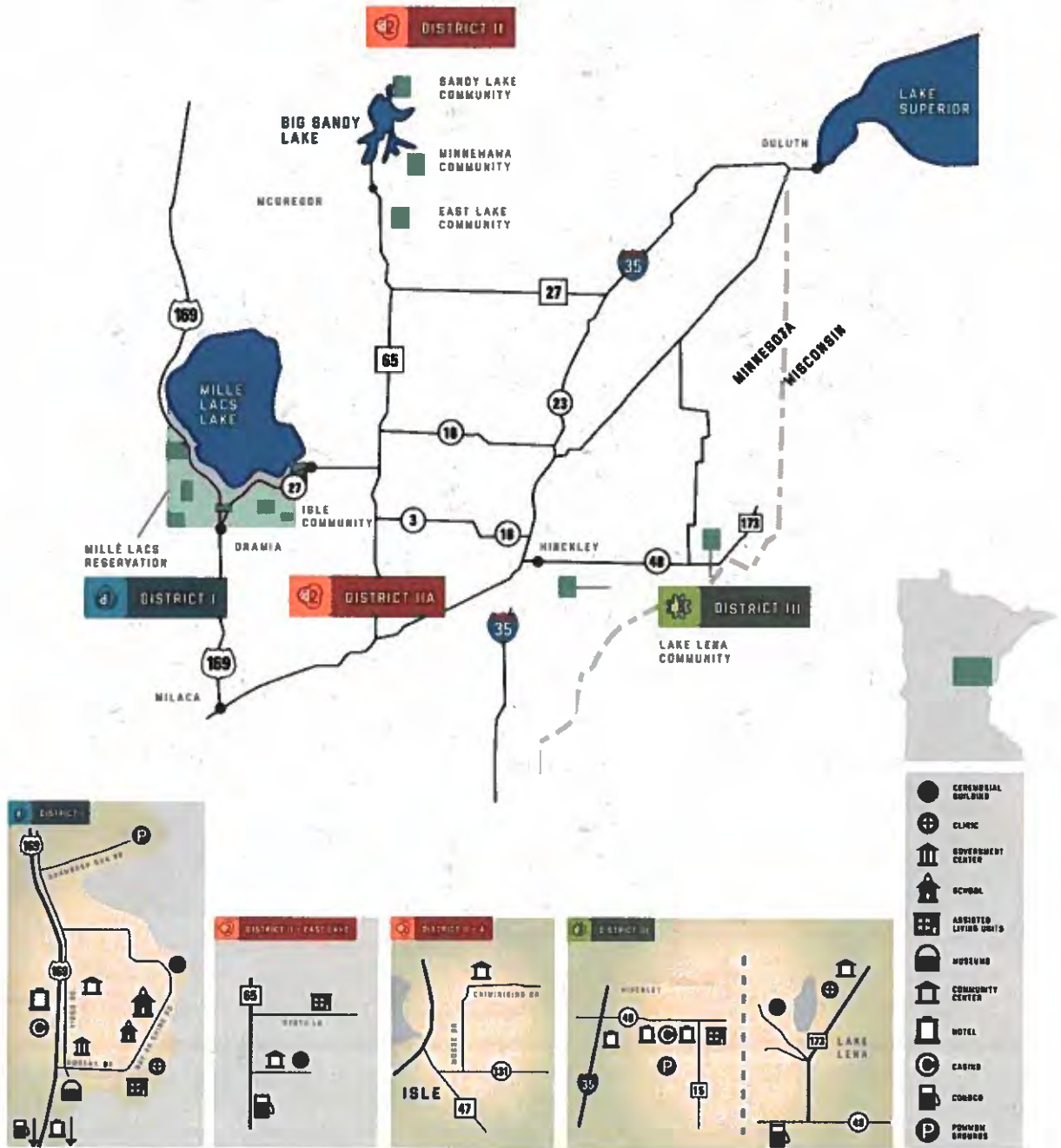
**Service Area for the Mille Lacs Band of Ojibwe 477 Plan**



**Includes the counties of:**

- **Aitkin**
- **Anoka**
- **Benton**
- **Chisago**
- **Crow Wing**
- **Hennepin**
- **Kanabec**
- **Mille Lacs**
- **Morrison**
- **Pine**
- **Ramsey**

# Mille Lacs Band of Ojibwe Reservation



As of March 2022, the Mille Lacs Band of Ojibwe has 4,897 Band members, including 2,758 living on Reservation lands (Districts: 1, 2, 2a & 3), 905 living in Urban and 1,234 living off the reservation or out of state. The Mille Lacs Band of Ojibwe Reservation is comprised of four small communities in central Minnesota: District 1—Mille Lacs (Mille Lacs County), which is located 12 miles North of Onamia. District 2—East Lake (Aitkin County), which is located 3 miles South of McGregor. District 2a (Mille Lacs County), which is located just outside of Isle.

District 3—Lake Lena (Pine County), which is located 30 miles East of Hinckley. There are significant members of the MLBO living in Hinckley and the Minneapolis/St. Paul area. The Mille Lacs Band is one of six members of the Minnesota Chippewa Tribe, which was formed in 1934, during the Indian Reorganization Act. The other Bands that make up the Minnesota Chippewa Tribe are: Mille Lacs, White Earth, Leech Lake, Bois Forte, Fond du Lac and Grand Portage.

The 2015 Amherst H. Wilder Foundation’s Minnesota Early Childhood Risk and Reach Report examined economic risks, health risks, and family stability risks in all Minnesota counties. Then each county was assigned an overall risk status. The MLBO has land in three counties: Mille Lacs, Aitkin, and Pine. Mille Lacs and Pine counties are considered high risk. Aitkin County is considered moderate to high risk.

***Mille Lacs Band of Ojibwe and Governing Structure***

The Mille Lacs Band of Ojibwe Government is separated into three branches. These branches consist of:

- A. The Legislative Branch, known as the Band Assembly, enacts laws to regulate internal and external affairs of the Mille Lacs Band. The Secretary/Treasurer and District Representatives from each district serve as the body of the branch (Mille Lacs Band of Ojibwe, 2009).
- B. The Executive Branch implements the Band’s laws and administers the Band’s programs and services. The Executive Branch is headed by the Chief Executive with a cabinet consisting of the Commissioners of which the Chief appoints (Mille Lacs Band of Ojibwe, 2009).
- C. The Judicial Branch upholds the Band’s laws and ensures justice is served equally to all band members. The Judicial Branch includes the Chief Justice and the Court of Central Jurisdiction. The Court of Jurisdiction consists of three appellate justices and one district judge (Mille Lacs Band of Ojibwe, 2009).

The Mille Lacs Band businesses use a significant portion of revenue earned to provide valuable programs and services to Mille Lacs Band Members. Some of these programs and services include: Tribal Police Department, Preschool programs, K-12 schools, youth services, a Scholarship Program, community centers, clinics in each reservation district, Tribal health insurance program, Elder services and assisted living units in each reservation district and Ceremonial Buildings. The Mille Lacs Band also invests in community roads, water and wastewater treatment facilities, community facilities, housing and other infrastructure improvements.

The Program will provide services in our Reservation Service Area, which includes the Minnesota counties of Aitkin, Benton, Crow Wing, Mille Lacs, Morrison, Pine, Chisago, and Kanabec counties. Our Urban service area includes the counties of Hennepin, Anoka, and Ramsey counties. The service area will include the use of technology for participants and staff. A more detailed description of major service areas follows. Our service population includes

members of the Mille Lacs Band of Ojibwe, enrolled members of other Federally Recognized Tribes, and first-generation descendants of the Mille Lacs Band of Ojibwe.

***Service Area***

The service area is defined as all on/off-reservation areas in the following counties: Aikin, Anoka, Benton, Chisago, Crow Wing, Hennepin, Kanabec, Mille Lacs, Morrison, Pine and Ramsey.

This Urban area is limited to members and descendants of the Mille Band of Ojibwe, and members of federally recognized Tribes for 477 services. It is limited to members of the Minnesota Chippewa Tribes who are eligible for cash assistance. The 60-month time limit will apply for cash assistance in all counties, listed above. Aanjibimaadizing will limit service to Mille Lacs Band of Ojibwe and descendants for child care assistance in the Urban area.

***District 1 and District 2a***

Aanjibimaadizing’s main office is located on the reservation, north of Onamia in Mille Lacs county. The recruitment area is a 60-mile radius from the District 1 reservation including the counties of Mille Lacs, Benton, Crow Wing, Morrison, and Benton counties. This area includes District 2a (Isle).

According to the 2020 U.S. Census data, Mille Lacs County has a total population of 26,459. Out of the total population, 6.3% is under the age of five, 6.4% are American Indian and 9.2% of the total population is living in poverty. The median income is \$56,135. The high school graduation rate is 89.8%. According to the Minnesota Unemployment Statistic LAUS (Local Area Unemployment Statistics) Data as of December 2021, the Mille Lacs county unemployment rate was 5.2%. According to the Minnesota Employment and Economic Development—State and National Employment and Unemployment Rates, the unemployment rate for the U.S. is 3.9% and the Minnesota unemployment rate as 3.1%. The Mille Lacs Reservation unemployment rate is 11.0% based in U.S. Census data. This data includes all Reservation land areas.

***District 2***

Aanjibimaadizing has another location the town of McGregor in Aitkin County, in what Band members call—Minisinaakwaang. The recruitment area is a 30-mile radius, including most of Aitkin County.

According to 2020 U.S. Census data, Aitkin County has a total population of 15,697. Out of the total population, 3.7% is under the age of five, 2.7% are American Indian and 11.1% of the total population is living in poverty. The median income is \$49,351. The high school graduation rate is 91.2%. According to the Minnesota Unemployment Statistic LAUS (Local Area Unemployment Statistics) Data as of December 2021, the Aitkin County unemployment rate was 4.9%.



**District 3**

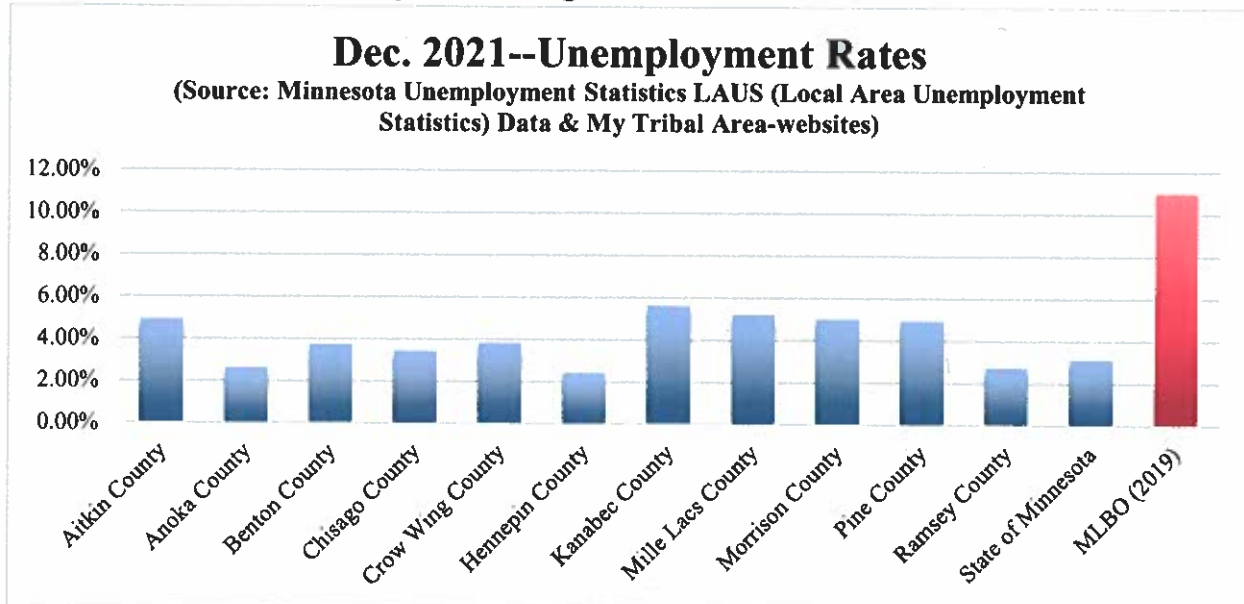
Aanjibimaadizing also operates out of the Aazhoomog area, east of Hinckley in Pine County. The recruitment area is a 30-mile radius from the reservation and includes Pine County. Services for youth are provided in Hinckley at the Meshakwad Community Center. Services are not provided for Wisconsin residents.

According to 2020 U.S. Census data, Pine County has a total population of 28,876. Out of the total population, 4.6% is under the age of five, 3.4% are American Indian and 10.2% of the total population is living in poverty. The median income is \$53,422. The high school graduation rate is 90.4%. According to the Minnesota Unemployment Statistic LAUS (Local Area Unemployment Statistics) Data as of December 2021, the Pine County unemployment rate was 4.9%.

**Urban Office**

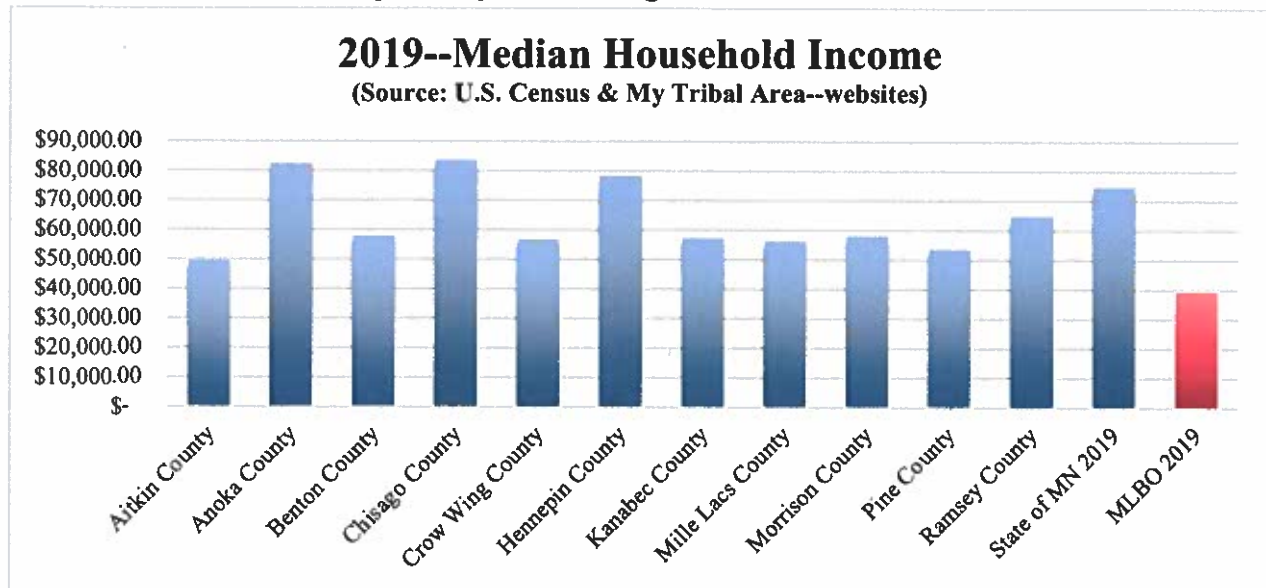
Aanjibimaadizing has a site office in downtown Minneapolis to service the Mille Lacs Band members and American Indian population in the Minneapolis/St. Paul, or Urban area. This includes the counties of Hennepin, Ramsey, and Anoka. The office is located on Franklin Avenue in Minneapolis in the neighborhood that focuses on American Indian services. This service area has limited youth programming due to the large number of current youth programs in the Urban area. Child care assistance is also limited to members and descendants of the Mille Lacs Band of Ojibwe.

**Unemployment Rates for Aanjibimaadizing’s Service Areas**



Much of the Mille Lacs Band Reservation lies within Mille Lacs County, and the foregoing chart indicates the huge disparity in employment opportunities that exists between the Reservation economy and the surrounding regional economy. As soon as one crosses the boundary on to the Reservation, unemployment rates more than double, to 11%.

## Median Household Income for Aanjibimaadizing's Service Areas



There is continued economic disparity seen in the median incomes of the counties we service and on the MLBO reservation. The median household income for MBLO tribal members is \$39,363, which is between \$10,000 to \$40,000 lower than any county served by the program.

### Economic Activities

The Mille Lacs Band of Ojibwe and its businesses are a major employer in Mille Lacs and Pine counties. There are several small businesses, educational jobs, medical field positions, county jobs, and seasonal tourist positions in all northern service counties. The Urban office has small businesses, large corporations, educational jobs, medical field positions, county jobs and several service companies focused on the American Indian community.

For employment opportunities internally and with employers working on MLB projects, our TERO (Tribal Employment Rights Office) laws provide hiring preference to our membership. Being registered with our Program provides clients with an avenue to be job ready and registered with our TERO Job Skills Bank. This registration will give our clients preference in hiring throughout our TERO jurisdiction. In addition, our 477 program will work closely with TERO to help determine projected needs of area employers and develop trainings that will improve our client's job prospects in specific areas. The Program is also partnering with Wewinabi Inc., which oversees non-gaming employment in Mille Lacs Band businesses.

Aanjibimaadizing is encouraging business development and entrepreneurial skills in multiple ways including, but not limited to:

- Endazhi-maawanji'idiing (Business/Entrepreneurship Group)
- Small business grants

- Partnership with Mille Lacs Corporate Ventures (MLCV) Enterprise Academy Development of Programming to support skills and training
- Rosetta Stone
- Ojibwe book development
- Aanjibimaadizing training garage

### **Potential Employment**

There are multiple places to assist clients in finding employment including:

- Grand Casino Mille Lacs and Grand Casino Hinckley
- Mille Lacs Band of Ojibwe Government
- Mille Lacs Band of Ojibwe Non-Gaming Business under Wewinabi Inc.
- Local businesses including restaurants, resorts, child care, small businesses, non-profits.

### **Service Delivery**

All services are offered in all sites. The majority of clients served will be low income, at or below 200% poverty level, after approved income exclusions, which are allowed due to the decreased median income seen on reservation lands. Services may be provided by the Tribe, or through partnerships within and outside of the service area. Services may be provided for the length of time to complete goals, but may be closed after 90 days if there has been no contact from participants.

### **Employment Services**

Employment services will be offered to participants. These services will include clients who are entering, transitioning, dislocated, underemployed, or looking to retain employment. The 477 employment services will include, but will not be limited to: career counseling, job readiness training, resume building, job referral, supported or subsidized work placements, internships, and job retention services. Employment assistance will be made available to all participants requiring the service as long as funding is available. Individuals seeking employment will be offered child care assistance to address their barriers, if eligible.

In addition, as detailed previously under job-creation/economic development, special services to stimulate job creation may be offered as well as other community building activities in support of strategic tribal planning and development.

Expedited services for resume writing, job search, printing paystubs, or using the computers for educational course work may be provided with a simplified application process.

Placements may be made in the public, nonprofit, private, tribal government, or tribal enterprise sectors as deemed appropriate. The duration of the services will vary based on the participant needs and work history.

## **Specialized Intensive Services**

In the Employment Development Plan (EDP) process, participants who possess multiple barriers, are participating or eligible to participate in the TANF program, exhibit substance abuse tendencies, have mental health issues, or who have exhibited a long-term dependency on public assistance may be determined to need specialized intensive services. These individuals may include custodial and non-custodial parents receiving TANF assistance for 30 months or more, and who have significant barriers to employment. Those barriers to employment may include a lack of a high-school diploma or GED, poor reading or math skills, a need for substance abuse treatment, mental health treatment, homelessness or inadequate housing, felonies, and a lack of significant work history.

Participants identified as needing specialized intensive services due to the nature of their barriers tend to require assistance for a longer period of time. Professional counseling and/or assessments may be a prerequisite, or a concurrent requirement with employment and educational services.

## **Education and Training**

A variety of educational and training services will be made available to participants. These services will include, but will not be limited to, remedial education, instructional workshops, tutoring, skill enhancement, occupational training and/or certification, and higher education.

Education and training services may be provided directly by the Tribe or by educational partners inside or outside of the Tribe's 477 service area. Child Care and Development Fund (CCDF) funding will support wrap-around child care for Head Start providing 10 to 10.5 hours of care per day for children. 477 will provide training that providers are required to take, but not limited to: CPR/First Aid and other safety trainings. All requests for 477 funding support must be completed by written application to Aanjibimaadizing.

In an effort to assist participants to achieve self-sufficiency, the Tribe's 477 program will make information available regarding occupations reported to be in high demand within the state and service area.

Educational service participants will be guided to make applications for any available resources such as Pell grants, Tribal scholarships, and TERO funding when applicable.

Training will be focused on client needs identified in their EDP and individualized for each client. A community survey in January 2019 identified CDL licenses, small business development, automotive services, construction, and office training as the most requested trainings. The program has a goal to create a training center to support clients in meeting their needs. This goal is in progress.

## TANF

Temporary Assistance for Needy Families (TANF) will be offered as a cash assistance program for those who qualify. Families will be defined as needy (*see definitions*). Tribal TANF Cash Assistance makes monthly cash payments to families with minor children based on family size and composition. The benefits will include a case plan to move a family to self-sufficiency. Cash Assistance has a 60-month lifetime limit. Exceptions for the time limit for families living on Reservation lands may be granted if the unemployment rate on those Reservation lands is over 50%. Additional eligibility requirements, including documentation, are required for TANF and will be defined in the policies and procedures. Applicants must be Mille Lacs Band Members, or first-generation descendants of the Mille Lacs Band, or members of a federally recognized Tribe and meet the definition of “Needy Family” as defined in this Plan. Applicants in Anoka, Hennepin, or Ramsey counties must meet all eligibility requirements and be a member of a Minnesota Chippewa Tribe. TANF clients in need of childcare will receive services seamlessly and be qualified for child care assistance based on their status as 477 clients. CCDF will continue to support TANF clients after they transition off of the program.

Real property will not be considered an asset or resource unless such property is generating income for the client. Simply owning property does not create a situation where the client can use the property for payments to access goods and services, but must be encumbered for that purpose which creates its own barrier when a client does not have the means to repay the debt. Lump sums and resources, such as readily available cash, savings accounts, or checking accounts, will be considered an asset or resource if the total lump sum or liquid assets available exceed \$5,000 and can be accessed without penalty to the client. Checking or savings accounts, if any, shall be verified by bank statements.

When determining eligibility, the following guidelines also apply:

- A percentage of earned income is disregarded for work expense. This percentage is established by the MLBO APB and is currently set at 42%.
- All child support payments made for the support of children not living in the assistance units’ households shall be deducted from the gross earned income calculation.
- Other income exclusions will be defined in the program policies and procedures.
- Employment income earned from working with the Census Bureau will be disregarded.
- Per Capita payments will be considered disregarded income.
- Stimulus payments from the federal, state, or tribal government will be disregarded.

The Work Participation rate for all participants seeking TANF assistance shall be established at 35%. Work participation rates for individuals will be a minimum of 20 hours per week and a maximum of 40 hours a week as defined in policies and procedures. Work activities may include, but are not limited to the following: work at a job, internship, subsidized work, education, training, Anishinaabe [Ojibwe] language, cultural activities, or employment search. Work participation hours may be counted for activities that will lead to self-sufficiency, reduce

dependence, and encourage healthy life choices. To be most effective in our Anishinaabe culture, work activities are best viewed with an Anishinaabe approach to activities that encourage families to be successful. Due to the remote and rural location of the Mille Lacs Reservation, pursuing language and cultural work may be some of the only employment available to members. And it can in many instances enhance the employability of members being trained in language and culture for jobs that prefer bilingual and bicultural skills. Work participation exemptions may be granted for extreme family hardship, family experiencing domestic violence, caring for a child with a disability, having a disability, imminent danger to themselves or their family, or for severe illness as defined in the policies and procedures.

The Mille Lacs Band 477 Program sees and values the importance of generating meaningful opportunities for our Tribal members to find gainful employment. A primary purpose of our language revitalization effort has been to provide multiple avenues for both immediate and long-term job creation. We are developing work for speakers, teachers, trainers, mentors, and writers developing storyboards, text, and stories. Additionally, we expect our participants may be trained to work as transcribers and assist our elders in the content sessions as personal aides and in the support of project development. There are immediate financial opportunities generated by the creation of Ojibwe language books. In developing Ojibwe language modules for the Rosetta Stone language-learning platform, we anticipate employing multiple Mille Lacs Band members to work as actors, language speakers, text developers, advisors, and technical assistants. There is a high employment demand for people with marketable Ojibwe language skills and experience. Many Ojibwe tribes operate Ojibwe language immersion schools and programs where 100% of the staff has to speak in and operate in the Ojibwe language.

We have an early childhood program like this already operating at Mille Lacs. Red Lake in Minnesota, Lac Courte Oreilles in Wisconsin and many other Ojibwe communities have even larger and more well-established immersion schools. Anyone with strong language skills has special employment opportunities and is rarely unemployed or underemployed. When we get tribal members to that level of language aptitude, their job prospects are outstanding. Ojibwe is the most widely taught tribal language at colleges and universities. Learning Ojibwe today can be a powerful resume builder that can bring on a series of cascading positive impacts in the lives of Band members. All of the tribes, even if they are not in the immersion game, have Ojibwe language enrichment and teaching jobs available.

Tribes also hire historical preservation experts and seek people with language skills, not just academic credentials. Often tribal historic preservation officers work on oral history projects and handle archival manuscripts and materials where Ojibwe skills are especially useful, and tribal employers usually stipulate a preference for applicants with Ojibwe language skills. One additional set of skills that Band members are attaining under this part of our 477 Plan is the opportunity to learn how to make books and work with recording technology for audio and video

production, develop specialized tech skills, and further enhance their skill sets, resumes, and employability.

Diversity of approach has long been the hallmark of 477 Programs, and at Mille Lacs Band we have adapted our 477 Plan to create a diverse range of job opportunities that fit our culture, our employment market, and the aspirations of our Band members in line with our culture and tribal priorities for the multi-generation transmission of Anishinaabe knowledge and traditions, and the preservation of relations between youth and elders.

Although there are immediate employment opportunities being created through the projects outlined above, and the work also develops job skills that translate into higher employability for our members, those immediate and tangible benefits are really just the beginning of the benefits generated for our citizens through TANF. Since it is in the Band's interest to support its members, and the long-term viability of the Band community requires that its members pursue healthy lifestyles, our 477 Plan seeks at all levels to build healthy humans. The sustainable gainful employment of our members has often been interrupted or placed at risk by unhealthy lifestyle choices including substance abuse and family disruption. When people learn their language and culture, they are better equipped to be grounded in healthy social and work circles, better grounded in our culture and its values of hard work, respect, and communal responsibility, which relates to all TANF purposes. Native languages are more than just words, as cultural values, tribal customs, and ceremony are embedded in them (Mmari, Blum, Teufel-Shone, 2010). Additionally, Indigenous languages serve as protective factors for Indigenous communities. Studies demonstrate that "people who speak their Native language(s) have enhanced mental health and happiness." (Hallett, Chandler, & Lalonde, 2007; Ball & Moselle, 2013; Dockery, 2011). At Mille Lacs, we know that gaining knowledge of our Ojibwe language and culture as well as participation in cultural activities has played a significant role in contributing to the healing of our people.

The opposite of addiction is not simply sobriety. It is connection. The opportunities we seek to develop with TANF in the Ojibwe revitalization arena will translate to real and positive connection points for our people. They will encourage healthy living, healthy peer networks, the intergenerational transmission of cultural knowledge, and gainful employment and workforce skill set development that lead to long term self-sufficiency. The alternative to poverty is not just a job, but full-fledged financial independence which includes employment but also financial literacy, workplace relationship building, stable housing and the company of other people who are living good lives—ones that are financially fit and culturally relevant. Language is never a standalone activity, but fits into a broader perspective of children being cared for in homes, reducing dependency, prevention of out-of-wedlock pregnancy, and formation of two-parent families.

Language projects typically involve work done in teams. Our Band members benefit from the sustained company of academics, elders, and professionals who are, in addition to doing good language revitalization work, living lives that are financially and culturally healthy and serve as important role models for others more at risk. We want to reconnect our younger members to their elders and the elders to our youth. We become who we hang out with; therefore intersecting our lives with people living healthy successful lives is in direct service of the TANF mission. This is how we will disrupt and destroy the cycles of poverty and substance abuse. In this way, the mission of the Mille Lacs Band and the TANF program are one and the same.

The Mille Lacs Band 477 Program currently uses the State of Minnesota MAXIS data system to enter and administer benefits. Use of the MAXIS system ensures non-duplication of services. A goal for TANF will be to work towards using our own data and issuing cash assistance cards from our office. Another goal is to become MERIT certified to administer SNAP benefits.

TANF funding will be used to support families needing child care. TANF is meant to assist families in meeting financial obligations as they move towards self-sufficiency with work participation or educational requirements. Child care is needed by families to work or participate in education.

Since the program has a limited number of TANF families, TANF funding will be used to support the four purposes of TANF.

- Provide aid to needy families so that children can be cared for in their own homes.
- Reduce the dependency of needy parents by promoting job preparation, work, and marriage.
- Prevent and reduce the incidence of out-of-wedlock pregnancies.
- Encourage the formation and maintenance of two-parent families.

The Mille Lacs Band 477 Plan reinforces the four purposes by supporting healthy partnerships in culturally responsive ways. Historically, Ojibwe families lived in multi-generational households, where marriages and parental commitments are often defined through ceremony or cultural acknowledgement.

The Tribe's 477 Plan supports all of the foregoing purposes in multiple activities including, but not limited to; families transitioning off TANF, Ojibwe language instruction and materials, technological needs, Ojibwe cultural activities, additional funding for childcare, youth activities, supportive housing, supportive services for employment and training, and support for life choices to improve physical, emotional, mental and spiritual health.

Non-recurring short-term benefits may be issued to clients in times of emergency as defined and determined by the Federal, State, or Tribal government. This will be used to assist families who have lost income due to loss of work hours or work opportunities. This benefit may be available to all 477 clients who have qualified for the program and are living below 200% of the federal



poverty guidelines. The funding will support rent, utilities, and family support services to deal with stressful events. The funding will follow regulation 45 CFR 286.10.

### **Treatment of TANF Program Income**

If the Program generates income utilizing TANF funds, that income will be used for the purposes of the TANF program and for allowable TANF services, activities, and assistance. The MLBO is not required to report on the amount of program income earned but they will keep financial records on program income earned and the purposes for which it was used in the event of an audit or review.

## **Youth Services**

Under the Mille Lacs Band 477 Plan, youth are supported by two separate programs: Healthy Circles and Career Exploration.

Youth participate in “Healthy Circles” to learn about financial literacy, healthy life choices, community, language and culture activities, support education and high school graduation, and build self-sufficiency. The program is targeted for youth ages Kindergarten to age 20 to reduce dependency by promoting job preparation, work, wiidigendiwin [*traditional Anishinaabe marriage*], and the prevention of teen pregnancy by providing healthy supportive programming for youth. In our Anishinaabe culture and its traditional marriage practices, the role of the family in support of our children is of the topmost priority. The youth use a curriculum that focuses on four pillars: community, culture, career and educational resources to promote job preparation and the other purposes of TANF. In our culture, we encourage youth to support elders, participate in community-based projects, finish high school, and be work-ready. These activities encourage healthy life choices such as to stay in school, become employed, and live life independently.

Youth are also offered “Career Exploration” or Emerging Workforce which is available under our 477 Plan for youth ages 16-24 exploring employment. These services include youth who are entering, transitioning, or looking to obtain employment. The Tribe’s 477 employment services include, but are not be limited to: career counseling job readiness training, Ojibwe language, Ojibwe cultural activities, resume building, job referral, supported and subsidized work placements, internships, and job retention services. Employment assistance is made available to all participants who meet the eligibility criteria for needy families who require the service as long as federal funding is available. Any remaining unmet needs may be covered with tribal funds, as available. Youth may be trained and receive a subsidized incentive for this training opportunity. They are able to use this training as a resume building experience. Internships may be subsidized with Mille Lacs Band Departments and other businesses which also help youth prepare for work.

In order to maximize services to youth, Aanjibimaadizing will partner with the local education agencies and community groups to provide services, transportation, and support youth programming across the Reservation Districts. Youth programming will promote healthy behavior and life choices which align with the purposes in TANF.

## **Supportive Services**

The Tribe’s 477 plan will offer supportive services that include, but are not limited to: support for clients obtaining a new job, licenses, transportation, child care, education, technology and support to assist adult and youth clients in retaining a job.

Youth Support Services are available for youth ages kindergarten to 20-years-old and who live in households that are at or below 300% of the federal poverty guideline. Adult Support Services are for adults age 18 years and older whose income is at or below 200% of the federal poverty guideline.

## **Welfare Assistance**

Applicants may apply for welfare assistance if they meet 477 and General Assistance eligibility requirements. Welfare Assistance benefits are for single people, or people who have exceeded their lifetime TANF limit. Clients may not receive Welfare Assistance and TANF at the same time. Welfare Assistance funds must be used for essential needs of food, clothing, shelter, and utilities for clients who are deemed eligible. Welfare assistance will benefit people who have reached their 60-month time limit on TANF. Welfare Assistance is consistent with the Tribe's 477 goal to increase self-sufficiency and provide a home situation that is conducive to education, job training, skill development, and related activities for the whole household.

### **Welfare Assistance Criteria**

1. Must be American Indian or Alaska Native tribally enrolled in a federally recognized tribe and reside in the service area, or a Mille Lacs Band of Ojibwe (MLBO) first generation descendent.
2. Must not receive any comparable public assistance.
3. Must have insufficient resources to meet essential needs.
4. Must apply concurrently for assistance from other state, tribal, county, local or other federal agency for which he/she may be able. The assistance must be denied.
5. Income must not exceed 100% of the poverty guidelines. Per Capita payments would be included income for the purpose of Welfare Assistance.
6. Welfare Assistance Payments are calculated on State TANF Guidelines using TANF Utility Standards for the State of Minnesota. Refer to, 25 CFR [Title 25--Indians, Code of Federal Regulations; Bureau of Indian Affairs] §20.306--all income earned or unearned will be used in calculating eligibility as it is received and used as a resource if converted to cash in accordance to 25 CFD §20.307 through §20.313
7. Eligibility will be reviewed every 3 months for individuals not exempt from seeking employment in accordance with 25 CFR Part §20.315 and every 6 months for all recipients, or whenever a change in status that can affect eligibility occurs (25 CFR Part §20.304. Redetermination of benefits will include a home or in person visit, estimate of income, living circumstances and household composition, completing an interview and require a revision of client case plan. Interviews may be conducted telephonically.
8. Develop and sign an Employment Development Plan (EDP) or an Individual Self-Sufficiency Plan (ISP).

Per 25 CFR §20.314

- a) An applicant must:
  1. Actively seek employment while receiving WA [welfare assistance] benefits, including the use of available state, tribal, county, local or Bureau funded employment services. If unsubsidized work is not available, the client must perform 20 hours of community work per week.
  2. Make satisfactory progress in the ISP [individual self-sufficiency plan], or EDP.
  3. Accept local and season employment when it is available.
- b) A head of household who does not comply with this section will not be eligible for General Assistance for a period of at least 60-days but not more than 90-days. Case documentation must occur.

- c) The policy in this section does not apply to any persons meeting the criteria in §20.315.
- d) A person may apply on behalf of another person by completing an application such as relatives, interested individuals, social service agencies, law enforcement agencies, or other persons or agencies who believe the applicant may qualify for assistance.

Per 25CFR §20.315 the employment policy does not apply to persons shown in the following table.

<b>The employment policy in 20.314 does not apply to...</b>	<b>If ...</b>	<b>And ...</b>
(a) Anyone younger than 16		
(b) A full-time student under the age of 19.	He/she is attending an elementary or secondary school or a vocational technical school equivalent to a secondary school.	He/she is making satisfactory progress.
(c) A person enrolled at least half-time in a program of study under Section 5404 of Pub. L. 100-297.	He/she is making satisfactory progress.	He/she was an active General Assistance recipient for a minimum of 3 months before determination/redetermination of eligibility.
(d) A person suffering from a temporary medical injury or illness.	It is documented in the case plan that the illness or injury is serious enough to temporarily prevent employment.	He/she must be referred to SSI if the disability status exceeds 3 months.
(e) An incapacitated person who has not yet received SSI or disability payments.	A physician, psychologist or credentialed licensed social service worker certifies that a physical or mental impairment (either by itself, or in conjunction with age) prevents the individual from being employed.	The assessment is documented in the case plan.
(f) A caretaker who is responsible for a person in the home who has a physical or mental impairment.	A physical or certified psychologist verifies the condition.	The case plan documents that the condition requires the caretaker to be home on a virtually continuous basis; and there is no other appropriate household member available to provide this care.
(g) A parent or other individual who does not have access to child care.	He/she personally provides full-time care to a child under the age of 6.	
(h) A person for whom employment is not accessible.	There is a minimum commuting time of one hour each way.	
<p><i>From Code of Federal Regulations. Title 25 Indians Parts 1 to 299 Revised as of April 1, 2011.</i>  <a href="https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/pdf/idc-018737.pdf">https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/pdf/idc-018737.pdf</a></p>		

## Ojibwe Language and Culture

It is the purpose of Aanjibimaadizing to prepare the members of the MLBO community to contribute to the Mille Lacs Band. While a primary part of this contribution is in the form of employment that helps enrolled members thrive financially, it is of equal importance that MLBO membership reflects the unique history and culture of its people. As such, the Aanjibimaadizing program also recognizes the vital role of education in traditional cultural and language practice which allows those who receive services to contribute across the whole spectrum of membership in the Mille Lacs Band community. In pursuit of this balance, the Program will provide Ojibwe cultural and language training which encourages fluency in the Ojibwe language, at the heart of which lie the values and lived experience of MLBO culture as a whole.

Having a language and culture focus serves as the nucleus of greater cohesion within family units, as both financial stability and a sense of cultural belonging are essential to the ongoing stability and health of MLBO families. A sense of respect for family is deeply embedded within the Mille Lacs Band tradition and culture. One form this respect takes is a belief that children inherit what their parents create. Because of this, they are deserving of the greatest respect and support in their movement toward adulthood. It is the position of the MLBO that education and training specifically oriented toward the preservation and dissemination of MLBO culture, particularly as it is encoded in the Ojibwe language, are of vital importance in furthering the aims of the MLBO in creating families that are financially, spiritually, and socially stable. Traditional cultural practices support healthy families. Families would work together to support those who had greater needs. Families would provide multi-generational care to children so that work could be done. A stable family unit of 2-parents with a supportive extended family was the historical norm. Supporting Ojibwe cultural practices will increase 2-parent families, reduce teen pregnancy, end financial dependence, provide job skills, work experience, and lead to self-sufficiency. These forms of stability are mutually supportive.

As components of this goal, services include, but are not limited to, the creation of Ojibwe language resources and activities, internships for MLBO members with elders and other Ojibwe language experts, as well as other resources and activities that support Ojibwe language and cultural awareness. MLBO has planned to collaborate in the creation of a Mille Lacs Band Ojibwe Rosetta Stone software module, which will assist in the wider objective of preserving MLBO culture through language

Aanjibimaadizing will use 477 Plan funding to support multi-purpose services that include the advancement and retention of Ojibwe language and culture. These services will include, but are not limited to, the creation of Ojibwe language resources and activities, internships with elders or other Ojibwe experts, and resources and activities that promote Ojibwe culture including but not limited to; respect for elders, sacred tobacco use, wild rice harvest, maple syrup harvest, dance and drum events, and traditional medicine and healing. These activities will be available to all 477 participants in a manner that would benefit them the most and as a client choice to maximize their opportunities for growth and stability. The purpose is to assist individuals in developing a stronger sense of identity. These activities build strength, endurance, and planning.

## **Johnson O'Malley**

Aanjibimaadizing is requesting the addition of Johnson O'Malley funds to the P.L. 102-477 plan. The Tribe's 477 plan will support Johnson O'Malley (JOM) goals and objectives to address the educational needs of American Indian students in the service area. Aanjibimaadizing will work with local Indian Education Committees to support the education, advancement, and enrichment of students enrolled in a federally recognized tribe. JOM funding is included in this P.L.102-477 Plan.

## **Small Business Development**

A limited amount of funding will be available for small business development on the Reservation. Applicants for this program must complete a small business plan prior to receiving funds. Any individual or company receiving small business funds must report their number of employees at the end of the fiscal year. Small business training will be available to qualifying clients.

## **Child Care**

Child care is a barrier for many participants obtaining and retaining work. The Tribe is committed to increasing child care support for families using child care assistance and by developing childcare that can be used by families in the 477 program. TANF families who are working or in school will have priority for child care assistance and child care openings. To support this, the Tribe will be including CCDF funding in the P.L. 102-477 program. By including CCDF in this plan, families will be able to access multiple services in a one-stop shop approach. Families will be able to access child care assistance, training, employment, transportation, cultural activities, TANF, and job training through one program leading to seamless integration and ease of access.

Agencies involved in the delivery of CCDF services include: Aanjibimaadizing, Mille Lacs Early Education, Mille Lacs Band Public Health, Nei Ia Shing Clinic, Indian Health Service, and any other agencies deemed relevant to services.

## **CCDF Funding**

The Tribe will be including Child Care Development Fund (CCDF) funding in this 477 plan to increase funding support and decrease administrative burden for families and the Tribe. CCDF will be administered with joint interagency cooperation between Aanjibimaadizing and Mille Lacs Early Education.

The budget will provide services that include, but are not limited to, staff to provide wraparound childcare services in District 1, District 2 and the District 3 Aazhoomog area. Supplies and training for staff will be provided. Renovation of current spaces will be provided if needed. A budget and notification of those services will be provided before renovations begin. Wraparound

child care is child care that is be provided before and after Head Start/Early Head Start, in all districts. Planning will begin to provide childcare in the Hinckley area due to the MLBO housing expansion in this area. As a small allocation Tribe, the program may offer direct services in center-based care and support for relative care. Respite care is not included in CCDF funding.

All funding will be administered by the MLBO Aanjibimaadizing program. Direct services and staff supervision will be provided by Mille Lacs Early Education which includes Head Start, Early Head Start, and Childcare. All childcare will be licensed by the MLBO Title 8 Statutes with the Nay Ah Shing School Board as the governing body. License copies will be kept by Mille Lacs Early Education. All safety requirements of Head Start Program Performance Standards, CCDF regulations and MLBO Title 8 will be followed. Both program's requirements will be spelled out in a service agreement that is approved by the MLBO Commissioners on the Administrative Policy Board (APB), or by written application. The services and how they will be provided will be further detailed in both program's policies and procedures. This is an evolving process with referrals made for students and families to access services. Parents will be able to apply for 477 services at MLBO Head Start and Child Care centers leading to a reduction in paperwork and time for clients accessing multiple services.

Administrators for CCDF will be:

Tammy Wickstrom  
Aanjibimaadizing- MLBO  
Executive Director  
43500 Migizi Drive  
Onamia, MN 56359  
320-532-7407  
[tammy.wickstrom@millelacsband.com](mailto:tammy.wickstrom@millelacsband.com)

## **Integration and Delivery**

The following rules will be set and established by the Tribe: eligibility rules and policies, the sliding fee scale, and payment rates. These items will be agreed upon by both Aanjibimaadizing and Mille Lacs Early Education (MLEE). MLEE will establish program policies and procedures that align with the most stringent standards from Head Start, Early Head Start, CCDF regulations and Mille Lacs Band Statute Title 8. MLEE has a policy regarding the protection of Personally Identifiable Information (PII) that will be followed by both programs. Mille Lacs Early Education does participate in the State of Minnesota Quality Rating System (QRIS) and has the highest level of rating-4 stars.

Child care referrals may be made by either lead agency, or by the State of Minnesota Child Care Aware system. Child care assistance will be administered by Aanjibimaadizing and can be applied for at the same time as the application for child care services. The application will allow clients to coordinate child care services, child care assistance and other services available under

the MLBO P.L. 102-477 program. Priority for child care will be given to parents who are on TANF, working, or enrolled in schooling or training programming. To achieve seamless integration between child care and P.L. 102-477 services, some staff will be dually trained by each program to allow a one-stop enrollment procedure for families. This integration will promote the goals of both programs and the four purposes of TANF.

MLEE staff and families will have training funds provided by Aanjibimaadizing. Families may have one set of goals with their 477 plan and may use those goals on their Head Start Family Partnership agreements. This will allow both programs to assist parents in meeting their goals more easily. Information will be exchanged, with parent consent, to allow ease of access to Aanjibimaadizing services. Regular staff meetings will be held to assist children, families, and staff access services to improve lives and increase self-sufficiency.

Families may also apply for child care assistance through the county and the state of Minnesota, but not receive both county and Tribal child care assistance.

### ***Coordination of Services***

MLEE also oversees Head Start and Early Head Start. The program provides breakfast, lunch, and snack under the CACFP (Child and Adult Care Food Program). Mille Lacs Early Education (MLEE) coordinates its calendar and transition services with Nay Ah Shing Tribal Schools. Public Law 102-477 funding will provide child care assistance training opportunities, supportive services, education, and cash assistance for families in need. MLEE provides Early Childhood Special Education (ECSE) with the local school districts in all Mille Lacs, Aitkin, and Pine counties.

The Ne Ia Shing clinic is run by the MLBO and provides physicals, immunizations, and dental exams for children as needed. Indian Health Service (IHS) provides health and safety training, and inspections of all classrooms and kitchens. MLBO is using an alternative approach to center inspection. IHS is operated under the Bureau of Indian Affairs (BIA). Staff are trained for building inspections and use a detailed checklist. The BIA defines the qualifications for the Inspectors. The BIA also determines the inspection tool. There is one inspector for the 11 Tribes within the State of Minnesota. The inspections are done at minimum once per year.

MLEE works with MLBO Public Health to coordinate trainings, referrals for families, and other services including tests for hemoglobin levels. Health services are provided onsite several times per year. Referrals are also made for families needing additional services related to health. All children are required to have current immunizations to attend licensed child care in Minnesota. Immunization status will be monitored throughout the year. Children attending MLBO licensed child care must also have a current physical. Additional coordination of services is done with Family Services, the Wraparound Program and other MLBO programs when needed.

All Tribal departments and tribally owned businesses actively support early education programming. Local grants and regular meetings connect the departments with state, local, and



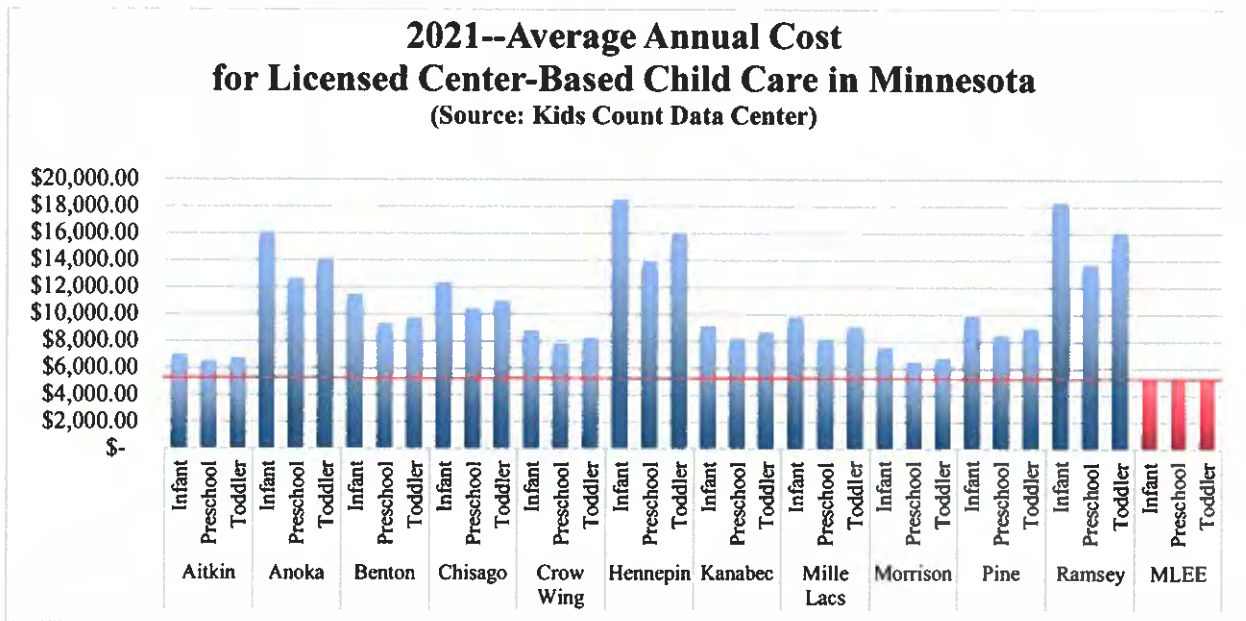
private partners including, but not limited to: the Initiative Foundation, Minnesota Head Start Association, MN Timberwolves and others. MLEE will participate in regional child care resource and referral surveys and systems. Child care is only available on the reservation for MLBO members and members of other federally recognized tribes.

**Public Hearing for CCDF**

A Public Hearing Notice was posted on the MLBO and Aanjibimaadizing Facebook pages in March 2022. This notice was also sent out to all staff with an MLBO email account. Flyers were posted at Aanjibimaadizing (see attached). The meeting was held on April 7, 2022, after 20 days of notice. A meal was offered to all who attended the meeting at the District 1 Aanjibimaadizing building. A PowerPoint was used to discuss CCDF. Public comments and questions were kept as a record by the program.

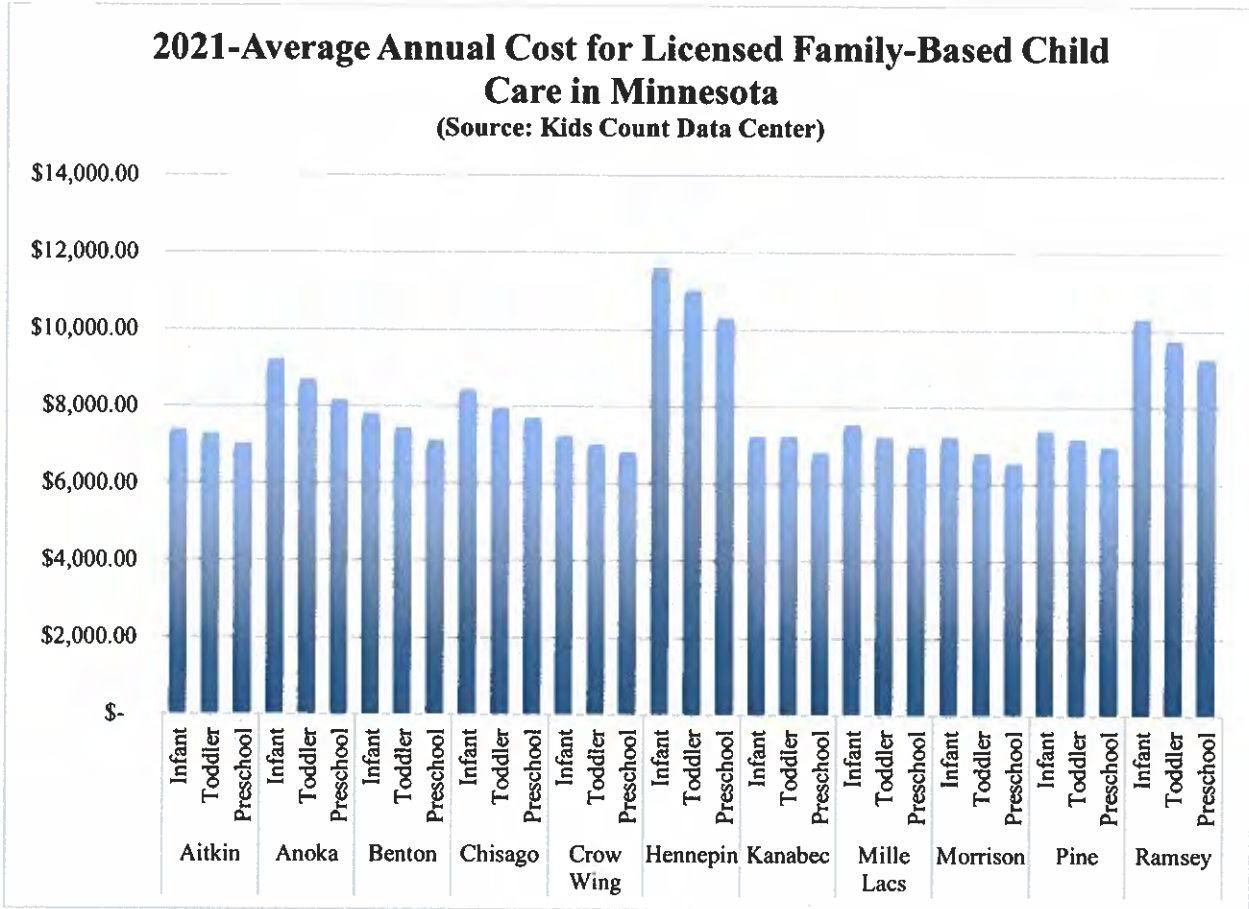
**Child Care Payment Rates**

Minnesota has some of the highest child care rates in the country. The majority of child care providers are in the Twin Cities/Metro area. The rates for both center-based and FCC care are higher in the Metro area. However, wages are also higher in the metro area. The chart below is taken from the website Kids Count: The Annie E. Casey Foundation, in March 2022, regarding data from licensed center-based care for infants, preschool and toddler aged children in 2021; in addition, data from licensed family-based child care is also shown.



This chart shows that MLEE provides the cheapest child care available. The MLEE rate is calculated at full-time child care at 50 hours per week. Most families only pay for 22 hours a week due to Head Start and Early Head Start time being free of charge. MLEE is significantly cheaper than other child care in the counties. These rates allow equal access for all participants regardless of eligibility for child care assistance. These rates make it easier for 477 plan participants to afford child care. The closest child care center to Onamia, MN charges \$7 an hour

for drop off child care and \$3.15 per hour for regularly enrolled children. MLBO may pay or reimburse child care based on enrollment. A quality measure may also be paid to providers to support emergency situations as determined and defined by Federal, State, or Tribal government.



This plan will use State of Minnesota Eligibility Annual Income Levels to determine co-payments. The Plan’s 477 income disregards will apply for MLBO members and members of federally recognized Tribes.

Families at or below the Annual Income Entrance Level determined by the state of Minnesota will not pay a co-payment. Families with income between the Annual Income Entrance Level and an Annual Income Level at 67% will pay a 3% co-payment of the child care bill, or \$15, whichever is less. Families with income between the Annual Income Level at 67% and the Annual Income Level at 85% will pay a 10% co-payment of the child care bill. Families will be asked to pay a co-payment of no more than 10% of their income. Families must pay their co-pay in order to maintain eligibility for child care assistance. Families whose income is less than 100% of the poverty level, or on TANF, will not be required to pay a co-pay. Foster children may not be required to pay a co-pay.

**Co-payment Annual Income Levels**

<b>Family Size</b>	<b>Annual Income Entrance Level</b>	<b>Annual Income Level at 67% SMI</b>	<b>Annual Income 85% SMI Exit Level (during eligibility or redetermination period)</b>
2	\$36,096	\$51,457	\$65,281
3	\$44,589	\$63,564	\$80,640
4	\$53,083	\$75,671	\$96,001
5	\$61,576	\$87,779	\$111,361
6	\$70,069	\$99,886	\$126,721

No family with assets over \$1,000,000 may receive funds from CCDF. No family income over 85% of the State Median Income will qualify for child care assistance. MLBO may elect to waive co-payments in a time of emergency.

Co-payments will be waived for the first years of this plan--10/1/2022 through 9/30/2024, due to the COVID-19 pandemic and the burden it has placed on families.

For purposes of this plan, we will base our market rate survey on state data.

Households receiving child care assistance must:

- Participate in authorized activities including work, looking for work or attending school.
- Cooperate with child support requirements for any children who have a parent living outside of the home.
- Choose and eligible child care provider.

The number of hours your child care benefit covers is determined by your:

- Work, training or school schedule
- Child's school schedule
- Other factors including travel time

Most families have to pay a portion of the child care cost, called a copayment. The copay amount is based on your family's size and income.

### ***Eligibility***

Parents will be informed about how to apply for services at the MLBO child care center sites, community meetings, and at the 477 offices. Eligibility is based on 477 requirements, provider requirements, and income eligibility. The co-pay is determined by using the sliding fee scale, which will be reviewed and updated annually using federal poverty guidelines. A copy of the sliding fee scale is attached. Parents will be eligible for services for 12 months and then must reapply. Families whose income is less than 100% of the poverty level, or defined as at-risk, will not be required to pay a co-pay for child care.

### *Indian Child/Indian Reservation Service Area*

“Indian child” shall be defined as a child who is enrolled, or can show enrollment as far back as maternal or paternal parent, in a federally recognized tribe, and who is residing on or near the Mille Lacs reservation and/or our service area. These children would be a descendent of an enrolled MLBO member.

For the purposes of this grant, the agency shall follow the service area of the 102-477 plan which includes: Aitkin, Pine, Mille Lacs, Crow Wing, Benton, Morrison, Kanabec and Chisago county. See “Service Area for the Mille Lacs Band of Ojibwe 477 Plan” map. Families living in these counties may be Mille Lacs Band Members, Mille Lacs Descendants or members of other federally recognized tribes. Child care assistance may be provided for participants in: Anoka, Hennepin, and Ramsey counties who are Mille Lacs Band Members or Descendants only. Center-based child care services will be provided in: Mille Lacs, Aitkin, and Pine counties by Mille Lacs Early Education (MLEE), the tribally operated center.

### *Child Count*

A comprehensive child count was completed in March 2022 and included Tribal enrollment data, local school data and census data. The child count for children under the age of 13 is included as Attachment 1. The number of children under the age of 13 listed on the count is 943.

### *Parental Complaint Process*

MLEE has a Parent Grievance Procedure included in the Parent Handbook. All parents/guardians will be given the Parent Handbook upon enrollment of their child in the program. The public may request a Parent Handbook. Complaints or grievances are to be given to the Early Education Director or District Coordinator. A meeting will be held to discuss the situation and possible resolution. If the problem is not resolved to the satisfaction of the parent, they may take the complaint to the Commissioner of Education, and/or the Nay Ah Shing School Board. The grievance policy is available upon request. Complaints are recorded and kept with the Early Education Director. It may be discussed with outside parties’ subject to confidentiality policies regarding employees and enrolled children with a substantiated written request. Parents may also use the Aanjibimaadizing Grievance Procedure for issues related to child care assistance and eligibility.

### *Quality Activities*

The Plan will require a minimum of 9% of each year’s fiscal allotment for quality activities. Quality activities may include, but are not limited to: staff training, parent training and/or education, activities to increase parental choice, and activities designed to improve the quality and availability of child care. MLEE does an annual program self-assessment to learn about the quality of care currently offered. Parent surveys and community surveys are also completed on an annual basis. MLEE requires all staff hired to obtain a Child Development Associate credential (CDA) relative to the age group they work with. Aanjibimaadizing will support this process with additional funding. In addition, all MLEE staff receive the following training:

prevention of infectious diseases, medication administration, shaken baby syndrome/abusive head trauma, transporting children safely, family engagement, nutrition, language/literacy, curriculum development and instruction, safe sleeping/prevention of sudden infant death, prevention and response to emergencies due to food and allergic reactions, handling and storage of hazardous materials and bio-contaminants, CPR/First Aid, access to physical activity, child development, and caring for children with special health or developmental needs.

Aanjibimaadizing may pay a quality measure to child care providers during a time of emergency to ensure quality and continuation of care.

The Tribe is not required to provide a consumer statement for parents.

### ***Health and Safety***

MLEE has an approved Emergency Preparedness plan that includes procedures for evacuation, relocation, shelter-in-place, lockdown, reunification with families, continuity of operations, accommodations of infants and toddlers, children with disabilities, and children with chronic medical conditions. MLEE provides a yearly orientation to meet all health and safety requirements in August. New Staff are trained upon hire.

All staff are required to be certified in CPR and First Aid. The program will meet the 11 health and safety requirements for Providers in the following ways (please note that FFN or relative care are exempt, but may be offered these services):

1. **Prevention: Immunizations** are required at enrollment and monitored throughout the year. Classroom cleaning schedules are in place at the centers. Training opportunities are offered for providers regarding handwashing and other prevention techniques.
2. **Prevention of sudden infant death and safe sleep practices:** These trainings are held at the centers at a minimum of once per year. 477 may also offer these trainings once per year. All infants are placed on their backs to sleep and other safe sleep practices are done at Mille Lacs Band of Ojibwe licensed child care. FFN may be exempt from these requirements.
3. **Administration of medication and parental consent:** Centers have policies in place that align with Caring for Our children and the local clinics. 477 may also offer this training once per year. FFN may be exempt from these requirements.
4. **Prevention and response to emergencies and allergic reactions:** Centers have policies in place that align with 'Caring for Our Children' and the local clinics. 477 may also offer this training once per year. Emergency planning may be offered by the 102-477 program annually to family child care and FFN providers. FFN may be exempt from these requirements.
5. **Building and physical premises safety:** MLEE has procedures in place to ensure the health and safety of both children and staff, including hand washing, diapering, exclusion, and cleaning procedures. With regard to child-handling, infants under the care of MLEE are required to be placed on their backs to sleep, and if they roll over while sleeping they are left

in that position. Child play areas are checked/cleaned daily in order to search for any broken/hazardous play objects or areas which have become dirty through use. If any problems are documented, then notice is given to Maintenance staff or MLEE management. Classrooms are also cleaned daily and as needed. A cleaning checklist is completed daily for the classroom and turned in at the end of the month. Other health and safety components include trainings in multiple areas for staff, families, and children, including: First Aid/CPR, Shaken Baby, Sudden Infant Death, Nutrition, Healthy Foods, and Movement, as well as other trainings identified by surveys or data. There is an eye wash station located in the laundry room in case of eye-contamination accidents. Monthly fire drills, bi-annual tornado drills, tri-annual bus safety evacuations, and bi-annual lock-down drills are completed in the program, and MLEE also has an Emergency Preparedness plan. The MLBO as a whole also has an emergency services plan. Centers are inspected by Indian Health Service under the Bureau of Indian Affairs at minimum annually. Centers are defined as any indoor or outdoor space associated with the care of children licensed by the Mille Lacs Band of Ojibwe. State licensed providers are inspected by the state at least once per year. FFN providers would be exempt. FFN may be exempt from these requirements.

6. Prevention of shaken baby, abusive head trauma, and child maltreatment: Centers have policies in place that align with 'Caring for Our Children' and the local clinics. 477 may also offer this training once per year. FFN may be exempt from these requirements.
7. Emergency Preparedness and response: Centers have policies in place that align with 'Caring for Our Children' and the local clinics. MLBO has a Tribal Emergency Plan to offer services offsite in a limited capacity, if required. FFN would be exempt. Both Emergency Plans are available upon request. FFN may be exempt from these requirements.
8. Health and Safety trainings are provided annually, typically in August. FFN providers are exempt, but may be included in the August trainings. New staff at the MLBO center-based child care centers are provided this training within 90 days of start time. FFN may be exempt from these requirements.
9. Handling and Storage of hazardous materials and appropriate disposal of bio-contaminants is done in the center. Hazardous materials are stored in locked cabinets. Bio-contaminants are disposed of in bio containment bags and labeled. All staff wear gloves and follow disinfectant procedures. FFN may be exempt from these requirements.
10. Child care does not transport children except for possible field trips. Then transportation follows the State of Minnesota laws and Head Start Performance Standards. Children under age 5 wear a harness and a bus monitor would ride the bus. FFN may be exempt from these requirements.
11. All providers who work and are licensed in the State of Minnesota Licensed, tribally licensed, or Family, Friend and Neighbor must maintain First Aid and CPR certification.

12. Annual training is provided for all providers on the recognition and reporting of child abuse and neglect in cooperation with Mille Lacs Band Family Services. Staff report all suspected child abuse and neglect to Mille Lacs Band Family Services. FFN may be exempt from these requirements.
13. There are policies and procedures in place for MLBO center-based care that address Head Start Performance Standards, Caring for Our Children, and MLBO Title 8 health and safety standards. FFN may be exempt from these requirements.
14. Health and Safety requirements are monitored at MLBO on a quarterly basis by the Early Education Department and at a minimum, annually by Indian Health Service. Family Child Care and State Licensed Child Care is monitored by the State annually. FFN may be monitored by the program annually. FFN may be exempt from these requirements.

### ***Child and Adult Ratio***

The ratio for infants under the age of 15 months is one adult to 4 babies. The ratio of toddlers age 15 months to 33 months is one adult to 7 toddlers. The ratio of preschool children ages 33 months to 5 years is one adult to 10 children. The ratio for school age children is one adult to 12 children. The ratios are defined in MLBO Title 8. During Early Head Start time, the ratio for children under the age of 3 is one adult to 4 children.

### ***Background Checks***

The Tribe is doing an alternative approach to background checks because the Tribe does not access the State-based child abuse and neglect registry and Federal systems. FFN providers are exempt from background checks, but may complete the Minnesota Bureau of Criminal Apprehension background check if the family requests. Staff at the tribally licensed centers must complete a background check that includes fingerprints sent to the FBI and state authorities, a national sex offender registry check, and criminal history check. Staff working at state licensed centers follow state background check requirements. Employees at the tribal centers also sign a Code of Conduct that states no child will be left alone and other safety standards for care. FFN is exempt from the Code of Conduct. The MLBO only licenses centers on Reservation land. The State of Minnesota licenses family child care centers on the reservation and center-based child care centers off the reservation, and these providers follow Minnesota licensing guidelines.

### ***Applications***

To receive child care assistance funds, families must apply to become an Aanjibimaadizing client. They may do this at any Aanjibimaadizing Office, MLEE, or online at <https://aanji.org/>.

To receive quality improvement funding, child care providers serving Mille Lacs Band children may contact the Executive Director or the Operation and Compliance Manager for an application.

### ***Early Childhood Goals***

The Plan will support MLEE's goals which are listed below.

- Increase Family Engagement and collaboration in the area of school readiness and completion of family goals, documenting family engagement in usable and relatable ways.
- To have all MLEE children be current with all health requirements.
- Improve Staff recruitment and retention as well as on-boarding processes and trainings to ensure quality services for children and parents enrolled in Mille Lacs Early Education.
- Improve the aggregation and analysis of data and monitoring systems to better inform staff, families, and community, as well as facilitate program management.
- Improve CLASS scores through observation, training, curriculum fidelity and Practice Based Coaching.

Child Care options include: licensed center-based care, licensed family child care and friends & family care. These options may all be available for child care assistance, if they are licensed and/or meet safety standards.

### **CCDF Waivers**

The Tribe has requested a waiver for parent co-payments through September 30, 2024.

The Tribe will not be included in a consortium at this time.

### **Issues and Barriers**

#### ***Transportation***

In a January 2019 survey, at least 25% of the respondents did not have a valid driver's license. Due to the rural location of the reservation land, driving to a job is basically a requirement. The lack of a reliable vehicle is also a barrier for participants. There is also a group of clients that have a driver's license, but it is not valid due to owing back child support and/or traffic fines. The Urban office location has some public transportation options.

#### ***Housing***

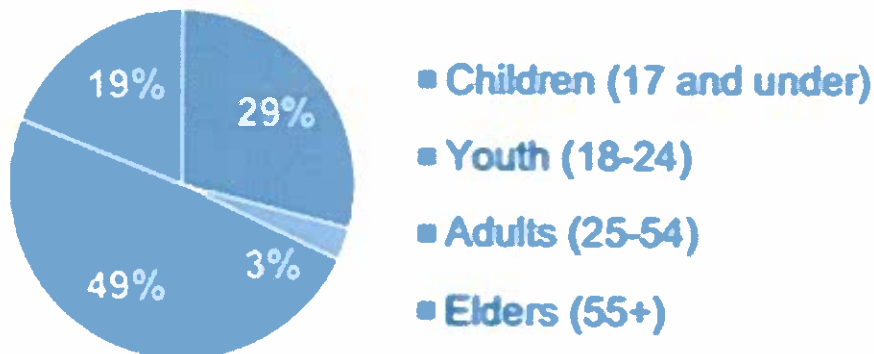
The numbers of homeless families and children have been increasing, even with the MLBO building new single-family housing. The majority of families live on Mille Lacs Band Reservation or Trust lands.

Homeless data is from the 2018 report "Homelessness on Minnesota American Indian Reservations". The 2021 Reservation study was postponed due to COVID-19 pandemic.

Wilder Research conducted research on "Homelessness on Minnesota American Indian Reservation--Findings from the 2018 Minnesota Reservation Homeless Study," (April 2020) and shared the following data.



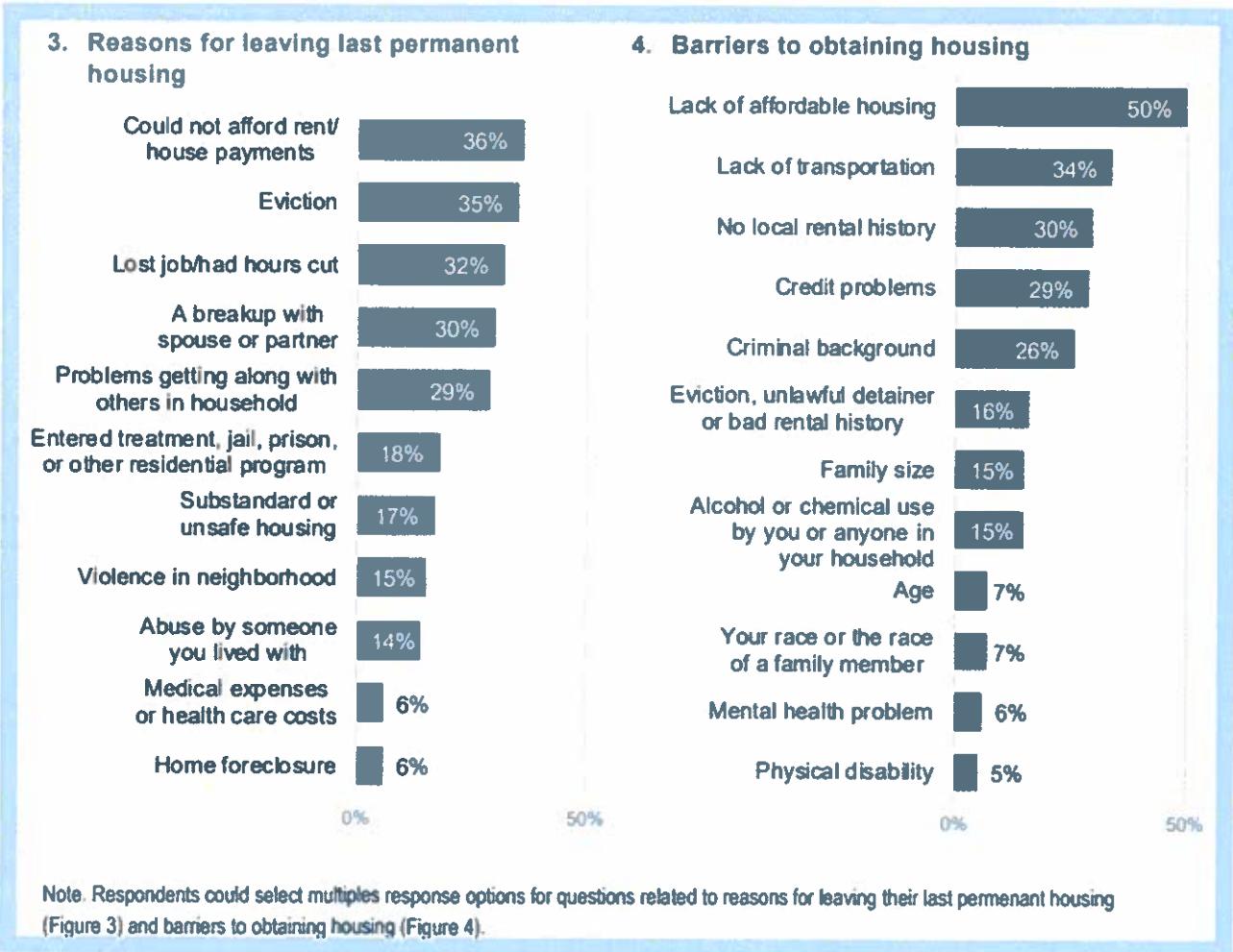
### **Ages of the 125 people experiencing homelessness and near-homelessness on Mille Lacs, October 2018 (N=125)**



This data reflects that there is a higher percentage (49%) of adults, ages 25-54, who are experiencing homelessness or near homelessness followed closely by children ages birth-17 (33%).

Also from “Wilder Research,” respondents were asked about reasons for leaving last permanent housing and barriers to obtaining housing. Here is the data from those questions.

Due to the homelessness issues at Mille Lacs, Aanjibimaadizing provides transitional housing named Zakab Biinjina, meaning peace within, in partnership with Mille Lacs Band Housing as a support service to assist families to self-sufficiency. Aanjibimaadizing provides this housing as a supportive service that includes lower rental and utility payments with required case management to improve client outcomes. Housing is considered a basic need to family stability and requires support from the program for clients to become successful at their goals.



Mille Lacs Band of Ojibwe (MLBO) operates a women’s shelter for abused women and a homeless shelter at the Mino-Bimaadiziwin hotel. Additionally, there are multiple generations often sharing housing which is a culturally appropriate practice. Even with the aforementioned services, there is a housing shortage on the reservation.

**Food Desert**

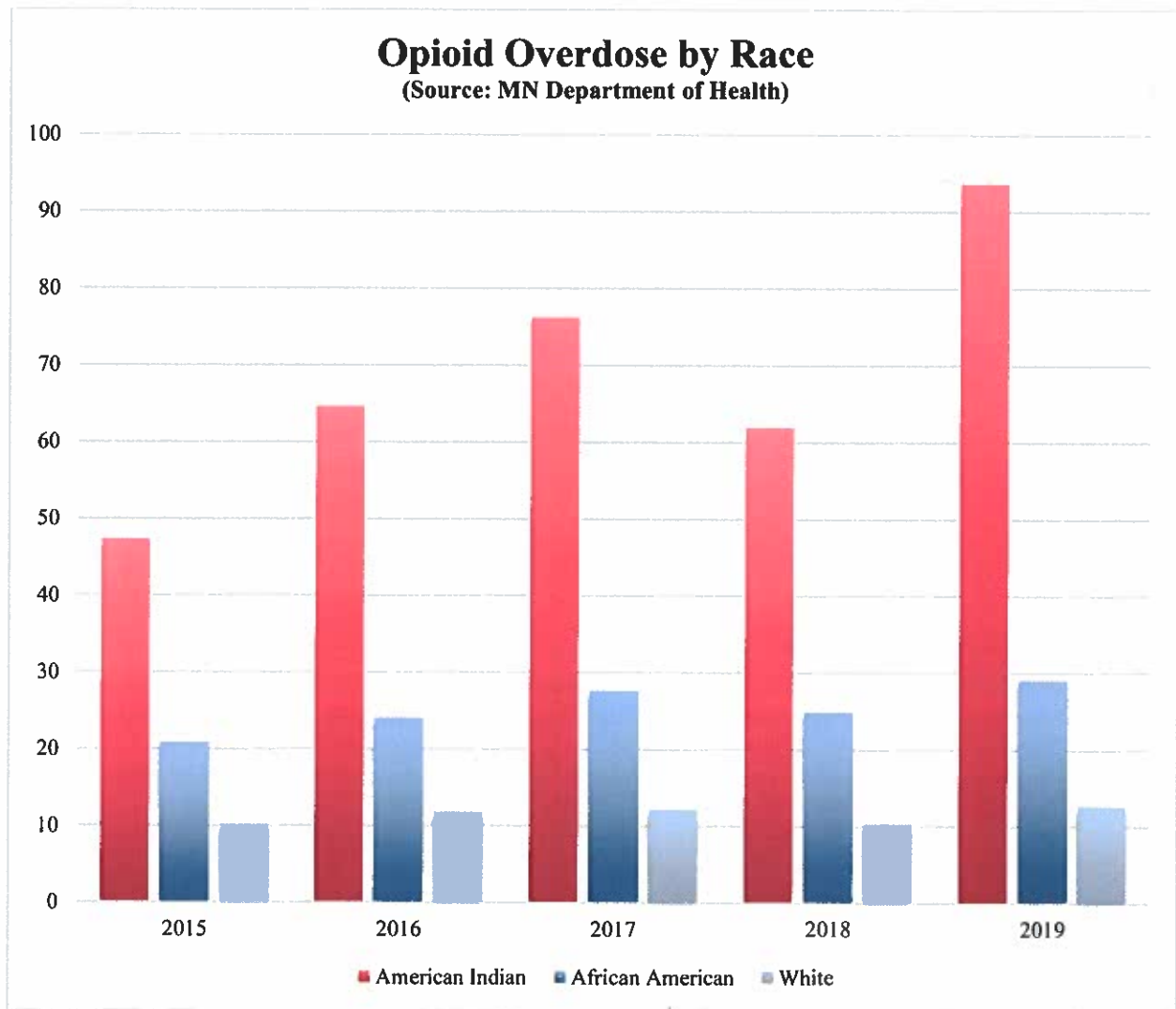
According to the “Minnesota Department of Health—Food Access: Access to Health and Affordable Food,” (5/1/2019)—Focus on Health Equity: American Indian Communities & Tribal Nations, between 2012 and 2014 in Minnesota, one in three American Indian new mothers reported being ‘food insecure’ one year before their baby was born. Specifically, for tribal nations in Minnesota, all of the Red Lake Reservation area qualifies as a food desert, and large percentages of White Earth, Leech Lake, Mille Lacs, and Bois Forte Reservations areas are also considered food deserts. Traditional (indigenous) foods have provided nutrition and promoted health to tribal and American Indian communities for generations and strategies to improve food access for tribes need to be planned and implemented in partnership with tribal and American Indian communities. <https://www.health.state.mn.us/docs/communities/titev/foodaccess.pdf>

According to the website, “The Annie E. Casey Foundation,” a food desert is defined as *“geographic areas where residents have few to no convenient options for securing affordable and healthy foods — especially fresh fruits and vegetables. Disproportionately found in high-poverty areas, food deserts create extra, everyday hurdles that can make it harder for kids, families and communities to grow healthy and strong.”* <https://www.aecf.org/blog/exploring-americas-food-deserts>

The majority of Aitkin and Pine counties are also considered food deserts, which is exacerbated due their size and geographic isolation.

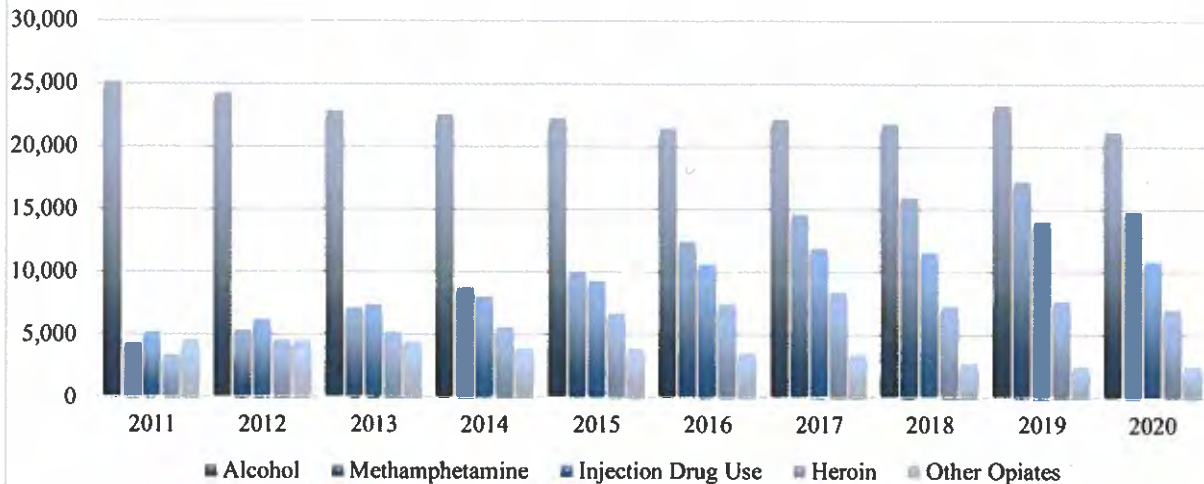
**Chemical Use and Abuse**

There is significant alcohol and chemical abuse among Mille Lacs Band Families. This was listed as one of the major concerns on recent community surveys. Opioid use has been on the rise, in addition, there have been several deaths this past year linked to alcohol and drug use.



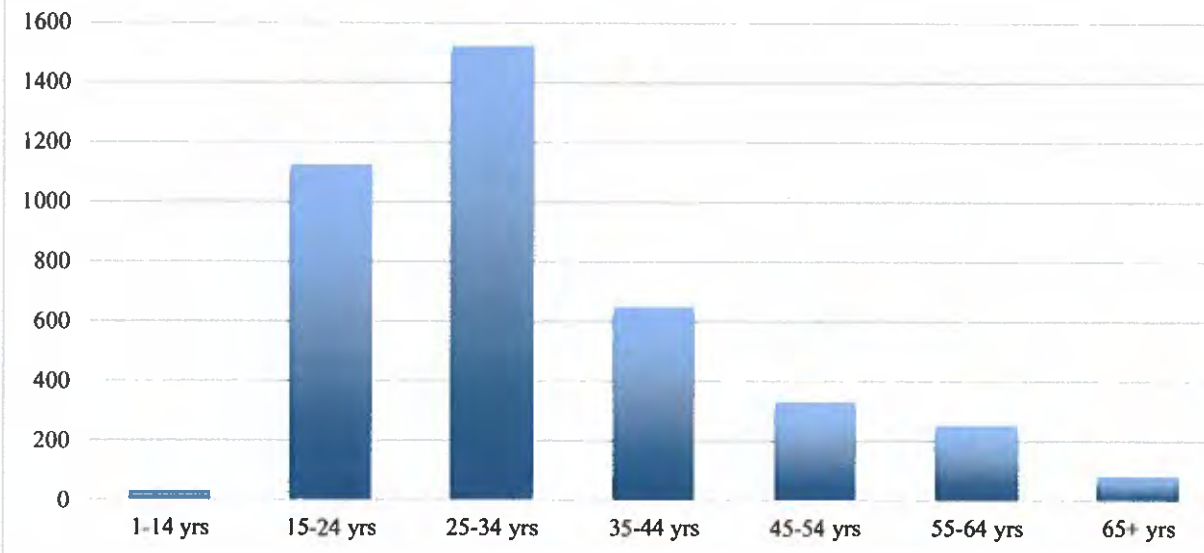
## Substance use disorder treatment for adults in Minnesota

(Source: MN Department of Health)

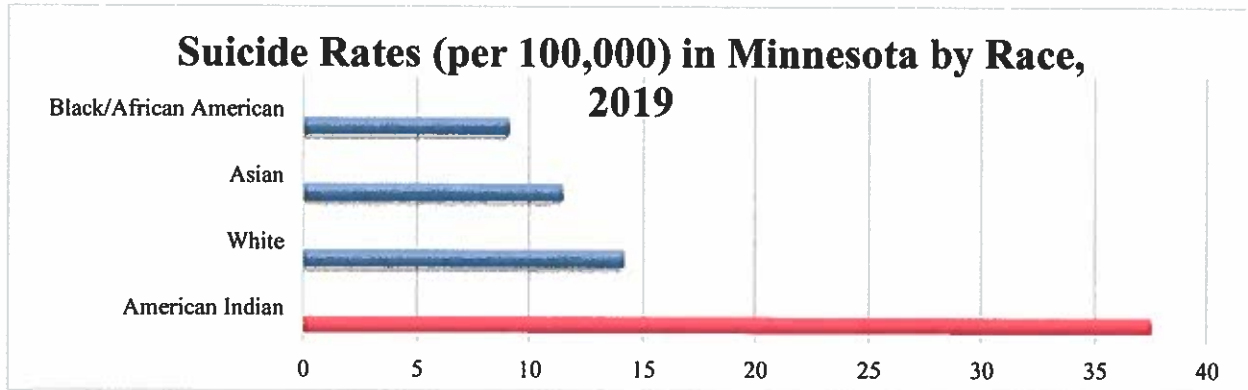


## 2020--Ages 15-34 years with ER visits for opioid-involved overdoses

(Source: MN Department of Health)



Opioid use for American Indians in the State of Minnesota is double or triple the rates of other races and ethnicities. The age rates of those affected are highest in the population aged 15-34. This is an epidemic that is affecting MLBO clients. Besides opioids, the rates for other substance abuse disorders and treatments is high. The program is committed to working in partnership with health care agencies and substance use disorder (SUD) clinics to assist clients in addressing their needs.



Almost all substance use disorders are associated with increased suicide risk. We see this in suicide data from the Minnesota Department of Health. In addition, mental health issues such as depression, anxiety, and self-harm are impacting the population we serve, with incredibly high rates noted in youth in Mille Lacs and Pine Counties. Working with the State of Minnesota and other MLBO departments, we have developed a Suicide Prevention Task Force to bring awareness to this issue, specifically to the agencies that work with our youth and adult clients.

***Health Professional Shortage***

The health professional shortage can increase the length of time it takes children and clients to be seen for appointments and follow-up care. According to the Minnesota Department of Health, Mille Lacs and Pine counties are designated as low-income Health Professional Shortage Areas (HPSA). Aitkin, Mille Lacs, and Pine counties are designated as Dental Health Professional Shortage Areas. The MLBO has two full-time dentists working at the Indian Health Service clinic.

***Mental Health***

Many of the clients have experienced historical trauma and adverse childhood experiences (ACEs) which negatively impact their ability to obtain and retain employment. The program continues to train on trauma and ACEs. Aanjibimaadizing will establish partnerships or referrals to assist clients as needed.

***Criminal Backgrounds and Re-entry***

A significant number of participants have criminal background issues that impact their employment. The 477 plan will work to reduce recidivism and increase job readiness. Individualized plans and resources will be used to assist clients with re-entry. Connections with parole agents, national resources and businesses will be made to find opportunities for clients.

***Graduation Rates***

Minnesota Public Radio published statistics with 2018 graduation rates. American Indian students had the lowest graduation rates in the state at 51% compared with an 83.2% overall graduation rate in the State of Minnesota. Per a survey completed by Aanjibimaadizing in January 2019, approximately 25% of respondents did not have a GED or high school diploma.

## **Menu of Services** (other services than those listed here may be provided)

- A computer lab is available in all service districts for clients to create a resume, job search, access educational programming, and for placement testing.
- Resume writing, mock interviews, and application assistance is available with program instructors. The program is hiring additional instructors to assist in District 2, District 3, and the Urban area.
- Transportation may be provided, if staffing allows. The program may purchase vehicles to transport clients to address barriers. The development of a transportation system is a goal where a regular transportation system is established, or ride sharing between clients can be done.
- Small business development assistance.
- Entrepreneurial development.
- The program participates in career fairs.
- Subsidized employment opportunities are located in all service areas.
- Support services to help clients obtain and retain employment.
- Zakab Biinjina supportive housing.
- Multiple educational and training opportunities that promote obtaining a job, retaining a job, educational advancement, and career advancement.
- Ojibwe resources may be used by participants in the program, schools and community.
- Cultural activities and support including by not limited to: sewing, beading, dance and drum, wild rice harvest, maple syrup harvest, respect for elders, service to the community, and language.
- The program offers trainings, or provides mini-conferences to address employment issues, classes, and skill development.
- TANF, or cash assistance to families in need.
- Ge-Niigaanizijig Youth program for youth age kindergarten to age 20.

The Program is open to all clients and actively recruits. Aanjibimaadizing has an office in the Urban area, District 1, District 2 and District 3. Youth Services are provided in District 1, District 2, District 2a, and District 3. The offices welcome walk-in clients. Clients can also call or email. Aanjibimaadizing has information on the MLBO website and an informational Facebook account. Community meetings may be attended to promote the program.

## **Partners**

The Program is actively recruiting new partners at every opportunity. There are several departments within the Mille Lacs Band of Ojibwe (MLBO) that serve primarily similar clients including: MLEE, Mino-Bimaadiziwin hotel, Community Support Services, Public Health, MLBO Housing Department, Mille Lacs Corporate Ventures, MLBO Tribal Offices, and Family Services.

In January 2022 during the State of the Band address, the Chief Executive gave the directive to eliminate ‘red tape’ among MLBO tribal departments and to coordinate our services with other Tribal programs, thus decreasing the amount of time that participants spend completing applications. This became an Aanjibimaadizing goal. In addition, having a streamlined system will maximize funding and help our families in becoming self-sufficient and community leaders.

Aanjibimaadizing will also partner with the Grand Casino, the local schools, Wewinabi Inc. (the non-gaming business office), local community agencies, small businesses, non-profits, and large corporations in all service area counties to ensure relationships are built to network and for our clients to have a sense of community.

### **Aanjibimaadizing Program Budget**

The table below lists the costs to efficiently run the Aanjibimaadizing program which directly helps the Mille Lacs Band of Ojibwe community.

To ensure the future of the Mille Lacs Band of Ojibwe, additional funds will be expanded for youth programming to: develop internships/mentorships, create school partnerships, offer healthy life choice programming, increase high school graduation rates, and increase college attendance.

Another goal is to develop a ‘training center’ for participants to focus on certifications and skills to get jobs in the local areas. To guarantee clients are able to attend training opportunities, transportation development will also be examined.

<b>Administrative Costs</b>	<b>Amount</b>
Administrative Wages	\$ 454,927.00
Admin Staffing and Benefits Expense	\$ 224,287.00
Equipment, Travel, Training, and Office Expense	\$ 200,000.00
IDC (10.82%)-IDC is not counted for contracts and cash assistance	\$ 407,685.00
<b>Subtotal</b>	<b>\$ 1,286,899.00</b>
Staffing Wages	\$ 1,900,000.00
Staffing Benefits Expenses	\$ 400,000.00
Support Services and Program Services Expenses	\$ 1,045,938.00
Economic Development	\$ 514,760.00
<b>Subtotal</b>	<b>\$ 3,860,698.00</b>
<b>TOTAL BUDGET</b>	<b>\$ 5,147,597.00</b>

### **Aanjibimaadizing Program Management**

The Aanjibimaadizing program is overseen by an Executive Director.

The Director of Case Management oversees Case Managers and Intake staff, who work directly with clients, building relationships and obtaining necessary paperwork.

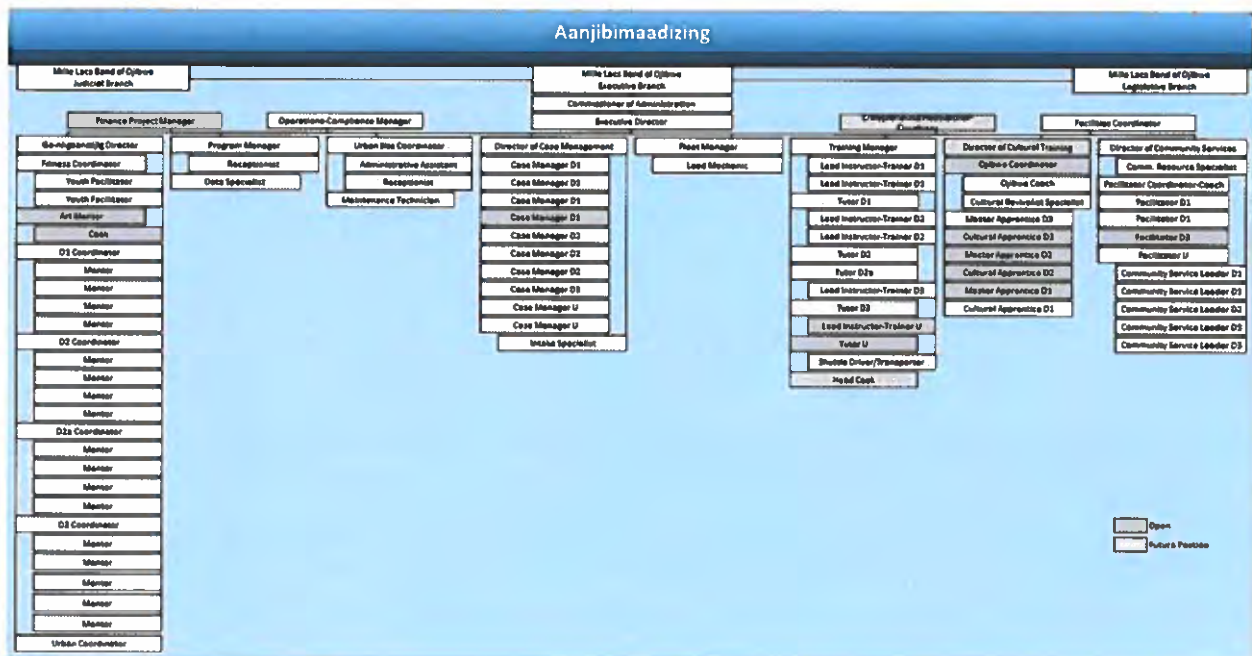
The Training Manager oversees the Instructors, who create a training menu in all Districts and the Urban area. In addition, Instructors assist applicants in a timely manner, to ensure the client is ready for the workforce.

The Director of Community Services oversees the Crew Leaders, who work to provide community services in each district, serving Mille Lacs Band Elders who may need additional assistance.

The Director of Ge-Niigaanizijig oversees the Youth Mentors in all Districts to promote healthy life choices, financial literacy and career exploration with youth in the area.

All Directors and the Training Manager provide direct client service at a minimum of 50% of the time.

### Current Organizational Chart



Furthermore, the Mille Lacs Band of Ojibwe has five Commissioners that oversee Administration, Health and Human Services (HHS), Department of Natural Resources (DNR), Community Development, and Education. There is a sixth Commissioner who oversees Mille Lacs Corporate Ventures, which is the MLBO businesses.

These five service department Commissioners comprise the Administrative Policy Board (APB). APB provides oversight and acts as the governing body for the Aanjibimaadizing program.

### Accountability of the Delivery of Services

The Program currently uses an electronic system for recording data and reporting. All staff recently had training in the use of this system. This integrated data system includes



demographics, collects data for the F-TANF report, and data for the 477 Statistical report. The staff must ensure data entry in a timely manner to maintain accurate records.

The Program uses the accounting system of the MLBO. The MLBO follows Uniform Guidance and all applicable accounting requirements. A yearly budget audit is completed by the Tribe. All items found to be non-compliant are corrected with an action plan. All budget items are coded in the Aanjibimaadizing program, signed by the Executive Director, then approved by the Commissioner of Administration, and finally approved and processed in the Office of Management and Budget (OMB). Budgets are received for review from OMB on a weekly basis, or upon request.

After meeting with OMB, the Program consolidated 477 budgets into one large budget and tracks expenses by line item codes linked to specific activities. The Casino Revenue, Interest Budget, revenues from entrepreneurial endeavors, and State funding will be kept in separate budgets.

For reporting purposes, costs associated with the administration of the program will be tracked separately to facilitate accurate accounting and separation of program costs.

For each year the MLBO receives or expends TANF funds, the MLBO will comply with the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c (f)(1), relating to the submission of a single agency audit required by chapter 75 of Title 31, United States Code.

### **Selective Service Registration**

Adult males between the ages of 18 and 26 years of age, or born after 1959 will be required to show proof of selective service registration. If not registered and no longer allowed to register, applicants will be asked to provide convincing evidence that failure to register was not knowing and willful. The Executive Director will review each case and make the decision if the selective service requirement is waived.

### **Child Support Enforcement**

Program clients who are receiving TANF assistance must cooperate with the appropriate Child Support agency to maintain eligibility for TANF funded assistance. Program staff will work with the MLBO Child Support Office and the State of Minnesota Child Support Office to assist in this process. The Program will not require assignment of Child Support to the Program as a condition of eligibility of services.

### **Penalties Against Individuals**

Individuals that falsify information to obtain assistance, misuse program funds, or misrepresentation of themselves or circumstances to receive Program assistance shall be required to pay back all funding received by the program. Per capita payments may be garnished. No

Program services will be available for a period of one year or until funds have been repaid in full, whichever is longer. Clients will be notified by mail of any adverse action taken and such notice shall include the violation, their right to appeal, and the appeal process.

### **Emergency Process**

An emergency may be declared or defined by the Federal, State, or Tribal government. During a state or time of emergency Aanjibimaadizing will work closely with the Tribal Emergency Response Committee (TERC) to develop and ensure safe practices and policies for staff and clients. External policy revisions for operation may be completed at any time and noted at Administration Policy Board to meet changing safety needs of clients and staff. The 477 Program Emergency Disaster Response expenditures will be consistent with P.L. 102-477 (25 U.S.C. § 3401 et. seq) and all applicable statutes and regulations.

Emergency processes may also be used to assist clients to prepare for emergencies.

### **Grievance Process**

An opportunity for a fair hearing is available to any program applicant or client who believes they received non-standardized service, or are dissatisfied with actions or decisions taken by program staff. The following outlines the grievance process, as included in the 477 plan, dated 10/1/2022-9/30/2025, as approved by the Federal Granting Agency. It is the responsibility of the program applicant or client to ensure all steps in the grievance process are followed:

- A signed and dated release of information form must be on file with the Aanjibimaadizing Program in order for the staff to share and/or discuss the case outside of the Aanjibimaadizing Program.
- The applicant or client will be informed of their right to a review of the actions or decisions of the Program staff at the time of application. The request for a review must be in writing, detailing the reason the action is being challenged and submitted to the Executive Director of Aanjibimaadizing programs within 10 days of the adverse action. The Executive Director of the Aanjibimaadizing programs shall investigate the complaint and attempt to resolve disputes or issues informally whenever possible.
- If such informal resolution is not practical or possible, the Program Administrator shall issue a decision on the matter within 5 business days of its presentation to him/her, in writing, and supply a copy of the same to the applicant or participant and affected Program Staff.
- Within 10 days after the issuance of the Executive Director or Aanjibimaadizing program's decisions, any affected person may file a written appeal to the program grievance committee, which shall review and hear the matter within 30 days.

- The Program Grievance Committee membership shall be established as needed by the Mille Lacs Band of Ojibwe Assistant Commissioner of Administration and made up of no less than three Commissioners or Directors of Tribal Programs (or their designees) and shall not include the Executive Director of the Aanjibimaadizing programs.
- The Program Grievance Committee shall issue its decision within 30 days of the conclusion of a hearing.
- If no appeal to the Program Grievance Committee is made within the time allowed, the decision of the Executive Director shall be final and shall not be subject to appeal.
- If, after exhaustion of this procedure, the participant or client is not satisfied, they have the right to file a fully documented grievance to:

Attention: Division Chief  
 Division of Workforce Development  
 MLB MS 4513, 1849 C St. NW Avenue  
 Washington, DC 20240

Questions or complaints alleging a violation of nondiscrimination provisions of WIA Section 188, may be mailed directly to the Director, Civil Rights Center, US Department of Labor, Room N-4123, 200 Constitution Avenue N.W., Washington, DC 20210, for processing.

### **Retrocession**

If the MLBO elects to retrocede the TANF program back to the State, it will adhere to and meet all pertinent statutory and regulatory requirements.

### **Plan Enhancements**

Lack of a valid driver's license or reliable transportation is a barrier to our participants' employment. This issue is especially prevalent in the rural areas. The plan will work to assist clients in obtaining their driver's license and maintaining reliable transportation. Transportation will be provided for clients to training and for other services as staffing patterns allow. A Program goal is to expand transportation services.

Graduation rates are lower for American Indian youth in the State of Minnesota. The State is working to address racial disparities. The Program will work to enhance youth programming that supports education including, but not limited to: partnerships with local schools, tutoring, internships, incentives for educational goals, and developing job readiness programs for students.

Ojibwe language and culture revitalization is regarded as critical by the MLBO elders to promote self-sufficiency. Language and cultural resources, training, and experiences will be used to educate and enhance the lives of participants.

Substance abuse, mental health and trauma are issues affecting Tribal members. The Program will work with Family Services, Community Services and Behavioral Health to coordinate services for participants. Focusing on the holistic health of clients will aid them in the long-term success of obtaining and retaining employment. A goal is to work on developing a one-stop shop for clients to access multiple services at one time.

The need for housing in our service areas is critical. Homelessness is prevalent, with many of our Aanjibimaadizing clients being considered homeless, or near homeless.

All plan enhancements support the four purposes of TANF.

### **Additional Resources**

The Program receives a small amount of funding from the Tribe to assist clients in paying for required documents, to assist people missing critical documents (e.g. obtaining a birth certificate) and to support clients who are over the income threshold.

Aanjibimaadizing continues to build community connections, for the next three years, we are developing partnerships with Mille Lacs Band Corporate Ventures, Wewinabi Inc. (the non-gaming MLBO businesses), Central Minnesota Adult Basic Education, Pine Technical & Community College, the MN Timberwolves, and others. The Program wants to make it easier for clients to access multiple services available through the MLBO, the state, and private companies. Through coordination, clients will be able to access multiple resources with one stop to develop self-sufficiency. This coordination of services is a work in progress.

### **Definitions**

In accordance with the requirements of P.L. 102-477 and 45 CFR 286.75(a)(1); and 286.150, the MLBO has adopted these definitions.

*Family:* Any household made up of one or more custodial parent or guardians, regardless of sexual orientation, marital status, or gender identity, presenting with minor children. For the purposes of this Plan, families must include enrolled MLBO members, 1st generation descendants of the MLBO, or enrolled members of other Federally Recognized Tribes.

*Needy:* shall be defined as having an identifiable and correctable barrier to employment, or identified advancement of employment with a calculated income not to exceed 200% of the poverty level.

*Needy Family:* shall be defined as any Tribal Member Family as defined by family and needy in this section.

*Tribal Member Family:* shall be defined as enrolled MLBO members, 1st generation descendants of the MLBO, enrolled members of other Federally Recognized Tribes, or other members with

direct ties to the MLBO such as a spouse, cohabitant, or children residing in the Plan service area.

*Appropriate Child Care:* shall be the biological parent, step-parent, direct family members to the child who has taken a Program approved Child Care course or training. It shall also be defined as a licensed child care facility.

*Reasonable Distance:* shall be defined as the same adopted by the MLBO TERO Ordinance.

*Affordable Child Care:* shall be any certified individual or facility that conforms to the industry standard rates. Charges may not exceed \$6.00 per hour.

*Unsuitability of Informal Child Care:* shall be defined as untrained or uncertified person or facility other than a parent, step-parent, or legal guardian.

*Children in Need of Protective Services, or At-Risk Children:* shall be defined as youth living in poverty, children whose families are on TANF, or who have exited TANF in the last 12 months, and/or children in out-of-home placements.

## **Attachments**

1. Child Count Declaration
2. CCDF Public Meeting Flyer
3. Sliding Fee Scale
4. Assurances
5. References

## References

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# DRAFT AGENDA

## Administration Policy Board Agenda Band Assembly District 1 Government Center Upstairs Media Room March 24, 2022


1. **CALL MEETING TO ORDER**
2. **ROLL CALL – Commissioner of Administration, Assistant Commissioner of Administration, Commissioner of Community Development, Commissioner of Education, Commissioner of Health & Human Services, Commissioner of Natural Resources**
3. **AGENDA APPROVAL**
4. **UNFINISHED BUSINESS – TABLED ITEMS**
5. **CONTRACTS**  
**Department of Justice – Office of Solicitor General**  
Lockridge Grindal Nauen - \$95,000.00 – to provide legal services regarding a proposed min by Talon Metals known as Tamarack Mine as submitted  
  
**Community Development**  
Ron's Roll-Offs - \$30,000.00 – to provide dumpsters for the 2022 District 3 Community Clean up scheduled for April 30 – May 6 as submitted  
Aufderworld Corporation - \$43,610.32 – to provide and install audio sound system equipment at both East Lake and Chiminising Community Centers as submitted  
HUOT Construction & Services, Inc - \$61,027.10 – to provide materials and labor for an Elder home renovation project in Sandstone funded through by Elder renovation line item as submitted  
Heritage Exteriors and Restoration, Inc. - \$72,517.56 – to provide material and labor for an Elder home renovation in District 1 to address poor roof condition requiring replacement, as submitted
6. **FINANCE**
7. **Request for Appropriation**  
**Natural Resources**  
FY 2022 – DNR General (251-5300-4) - \$9,761.50 – request appropriation of Net Revenue funding to complete the MnDOT contract #1046796 for the West Lake Signage which is fully reimbursable and billed monthly for the Band's direct labor costs as submitted  
FY 2022 – MnDOT Recovery Project (251-5467-2) - \$108,902.51 – request appropriation of Net Revenue funding to complete the MnDOT contract #1044825 for West Lake Signage which is fully reimbursable and billed monthly for the Band's team of employees, consulting contracting, local mileage, miscellaneous expenditures, office supplies, program supplies, program activities, small equipment and equipment as submitted
8. **OTHER**



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## INTEROFFICE MEMORANDUM

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**TO:** ADMINISTRATIVE POLICY BOARD  
**FROM:** CALEB DOGEAGLE, SOLICITOR GENERAL   
**SUBJECT:** LOCKRIDGE GRINDAL NAUEN TALON CONTRACT  
**DATE:** MARCH 17, 2021

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The Office of Solicitor General has completed its review of the submitted contractual document(s) See 7 MLBSA § 26(b)(2). The contract for \$95,000 with Lockridge Grindal and Nauen is to provide legal services regarding a proposed mine by Talon Metals known as the Tamarack Mine.

The Office has approved the contract, i.e., sanctioned the substantive legal provisions contained therein. Additionally, the office opines that the statutory requirements to proceed with the contract under negotiated procurement are met.

Please contact me if you have any further questions or concerns. I can be reached at (320) 532-4733.

/s/ Caleb Dogeagle  
Caleb Dogeagle, Solicitor General  
Office of Solicitor General

## CONTRACT FOR LEGAL SERVICES

THIS CONTRACT, by and between The Mille Lacs Band of Ojibwe Indians (hereinafter referred to as the "Client"), 43408 Oodena Drive, Onamia, MN 56359 and Lockridge Grindal Nauen P.L.L.P (hereinafter referred to as "Firm"), 100 Washington Ave. S., Ste. 2200, Minneapolis, MN 55401, is effective on date of ratification by the Band Assembly as required by 3 MLBSA § 2(f).

### WITNESSETH:

#### 1. Authority and Representations

- 1.1 Under the authority of the Constitution, Bylaws and applicable Band Statutes of the Client, Client hereby contracts with, retains and engages the Firm as attorney for the Client and the Firm accepts the engagement.
- 1.2 The Client states that it is and will continue to be throughout the duration of this Contract, a self-governance compact tribe, under the Tribal Self-Governance Act of 1994, Public Law 103-413, codified as Title IV of Public Law 93-638.
- 1.3 The Client further states that as a self-governance tribe, it is exempt from the attorney contract Secretarial approval requirements contained in 25 U.S.C. § 81.
- 1.4 The Client agrees to immediately notify the Firm, in writing, if at any time during the duration of this contract, the Client ceases to be a participating tribe in the Tribal Self-Governance Program.

NOW THEREFORE, the Client and Firm hereby agree as follows:

#### 2. Contract Term, Termination, and Suspension of Contract, Stop Work.

- 2.1 Contract Term. Upon ratification by the Band Assembly, this contract shall be retroactively effective for providing services from February 20, 2022 and continuing through September 30, 2022.
- 2.2 Termination of Contract. This Contract may be terminated at any time, without cause, by 10 business days' prior written notice given by either party to the other, provided that such time frame allows the Firm to withdraw from any pending

litigation in accordance with the rules of the court in which such litigation is pending.

**3. Services Required**

- 3.1 The Firm agrees to provide legal services at the direction of the Client's Office of Solicitor General.
- 3.2 The legal services provided by the Firm are for the purpose of advising Client on matters relating to Talon Metals Corp.'s proposed mining operation near Tamarack, MN.
- 3.3 The Firm agrees that legal services in matters affecting the personal interests of any elected or appointed public official, officer, or employee of the Mille Lacs Band of Ojibwe Indians, or to any individual member of the Mille Lacs Band of Ojibwe Indians as distinguished from the Client's interests shall not be within the scope of work authorized by this Contract.
- 3.4 Recognizing that goals and outcomes of litigation surrounding the subject matter could have an impact affecting the general welfare of the Band, upon request of the Client, Firm shall provide periodic reports to the Band's Chief Executive, Band Assembly or Commissioner of Natural Resources.

**4. Client-Provided Tools and Support Staff Assistance**

- 4.1 The Firm is authorized to utilize services and resources of the Office of Solicitor General and its support staff.

**5. Contract Fees for Services Rendered**

- 5.1 Firm agrees to provide legal services described herein at an hourly rate of \$425 per hour for the work of partners and \$325 per hour for the work of associates with no additional charge for clerical work. Time for other Firm attorneys will be billed at comparable discounted rates.
- 5.2 Payment for such legal services shall not exceed ninety-five thousand dollars (\$95,000.00), unless this Contract is so modified pursuant to the laws of the Client.

**6. Expenses**

6.1 Client agrees to reimburse the Firm for itemized reasonable expenses.

7. **Retainer Fee**

7.1 The Firm agrees to waive any retainer fee agreement.

8. **Payments**

8.1 The Firm shall invoice the Client with an itemized billing statement for fees and costs. After the approval of the Office of Solicitor General, all invoices are subject to the Office of Management and Budget processing schedule.

9. **Contract Restrictions**

9.1 Neither party may assign this Contract, or its rights or obligations thereunder, without the express prior written consent of the other party. It is understood and agreed that only the Firm shall render the services contemplated in this Contract unless Client gives its written consent.

10. **Notices**

10.1 Any notice required under this Contract shall be given as follows: Notice to the Client shall be directed to the Office of Solicitor General, Department of Justice, Mille Lacs Band of Ojibwe Indians, 43408 Oodena Drive, Onamia, MN 56359. Notice to the Firm shall be directed to David Zoll, Lockridge Grindal Nauen P.L.L.P, 100 Washington Ave. S., Ste. 2200, Minneapolis, MN 55401.

11. **Stipulation**

11.1 The Firm represents each attorney selected to provide legal services under this Contract is fully licensed to practice law before the Courts of the State of Minnesota, and that to the best of the Firm's knowledge, no attorney providing services to the Client has been disbarred, suspended from the practice of law, or publicly disciplined in the last ten (10) years.

12. **Dispute Resolution**

- 12.1 To the extent that the Firm and the Client do not reach a mutual agreement to resolve any matter in dispute under this Contract, the exclusive method to resolve any dispute or claim arising under this Contract is a civil action in the Mille Lacs Band of Ojibwe Indians' Court of Central Jurisdiction. The Firm and Client agree that attorneys' fees, other litigation related costs, pre-and post-judgment interest, and punitive damages are not recoverable in any action arising under this Contract.
- 12.2 24 MLBSA §2007(a) and §2007(b)(2) shall provide the substantive law to be applied to any dispute or claim arising under this Contract. *See* <http://millelacsband.com/tribal-government-home/band-statuteordinances/>.
- 12.3 The Firm and Client understand that the Court of Central Jurisdiction primarily utilizes the Rules of the District Court of the Non-Removable Mille Lacs Band of Ojibwe, which incorporates, as necessary, the Federal Rules of Civil Procedure, as the rules of procedure that would be applicable to any civil action arising under this Contract. *See* <http://www.millelacsband.com/services/tribal-court>.

13. **Execution of Agreement.**

- 13.1 This Contract may be executed in one or more counterparts, each of which shall be deemed an original and all of which together constitute one and the same instrument. An executed copy of this Contract shall serve for all purposes in the same manner as an original.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, we, the undersigned, have executed this Contract for Legal Services on the dates indicated below.

**LOCKRIDGE GRINDAL NAUEN  
P.L.L.P**

Dated: 3/22/2022

By:   
David Zoll, Partner

On behalf of Mille Lacs Band of Ojibwe

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Caleb Dogeagle, Solicitor General

**RATIFICATION**

Pursuant to the provisions of 3 MLBSA § 2(f), this Contract was presented to the Band Assembly and is ratified on \_\_\_\_\_, 2022.

By: \_\_\_\_\_  
Sheldon Boyd  
Speaker of the Assembly

OMB Review  3/17/22  
Initial & Date

OSG Review  3/17/22  
Over \$7,500 Initial & Date

Contract # 036892

APB Review \_\_\_\_\_  
Over \$7,500 Initial & Date

Acct: 5100-105-2150-0  
Amount: \$95,000.00  
Ends: 9/30/2022



## COMMUNITY DEVELOPMENT DIVISION

February 28, 2022

### MEMORANDUM

TO: Timothy Jackson, Assistant Commissioner of Administration, OSG and APB

FROM: Brian Scheinost, Director of Public Works

RE: Ron's Roll-Offs Contract to Provide Dumpsters for 2021 DIII Community Clean-up

Community Development posted a request for proposals to provide dumpsters for the 2022 District III Community Clean-up, which is scheduled for April 30<sup>th</sup>-May 6<sup>th</sup>. Public Works also sent the RFP to five vendors (Ron's Roll Off, Garrison Disposal, Matt's Sanitation, M & M Sanitation, and Jim's Mille Lacs Disposal). Only one bid was received from Ron's Roll Off, the decision was made to proceed with the bid opening (see following Memo). The following is Ron's Roll Off bid proposal.

#### **Ron's Roll-Offs**

\$295 for 20yrd; \$395 for 30 yrd.

Fuel surcharges to be added: \$30 Wise Owl & Lake Lena, \$5 for Earthworks and Townhomes.

Charge per item:	Appliance	\$10.00
	TV/ Computer Monitor	\$20.00
	Mattress/ Boxspring	\$20.00
	Tire	\$15.00
	Tractor Tire	\$75.00

Ron's Roll-Offs was the successful bidder and awarded a contract in the amount not to exceed **\$30,000.00**. This dollar amount was selected based on the cost of previous years' Community Clean-Up events. The contractor has plenty of experience working with Community Development and has supplied quality service in the past for this event.

This contract will be funded by line item: **6990-104-1320-0**.

**ADDENDUM TO CONTRACT # 1**

The Mille Lacs Band of Ojibwe Community Development and the Contractor, Ron's Roll-Offs, agree to the following addendum to the Mille Lacs Band of Ojibwe Construction/Service Contract.

DATE: 3/23/22

PROJECT NAME AND NO.: Dist. III Community Clean-Up Roll Off Service

CONTRACTOR NAME AND ADDRESS: Ron's Roll-Offs

SUBCONTRACTOR (IF APPLICABLE): NA

DESCRIPTION OF WORK: Change Commissioner name on page 1 of service contract due to resignation of Commissioner when contract was first initiated.

VENDOR NO: 22400 OBLIGATION NO.: 036737  
ACCOUNT NUMBER FOR PROJECT: 100-132-6990

CONTRACT SUM: \$30,000

ADDENDUM :

FINAL CONTRACT: \$30,000

This addendum constitutes the entire addendum agreement between the parties.

\_\_\_\_\_  
Assistant Commissioner of  
Administration

Amber J Hawk  
Ron's Roll Offs  
Contractor/Contractor's  
Representative

OMB gusell

Date: 3/23/22

Solicitor General's Office Emil

Date: 3.24.2022

APB \_\_\_\_\_ Date: \_\_\_\_\_

Band Assembly \_\_\_\_\_ Date: \_\_\_\_\_



## MILLE LACS BAND OF OJIBWE SERVICE CONTRACT

The parties to this Contract shall be referred to as follows:

The Mille Lacs Band of Ojibwe Indians, a federally recognized Indian Tribe, shall be referred to as the "Band." **Ron's Rol-Offs** shall be referred to as the "Contractor."

1. The Contractor shall perform the following services: **Provide dumpster service for District III annual clean-up from April 30<sup>th</sup>-May 6<sup>th</sup>** at the following location (if applicable): **District III, Hinckley MN.**
  2. The Band appoints **Timothy Jackson, Commissioner of Community Development,** as Contracting Officer to represent the Band in its dealings with the Contractor. This Contracting Officer may accept or reject, in whole or in part, the work performed under this Contract.
  3. The Contractor shall perform the above services by the **30th** day of **September, 2022.** The Band may terminate this Contract upon the Contractor's refusal or inability to perform the services outlined herein.
  4. The Contractor shall return to the Band any property of the Band that has come into the Contractor's possession during the term of this Contract upon request by the Band or at the termination of this Contract.
  5. The Contractor agrees that all information and knowledge pertaining to this Contract and the services to be rendered are the property of the Band and no such information or knowledge shall be divulged to anyone other than the Band.
  6. The Contractor agrees that all rights, titles, and interests in and to any and all work products arising out of this Contract are the property of the Band.
  7. The Contractor agrees that during and subsequent to the term of this Contract it will without further consideration assign all rights, titles, and interests in any copyrightable material produced in connection with this Contract to the Band, and shall assist in every proper way, entirely at its own expense, to secure, maintain, and defend for the Band's benefit copyrights and any extensions and renewals thereof on any and all such materials produced.
  8. The Contractor shall abide by all applicable Band, Federal, and State laws pertaining to the work performed.
  9. In consideration for the services to be performed by the Contractor, the Band agrees to pay the sum of: **not to exceed \$ Thirty Thousand Dollars and no /00 Dollars (\$30,000.00)** to the Contractor on the following terms: **Upon completion of work and submission of necessary documents for payment, and with the approval of the Commissioner of Community Development or his/her designee. All invoices are subject to OMB processing schedule.**
- All payments will be issued in conformance with the policies and procedures of the Band's Office of Management and Budget (OMB).
10. All contracts require OMB approval; contracts over \$7,500 require approval from the Solicitor General and the Administration Policy Board; and contracts over \$25,000 require the approval of Band Assembly. If such approval is not obtained, this Contract is not binding on the Band.

11. The Contractor shall hold the Band harmless of any liabilities arising out of the performance of the services contained in this Contract.
12. It is expressly understood and agreed by the parties that the Contractor is an independent contractor and shall in no event be considered an employee of the Band. The Band will not withhold any State or Federal taxes on the payment to be made hereunder and will not provide any fringe benefits to the Contractor.
13. The Contractor is an independent contractor and has no authority to incur any expenses or obligations on behalf of the Band.
14. It is prohibited to assign any rights, interests or obligations under this Contract without the written approval of the Contracting Officer.
15. The Contractor agrees that any and all disputes which arise under this Contract will be adjudicated in the Court of Central Jurisdiction for the Mille Lacs Band and that said Court has personal jurisdiction over the Contractor. The Contractor agrees that all interpretations of this Contract will be based upon the laws of the Band.

**CONTRACTOR**

**MILLE LACS BAND OF OJIBWE INDIANS**

Aminda J. Hanch      3-15-22  
 Signature of Contractor      Date

\_\_\_\_\_  
 Contracting Officer      Date

**Ron's Roll-Offs**  
 Name of Contractor # 22400

**use if needed**  
 Title

516 Barry Ave  
Hinckley, MN 55037  
 Address

1-320-384-6884  
 Phone

Line Item: 6990-104-1320-0

01-0890510  
 SSN / FED ID #

OMB REVIEW JW 3/4/22  
 Initial & Date  
 Print Name: Joni Wall  
 Title: Financial Analyst  
 CONTRACT # 036737

OSG REVIEW Emil Duven  
 Over \$7,500 Initial & Date  
 Print Name: Emily Duven  
 Title: Deputy Solicitor General

APB REVIEW \_\_\_\_\_  
 Over \$7,500 Initial & Date  
 Print Name: \_\_\_\_\_

BAND ASSEMBLY REVIEW \_\_\_\_\_  
 Over \$25,000 Initial & Date  
 Print Name: \_\_\_\_\_

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# INTEROFFICE MEMORANDUM

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**TO:** BRIAN SCHEINOST, DIRECTOR OF PUBLIC WORKS  
**FROM:** EMILY DUVEN, DEPUTY SOLICITOR GENERAL  
**SUBJECT:** CONTRACT FOR RON'S ROLL OFF FOR DIII CLEAN UP  
**DATE:** 3/22/2022



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The Office of the Solicitor General has completed its review of the contractual documents. See 7 MLBSA § 26(b)(2).

The office has approved the contract, *i.e.*, sanctioned the substantive legal provisions contained therein.

Please contact us if you have any further questions or concerns. We can be reached at (320) 532-7894.

/s/ Emily DUVEN

Deputy Solicitor General

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Bid Tally Sheet

24-Feb-22

Dist III Community Clean-Up

Mille Lacs Band of Ojibwe

Present:

Brian Scheinst  
Celia Duveney  
Laurie Berghel  
Emily Duven

BIDDERS

	Amount	Comments
Ron's Roll-Off	See attached proposal for Feb	Same as last year



## COMMUNITY DEVELOPMENT DIVISION

9 MARCH 2022

### MEMORANDUM

TO: COMMISSIONER OF COMMUNITY DEVELOPMENT  
OMB, OSG, APB, BAND ASSEMBLY

CC: MIKE MOILANEN – DIRECTOR OF PLANNING AND PROJ MGMT  
CHERYL MILLER – DISTRICT 2 LEGISLATIVE AIDE

FROM: RYAN JENDRO – PROJECT MANAGER

RE: SERVICE CONTRACT – D2 SOUND SYSTEMS INSTALLATION: EAST LAKE  
AND ISLE COMMUNITY CENTERS

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Attached you will find a service contract for approval. This contract is for requested sound system equipment to be installed at the East Lake and Isle Community Centers, per the request of the D2 Legislative department. The project RFP was posted to the MLBO website and vendors were directly solicited. Five vendors attended a pre-bid site visit and bids were received from four vendors.

	<u>Base Bid</u>
Aufderworld	\$43,610.32
Hunt Electric	\$49,870.00
Audio Video Extreme	\$59,599.05
Marco Technologies	\$62,676.96

It is the recommendation of CMD to enter into a contract with **Aufderworld Corporation**, in the amount of **\$43,610.32** for the supply and installation of the East Lake and Isle Community Center sound system equipment.

The RFP was based on a specific equipment list to ensure fairness in bidding. Because some of the products may not be readily available, we will accept product substitutions if they will be available sooner, or result in a cost savings without impacting the system performance. Any cost savings will be credited back to the MLBO.

3/4/22

APB 000108 3-9-2022

Work is scheduled to commence upon contract approval and equipment product ordering. Installation will be complete in about one week at each site upon delivery.

Line item for this project: 4300-101-1020-5

## **MILLE LACS BAND OF OJIBWE** **SERVICE CONTRACT**

The parties to this Contract shall be referred to as follows:

The Mille Lacs Band of Ojibwe Indians, a federally recognized Indian Tribe, shall be referred to as the "Band." **Aufderworld Corporation** shall be referred to as the "Contractor."

1. The Contractor shall perform the following services: **Provide and install audio equipment per the attached RFP dated 2/14/22, Pre-bid addendum #1 dated 2/18/22, and Pre-bid addendum #2 dated 2/25/22.** at the following location (if applicable): **East Lake and Isle Community Centers.**
2. The Band appoints **Commissioner of Community Development**, as Contracting Officer to represent the Band in its dealings with the Contractor. This Contracting Officer may accept or reject, in whole or in part, the work performed under this Contract.
3. The Contractor shall perform the above services by the **30th** day of **September, 2022.** The Band may terminate this Contract upon the Contractor's refusal or inability to perform the services outlined herein.
4. The Contractor shall return to the Band any property of the Band that has come into the Contractor's possession during the term of this Contract upon request by the Band or at the termination of this Contract.
5. The Contractor agrees that all information and knowledge pertaining to this Contract and the services to be rendered are the property of the Band and no such information or knowledge shall be divulged to anyone other than the Band.
6. The Contractor agrees that all rights, titles, and interests in and to any and all work products arising out of this Contract are the property of the Band.
7. The Contractor agrees that during and subsequent to the term of this Contract it will without further consideration assign all rights, titles, and interests in any copyrightable material produced in connection with this Contract to the Band, and shall assist in every proper way, entirely at its own expense, to secure, maintain, and defend for the Band's benefit copyrights and any extensions and renewals thereof on any and all such materials produced.
8. The Contractor shall abide by all applicable Band, Federal, and State laws pertaining to the work performed.
9. In consideration for the services to be performed by the Contractor, the Band agrees to pay the sum of: **not to exceed \$ Forty Three Thousand Six Hundred Ten and 32 /00 Dollars (\$43,610.32)** to the Contractor on the following terms: **Upon completion of work and submission of necessary documents for payment, and with the approval of the Commissioner of Community Development or his/her designee. All invoices are subject to OMB processing schedule.**

All payments will be issued in conformance with the policies and procedures of the Band's Office of Management and Budget (OMB).



10. All contracts require OMB approval; contracts over \$7,500 require approval from the Solicitor General and the Administration Policy Board; and contracts over \$25,000 require the approval of Band Assembly. If such approval is not obtained, this Contract is not binding on the Band.
11. The Contractor shall hold the Band harmless of any liabilities arising out of the performance of the services contained in this Contract.
12. It is expressly understood and agreed by the parties that the Contractor is an independent contractor and shall in no event be considered an employee of the Band. The Band will not withhold any State or Federal taxes on the payment to be made hereunder and will not provide any fringe benefits to the Contractor.
13. The Contractor is an independent contractor and has no authority to incur any expenses or obligations on behalf of the Band.
14. It is prohibited to assign any rights, interests or obligations under this Contract without the written approval of the Contracting Officer.
15. The Contractor agrees that any and all disputes which arise under this Contract will be adjudicated in the Court of Central Jurisdiction for the Mille Lacs Band and that said Court has personal jurisdiction over the Contractor. The Contractor agrees that all interpretations of this Contract will be based upon the laws of the Band.

**CONTRACTOR**

**MILLE LACS BAND OF OJIBWE INDIANS**

Scott Broden                      3/15/2022  
 Signature of Contractor              Date

\_\_\_\_\_  
 Contracting Officer                      Date

Aufderworld Corporation # 53360  
 Name of Contractor

Scott Broden, Sales Executive  
 Title

2750 Niagara Lane N.  
Plymouth, MN 55447  
 Address

763-233-7700  
 Phone

Line Item: 4300-101-1020-5

41-1478217  
 SS# / FED ID #

OMB REVIEW JW 3/15/22  
 Initial & Date

Print Name: Joni Wall

Title: Financial Analyst

CONTRACT # 036830

APB REVIEW \_\_\_\_\_

OSG REVIEW ED 3/17/2022  
 Over \$7,500      Initial & Date

Print Name: Emily Duven

Title: Deputy Solicitor General

BAND ASSEMBLY REVIEW \_\_\_\_\_

Over \$7,500      Initial & Date

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Over \$25,000      Initial & Date

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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# INTEROFFICE MEMORANDUM

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**TO:** JIM CARPENTER, PROJECT COORDINATOR  
**FROM:** EMILY DUVEN, DEPUTY SOLICITOR GENERAL  
**SUBJECT:** AUFERWORLD CORP D2 CC CONTRACT  
**DATE:** 3/17/2022



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The Office of the Solicitor General has completed its review of the contractual documents. See 7 MLBSA § 26(b)(2).

The office has approved the contract, *i.e.*, sanctioned the substantive legal provisions contained therein.

Please contact us if you have any further questions or concerns. We can be reached at (320) 532-7894.

/s/ Emily Duvén

Deputy Solicitor General

2022 Bid Tally Sheet  
 Project: D2 Sound Systems Upgrade  
 3-Mar-22

Mille Lacs Band of Ojibwe

Present:

Jim Carpenter *Jim Carpenter*  
 Brian Scheinhart *Brian Scheinhart*  
 TABITHA Bond *TABITHA Bond*  
 Emily Duven *Emily Duven*

BIDDERS	Base Price	Alt #1	Alt. #2	Alt. #3	COMMENTS
Hutderworld	\$43,610.32				
Audio Video Extreme	\$59,599.05				
Marco Technologies	\$77,865.28			←	original
Hunt Electric	\$49,870.00				
Marco Tech. LLC	\$62,676.96			←	Revised



**COMMUNITY DEVELOPMENT DIVISION**

10 MARCH, 2022

**MEMORANDUM**

**TO:** COMMISSIONER OF COMMUNITY DEVELOPMENT, OMB, OSG, APB, BAND ASSEMBLY

**FROM:** JIM CARPENTER – PROJECT COORDINATOR

**CC:** MIKE MOILANEN - DIRECTOR OF PLANNING & PROJECT MANAGEMENT

**RE:** HUOT Construction contract for Elder Renovation at 218 Old Military Road Sandstone

Attached you will find a contract for approval. This contract is for an ELDER Renovation PROJECT. The project is located at 218 Old Military Road, Sandstone MN. The RFP was posted and emailed to over (5) general contractors. (2) General Contractors attended the pre-bid site meeting, and bids were received from both.

	<u>Bids received</u>
Degerstrom & Sons Construction	\$62,750.00
Huot Construction & Services	\$58,527.10

\*Add \$2,500.00 as a Post Bid Contingency Allowance for unforeseen items that may arise during project completion.

The low, qualified bidder was Huot Construction. We recommend entering into this contract with **HUOT Construction & Services, Inc.** for contract amount of **\$61,027.10**.

Construction will commence upon contract approval, coordination of material selections and ordering lead times. Construction work will be scheduled as soon as material procurement and scheduling is complete.

**Funded by Elder Renovation Line Item: 7200-271-2700-0**

49

03/10/22  
APB 00115  
AK-ED 3/10/22

CONSTRUCTION CONTRACT between MILLE LACS BAND of OJIBWE (OWNER)  
And Huot Construction & Services Inc. (CONTRACTOR)

The Project #34091 is at:  
218 Old Military Road Sandstone, MN

CONTRACT entered into as of the 10th day of March in the year 2022.

BETWEEN the Owner:  
Mille Lacs Band of Ojibwe  
43408 Oodena Drive  
Onamia, MN. 56359

OMB APPROVAL  
Date: 3/11/22  
Signature: [Signature]  
Vendor # 52575  
Oblig # 036832  
Account #7200-271-2700-0  
Contract Sum: \$61,027.10  
Contract Expiration: 8/01/2022

and the Contractor

Huot Construction & Services Inc.  
120 Bridgepoint Way Suite A  
South St. Paul, MN 55075

OSG APPROVAL  
Date: 3/17/2022  
[Signature]  
ADMINISTRATION POLICY BOARD  
Date:  
Signature  
  
BAND ASSEMBLY APPROVAL  
Date:  
Signature

THIS CONTRACT AND ALL OF ITS TERMS AND CONDITIONS ARE TO BE GOVERNED UNDER  
THE LAWS OF THE MILLE LACS BAND OF OJIBWE INDIANS.

Section 1

**NOTICE.**

*Inclusion of address, phone, fax and email are mandatory*

(A) The Owner's representative is:  
(Commissioner of Community Development)  
43408 Oodena Dr  
Onamia, MN 55359

Contracting Officer's designee:  
(Jim Carpenter) -- C.O. Designee  
Project Coordinator  
43408 Oodena Dr  
320-364-9865 direct  
320-532-4197

The Contractor's representative(s) is (are):

[Name] Mr. Tony Huot  
[Address] 120 Bridgepoint Way Suite A  
South St. Paul, MN 55075  
[Phone] 651-888-4900  
[Fax] 651-888-4905  
[Email] TonySr@HuotCS.com

The Contractor's representative(s) is(are):

[Name] Ms. Amy Swenson  
[Address] 120 Bridgepoint Way Suite A  
South St. Paul, MN 55075  
[Phone] 651-600-8074  
[Fax] 651-888-4905  
[Email] amy@huotcs.com

(B) All notices are to be sent to the stated representatives, unless a change in the information above is required. If a change in the above referenced information is required, then a notice of a change of representatives must be provided in writing within five (5) working days, including any change of address, phone, fax or email.

(C) Notices to either party shall be given by addressing the communications to the stated representative. Any notice given is effective upon receipt by U.S. Mail, postage prepaid, or upon personal delivery with acknowledgement of receipt. Notice may also be given through electronic format, by fax or email, using the attached coversheet entitled Legal Notice.

Section 2

**WORK/WORK STATEMENT/SCOPE**

(A) Objectives: to precisely identify desired end objectives of the project and associated requirements.

(B) Definitions: For purposes of this contract, the term "Project" will be synonymous with the word "Work." Work shall be defined as the tasks completed in order to achieve the final creation or renovation of the desired structure.

(C) Please attach a **Schedule of Values** that outlines the project first in general terms and dates, then provides a detailed breakdown of each construction phase, the materials needed for each phase, the cost of those materials and the estimated completion date for each. Schedules of values, which should be considered an itemized list of supplies, labor and completion phases should provide the Contracting Officer with a clear understanding of the anticipated percentage of completion for each phase and its cost. Schedules of Values need to be attached to this document upon completion of the Work.

See Work Project No. 34091 at address: 218 Old Military Road Sandstone, MN. Per attached RFP dated 1/25/2022 and pre-bid addendum #1 dated 2/17/22 and pre-bid addendum #2 dated February 23, 2022 including the 2016 MLB Spec Book. Contract sum includes a Post Bid Allowance Contingency of \$2,500.00 to be used for unforeseen conditions discovered after project begins, at the direction of the Project Coordinator. Only Pre-Approved costs will be charged against the Allowance Contingency. Any unused contingency allowance will be credited back to the Mille Lacs Band by the Contractor as part of the final billing.

(D) Responsibility: identify all Mille Lacs Band and Contractor participation or cooperation that is needed for the success of the project, as well as the nature and extent of all task responsibilities. All tasks requiring Mille Lacs Band support (e.g. Band-furnished equipment, facilities, materials or other government assistance) should be stated specifically.

(E) Milestones/Schedule of Values: generate a schedule for the sequence of tasks to be performed by a contractor and a similar schedule for related responsibilities of the Owner.

### Section 3

#### CONTRACT SUM

The Contract Sum is Sixty One thousand twenty seven dollars and 10 cents (\$61,027.10), subject to adjustments as determined by the Owner or Contract Officer.

### Section 4

#### DATE OF COMMENCEMENT AND CONTRACT TIME

Work will commence within 45 days of completing the contract execution and delivery to vendor.

### Section 5

#### PAYMENTS

(A) All pay applications for payment are subject to the Office of Management and Budget (OMB) processing schedule. Once an application for payment is received, and Certificates for Payment issued by the Owner, along with the approval of the Commissioner of Community Development, or his/her designee, the Owner shall make payment within thirty (30) days as provided below.

*Project Manager shall choose one of the following payment schedules marked in subsection (B), all other provisions of this section shall still apply.*

(B) Payment schedule based on a **Schedule of Values** that will be determined by the attachment of an Application and Certificate of Payment as well as a Continuation Sheet. Each of these documents will be considered part of the overall contract as approved by the Contracting Officer or his/her designee.

( ) (B)(2) *This option is available only for road construction contracts.* Unit price work. Work to be paid for on the basis of unit prices in an attached sheet. Unit price work will be subject to an attached set of conditions.

#### *Substantial Completion*

(C) The Contractor shall achieve Substantial Completion of the Work not later than August 1, 2022.

(D) The Substantial Completion date of the Work is the date when construction is sufficiently complete so that the Owner can occupy or utilize the building for its intended purpose. Only two (2) extensions may be given for substantial completion of a project.



(E) The Work is not substantially completed if it fails to conform to approved Drawings and Specifications, any Change Order, or if construction defects remain that prevent occupancy or utilization of the building.

*Liquidated Damages*

(F) Liquidated Damages. Should the Contractor fail to substantially complete the Work within the time allowed in this Contract, the Contractor shall pay the owner as liquidated damages no more than \$200.00 per day for each consecutive calendar day that Substantial Completion remains unmet, but not to exceed \$1,000.00 per week. Liquidated damages shall be assessed according to a graduated scale listed as follows:

Contract Type	Contract Price	Liquidated Damages
Renovation only	\$0.00 -- \$50,000.00	\$100.00 per day completion unmet
	\$50,001.00 – higher	\$200.00 per day completion unmet
Residential (full construction)	\$0.00 – 150,000.00	\$300.00 per day completion unmet
	\$150,001.00 – higher	\$400.00 per day completion unmet
Commercial (full construction)	\$0.00 --	\$400.00 per day completion unmet

If the Contractor and Owner have mutually agreed to a signed Change Order and/or Addendum granting an extension of time to reach Substantial Completion, then the liquidated damages shall be calculated from the date agreed to in the Addendum and/or Change Order. In no way shall the costs for liquidated damages be construed as a penalty. Owner and Contractor agree that the sum is a reasonable and proper measure of the damages that cannot be calculated with any degree of certainty, which the Owner will sustain if the Contractor fails to substantially complete the Work according to the Schedule of Values and/or Substantial Completion deadlines in this Contract.

(G) In the event that the contractor fails to cure defects in performance as provided in section 8 of this Contract, the Owner shall have the right, but not the obligation, to complete the punch list items. Final Payment in the amount of Six thousand one hundred two dollars and 71 cents (\$6,102.71) shall be made when punch list items are done. Final Payment (10% RETAINAGE) shall be paid within thirty (30) days of i) completion of the punch list items in a good and workmanlike manner and (ii) submission of all closeout documentation to the Owner.

(H) Lien Waivers.

(1) For each Application for Payment, the Contractor shall provide lien waivers for the General Contractor, Subcontractors, Sub-subcontractors, and suppliers for Work performed since the previous payment application was submitted to the Owner before the Contractor has the right to receive any payment on its current Application for Payment. All lien waivers shall be provided in the form attached as Exhibit A.

(2) In the event Contractor fails to pay any Subcontractors, Owner shall have the right, but not the obligation, to pay the Subcontractor directly upon receipt of a lien waiver from the Subcontractor, and subtract the amount paid from the Contract Sum.

i. Any payments made by Owner pursuant to this paragraph will be subject to a reasonable administration fee which will be deducted from the Contract Sum. Contractor shall be notified by a written statement when an administration fee is deducted from the Contract Sum.

(I) Changes.

(1) The Band's Contracting Officer may at any time, in writing, make reasonable and /or necessary changes within the general scope of the contract.

(2) If any change is requested by the Contractor that causes an increase or decrease in the cost of, or the time required for performance of any part of the Work under the contract, the Contract Officer is authorized to make an equitable adjustment of a maximum of five percent (5%) in the contract sum. An equitable adjustment will be a fair adjustment made within a reasonable time. Adjustment of a contract in excess of five percent (5%) of the

Contract sum must be approved by the Band Assembly for contracts over \$100,000.00. The Contracting Officer may also make an equitable adjustment in the schedule of values. Failure of the parties to agree to any adjustment shall be covered under the Disputes Clause as a claim. However, nothing in this section or the Disputes Clause shall excuse the Contractor from proceeding on the work.

- (3) Change order mark-up limit of 10% on all labor and materials.
- (4) No payments will be made for additional work performed under the terms of this contract without written approval from the Owner prior to work being performed.

#### Section 6

#### **TERMINATION BY OWNER FOR CONVENIENCE**

(A) The Owner may at any time and for any reason terminate this Contract for convenience. A termination notice citing this section will be delivered in writing to the Contractor's representative and will set forth a date upon which the termination will be effective.

(B) Upon receipt of this notice from the Owner, the Contractor shall immediately cease to incur any costs that may be chargeable to the Owner under this Contract.

(C) In a termination for convenience, the contractor shall also prepare to discontinue performance of the Work in the manner set out below.

- 1. The Contractor agrees that upon receipt of notice from the Owner it shall:
  - i. cease any and all Work under the Contract in the manner directed by the Owner in the notice;
  - ii. take whatever action(s) necessary, or which may be directed by the Owner, for the protection and preservation of the Work;
  - iii. terminate all existing subcontracts and purchase orders except for work directed in the notice to be performed prior to the effective date of termination;
  - iv. enter into no further subcontracts and purchase orders; and
  - v. assign subcontracts and purchase orders to the Owner as directed.

(D) Following a termination for convenience, the Owner shall be responsible only for payment for services rendered before the effective date of termination. The Owner agrees that it will pay the Contractor within thirty (30) calendar days from the Contractor's submission of a final Application for Payment to the OMB, if the application is approved by the Owner.

(E) Under no circumstance shall the Owner be charged equipment rental in excess of seventy-five percent (75%) of the value of that item (or for any item with a value of \$500 or less) acquired by the Contractor to the date of termination. The Owner will not pay termination charges for any subcontracts, and the Owner shall not be liable for any lost profits or consequential damages.

i) From this amount shall be subtracted the aggregate of all previous payments made by the Owner and other credits due to the Owner. The Owner shall be immediately refunded any amount by which payments to the Contractor exceed the amount of payment to which the Contractor is entitled.

(F) To the extent that the Owner elects to accept legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall execute, deliver and take all steps necessary to effect the legal assignment of such subcontracts, purchase orders and agreements prior to receiving the payments referred to in this Section.

#### Section 7

## **TERMINATION BY OWNER FOR CAUSE**

(A) The Owner may terminate this contract for cause upon default by the Contractor. Any notice of default will be delivered to the Contractor, and the Contractor's Surety, in writing. The Owner's right to terminate a contract may be exercised if the Contractor does not cure such default within ten (10) business days after receipt of notice from the Contracting Officer specifying default. More time to cure may be provided if deemed reasonable by Owner.

(B) The Contract may be terminated for cause if the Contractor shall be deemed in default. The Contractor shall be deemed in default if the Contractor:

1. Persistently or repeatedly fails or refuses to supply enough properly skilled workers or proper materials;
2. Fails to make payment to Subcontractors for materials or labor in accordance with respective agreements between the Contractor and Subcontractors;
3. Persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction over the Work;
4. Fails to deliver the supplies or perform the services within the time specified in the contract or any agreed upon extension;
5. Fails to make progress, so as to endanger performance of the contract;
6. Fails to maintain the appropriate insurance under § 13 and § 15 of this Contract;
7. Fails to perform any of the other provisions of the contract; or
8. Violates the requirements contained in the Mille Lacs Band of Ojibwe Commercial Practices Act, Chapter 5 regarding TERO Compliance. See 18 MLBSA § 401-428; or
9. Is otherwise in material breach of a provision of this Contract.

(C) Any complaint received by the Administration Policy Board regarding a contractor's failure to comply with TERO rules, will be investigated immediately. If the complaint is determined to be worthy of further consideration, the Administration Policy Board shall notify the parties of an appointed time and day for a hearing and settlement discussions. At this time, the Band may terminate the contract for convenience immediately. If settlement is not achieved, the Administration Policy Board may render its own decision based on the evidence and testimony presented. Any decision of the Administration Policy Board under this statute may be appealed to the Court of Central Jurisdiction under 24 MLBSA § 2501. If the Administration Policy Board issues a final decision rendering the complaint against the contractor unfounded, the contractor may seek reimbursement of the contract sum.

(D) This Contract will be terminated for cause if, after written notice and hearing, the Administration Policy Board determines that the Contractor or its representative offered a gratuity to an official, agent or employee of the Band, and intended by the gratuity to obtain a contract or favorable treatment under a contract.

(E) If the Owner terminates this contract, it may acquire supplies or services similar to those terminated to complete the Work. The Contractor will be liable to the Owner for any dollar amounts exceeding the Contract Sum for those supplies or services required to finish the Work.

(F) When the Owner terminates the Contract for one of the reasons stated in subsections A-D of this section, the Contractor shall not receive further payment until the Work is finished.

(G) When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner:

1. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery owned by the Contractor;
2. accept assignment of subcontracts; and
3. finish the Work by whatever reasonable method the Owner may deem expedient.

(H) If the unpaid balance of the contract sum exceeds the costs of finishing the Work, including compensation for administrative and necessary consultant services, and other costs incurred by the Owner, then such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid shall be certified by the Owner, upon application, and this obligation for payment shall survive termination of the Contract.

(I) Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

(J) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable or justified, the termination shall be deemed a termination for convenience, and the right and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Band.

#### Section 8

#### **SUSPENSION BY THE OWNER FOR CONVENIENCE**

(A) The Owner may, for convenience, order the Contractor to suspend the Work for such a period of time as the Owner may deem appropriate. The suspension notice will be communicated by the Owner's representative and will be effective immediately. A confirmation of this suspension will be delivered in writing to the Contractor's representative within twenty-four (24) hours from the decision to suspend.

(B) In the event of a suspension under this section, the Contract Sum will be adjusted for increases in cost. Adjustments to the Contract Sum shall include lost profit.

(C) The Contract Time will be adjusted to coincide with any Work delay caused by suspension unless the Contract Time is subject to non-adjustment for the reasons set out below.

1. No adjustment of Contract Time shall be made to the extent that performance of the Work is, was, or would have been suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
2. No adjustment of contract time shall be made if an equitable adjustment is made under another provision of the contract.

#### Section 9

#### **TERMINATION BY THE CONTRACTOR**

(A) The Contractor may terminate this contract if the Work is stopped for a period of forty-five (45) calendar days through no act or fault of the Contractor, subcontractors, their agents or employees or any other persons or entities performing portions of the Work. The Contractor may also terminate the contract if the Work is stopped for a period of thirty (30) calendar days, through no act or fault of the Contractor, subcontractors, their agents or employees, for any of the following reasons:

1. issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
2. an act of government, such as a declaration of national emergency which requires all work to be stopped;
3. because the Owner has not issued a Certificate of Payment and has not notified the Contractor of the reason for withholding certifications; or
4. because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract.

(B) The Contract may be terminated if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the contractor, subcontractors, their agents, employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently

failed to fulfill the Owner's obligations under the Contract with respect to matters important to the progress of the Work.

(C) The Contractor may terminate the contract if, through no act or fault of the Contractor, subcontractors, their agents, employees or any other persons or entities performing portions of the Work under contract with the Contractor, as a result of repeated suspensions, delays or interruptions of the entire Work by the Owner, the Work is delayed for more than one-hundred percent (100%) of the total number of days scheduled for completion, or 120 working days in any 365 day period, whichever is less.

(D) If one of the reasons described in subsections (A) or (C) exists, the Contractor may, upon ten (10) calendar days written notice to the Owner, terminate the contract and seek to recover from the Owner payment for work executed and for proven loss with respect to materials, equipment, tools, construction equipment and machinery, including reasonable overhead, profits and damages.

**Section 10**  
**DISPUTE RESOLUTIONS**

(A) The Contractor agrees that all disputes which arise under this Contract, to the exclusion of subsections 7(C) and 7(D), will be adjudicated in the Court of Central Jurisdiction for the Mille Lacs Band. The contractor also agrees that, by signing this contract, the contractor consents to the personal jurisdiction of the Court of Central Jurisdiction. This contract will be deemed a service contract provided for the needs of Band members. *See* 5 MLBSA 113(e). The Contractor agrees that all interpretations of this Contract will be based upon the laws of the Mille Lacs Band.

(B) Any claim by the contractor shall be submitted in writing to the Band's Contracting Officer for a written decision. A claim by the Band against the Contractor, to the exclusion of subsections 7(C) and 7(D), shall be subject to a written decision by the Contracting Officer.

1. "Claim" as used in this section, means a written decision, demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of the contract terms, or other relief arising under or relating to the contract.

(C) A voucher, invoice or other routine request for payment that is not in dispute when submitted is not a claim. It may be converted to a claim, by complying with the submission requirements of this section, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(D) The Contracting Officer's decision shall be final unless the Contractor appeals the matter within ten (10) days of the Contracting Officer's decision to the Court of Central Jurisdiction for the Mille Lacs Band. The Court shall review the decision of the Contracting Officer under an arbitrary and capricious standard.

(E) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal or action under the contract, and comply with any decision of the Contracting Officer or the Band's Court of Central Jurisdiction.

**Section 11**  
**ADDITIONAL REMEDIES**

(A) Notwithstanding the remedies provided in other paragraphs of this Contract, the Owner reserves the right to commence legal action against the Contractor seeking monetary damages, liquidated damages, declaratory or injunctive relief as allowed by law, or any other relief in order to enforce any of its rights under this agreement.

(B) Except for defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor.

(C) If the failure to perform is caused by the default of a subcontractor and if the cause of the default is beyond the control, and without the fault or negligence of either the Contractor or the subcontractor, the Contractor shall not be liable for any excess cost for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(D) The Owner shall pay the contract sum for completed services performed and accepted. The Owner may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Owner against loss. Failure to agree on such a sum will be a dispute under the Disputes Clause.

(E) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Owner.

(F) The right and remedies of the Owner in this clause are in addition to any other rights and remedies provided by the law or under the contract.

#### Section 12

#### **JURISDICTION**

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this contract. See 5 MLBSA 111. Contractors, by signing this agreement, consent to the personal jurisdiction and the subject matter jurisdiction of the Court of Central Jurisdiction. Contractors seeking relief for claims shall be afforded the opportunity to seek relief in tribal court only to the extent of the contents of a properly filed claim under this contract's dispute resolution section. No claims will be permitted beyond the Contract Sum.

#### Section 13

#### **INDEMNIFICATION – REIMBURSEMENT- INSURANCE – WORKERS COMPENSATION – SUBROGATION WAIVERS**

(A) To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the Mille Lacs Band of Ojibwe and all its members, entities, officers, agents and employees, from all suits, liens, charges (including attorneys' fees, costs & disbursements), damages, and liabilities relating to personal or bodily injury, sickness, illness, death, and damage to or destruction of property in any manner connected with the execution of the Work provided for in this Contract.

(1) Indemnification for property damage under this section consists of any work or omission of Work contracted to be done by Contractor or his subcontractors, employees, or agents.

(2) Indemnification for the aforementioned damage could also occur when the Contractor, Subcontractors or suppliers use materials, equipment, instrumentalities, or other property, regardless of whether or not harm is caused in part by a party indemnified. Excluded from this list are claims, loss, damage, costs or expenses resulting from risks that the Owner is required to insure against.

(3) The Contractor also agrees, without limiting any indemnification under subsection (1), to indemnify and hold harmless the Owner, its agents and employees, from such claims, damages, or liabilities for which the Owner, its agents and employees may be liable.

(4) The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this section.

(5) The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this section.

(B) In claims against any person or entity indemnified under subsection (A) by an employee of the Contractor, a subcontractor, or anyone directly or indirectly employed by them, the indemnification obligation under subsection (A) shall not be limited by an amount or type of damages, compensation or benefits payable under workers' compensation acts, disability benefit acts or other employee benefit acts.

(C) To the fullest extent permitted by law, and without limiting any other indemnification obligation of the Contractor, the Contractor shall indemnify and defend the Mille Lacs Band of Ojibwe and all of its members, entities, directors, officers, assigns, lenders, agents and employees from any claims, liens, charges (including attorneys' fees), or encumbrances (including but not limited to mechanic's liens or bond claims) in connection with the performance of the Work. This indemnification shall not include instances where the Owner has failed to make payments when required under the Contract Documents. The Owner shall be entitled to recover from the Contractor all costs and expenses incurred in enforcing this Agreement, including attorneys' fees. Upon request of the Owner, the Contractor shall within 60 days remove any liens filed against the Owner or its property. If the Contractor fails to remove the liens, then the Owner is authorized to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred. The Contractor is not required to insure over the indemnity obligations to the extent such obligations are imposed in this subsection (C).

#### Section 14

#### **BONDING REQUIREMENT**

a. In construction contracts that are federally funded or deemed commercial, bonding is required. These types of contracts shall demand a performance bond of not less than twenty percent (20%) of the total contract price, but not to exceed \$500,000.00. A performance bond requirement is to ensure that, if a contractor defaults, the Band may request that the surety pay the expenses incurred to complete the construction contract.

b. In addition, all construction contracts identified as federally funded or commercial, shall be covered by a payment bond equal to one payment installment to cover subcontractors/ suppliers as determined by the Contracting Officer or his agents. The payment bond must contain language stating that if the contractor fails to make a payment to its subcontractors/suppliers, the surety will make the necessary payment.

c. For all Band funded residential construction projects, a performance bond is required for contracts in excess of \$50,000.00. The performance bond shall be at a minimum twenty (20%) percent of the contract price, but not in excess of \$500,000.00.

*See Miller Act, 40 U.S.C. 3131 – 3134. See also 7 MLBSA 17 (amended Oct. 14, 2005).*

#### Section 15

#### **CONTRACTOR'S LIABILITY INSURANCE**

(A) The Contractor shall purchase and maintain from a state authorized company such insurance as will protect the Contractor, defined as the business owner and personnel, from such claims set forth below and for which the Contractor may be legally liable:

(1) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;

- (2) claims for damages because of bodily injury, sickness, disease, or death of the Contractor's employees;
- (3) claims for damages because of bodily injury, sickness, or death of any person other than the Contractor's employees;
- (4) claims for damages insured by usual personal injury liability coverage;
- (5) claims for damages, other than to the Work itself because of destruction of tangible property, including loss of use.
- (6) claims for damages because of bodily injury, death of a person or property damage arising out of use of a motor vehicle;
- (7) claims for bodily injury or property damage arising out of completed operations; and
- (8) claims involving contractual liability insurance applicable to the Contractor's obligations under Indemnification subsection (A).

(B) The insurance required by this section shall be written for coverage seen in subsection (C) or otherwise as required by law, whichever coverage is greater. Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until either the date when coverage ends or one year after project completion whichever is later.

(C) The insurance provided by the Contractor shall be written for not less than the following, or greater if required by law: Workers' Compensation - (Policy to include a waiver of subrogation in favor of the Owner.) Employer's Liability - Bodily injury by accident - \$500,000 each accident; bodily injury by disease - \$500,000 contract limit; bodily injury by disease - \$500,000 each employee. Commercial General Liability - (without limit to Premises Operations; Independent Contractors; Contractual Liability; Products and Completed Operations; Explosion, Collapse and Underground Liability ("XCU"); Broad Form Property Personal Injury and Advertising Liability (employment exclusion deleted; Incidental Medical Malpractice; Amendment of Pollution Exclusion-hostile fire; Cross-liability and severability of interest; Minimum Coverage \$1,000,000 C.S.L. Commercial Automobile Coverage \$1,000,000 D.S.L. All of the above insurance shall be on an occurrence policy form. The Contractor shall maintain the required insurance continuously before commencing work to a period of at least twelve months after final completion. The Contractor's Contractual Liability Insurance shall cover the Contractor's obligations under Indemnification subparagraph (1) and any other contractual defense or indemnity obligation of the Contractor under this contract.

(D) The Contractor shall not allow insurance required by this Agreement to lapse, be cancelled, be reduced in limits or coverage, non-renewed, materially changed or have restrictive modifications added during the life of the Agreement. All insurance policies and certificates of insurance shall contain a provision that afforded coverage shall not be cancelled, reduced in limits of coverage, materially changed, or have restrictive modifications added, without sixty (60) days prior written notice to the Owner. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to the commencement of the Work. Failure of the Owner to object to a lack of a Certificate of Insurance or to the coverages indicated thereon or provided by the Contractor shall not constitute a waiver by the Owner of any of the Contractor's obligations. If insurance coverage is required to remain in force after final payment and is reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the close-out documentation. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, shall be furnished by the Contractor to the Owner with reasonable promptness.



(E) Commercial General Liability insurance required to be provided by the Contractor shall include the Owner as a named additional insured using ISO Form 2010. Policies for such insurance shall provide that such insurance is primary.

(F) In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may either purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or suspend/terminate this contract.

(G) Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

(H) The Contractor and any of its subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers' Compensation Policy in favor of the Owner. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though they would otherwise have a duty of indemnification, did not pay the insurance premium and irrespective of an insurable interest.

#### Section 16

#### WAGES, HOURS, AND SAFETY

##### (A) Labor Standards, Hours and Wages

All contracts in excess of \$5,000, related to the Work and involving employment for construction must comply with federal and state labor laws, wherever applicable. Specifically, contractors, subcontractors and other contract parties shall comply with the Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. § 3701 *et seq.*), the Fair Labor Standards Act (FLSA) of 1938 (29 U.S.C. § 201 *et seq.*) and the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101) *whenever Federal dollars are used in the construction contract process.*

(1) Under the requirements of Subsection (A), each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of eight (8) hours and a standard work week of forty (40) hours. Work in excess of the standard work day or work week is permissible provided that the worker is compensated at a rate of not less than one and one half (1 ½) times the basic rate of pay for all hours worked in excess of eight (8) hours in a calendar day or forty (40) hours in the work week. The Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. *See 7 MLBSA § 19(e).*

(2) All construction contracts, regardless of the source of the contract's funding, must comply with the Davis-Bacon Act (40 U.S.C. § 276(a) *et seq.*). Under the Act, laborers and mechanics must be paid no less than the minimum wage as determined by the Secretary of Labor. All contracts over \$75,000.00, regardless of funding, must comply with COMMUNITY DEVELOPMENT COMMISSIONER'S ORDER 001-06, dated October 30, 2005.

(3) Every contractor and subcontractor, regardless of the source of the contract's funding, will be prohibited from inducing a person employed in the construction, prosecution, completion or repair of any public works project to give up any compensation to which they are entitled in exchange for the award of any Band construction contract. *See Copeland "Anti-Kickback Act" (40 U.S.C. § 276(c)).* **The Mille Lacs Band will prosecute and report all suspected or reported violations to appropriate law enforcement officials. See 7 MLBSA § 19(c).**

##### (B) Environmental Compliance

(1) Contracts in excess of \$10,000.00 shall require compliance with all codes of federal regulations and all applicable standards regarding environmental protections. **Violations and suspected violations will be reported by the Owner to the BIA and the EPA.**

(2) In addition to the requirement set forth in subsection (1), contracts and subcontracts in excess of \$100,000.00 require compliance with all applicable standards or requirements issued under the Clean Air Act (42 U.S.C. § 7401-7661 *et seq.*). Contracts in excess of \$100,000.00 must also comply with the Clean Water Act (33 U.S.C. § 1251) and United States' Executive Order 11738. United States' Executive Order 11738 is a declaration that governs the administration of the Clean Air Act in connection with federal grant construction projects. **This Executive Order requires the reporting of violations by the Owner to the grantor agency.** See also 7 MLBSA § 19(h).

(3) Compliance for all Contracts shall be required regarding mandatory standards and policies for energy efficiency requirements under the Energy Policy and Conservation Act (42 U.S.C. § 6201 *et seq.*)

(4) In addition, all contracts with the Band as the Owner shall comply with Tribal Law regarding protection of Tribal Cultural Resources (10 MLBSA § 2-5, 301-313) and Environmental Law (11 MLBSA § 103-123). No contractor or subcontractor shall be permitted to use hazardous materials in their construction efforts. Hazardous materials shall be defined as asbestos, toxic chemicals, waste, acids, alkalis, irritants, contaminants or other pollutants.

#### (C) Construction Compliance

(1) The contractor, subcontractor, agents and employees associated with the Work, shall comply with the Fair and Equitable Housing Act (42 U.S.C. § 3601 *et seq.*) as well as the Equal Credit Opportunity Act (15 U.S.C. § 1691). Compliance shall be required for minimum wage and maximum labor hours, "in any agreement relating to a federal, state or agency financial assistance housing program." See FAIR AND EQUITABLE HOUSING ACT (42 U.S.C. § 3601 §§ 114.14).

(2) The contractor, subcontractor, agents and employees associated with the Work, shall comply with ISO Rules and the Federal Building Codes (10 C.F.R. § 434, 10 C.F.R. § 435). In addition, the contractor, subcontractor, agents and employees associated with the Work, shall comply with Minnesota state law regarding building codes. Contractors, subcontractors, employees and agents shall be responsible for compliance with the Administration of State Building Codes (MN Rules Chapters 1300.0100 – 1300.6300; 1303.1600; 1303.1900; 1305.0010-.7100; 1309.0010 -.0703), the Minnesota Plumbing Code (MN Rules Chapters 4715.0100 – 4715.6000) and the Minnesota Energy Code (MN Rules Chapters 7670.0100 – 7670.1115). Finally, the contractor, subcontractor, agents, employees and others associated with the Work, shall be responsible for familiarity and compliance with the International Building Codes (I.B.C. Rules 101.3 – 3401.3), the International Residential Codes (I.R.C. Rules R302 – P2902) and the International Fuel and Gas Codes (I.F.G.C. Rules 106.1 – 506.3 *et seq.*).

(3) **Acceptance of Nonconforming Work.** If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

#### Section 17 WARRANTIES

The Contractor shall provide to the Owner any commercial warranty normally offered to the public. The Owner will not accept delivery of supplies and equipment "as is" unless the Contracting Officer has previously agreed in writing to accept supplies in such condition. The Contractor shall comply with the Minnesota Statute on Warranties (MN STAT. § 327B.02, 327B.03) and Housing Warranties (MN STAT. § 327A.01 – 327A.05). In addition, the Contractor shall comply with Minnesota state law regarding contractor licensing (MN STAT. § 327B.04 – 327B.09). Finally, the Contractor shall comply with Band

law regarding Commercial Practices (18 MLBSA § 1-10, 101-112, 301) and Procurement of Construction Contracts (7 MLBSA § 1-36).

Section 18

**COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or selling agency has been retained to solicit or obtain this Contract upon an agreement or understanding for a commission, brokerage or contingent fee, except a bona fide employee or bona fide established selling agent maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Band shall have the right to terminate the Contract without liability and separate from the termination sections listed previously in this Contract. In this instance, the Band shall be able to deduct from the contract sum or otherwise recover the full amount of such commission.

Section 19

**PATENTS AND COPYRIGHTS**

This Contract is subject to all Mille Lacs Band requirements and regulations pertaining to reporting and copyright/patent rights under any contract for research, development, experiments, or demonstration work, and with respect to any discovery or invention which arises in the course of such contract. See 7 MLBSA § 19(f).

Section 20

**INDIAN PREFERENCE**

(A) A contractor shall give preferential employment under the contract, including subcontracts, to Band members and qualified Indians. Qualified Indians are persons defined under 25 C.F.R. § 273.2(j), see below, that meet posted or available job requirements. *Andrus v. Glover Construction Co.*, 446 U.S. 608 (1980) (footnote 3, citing 20 BIAM Bull. 1 (March 3, 1976)); See also 25 C.F.R. § 162.5a (1978); 41 C.F.R. § 14H-3.215-70 (1977).

An Indian is defined under the Indian Self-Determination and Education Assistance Act as a person who is a member of an Indian tribe. 25 C.F.R. § 273.2(j). The Act also defines Indian tribes as, "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 25 C.F.R. § 273.2(g).

Contractor shall also provide employment and training opportunities to Indians regardless of age, religion or sex that are not fully qualified to perform under the contract where such would be consistent with contract performance. The contractor shall comply with all Indian preference requirements established by the Mille Lacs Band. Failure to comply with these requirements may lead to termination for cause under section 8 of this contract. See 18 MLBSA § 401-428; 7 MLBSA § 21-24; see also INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT, 25 C.F.R. § 273.45; see also Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. § 1701(3) and 25 C.F.R. § 135).

(B) Indian Preference shall mean awarding a contract or a subcontract with a priority first given to qualified Mille Lacs Band Members. The second priority shall be given to qualified members of other federally recognized Indian tribes. The third priority will be given to all other non-Indian persons. See 25 U.S.C. § 450e; See also MLB EXECUTIVE ORDER 122-97, August 19, 1997.

(C) If a contractor or any of its subcontractors are unable to fill employment openings after giving full consideration to Indians as required in subsection (A), these employment openings may then be filled by other persons under the conditions set forth in the Equal Employment Opportunity clause of the contract. The contractor agrees to include this clause or one similar in all subcontracts issued under the contract.

(D) Indian Preference shall also mean that contracts bid by Band member contractors that are within 10% of the lowest competitive bid shall be given the opportunity to negotiate an acceptable bid. See 25 U.S.C. § 450e.

#### Section 21

#### **EQUAL OPPORTUNITY**

During the performance of a contract and after complying with the Indian Employment Preference clause of the contract the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, age, religion or sex. The contractor will take affirmative action that applicants are employed and that employees are treated during employment without regard to their race, age, religion or sex. Such action shall include, but not be limited to the following: Employment upgrading; demotion or transfer; layoff or termination; rates of pay or other forms of competition.

(B) The contractor will, in all solicitation or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, age, religion or sex.

(C) The contractor will include provisions of these sections in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Mille Lacs Band may direct to enforce such provisions, including sanctions for non-compliance. See Indian Self-Determination Act (25 C.F.R. § 450e). If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor *may request* the Mille Lacs Band to enter such litigation to protect the interest of the Mille Lacs Band. However, nothing in this paragraph shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any court of competent jurisdiction.

(D) If no Indian business is available under the conditions of subsection (B), then the contractor agrees to accomplish the maximum amount of subcontracting with small or minority businesses if available.

#### Section 22

#### **USE OF INDIAN BUSINESSES**

(A) As used in this section, the term "Indian Businesses" means Indian organizations or an Indian owned economic enterprise as defined in the code of Federal Regulations or the laws of the Mille Lacs Band. See INDIAN BUSINESS DEVELOPMENT PROGRAM (25 C.F.R. § 286.1 – 286.22).

(B) The contractor agrees to give preference to qualified Indian businesses in the awarding of any subcontracts entered into under this contract. The contractor shall comply with any preference requirements regarding Indian businesses established by the Mille Lacs Band.

#### Section 23

#### **BUY INDIAN PROVISIONS**

All contractors and subcontractors who conduct business on lands under the jurisdictions of the Mille Lacs Band of Ojibwe pursuant to a contract or subcontract with the Band shall comply with the provisions of the Buy Indian Act (25 U.S.C. § 47).

Section 24  
**ASSIGNMENTS**

No contract or subcontract awarded by the Mille Lacs Band of Ojibwe or any of the rights or interests or obligations therein may be assigned without the written approval of the Contracting Officer.

Section 25  
**TAXES**

- A) The Owner is exempt from Minnesota State Sales Tax. For the purchase of supplies for construction, the Owner shall be the consumer and the state tax exemption will apply. The Owner shall provide the successful Contractors with a copy of their exemption certificate. Contractors must supply this copy when purchasing materials for construction, as well as Form ST8TG from the Minnesota Department of Revenue. *See also* MN STAT § 297.71-.74. Once the Contractor completes the purchase, the Contractor shall supply the Owner with copies of the Form ST8TG and other documentation of material costs. This exemption does not apply for the purchase of materials in road construction. 22 MLBSA § 508.
- B) The Administrative Policy Board may assess an Employment Rights Fee for the following:
  - 1) Contractors and subcontractors receiving contracts of \$100,000.00 or more shall pay 0.5% of the total contract sum pursuant to 22 MLBSA § 601. *See also* 18 MLBSA § 417.
- C) Contractor must also comply with the following:
  - 1) The Contractor has met the hiring goals of the TERO Compliance Officer, or
  - 2) The TERO Compliance Officer determines that the Contractor has made a substantial effort to train and employ Indian workers. 18 MLBSA § 401-428.

Section 26  
**UTILITIES**

Contractors shall pay utility bills associated with the work at the construction site until the Contract has been closed out. The contract will be deemed finished and closed out when keys are turned in and punch list items completed.

Section 27  
**AUDIT**

- A) To the extent required by law, the contractor agrees that the Mille Lacs Band, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purpose of making audits, examination, excerpts and transcriptions. The Contractors shall maintain all records kept in the normal course of business for three years after the Mille Lacs Band makes final payments and all other pending matters are closed.
- B) In addition, for the sake of potential audits, please include documentation of all physical changes to the Work in the project's close-out documentation.

Section 28  
**AMENDMENT**

This Contract may be amended or modified only by a written instrument, added as an addendum and consecutively numbered. Each addendum must be signed by the parties, and approved, if necessary, by the Mille Lacs Band, through the Mille Lacs Band of Ojibwe's Band Assembly.

Section 29  
**SEVERABILITY**

If any provision of this contract, or its application to the Owner and the Contractor is held invalid, the remainder of the contract and the application of other provisions to the Owner and the Contractor shall not be affected.

Section 30

**RATIFICATION**

This contract is effective and enforceable once it is finally ratified by the Band Assembly pursuant to 3 MLBSA § 2(f) cited below.

The Band Assembly shall have power:

- (f) To ratify agreements, contracts, cooperative and reciprocity agreements and memoranda of understanding.

Section 31

**SOVEREIGNTY AND WAIVER OF RIGHTS**

Any waiver regarding this contract must be explicit, written and authorized by the Owner; nor will provisions in § 12 of this contract waive the Sovereign Immunity of the Mille Lacs Band of Ojibwe. Furthermore, claims beyond the scope of this Contract will not be permitted. Injunctive relief is an acceptable alternative. This contract will not govern any separate bonding agreement. Nothing else in this contract shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in the Court of Central Jurisdiction. *See 2 MLBSA § 5.* Nothing in this contract shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any other court of competent jurisdiction. *See 2 MLBSA § 5.* Any waiver of rights by the Owner, under this Contract, in one single instance, does not create a continuous and overall waiver of rights. *See 2 MLBSA § 5.*

Section 32

**ENTIRE AGREEMENT**

(A) This Contract, including Forms and Addenda, constitutes the entire agreement between the parties regarding this subject matter. No representations have been made by any party, or any agent of any party, other than the terms and conditions set forth in this document. All prior and contemporaneous conversations, possible and alleged agreements, representations, covenants or omissions concerning the subject matter are void and have not been relied upon in any way by the Owner and the Contractor.

(B) The terms and conditions of this Contract are contractual in nature, and not a mere recital. This Contract shall constitute a legal, valid, and binding obligation of the parties, enforceable in accordance with its terms, and shall inure to the benefit of the parties.

This Contract is entered into as of the day and year first written above and is executed in at least three (3) original copies, of which one is to be delivered to the Contractor, and the remainder to the Owner.

IN WITNESS WHEREOF, we, the undersigned, have executed this Contract on the dates indicated below.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Commissioner of Community Development

Contractor: Huot Construction & Services Inc.

Dated: 3/14/2022 By: \_\_\_\_\_  
Contractor or his/her Representative

OMB approval: \_\_\_\_\_ Dated: 3/11/22

OSG approval: \_\_\_\_\_ Dated: 3/17/2022

**RATIFICATION**

Pursuant to the provisions of 3 MLBSA §2(f), this Contract was presented to the Band Assembly and is ratified on \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_  
Sheldon Boyd  
Speaker of the Assembly

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# INTEROFFICE MEMORANDUM

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**TO:** JIM CARPENTER, PROJECT COORDINATOR  
**FROM:** EMILY DUVEN, DEPUTY SOLICITOR GENERAL  
**SUBJECT:** HUOT CONST 218 MILITARY ROAD CONTRACT  
**DATE:** 3/17/2022



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The Office of the Solicitor General has completed its review of the contractual documents. See 7 MLBSA § 26(b)(2).

The office has approved the contract, *i.e.*, sanctioned the substantive legal provisions contained therein.

Please contact us if you have any further questions or concerns. We can be reached at (320) 532-7894.

/s/ Emily Duvén

Deputy Solicitor General



2022 Bid Tally Sheet

Project: ~~16626 Hwy 44~~ ~~Sting~~ EXTERIOR  
 3/3 218 Old Military Rd. Sandston

Mille Lacs Band of Ojibwe  
 Present: Jim Carp

*Jim Carp*  
*Emily Duven*  
*Emily Duven*

BIDDERS	Base Price	Alt #1	Alt. #2	Alt. #3	COMMENTS
Degerstrom	62,750. <u>00</u>				
HUOT	58,527. <u>10</u>				



**COMMUNITY DEVELOPMENT DEPARTMENT**

March 02, 2022

**MEMORANDUM**

TO: Tim Jackson – Commissioner of Community Development, OMB, OSG, APB & BA

FROM: Jim Carpenter – Project Coordinator

CC: Mike Moilanen – Director of Planning & Project Management

RE: Heritage Exteriors & Restoration, Inc. Contract for 16226 Nay Ah Shing Dr., Onamia Elder Renovation

We are requesting your approval for this contract to complete an elder renovation at 16226 Nay Ah Shing in Onamia. The roof on this private home is in poor condition. Leaking through several flashings and damaged shingles along with leaking from (4) old skylights has caused water damage to the interior of the home. The soffit and fascia is in extremely poor condition and it is possible for wind, water and weather plus animals to gain access to the home through the damaged areas. The siding is completely worn out. Upon visiting the home with the Band’s Building Inspector and multiple contractors it was determined that the roofing in its’ entirety needs to be replaced in addition to the insulation, sheathing, underlayment, shingles, siding, doors and windows, etc. Some of the existing windows and doors are damaged so severely that they are inoperable and or missing. Plastic covers some of the windows to keep the weather out. The posting was on the Mille Lacs Band of Ojibwe’s website for more than fourteen days and copies of the posting were emailed to more than five contractors. We have conducted two scheduled contractor pre-bid visits with over (6) general contractors on two different dates. We also accommodated individual contractor access as requested to ensure accurate and competitive bids. Two general contractors provided pricing for this project. The following sealed bids were opened on February 17, 2022.

Heritage Exteriors and Restoration, Inc. was awarded this opportunity by being the lower bidder of the original 2 bidders. As part of our Negotiated Contract Procurement Policy, Heritage carefully reviewed the project with our office and did as much value engineering as possible combined with our reduction in scope and provided us a reasonable price to complete this project that will enhance the structural integrity of the home. With the exception of an extensive insulation installation, the total project is exterior work only. Protecting the home by completing the exterior work is overdue and there are some substantial interior projects needing completion that cannot be achieved as part of this project total budget.

Heritage Exteriors and Restoration	
dated 2/15/2022	\$96,205.78
R and R Construction	\$129,253.00
Dated 2/15/2022	

3447

AGF/mm 3-2-2022  
 000136  
 JK-DS 3/2/22

These two bids exceeded the maximum allowance for this elder renovation. As no acceptable bids were received after formal advertising, the Band's Procurement Statute Section 13a item 3 allows for use of negotiated procurement. Commissioner Tim Jackson was in agreement with using negotiated procurement to obtain a bid that was within the Elder's remaining renovation fund balance.

**Base Bid**

**Heritage Exteriors & Restoration, Inc.**      \$72,517.56

Our recommendation is that the contract be awarded to **Heritage Exteriors & Restoration, Inc.** for an amount of **\$72,517.56.**

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## NEGOTIATED PROCUREMENT JUSTIFICATION

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**TO:** Commissioner of CMD, OMB, OSG, APB & BA

**FROM:** Jim Carpenter

**SUBJECT:** Contract for 16226 Nay Ah Shing Elder

**DATE:** March 21, 2020

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The attached contract for services satisfies the statutory requirements for negotiated procurement, and, therefore, no formal advertising, including receipt of sealed bids, is necessary. 7 MLBSA § 13. *Please complete the entire form, including appropriate usage of the drop-down menus.*

The proposed contract term will extend until October 30, 2022.

The proposed contract amount is \$72,517.56.

In order to dispense with formal advertising each of the following conditions must be present:

I.  The Elder home exterior is in very poor condition and the proposed improvements and repairs must be completed soon to minimize further damage to the home.

**AND**

II. One or more statutory exceptions seemingly exist – that is to say –

- A.  public exigency will not permit the delay incident to advertising;
- B.  the contract is for professional services;
- C.  the contract is for services rendered by a university;
- D.  no acceptable bids have been received after formal advertising;
- E.  the purchase is for highly perishable goods ;
- F.  the purchase is for materials where the prices are established by law;

- G.  the purchase is for technical items requiring standardization of parts with existing equipment;
- H.  the purchase is for experimental developments ;
- I.  the purchase is for supplies purchased for authorized resale;
- J.  the purchase is for technical supplies requiring substantial initial investment;
- K.  the contract or purchase is otherwise statutorily authorized by and through MLBSA § .

I support the above assertion with the following factual description of the services to be provided: Exterior fortification of the home to protect the structural integrity; including Roofing, Siding, Insulation, Window and Exterior Door replacement.

#### REMINDER

Regardless of the foregoing stipulations, all contracts over the amount of \$7,500.00 must be submitted for review by the Office of the Solicitor General, and the Office of Management & Budget must receive every executed contract for fiscal approval. 7 MBLSA § 26(b)(1)-(2).

#### CAUTION

Band statute does not provide for the formal or informal designation of a preferred vendor on the sole basis of past performed services. *But cf.* 18 MLBSA § 413 (affording Indian preference to a Tribal Employment Rights Ordinance Board (“TERO”) Indian Certified Entity within the contracting process).

  
Project Coordinator – MLBO

March 21, 2022  
dated

CONSTRUCTION CONTRACT between MILLE LACS BAND of OJIBWE (OWNER)  
And Heritage Exteriors & Restoration, Inc. (CONTRACTOR)

Project #: 14172 is at:  
16226 Nay Ah Shing, Onamia

CONTRACT entered into as of the 2<sup>nd</sup> day of February in the year 2022.

BETWEEN the Owner:  
Mille Lacs Band of Ojibwe  
43408 Oodena Drive  
Onamia, MN. 56359

OMB APPROVAL

Date: 3/3/22

Signature: [Signature]

Vendor # 48655

Obj # 036688

Account # 7200-271-2700-0

Contract Sum: \$72,517.56

Contract Expiration: 10/30/2022

and the Contractor

Heritage Exteriors & Restoration, Inc.  
194 Progress Circle  
Spicer, MN 56288

OSG APPROVAL

Date: 3/21/2022

Signature: [Signature]

ADMINISTRATION POLICY BOARD

Date:

Signature

BAND ASSEMBLY APPROVAL

Date:

Signature

THIS CONTRACT AND ALL OF ITS TERMS AND CONDITIONS ARE TO BE GOVERNED UNDER  
THE LAWS OF THE MILLE LACS BAND OF OJIBWE INDIANS.

Section 1  
NOTICE.

*Inclusion of address, phone, fax and email are mandatory*

- (A) The Owner's representative is:  
Tim Jackson -Contracting Officer  
43408 Oodena Dr  
Onamia, MN 55359  
320-630-3118  
320-532-4197
- Contracting Officer's designee:  
Jim Carpenter -- C.O. Designee  
Project Coordinator  
43408 Oodena Dr, Onamia, MN 56359  
320-532-7429

The Contractor's representative(s) is (are):  
[Name] Jason Quade  
[Address] 194 Progress Circle, Spicer, MN 56288  
[Phone] 320-796-5001  
[Fax]  
[Email] jason@heritage-exteriors.com

The Contractor's representative(s) is(are):  
[Name] Ben Nelson  
[Address] 194 Progress Circle, Spicer, MN 56288  
[Phone] 320-796-5001  
[Fax]  
[Email] ben@heritage-exteriors.com

(B) All notices are to be sent to the stated representatives, unless a change in the information above is required. If a change in the above referenced information is required, then a notice of a change of representatives must be provided in writing within five (5) working days, including any change of address, phone, fax or email.

(C) Notices to either party shall be given by addressing the communications to the stated representative. Any notice given is effective upon receipt by U.S. Mail, postage prepaid, or upon personal delivery with acknowledgement of receipt. Notice may also be given through electronic format, by fax or email, using the attached coversheet entitled Legal Notice.

Section 2  
WORK/WORK STATEMENT/SCOPE

(A) Objectives: to precisely identify desired end objectives of the project and associated requirements.

(B) Definitions: For purposes of this contract, the term "Project" will be synonymous with the word "Work." Work shall be defined as the tasks completed in order to achieve the final creation or renovation of the desired structure.

(C) Please attach a **Schedule of Values** that outlines the project first in general terms and dates, then provides a detailed breakdown of each construction phase, the materials needed for each phase, the cost of those materials and the estimated completion date for each. Schedules of values, which should be considered an itemized list of supplies, labor and completion phases should provide the Contracting Officer with a clear understanding of the anticipated percentage of completion for each phase and its cost. Schedules of Values need to be attached to this document upon completion of the Work.

**See Work Project No. 14172: 16226 Nay Ah Shing Drive, Onamia Renovation per attached RFP dated 1/19/22; pre-bid addendum #1 dated 2/9/22; and 2016 Spec Book 9<sup>th</sup> Addition Updated April 13, 2016. The contract sum is based on Heritage Exteriors revised proposal dated February 17, 2022, which included the following changes to the work scope:**

1. Reduce the roof decking by 10 sheets and reduce the ½ x 4' x 8' roof sheathing by 10 sheets. (this will be ½ of the original assumption on RFP)
2. Remove the gutter materials and labor.
3. Adjust the cost of reduced OSB labor and roof sheathing labor.
4. Reduce the cost of front door from Tru ProHD Plus to stock Menards.
5. Remove all costs associated with Gable Extension materials and labor.

(C) Responsibility: identify all Mille Lacs Band and Contractor participation or cooperation that is needed for the success of the project, as well as the nature and extent of all task responsibilities. All tasks requiring Mille Lacs Band support (e.g. Band-furnished equipment, facilities, materials or other government assistance) should be stated specifically.

(D) Milestones/Schedule of Values: generate a schedule for the sequence of tasks to be performed by a contractor and a similar schedule for related responsibilities of the Owner.

Section 3  
**CONTRACT SUM**

The Contract Sum is: **Seventy-Two Thousand Five Hundred Seventeen Dollars and 56/100 (\$72,517.56)**, subject to adjustments as determined by the Owner or Contract Officer.

Section 4  
**DATE OF COMMENCEMENT AND CONTRACT TIME**

~~The date of commencement of the Work is the date the Mille Lacs Band Office of Management and Budget (OMB) issues the 1<sup>st</sup> payment after receipt of Contractor's 1<sup>st</sup> Application for Payment. The Contract Time shall be measured from the date of commencement.~~

Section 5  
**PAYMENTS**

Progress Payments

(A) All pay applications for payment are subject to the Office of Management and Budget (OMB) processing schedule. Once an application for payment is received, and Certificates for Payment issued by the Owner, along with the approval of the Commissioner of Community Development, or his/her designee, the Owner shall make payment within thirty (30) days as provided below.

*Project Manager shall choose one of the following payment schedules marked in subsection (B), all other provisions of this section shall still apply.*

(B) Payment schedule based on a **Schedule of Values** that will be determined by the attachment of an Application and Certificate of Payment as well as a Continuation Sheet. Each of these documents will be considered part of the overall contract as approved by the Contracting Officer or his/her designee.

( ) (B)(2) *This option is available only for road construction contracts.* Unit price work. Work to be paid for on the basis of unit prices in an attached sheet. Unit price work will be subject to an attached set of conditions.

*Substantial Completion*

(C) **The Contractor shall complete all work by October 30, 2022.**

(D) The Substantial Completion date of the Work is the date when construction is sufficiently complete so that the Owner can occupy or utilize the building for its intended purpose. Only two (2) extensions may be given for substantial completion of a project.



(E) The Work is not substantially completed if it fails to conform to approved Drawings and Specifications, any Change Order, or if construction defects remain that prevent occupancy or utilization of the building.

*Liquidated Damages*

(F) Liquidated Damages. Should the Contractor fail to substantially complete the Work within the time allowed in this Contract, the Contractor shall pay the owner as liquidated damages no more than \$200.00 per day for each consecutive calendar day that Substantial Completion remains unmet, but not to exceed \$1,000.00 per week. Liquidated damages shall be assessed according to a graduated scale listed as follows:

Contract Type	Contract Price	Liquidated Damages
Renovation only	\$0.00 -- \$50,000.00	\$100.00 per day completion unmet
	\$50,001.00 – higher	\$200.00 per day completion unmet
Residential (full construction)	\$0.00 – 150,000.00	\$300.00 per day completion unmet
Commercial (full construction)	\$150,001.00 – higher	\$400.00 per day completion unmet
	\$0.00 --	\$400.00 per day completion unmet

If the Contractor and Owner have mutually agreed to a signed Change Order and/or Addendum granting an extension of time to reach Substantial Completion, then the liquidated damages shall be calculated from the date agreed to in the Addendum and/or Change Order. In no way shall the costs for liquidated damages be construed as a penalty. Owner and Contractor agree that the sum is a reasonable and proper measure of the damages that cannot be calculated with any degree of certainty, which the Owner will sustain if the Contractor fails to substantially complete the Work according to the Schedule of Values and/or Substantial Completion deadlines in this Contract.

(G) In the event that the contractor fails to cure defects in performance as provided in section 8 of this Contract, the Owner shall have the right, but not the obligation, to complete the punch list items. Final Payment in the amount of Seven Thousand Two Hundred Fifty One Dollars and 76/100 (\$7,251.76) shall be made when punch list items are done and keys are exchanged. Final Payment (RETAINAGE) shall be paid within thirty (30) days of i) completion of the punch list items in a good and workmanlike manner and (ii) submission of all closeout documentation to the Owner.

(H) Lien Waivers.

(1) For each Application for Payment, the Contractor shall provide lien waivers for the General Contractor, Subcontractors, Sub-subcontractors, and suppliers for Work performed since the previous payment application was submitted to the Owner before the Contractor has the right to receive any payment on its current Application for Payment. All lien waivers shall be provided in the form attached as Exhibit A.

(2) In the event Contractor fails to pay any Subcontractors, Owner shall have the right, but not the obligation, to pay the Subcontractor directly upon receipt of a lien waiver from the Subcontractor, and subtract the amount paid from the Contract Sum.

i. Any payments made by Owner pursuant to this paragraph will be subject to a reasonable administration fee which will be deducted from the Contract Sum. Contractor shall be notified by a written statement when an administration fee is deducted from the Contract Sum.

(I) Changes.

(1) The Band's Contracting Officer may at any time, in writing, make reasonable and /or necessary changes within the general scope of the contract.

(2) If any change is requested by the Contractor that causes an increase or decrease in the cost of, or the time required for performance of any part of the Work under the contract, the Contract Officer is authorized to make an equitable adjustment of a maximum of five percent (5%) in the contract sum. An equitable adjustment will be a fair adjustment made

within a reasonable time. Adjustment of a contract in excess of five percent (5%) of the Contract sum must be approved by the Band Assembly for contracts over \$100,000.00. The Contracting Officer may also make an equitable adjustment in the schedule of values. Failure of the parties to agree to any adjustment shall be covered under the Disputes Clause as a claim. However, nothing in this section or the Disputes Clause shall excuse the Contractor from proceeding on the work.

- (3) Change order mark-up limit of 10% on all labor and materials.
- (4) No payments will be made for additional work performed under the terms of this contract without written approval from the Owner prior to work being performed.

#### Section 6

#### **TERMINATION BY OWNER FOR CONVENIENCE**

(A) The Owner may at any time and for any reason terminate this Contract for convenience. A termination notice citing this section will be delivered in writing to the Contractor's representative and will set forth a date upon which the termination will be effective.

(B) Upon receipt of this notice from the Owner, the Contractor shall immediately cease to incur any costs that may be chargeable to the Owner under this Contract.

(C) In a termination for convenience, the contractor shall also prepare to discontinue performance of the Work in the manner set out below.

1. The Contractor agrees that upon receipt of notice from the Owner it shall:
  - i. cease any and all Work under the Contract in the manner directed by the Owner in the notice;
  - ii. take whatever action(s) necessary, or which may be directed by the Owner, for the protection and preservation of the Work;
  - iii. terminate all existing subcontracts and purchase orders except for work directed in the notice to be performed prior to the effective date of termination;
  - iv. enter into no further subcontracts and purchase orders; and
  - v. assign subcontracts and purchase orders to the Owner as directed.

(D) Following a termination for convenience, the Owner shall be responsible only for payment for services rendered before the effective date of termination. The Owner agrees that it will pay the Contractor within thirty (30) calendar days from the Contractor's submission of a final Application for Payment to the OMB, if the application is approved by the Owner.

(E) Under no circumstance shall the Owner be charged equipment rental in excess of seventy-five percent (75%) of the value of that item (or for any item with a value of \$500 or less) acquired by the Contractor to the date of termination. The Owner will not pay termination charges for any subcontracts, and the Owner shall not be liable for any lost profits or consequential damages.

i) From this amount shall be subtracted the aggregate of all previous payments made by the Owner and other credits due to the Owner. The Owner shall be immediately refunded any amount by which payments to the Contractor exceed the amount of payment to which the Contractor is entitled.

(F) To the extent that the Owner elects to accept legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall execute, deliver and take all steps necessary to effect the legal assignment of such subcontracts, purchase orders and agreements prior to receiving the payments referred to in this Section.

#### Section 7

## **TERMINATION BY OWNER FOR CAUSE**

(A) The Owner may terminate this contract for cause upon default by the Contractor. Any notice of default will be delivered to the Contractor, and the Contractor's Surety, in writing. The Owner's right to terminate a contract may be exercised if the Contractor does not cure such default within ten (10) business days after receipt of notice from the Contracting Officer specifying default. More time to cure may be provided if deemed reasonable by Owner.

(B) The Contract may be terminated for cause if the Contractor shall be deemed in default. The Contractor shall be deemed in default if the Contractor:

1. Persistently or repeatedly fails or refuses to supply enough properly skilled workers or proper materials;
2. Fails to make payment to Subcontractors for materials or labor in accordance with respective agreements between the Contractor and Subcontractors;
3. Persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction over the Work;
4. Fails to deliver the supplies or perform the services within the time specified in the contract or any agreed upon extension;
5. Fails to make progress, so as to endanger performance of the contract;
6. Fails to maintain the appropriate insurance under § 13 and § 15 of this Contract;
7. Fails to perform any of the other provisions of the contract; or
8. Violates the requirements contained in the Mille Lacs Band of Ojibwe Commercial Practices Act, Chapter 5 regarding TERO Compliance. See 18 MLBSA § 401-428; or
9. Is otherwise in material breach of a provision of this Contract.

(C) Any complaint received by the Administration Policy Board regarding a contractor's failure to comply with TERO rules, will be investigated immediately. If the complaint is determined to be worthy of further consideration, the Administration Policy Board shall notify the parties of an appointed time and day for a hearing and settlement discussions. At this time, the Band may terminate the contract for convenience immediately. If settlement is not achieved, the Administration Policy Board may render its own decision based on the evidence and testimony presented. Any decision of the Administration Policy Board under this statute may be appealed to the Court of Central Jurisdiction under 24 MLBSA § 2501. If the Administration Policy Board issues a final decision rendering the complaint against the contractor unfounded, the contractor may seek reimbursement of the contract sum.

(D) This Contract will be terminated for cause if, after written notice and hearing, the Administration Policy Board determines that the Contractor or its representative offered a gratuity to an official, agent or employee of the Band, and intended by the gratuity to obtain a contract or favorable treatment under a contract.

(E) If the Owner terminates this contract, it may acquire supplies or services similar to those terminated to complete the Work. The Contractor will be liable to the Owner for any dollar amounts exceeding the Contract Sum for those supplies or services required to finish the Work.

(F) When the Owner terminates the Contract for one of the reasons stated in subsections A-D of this section, the Contractor shall not receive further payment until the Work is finished.

(G) When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner:

1. take possession of the site and of all materials, equipment, tools, and construction equipment and machinery owned by the Contractor;
2. accept assignment of subcontracts; and
3. finish the Work by whatever reasonable method the Owner may deem expedient.

(H) If the unpaid balance of the contract sum exceeds the costs of finishing the Work, including compensation for administrative and necessary consultant services, and other costs incurred by the Owner, then such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid shall be certified by the Owner, upon application, and this obligation for payment shall survive termination of the Contract.

(I) Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

(J) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable or justified, the termination shall be deemed a termination for convenience, and the right and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Band.

#### Section 8

#### SUSPENSION BY THE OWNER FOR CONVENIENCE

(A) The Owner may, for convenience, order the Contractor to suspend the Work for such a period of time as the Owner may deem appropriate. The suspension notice will be communicated by the Owner's representative and will be effective immediately. A confirmation of this suspension will be delivered in writing to the Contractor's representative within twenty-four (24) hours from the decision to suspend.

(B) In the event of a suspension under this section, the Contract Sum will be adjusted for increases in cost. Adjustments to the Contract Sum shall include lost profit.

(C) The Contract Time will be adjusted to coincide with any Work delay caused by suspension unless the Contract Time is subject to non-adjustment for the reasons set out below.

1. No adjustment of Contract Time shall be made to the extent that performance of the Work is, was, or would have been suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
2. No adjustment of contract time shall be made if an equitable adjustment is made under another provision of the contract.

#### Section 9

#### TERMINATION BY THE CONTRACTOR

(A) The Contractor may terminate this contract if the Work is stopped for a period of forty-five (45) calendar days through no act or fault of the Contractor, subcontractors, their agents or employees or any other persons or entities performing portions of the Work. The Contractor may also terminate the contract if the Work is stopped for a period of thirty (30) calendar days, through no act or fault of the Contractor, subcontractors, their agents or employees, for any of the following reasons:

1. issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
2. an act of government, such as a declaration of national emergency which requires all work to be stopped;
3. because the Owner has not issued a Certificate of Payment and has not notified the Contractor of the reason for withholding certifications; or
4. because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract.

(B) The Contract may be terminated if the Work is stopped for a period of thirty (30) consecutive days through no act or fault of the contractor, subcontractors, their agents, employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently

failed to fulfill the Owner's obligations under the Contract with respect to matters important to the progress of the Work.

(C) The Contractor may terminate the contract if, through no act or fault of the Contractor, subcontractors, their agents, employees or any other persons or entities performing portions of the Work under contract with the Contractor, as a result of repeated suspensions, delays or interruptions of the entire Work by the Owner, the Work is delayed for more than one-hundred percent (100%) of the total number of days scheduled for completion, or 120 working days in any 365 day period, whichever is less.

(D) If one of the reasons described in subsections (A) or (C) exists, the Contractor may, upon ten (10) calendar days written notice to the Owner, terminate the contract and seek to recover from the Owner payment for work executed and for proven loss with respect to materials, equipment, tools, construction equipment and machinery, including reasonable overhead, profits and damages.

#### Section 10 **DISPUTE RESOLUTIONS**

(A) The Contractor agrees that all disputes which arise under this Contract, to the exclusion of subsections 7(C) and 7(D), will be adjudicated in the Court of Central Jurisdiction for the Mille Lacs Band. The contractor also agrees that, by signing this contract, the contractor consents to the personal jurisdiction of the Court of Central Jurisdiction. This contract will be deemed a service contract provided for the needs of Band members. *See* 5 MLBSA 113(e). The Contractor agrees that all interpretations of this Contract will be based upon the laws of the Mille Lacs Band.

(B) Any claim by the contractor shall be submitted in writing to the Band's Contracting Officer for a written decision. A claim by the Band against the Contractor, to the exclusion of subsections 7(C) and 7(D), shall be subject to a written decision by the Contracting Officer.

1. "Claim" as used in this section, means a written decision, demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of the contract terms, or other relief arising under or relating to the contract.

(C) A voucher, invoice or other routine request for payment that is not in dispute when submitted is not a claim. It may be converted to a claim, by complying with the submission requirements of this section, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(D) The Contracting Officer's decision shall be final unless the Contractor appeals the matter within ten (10) days of the Contracting Officer's decision to the Court of Central Jurisdiction for the Mille Lacs Band. The Court shall review the decision of the Contracting Officer under an arbitrary and capricious standard.

(E) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal or action under the contract, and comply with any decision of the Contracting Officer or the Band's Court of Central Jurisdiction.

#### Section 11 **ADDITIONAL REMEDIES**

(A) Notwithstanding the remedies provided in other paragraphs of this Contract, the Owner reserves the right to commence legal action against the Contractor seeking monetary damages, liquidated damages, declaratory or injunctive relief as allowed by law, or any other relief in order to enforce any of its rights under this agreement.

(B) Except for defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor.

(C) If the failure to perform is caused by the default of a subcontractor and if the cause of the default is beyond the control, and without the fault or negligence of either the Contractor or the subcontractor, the Contractor shall not be liable for any excess cost for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(D) The Owner shall pay the contract sum for completed services performed and accepted. The Owner may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Owner against loss. Failure to agree on such a sum will be a dispute under the Disputes Clause.

(E) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Owner.

(F) The right and remedies of the Owner in this clause are in addition to any other rights and remedies provided by the law or under the contract.

## Section 12 JURISDICTION

The Court of Central Jurisdiction is hereby granted subject matter jurisdiction for any cause of action which arises from this contract. *See* 5 MLBSA 111. Contractors, by signing this agreement, consent to the personal jurisdiction and the subject matter jurisdiction of the Court of Central Jurisdiction. Contractors seeking relief for claims shall be afforded the opportunity to seek relief in tribal court only to the extent of the contents of a properly filed claim under this contract's dispute resolution section. No claims will be permitted beyond the Contract Sum.

## Section 13 INDEMNIFICATION – REIMBURSEMENT- INSURANCE – WORKERS COMPENSATION – SUBROGATION WAIVERS

(A) To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the Mille Lacs Band of Ojibwe and all its members, entities, officers, agents and employees, from all suits, liens, charges (including attorneys' fees, costs & disbursements), damages, and liabilities relating to personal or bodily injury, sickness, illness, death, and damage to or destruction of property in any manner connected with the execution of the Work provided for in this Contract.

(1) Indemnification for property damage under this section consists of any work or omission of Work contracted to be done by Contractor or his subcontractors, employees, or agents.

(2) Indemnification for the aforementioned damage could also occur when the Contractor, Subcontractors or suppliers use materials, equipment, instrumentalities, or other property, regardless of whether or not harm is caused in part by a party indemnified. Excluded from this list are claims, loss, damage, costs or expenses resulting from risks that the Owner is required to insure against.

(3) The Contractor also agrees, without limiting any indemnification under subsection (1), to indemnify and hold harmless the Owner, its agents and employees, from such claims, damages, or liabilities for which the Owner, its agents and employees may be liable.

(4) The Contractor agrees to reimburse the Owner, its agents and employees for all costs and disbursements, including attorneys' fees, paid or incurred to enforce the provisions of this section.

(5) The Contractor, furthermore, agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will ensure the provisions of this section.

(B) In claims against any person or entity indemnified under subsection (A) by an employee of the Contractor, a subcontractor, or anyone directly or indirectly employed by them, the indemnification obligation under subsection (A) shall not be limited by an amount or type of damages, compensation or benefits payable under workers' compensation acts, disability benefit acts or other employee benefit acts.

(C) To the fullest extent permitted by law, and without limiting any other indemnification obligation of the Contractor, the Contractor shall indemnify and defend the Mille Lacs Band of Ojibwe and all of its members, entities, directors, officers, assigns, lenders, agents and employees from any claims, liens, charges (including attorneys' fees), or encumbrances (including but not limited to mechanic's liens or bond claims) in connection with the performance of the Work. This indemnification shall not include instances where the Owner has failed to make payments when required under the Contract Documents. The Owner shall be entitled to recover from the Contractor all costs and expenses incurred in enforcing this Agreement, including attorneys' fees. Upon request of the Owner, the Contractor shall within 60 days remove any liens filed against the Owner or its property. If the Contractor fails to remove the liens, then the Owner is authorized to remove or satisfy any such liens, and the Contractor shall pay to the Owner all costs and damages incurred. The Contractor is not required to insure over the indemnity obligations to the extent such obligations are imposed in this subsection (C).

#### Section 14 BONDING REQUIREMENT

a. In construction contracts that are federally funded or deemed commercial, bonding is required. These types of contracts shall demand a performance bond of not less than twenty percent (20%) of the total contract price, but not to exceed \$500,000.00. A performance bond requirement is to ensure that, if a contractor defaults, the Band may request that the surety pay the expenses incurred to complete the construction contract.

b. In addition, all construction contracts identified as federally funded or commercial, shall be covered by a payment bond equal to one payment installment to cover subcontractors/ suppliers as determined by the Contracting Officer or his agents. The payment bond must contain language stating that if the contractor fails to make a payment to its subcontractors/suppliers, the surety will make the necessary payment.

c. For all Band funded residential construction projects, a performance bond is required for contracts in excess of \$50,000.00. The performance bond shall be at a minimum twenty (20%) percent of the contract price, but not in excess of \$500,000.00.

*See Miller Act, 40 U.S.C. 3131 – 3134. See also 7 MLBSA 17 (amended Oct. 14, 2005).*

#### Section 15 CONTRACTOR'S LIABILITY INSURANCE

(A) The Contractor shall purchase and maintain from a state authorized company such insurance as will protect the Contractor, defined as the business owner and personnel, from such claims set forth below and for which the Contractor may be legally liable:

(1) claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;

- (2) claims for damages because of bodily injury, sickness, disease, or death of the Contractor's employees;
- (3) claims for damages because of bodily injury, sickness, or death of any person other than the Contractor's employees;
- (4) claims for damages insured by usual personal injury liability coverage;
- (5) claims for damages, other than to the Work itself because of destruction of tangible property, including loss of use.
- (6) claims for damages because of bodily injury, death of a person or property damage arising out of use of a motor vehicle;
- (7) claims for bodily injury or property damage arising out of completed operations; and
- (8) claims involving contractual liability insurance applicable to the Contractor's obligations under Indemnification subsection (A).

(B) The insurance required by this section shall be written for coverage seen in subsection (C) or otherwise as required by law, whichever coverage is greater. Coverage, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until either the date when coverage ends or one year after project completion whichever is later.

(C) The insurance provided by the Contractor shall be written for not less than the following, or greater if required by law: Workers' Compensation - (Policy to include a waiver of subrogation in favor of the Owner.) Employer's Liability - Bodily injury by accident - \$500,000 each accident; bodily injury by disease - \$500,000 contract limit; bodily injury by disease - \$500,000 each employee. Commercial General Liability - (without limit to Premises Operations; Independent Contractors; Contractual Liability; Products and Completed Operations; Explosion, Collapse and Underground Liability ("XCU")); Broad Form Property Personal Injury and Advertising Liability (employment exclusion deleted; Incidental Medical Malpractice; Amendment of Pollution Exclusion-hostile fire; Cross-liability and severability of interest; Minimum Coverage \$1,000,000 C.S.L. Commercial Automobile Coverage \$1,000,000 D.S.L. All of the above insurance shall be on an occurrence policy form. The Contractor shall maintain the required insurance continuously before commencing work to a period of at least twelve months after final completion. The Contractor's Contractual Liability Insurance shall cover the Contractor's obligations under Indemnification subparagraph (1) and any other contractual defense or indemnity obligation of the Contractor under this contract.

(D) The Contractor shall not allow insurance required by this Agreement to lapse, be cancelled, be reduced in limits or coverage, non-renewed, materially changed or have restrictive modifications added during the life of the Agreement. All insurance policies and certificates of insurance shall contain a provision that afforded coverage shall not be cancelled, reduced in limits of coverage, materially changed, or have restrictive modifications added, without sixty (60) days prior written notice to the Owner. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to the commencement of the Work. Failure of the Owner to object to a lack of a Certificate of Insurance or to the coverages indicated thereon or provided by the Contractor shall not constitute a waiver by the Owner of any of the Contractor's obligations. If insurance coverage is required to remain in force after final payment and is reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the close-out documentation. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, shall be furnished by the Contractor to the Owner with reasonable promptness.

(E) Commercial General Liability insurance required to be provided by the Contractor shall include the Owner as a named additional insured using ISO Form 2010. Policies for such insurance shall provide that such insurance is primary.



(F) In the event the Contractor fails to procure or maintain any insurance coverage required under this Agreement, the Owner may either purchase such coverage and deduct the cost thereof from any monies due to the Contractor, or suspend/terminate this contract.

(G) Compliance by the Contractor with the foregoing insurance requirements shall not relieve it from liability for amounts in excess of the limits of insurance.

(H) The Contractor and any of its subcontractors, sub-subcontractors, agents and employees shall waive any of their subrogation rights on their Workers' Compensation Policy in favor of the Owner. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though they would otherwise have a duty of indemnification, did not pay the insurance premium and irrespective of an insurable interest.

#### Section 16

#### WAGES, HOURS, AND SAFETY

##### (A) Labor Standards, Hours and Wages

All contracts in excess of \$5,000, related to the Work and involving employment for construction must comply with federal and state labor laws, wherever applicable. Specifically, contractors, subcontractors and other contract parties shall comply with the Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. § 3701 *et seq.*), the Fair Labor Standards Act (FLSA) of 1938 (29 U.S.C. § 201 *et seq.*) and the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101) *whenever Federal dollars are used in the construction contract process.*

(1) Under the requirements of Subsection (A), each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of eight (8) hours and a standard work week of forty (40) hours. Work in excess of the standard work day or work week is permissible provided that the worker is compensated at a rate of not less than one and one half (1 ½) times the basic rate of pay for all hours worked in excess of eight (8) hours in a calendar day or forty (40) hours in the work week. The Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. *See 7 MLBSA § 19(e).*

(2) All construction contracts, regardless of the source of the contract's funding, must comply with the Davis-Bacon Act (40 U.S.C. § 276(a) *et seq.*). Under the Act, laborers and mechanics must be paid no less than the minimum wage as determined by the Secretary of Labor. All contracts over \$75,000.00, regardless of funding, must comply with COMMUNITY DEVELOPMENT COMMISSIONER'S ORDER 001-06, dated October 30, 2005.

(3) Every contractor and subcontractor, regardless of the source of the contract's funding, will be prohibited from inducing a person employed in the construction, prosecution, completion or repair of any public works project to give up any compensation to which they are entitled in exchange for the award of any Band construction contract. *See Copeland "Anti-Kickback Act" (40 U.S.C. § 276(c)). The Mille Lacs Band will prosecute and report all suspected or reported violations to appropriate law enforcement officials. See 7 MLBSA § 19(c).*

##### (B) Environmental Compliance

(1) Contracts in excess of \$10,000.00 shall require compliance with all codes of federal regulations and all applicable standards regarding environmental protections. **Violations and suspected violations will be reported by the Owner to the BIA and the EPA.**

(2) In addition to the requirement set forth in subsection (1), contracts and subcontracts in excess of \$100,000.00 require compliance with all applicable standards or requirements issued

under the Clean Air Act (42 U.S.C. § 7401-7661 *et seq.*). Contracts in excess of \$100,000.00 must also comply with the Clean Water Act (33 U.S.C. § 1251) and United States' Executive Order 11738. United States' Executive Order 11738 is a declaration that governs the administration of the Clean Air Act in connection with federal grant construction projects. **This Executive Order requires the reporting of violations by the Owner to the grantor agency.** See also 7 MLBSA § 19(h).

(3) Compliance for all Contracts shall be required regarding mandatory standards and policies for energy efficiency requirements under the Energy Policy and Conservation Act (42 U.S.C. § 6201 *et seq.*)

(4) In addition, all contracts with the Band as the Owner shall comply with Tribal Law regarding protection of Tribal Cultural Resources (10 MLBSA § 2-5, 301-313) and Environmental Law (11 MLBSA § 103-123). No contractor or subcontractor shall be permitted to use hazardous materials in their construction efforts. Hazardous materials shall be defined as asbestos, toxic chemicals, waste, acids, alkalis, irritants, contaminants or other pollutants.

### (C) Construction Compliance

(1) The contractor, subcontractor, agents and employees associated with the Work, shall comply with the Fair and Equitable Housing Act (42 U.S.C. § 3601 *et seq.*) as well as the Equal Credit Opportunity Act (15 U.S.C. § 1691). Compliance shall be required for minimum wage and maximum labor hours, "in any agreement relating to a federal, state or agency financial assistance housing program." See FAIR AND EQUITABLE HOUSING ACT (42 U.S.C. § 3601 §§ 114.14).

(2) The contractor, subcontractor, agents and employees associated with the Work, shall comply with ISO Rules and the Federal Building Codes (10 C.F.R. § 434, 10 C.F.R. § 435). In addition, the contractor, subcontractor, agents and employees associated with the Work, shall comply with Minnesota state law regarding building codes. Contractors, subcontractors, employees and agents shall be responsible for compliance with the Administration of State Building Codes (MN Rules Chapters 1300.0100 – 1300.6300; 1303.1600; 1303.1900; 1305.0010-.7100; 1309.0010 -.0703), the Minnesota Plumbing Code (MN Rules Chapters 4715.0100 – 4715.6000) and the Minnesota Energy Code (MN Rules Chapters 7670.0100 – 7670.1115). Finally, the contractor, subcontractor, agents, employees and others associated with the Work, shall be responsible for familiarity and compliance with the International Building Codes (I.B.C. Rules 101.3 – 3401.3), the International Residential Codes (I.R.C. Rules R302 – P2902) and the International Fuel and Gas Codes (I.F.G.C. Rules 106.1 – 506.3 *et seq.*).

(3) Acceptance of Nonconforming Work. If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

### Section 17 WARRANTIES

The Contractor shall provide to the Owner any commercial warranty normally offered to the public. The Owner will not accept delivery of supplies and equipment "as is" unless the Contracting Officer has previously agreed in writing to accept supplies in such condition. The Contractor shall comply with the Minnesota Statute on Warranties (MN STAT. § 327B.02, 327B.03) and Housing Warranties (MN STAT. § 327A.01 – 327A.05). In addition, the Contractor shall comply with Minnesota state law regarding contractor licensing (MN STAT. § 327B.04 – 327B.09). Finally, the Contractor shall comply with Band law regarding Commercial Practices (18 MLBSA § 1-10, 101-112, 301) and Procurement of Construction Contracts (7 MLBSA § 1-36).

## Section 18

### COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been retained to solicit or obtain this Contract upon an agreement or understanding for a commission, brokerage or contingent fee, except a bona fide employee or bona fide established selling agent maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Band shall have the right to terminate the Contract without liability and separate from the termination sections listed previously in this Contract. In this instance, the Band shall be able to deduct from the contract sum or otherwise recover the full amount of such commission.

## Section 19

### PATENTS AND COPYRIGHTS

This Contract is subject to all Mille Lacs Band requirements and regulations pertaining to reporting and copyright/patent rights under any contract for research, development, experiments, or demonstration work, and with respect to any discovery or invention which arises in the course of such contract. *See* 7 MLBSA § 19(f).

## Section 20

### INDIAN PREFERENCE

(A) A contractor shall give preferential employment under the contract, including subcontracts, to Band members and qualified Indians. Qualified Indians are persons defined under 25 C.F.R. § 273.2(j), see below, that meet posted or available job requirements. *Andrus v. Glover Construction Co.*, 446 U.S. 608 (1980) (footnote 3, citing 20 BIAM Bull. 1 (March 3, 1976)); *See also* 25 C.F.R. § 162.5a (1978); 41 C.F.R. § 14H-3.215-70 (1977).

An Indian is defined under the Indian Self-Determination and Education Assistance Act as a person who is a member of an Indian tribe. 25 C.F.R. § 273.2(j). The Act also defines Indian tribes as, "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." 25 C.F.R. § 273.2(g).

Contractor shall also provide employment and training opportunities to Indians regardless of age, religion or sex that are not fully qualified to perform under the contract where such would be consistent with contract performance. The contractor shall comply with all Indian preference requirements established by the Mille Lacs Band. Failure to comply with these requirements may lead to termination for cause under section 8 of this contract. *See* 18 MLBSA § 401-428; 7 MLBSA § 21-24; *see also* INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT, 25 C.F.R. § 273.45; *see also* Housing and Urban Development (HUD) Act of 1968 (12 U.S.C. § 1701(3) and 25 C.F.R. § 135).

(B) Indian Preference shall mean awarding a contract or a subcontract with a priority first given to qualified Mille Lacs Band Members. The second priority shall be given to qualified members of other federally recognized Indian tribes. The third priority will be given to all other non-Indian persons. *See* 25 U.S.C. § 450e; *See also* MLB EXECUTIVE ORDER 122-97, August 19, 1997.

(C) If a contractor or any of its subcontractors are unable to fill employment openings after giving full consideration to Indians as required in subsection (A), these employment openings may then be filled by

other persons under the conditions set forth in the Equal Employment Opportunity clause of the contract. The contractor agrees to include this clause or one similar in all subcontracts issued under the contract.

(D) Indian Preference shall also mean that contracts bid by Band member contractors that are within 10% of the lowest competitive bid shall be given the opportunity to negotiate an acceptable bid. See 25 U.S.C. § 450e.

#### Section 21

#### **EQUAL OPPORTUNITY**

During the performance of a contract and after complying with the Indian Employment Preference clause of the contract the contractor agrees as follows:

(A) The contractor will not discriminate against any employee or applicant for employment because of race, age, religion or sex. The contractor will take affirmative action that applicants are employed and that employees are treated during employment without regard to their race, age, religion or sex. Such action shall include, but not be limited to the following: Employment upgrading; demotion or transfer; layoff or termination; rates of pay or other forms of competition.

(B) The contractor will, in all solicitation or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, age, religion or sex.

(C) The contractor will include provisions of these sections in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Mille Lacs Band may direct to enforce such provisions, including sanctions for non-compliance. See Indian Self-Determination Act (25 C.F.R. § 450e). If the contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction, the contractor *may request* the Mille Lacs Band to enter such litigation to protect the interest of the Mille Lacs Band. However, nothing in this paragraph shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any court of competent jurisdiction.

(D) If no Indian business is available under the conditions of subsection (B), then the contractor agrees to accomplish the maximum amount of subcontracting with small or minority businesses if available.

#### Section 22

#### **USE OF INDIAN BUSINESSES**

(A) As used in this section, the term "Indian Businesses" means Indian organizations or an Indian owned economic enterprise as defined in the code of Federal Regulations or the laws of the Mille Lacs Band. See INDIAN BUSINESS DEVELOPMENT PROGRAM (25 C.F.R. § 286.1 – 286.22).

(B) The contractor agrees to give preference to qualified Indian businesses in the awarding of any subcontracts entered into under this contract. The contractor shall comply with any preference requirements regarding Indian businesses established by the Mille Lacs Band.

#### Section 23

#### **BUY INDIAN PROVISIONS**

All contractors and subcontractors who conduct business on lands under the jurisdictions of the Mille Lacs Band of Ojibwe pursuant to a contract or subcontract with the Band shall comply with the provisions of the Buy Indian Act (25 U.S.C. § 47).

#### Section 24

#### **ASSIGNMENTS**

No contract or subcontract awarded by the Mille Lacs Band of Ojibwe or any of the rights or interests or obligations therein may be assigned without the written approval of the Contracting Officer.

#### Section 25

##### TAXES

- A) The Owner is exempt from Minnesota State Sales Tax. For the purchase of supplies for construction, the Owner shall be the consumer and the state tax exemption will apply. The Owner shall provide the successful Contractors with a copy of their exemption certificate. Contractors must supply this copy when purchasing materials for construction, as well as Form ST8TG from the Minnesota Department of Revenue. *See also MN STAT § 297.71-.74.* Once the Contractor completes the purchase, the Contractor shall supply the Owner with copies of the Form ST8TG and other documentation of material costs. This exemption does not apply for the purchase of materials in road construction. 22 MLBSA § 508.
- B) The Administrative Policy Board may assess an Employment Rights Fee for the following:
  - 1) Contractors and subcontractors receiving contracts of \$100,000.00 or more shall pay 0.5% of the total contract sum pursuant to 22 MLBSA § 601. *See also 18 MLBSA § 417.*
- C) Contractor must also comply with the following:
  - 1) The Contractor has met the hiring goals of the TERO Compliance Officer, or
  - 2) The TERO Compliance Officer determines that the Contractor has made a substantial effort to train and employ Indian workers. 18 MLBSA § 401-428.

#### Section 26

##### UTILITIES

Contractors shall pay utility bills associated with the work at the construction site until the Contract has been closed out. The contract will be deemed finished and closed out when keys are turned in and punch list items completed.

#### Section 27

##### AUDIT

- A) To the extent required by law, the contractor agrees that the Mille Lacs Band, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purpose of making audits, examination, excerpts and transcriptions. The Contractors shall maintain all records kept in the normal course of business for three years after the Mille Lacs Band makes final payments and all other pending matters are closed.
- B) In addition, for the sake of potential audits, please include documentation of all physical changes to the Work in the project's close-out documentation.

#### Section 28

##### AMENDMENT

This Contract may be amended or modified only by a written instrument, added as an addendum and consecutively numbered. Each addendum must be signed by the parties, and approved, if necessary, by the Mille Lacs Band, through the Mille Lacs Band of Ojibwe's Band Assembly.

#### Section 29

##### SEVERABILITY

If any provision of this contract, or its application to the Owner and the Contractor is held invalid, the remainder of the contract and the application of other provisions to the Owner and the Contractor shall not be affected.

Section 30

**RATIFICATION**

This contract is effective and enforceable once it is finally ratified by the Band Assembly pursuant to 3 MLBSA § 2(f) cited below.

The Band Assembly shall have power:

- (f) To ratify agreements, contracts, cooperative and reciprocity agreements and memoranda of understanding.

Section 31

**SOVEREIGNTY AND WAIVER OF RIGHTS**

Any waiver regarding this contract must be explicit, written and authorized by the Owner; nor will provisions in § 12 of this contract waive the Sovereign Immunity of the Mille Lacs Band of Ojibwe. Furthermore, claims beyond the scope of this Contract will not be permitted. Injunctive relief is an acceptable alternative. This contract will not govern any separate bonding agreement. Nothing else in this contract shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in the Court of Central Jurisdiction. *See 2 MLBSA § 5.* Nothing in this contract shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe in any other court of competent jurisdiction. *See 2 MLBSA § 5.* Any waiver of rights by the Owner, under this Contract, in one single instance, does not create a continuous and overall waiver of rights. *See 2 MLBSA § 5.*

Section 32

**ENTIRE AGREEMENT**

(A) This Contract, including Forms and Addenda, constitutes the entire agreement between the parties regarding this subject matter. No representations have been made by any party, or any agent of any party, other than the terms and conditions set forth in this document. All prior and contemporaneous conversations, possible and alleged agreements, representations, covenants or omissions concerning the subject matter are void and have not been relied upon in any way by the Owner and the Contractor.

(B) The terms and conditions of this Contract are contractual in nature, and not a mere recital. This Contract shall constitute a legal, valid, and binding obligation of the parties, enforceable in accordance with its terms, and shall inure to the benefit of the parties.

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# INTEROFFICE MEMORANDUM

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**TO:** JIM CARPENTER, PROJECT COORDINATOR  
**FROM:** EMILY DUVEN, DEPUTY SOLICITOR GENERAL  
**SUBJECT:** CONTRACT FOR 16226 NAY AH SHING ELDER UNIT  
**DATE:** 3/21/2022



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The Office of the Solicitor General has completed its review of the contractual documents. See 7 MLBSA § 26(b)(2).

The office has approved the contract, *i.e.*, sanctioned the substantive legal provisions contained therein.

Please contact us if you have any further questions or concerns. We can be reached at (320) 532-7894.

*/s/ Emily Duvan*

Deputy Solicitor General

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## INTEROFFICE MEMORANDUM

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DATE: MARCH 24, 2022  
TO: ADMINISTRATIVE POLICY BOARD & BAND ASSEMBLY  
FROM: KELLY APPEGATE, COMMISSIONER OF NATURAL RESOURCES  
CC: TERRY KEMPER, TRIBAL HISTORIC PRESERVATION OFFICER  
RE: APPROPRIATION REQUEST FOR DNR GENERAL (251-5300-4)



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The Department of Natural Resources is requesting Administration Policy Board and Band Assembly to appropriate from Net Revenue funding for fiscal year 2022 in the amount of \$9,761.50 in order to complete contract number 1046796 with MnDOT for the West Lake Signage Project

All monies are fully reimbursable per the contract and MnDOT will be billed monthly for the Band's direct labor costs.

Attached is the MnDOT Contract Amendment and a budget modification. Please reach out for any further clarifications.

If you have any questions or concerns, please contact Kelly Applegate at [Kelly.Applegate@millelacsband.com](mailto:Kelly.Applegate@millelacsband.com) or at (763) 221-0320.

Miigwech,

A handwritten signature in black ink that reads "Kelly Applegate".

Kelly Applegate, Commissioner of Natural Resources



**Budget Revision Spreadsheet**

<b>Mille Lacs Band of Ojibwe</b>			<b>Date</b>		<b>3/24/2022</b>	
<b>Budget Revision</b>						
<b>Department</b>		<b>250-5300-4</b>				
<b>Program Name</b>		<b>DNR General</b>				
<b>Source of Revenue</b>			Check Off	Check Off	<b>Revision Type</b>	
		<b>Amount</b>				
	Federal Grant	\$ -				Increase in Revenue and Expenditures
	State Grant	\$ -				Contingency Fund Utilization
	Perm. Initiative					Increased Expenditures without
	Carryover	\$ -				Increase in Revenue
	Program Transfer					Carry Over
	Income				X	Dept Transfer
	<b>Total Revenue</b>					
<b>Expenditures:</b>	<b>Account Code</b>	<b>Current Budget</b>	<b>Increase</b>	<b>Decrease</b>	<b>Revised Amount</b>	
SALARIES	4000	1,752.50	9,761.50			11,514.00
PROGRAM ACTIVITIES	6800					-
			-	-		-
<b>Totals:</b>		\$ 1,752.50	\$ 9,761.50	\$ -		11,514.00
<i>Kelly Lympigato</i>			3/21/2022			
DNR Commissioner Signature			Date	Administration Policy Board	Date	

**AMENDMENT NUMBER 1 TO MnDOT CONTRACT NUMBER: 1046796**

Contract Start Date: July 12, 2021	Original Contract Amount:	\$ 14,436.00
Original Contract Expiration Date: January 31, 2022	Previous Amendment(s) Total:	\$ 0.00
Current Contract Expiration Date: January 31, 2022	Current Amendment Amount:	\$ 9,761.50
New Contract Expiration Date: January 31, 2023	Total Amended Contract Amount:	\$ 24,197.50

State Project Number (SP): 8823-350

Trunk Highway Number (TH): 169

Project Identification: Mille Lacs Band of Ojibwe Tribal Historic Preservation Office Archaeological Testing and Monitoring - West Lake Signage Project

This amendment is by and between the State of Minnesota, through its Commissioner of Transportation ("State") and the Mille Lacs Band of Ojibwe, a federally recognized Indian tribe ("MLBO").

**RECITALS**

1. State has a contract with MLBO identified as MnDOT Contract Number 1046796 ("Original Contract") to perform archaeological testing and tribal monitoring for sign installation projects on Trunk Highway (TH) 169 from the City of Garrison, Crow Wing County to the City of Onamia, Mille Lacs County.
2. This contract is being amended because:
  - A. The contract will need to be extended since the project was not able to be completed due to the onset of snow and cold weather conditions. Project will resume in Spring 2022 when temperatures and ground conditions allow; due to the opportunistic and possibly sporadic nature of the effort, the project may extend throughout the Summer into Fall 2022.
  - B. Over the course of the project, it was determined that the Tribal monitoring effort would be better served by having an MLBO Tribal Historic Preservation Office (THPO) Coordinator conduct the monitoring as opposed to the MLBO Archaeological Technician as was reflected in the original scope and budget. For this amendment the THPO Coordinator is being added as a new staff classification.
  - C. The THPO Coordinator and Archaeological Technician classifications have different billing rates which are also reflected in this amendment. In addition, the project duration is anticipated to exceed what was originally planned. As a result of these changes the total contract amount is being amended.
3. State and MLBO are willing to amend the Original Contract as stated below.

**CONTRACT AMENDMENT**

Unless otherwise noted, in this amendment, deleted contract terms will be struck out and the added contract terms will be bolded and underlined.

**REVISION 1. Subarticle 1.2 is amended as follows:**

- 1.2. Expiration Date: This contract will expire on ~~January 31, 2022~~ January 31, 2023, or when all obligations have been satisfactorily fulfilled, whichever occurs first.

**REVISION 2. Subarticle 1.4 is amended as follows:**

- 1.4. Exhibits: Exhibits ~~A through C~~ A-1 and B-1 are attached and incorporated into this contract.

**REVISION 3. Subarticle 2.1 is amended as follows:**

- 2.1. The MLBO will complete the duties listed in Exhibit ~~A~~ A-1.

**REVISION 4. Subarticle 3.1 is deleted in its entirety and replaced as follows:**

- 3.1. Consideration. State will pay for all services performed by the MLBO under this contract as follows:

3.1.1. **Compensation.** State will pay the MLBO on a Unit Rate basis as follows:

Labor Rate Costs\*: \$ 24,197.50

\* Labor Rate includes direct labor and admin

Task	THPO Coordinator	Archaeological Technician	Total
<b>Task 1:</b>			
Archaeological Testing	0	211.50	211.50
<b>Task 2:</b>			
Tribal Monitoring	570.50	0	570.50
<b>Total Hours</b>	<b>570.50</b>	<b>211.50</b>	<b>782</b>
<b>Hourly Rate</b>	<b>\$ 35.00</b>	<b>\$ 20.00</b>	
<b>Total Direct Labor Costs:</b>	<b>\$ 19,967.50</b>	<b>\$ 4,230.00</b>	<b>\$ 24,197.50</b>
<b>TOTAL CONTRACT AMOUNT</b>			<b>\$ 24,197.50</b>

3.1.2. **Total Obligation.** The total obligation of State for all compensation and reimbursements to the MLBO will not exceed \$24,197.50.

**REVISION 5. Subarticle 3.2.1 is as follows:**

3.2.1. Invoices. The MLBO must submit invoices electronically for payment, using the format set forth in Exhibit **C B-1**. The MLBO will submit invoices for payment on a monthly basis.

**REVISION 6. Subarticle 4.3 is amended as follows:**

4.3. The MLBO's Authorized Representative will be:

Name/Title: ~~Katie Draper/Commissioner~~ Kelly Applegate

Address: Mille Lacs Band of Ojibwe  
43408 Oodena Drive  
Onamia, MN 56359

Telephone: ~~320-515-0846~~ 320-532-4181

E-Mail: ~~katie.drapor@millelacsband.com~~ kelly.applegate@millelacsband.com

The Original Contract and any previous amendments are incorporated into this amendment by reference. Except as amended herein, the terms and conditions of the Original Contract and any previous amendment remain in full force and effect.

**THE BALANCE OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**STATE ENCUMBRANCE VERIFICATION**

Individual certifies that funds have been encumbered as required by Minnesota Statutes §16A.15 and §16C.05.

Signed: **Nicole Peszynski**  
Date: **2022.01.13 15:48:00 -06'00'**  
Digitally signed by Nicole Peszynski

**MLBO**

MLBO certifies that the appropriate person(s) have executed the amendment on behalf of Contractor as required by applicable articles, bylaws or resolutions.

Signed: *Kelly Gynphg etd*  
Title: *Commissioner of Natural Resources*  
Date: *1/12/2022*

**DEPARTMENT OF TRANSPORTATION**

*(with delegated authority)*

Signed: **Melissa Brand**  
Title: **Brand**  
Date: **2022.01.20 12:05:10 -06'00'**  
Digitally signed by Melissa Brand

**COMMISSIONER OF ADMINISTRATION**

Signed: **Kyle Fisher**  
Date: **2022.01.21 14:01:18 -06'00'**  
Digitally signed by Kyle Fisher

***THIS ENTIRE SCOPE OF WORK FALLS UNDER SOURCE TYPE 1071***

**1. PROJECT ORGANIZATION**

**1.1. Project Description**

State is in need of assistance to perform archaeological testing and tribal monitoring for sign installation projects on Trunk Highway (TH) 169 from the City of Garrison, Crow Wing County to the City of Onamia, Mille Lacs County. The Mille Lacs Band of Ojibwe Tribal Historic Preservation Office (MLBO THPO) has requested these services. The work of these State projects includes installation of new signs, new sign placards, and sign removal.

**1.2. Project Personnel**

Project personnel will be a MLBO THPO Archaeological Technician, and an Archaeological Principal Investigator (PI) assigned under separate contract with the State.

**1.2.1 Archeological Principal Investigator**

The Archeological Principal Investigator will be present on-site during screening and other times as deemed appropriate. The PI will provide direction/supervision during the project to ensure that negotiated procedures are followed.

**1.2.2 THPO Coordinator**

The MLBO THPO Coordinator will provide Tribal monitoring duties and will exercise specialized knowledge of cultural resources to monitor ground-disturbing activities at the excavation areas required for the signage.

**1.2.3 MLBO THPO Archaeological Technician**

The MLBO THPO Archaeological Technician will work with the PI to conduct testing of the proposed sign areas prior to installation and will exercise specialized knowledge of cultural resources to monitor ground-disturbing activities at the excavation areas required for the signage.

**2. WORK PLAN**

**Note:** Safety vests will be worn at all times during project work. Other Personal Protective Equipment (PPE) will be worn as directed by the THPO and PI (this includes face masks).

The MLBO THPO will perform the following tasks:

**Task 1: Archaeological Testing**

- 1.2. Identify work schedule with the PI.
- 1.3. Review safety measures prior to working in highway right of way (ROW).
- 1.4. Assist in soil probes, shovel testing (including shoveling and screening) and surface examination as directed by the PI.
- 1.5. Assist in recording field notes.
- 1.6. Follow the provisions of the Unanticipated Discovery Plan should human remains be identified.

**Task 2: Sign Installation Monitoring**

**2.1. Sign Installation Monitoring**

- 2.1.1 Participate in all necessary pre-construction safety meetings and planning discussions prior to commencement of construction.
- 2.1.2 Monitor and contribute to the identification of items potentially of cultural and religious significance to Mille Lacs Band people which were may have not been identified during archaeological investigations for this same project.
- 2.1.3 Follow the provisions of the Unanticipated Discovery Plan should human remains be identified.

**2.2. Reporting**

2.2.1. Adhere to standards for recording daily project activity, including daily monitoring reports.

3. **PROJECT SCHEDULE**

Sign installation activities and associated archaeological testing and Tribal monitoring tasks will extend into Spring 2022 with a start date to be determined based on weather and ground conditions; due to the opportunistic and possibly sporadic nature of the effort, the project may extend throughout the Summer into Fall 2022.

**THE BALANCE OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

Mille Lacs Band of Ojibwe Tribal Historic Preservation Office Archaeological Testing and Monitoring - West Lake Signage Project  
**Exhibit B-1: Invoice Form**

**INVOICE NO.** \_\_\_\_\_

Estimated Completion: \_\_\_% (from Column 6 Progress Report)

Final Invoice?  Yes  No

**Invoice Instructions:**

**Contractor must:**

1. Complete the invoice and, if applicable, the progress report, in their entirety
2. Sign the invoice and progress report
3. Attach supporting documentation
4. Scan the entire invoice package\*, in the following order:
  - a. Completed, Signed Invoice Form
  - b. Completed, Signed Progress Report Form (if applicable)
  - c. Supporting Documentation

*Note: Whenever possible, convert landscape pages to portrait pages and optimize the document to decrease the size.*

5. E-mail the invoice package, in .pdf, to [ptinvoices.dot@state.mn.us](mailto:ptinvoices.dot@state.mn.us)

MnDOT Contract Number: 1046796  
 Contract Expiration Date: January 31, 2023  
 SP Number: 8823-350 TH Number: 169

Billing Period: From \_\_\_\_\_ to \_\_\_\_\_  
 Invoice Date: \_\_\_\_\_

	Total Contract Amount	Total Billing to Date	Amount Previously Billed	Billed This Invoice
1. Direct Labor Costs: (Attach Supporting Documentation)	\$24,197.50			
<b>Net Earning Totals:</b>	<b>\$24,197.50</b>			
<b>Total Amount due this Invoice:</b>				<b>\$</b>

**Contractor: Complete this table when submitting an invoice for payment**

Source Type	Total Billing to Date	Amount Previously Billed	Billed This Invoice
1071			
<b>Total**</b>			

I certify that the statements contained on this invoice, and its supporting documents, are true and accurate and that I have not knowingly made a false or fraudulent claim, or used a false or fraudulent record in connection with this invoice. I understand that this invoice is subject to audit.

Contractor: Mille Lacs Band of Ojibwe

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\*If you are unable to support electronic submission of Invoices, you must contact the Authorized Representative for possible alternatives.

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## INTEROFFICE MEMORANDUM

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DATE: MARCH 24, 2022  
TO: ADMINISTRATIVE POLICY BOARD & BAND ASSEMBLY  
FROM: KELLY APPEGATE, COMMISSIONER OF NATURAL RESOURCES  
CC: TERRY KEMPER, TRIBAL HISTORIC PRESERVATION OFFICER  
RE: APPROPRIATION REQUEST FOR MNDOT RECOVERY PROJECT  
(251-5467-2)



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The Department of Natural Resources is requesting Administration Policy Board and Band Assembly to appropriate from Net Revenue funding for fiscal year 2022 in the amount of \$108,902.51 in order to complete contract number 1044825 with MnDOT for the West Lake Signage Project.

Per the contract, MnDOT can be billed monthly for the reimbursement costs of the Band's team of employees, consulting contracting, local mileage, miscellaneous expenditures, office supplies, program supplies, program activities, small equipment, and equipment.

Attached is the MnDOT Contract Amendment and a budget modification. Please reach out for any further clarifications.

If you have any questions or concerns, please contact Kelly Applegate at [Kelly.Applegate@millelacsband.com](mailto:Kelly.Applegate@millelacsband.com) or at (763) 221-0320.


Miigwech,

A handwritten signature in black ink that reads "Kelly Applegate".

Kelly Applegate, Commissioner of Natural Resources



**Budget Revision Spreadsheet**

<b>Mille Lacs Band of Ojibwe</b>			<b>Date</b> 3/24/2022		
<b>Budget Revision</b>					
<b>Department</b> 251-5467-2					
<b>Program Name</b> MNDOT RECOVERY PROJECT					
<b>Source of Revenue</b>					
	<b>Check</b>	<b>Amount</b>		<b>Check</b>	<b>Revision Type</b>
	<b>off</b>			<b>off</b>	
Federal Grant				<b>X</b>	Increase in Revenue and Expenditures
State Grant		\$ -			Contingency Fund Utilization
Net Revenue		\$ -			Increased Expenditures without
Carryover		\$ -			Increase in Revenue
Program Transfer					Carry Over
Income		\$ -			Dept Transfer
Total Revenue		\$ -			
<b>Expenditures:</b>					
	<b>Account Code</b>	<b>Current Budget</b>	<b>Increase</b>	<b>Decrease</b>	<b>Revised Amount</b>
Salaries	4000		80,451.50		
Health Insurance	4105				
Life Insurance	4106				
Disability Insurance	4107				
Dental Insurance	4108				
Workers Compensation	4109		4,945.96		
Unemployment Tax	4110				
Retirement	4111				
Employers FICA	4112		859.20		
Consulting Contracting	4300		6,350.00		
Local Mileage	4400				
Non- Local Travel	4450				
Communications	4500				
Postage	4550				
Training	5000				
Miscellaneous	5700		2,400.00		
Office Supplies	6100		211.01		
Gen_Liab Insurance	6120				
Cultural Activities	6200				
Program Supplies	6400				
Program Activities	6800		350.60		
Small Equipment	7000		2,481.51		
Equipment	7100		10,852.73		
Indirect Cost	9010				
<b>Totals:</b>		\$ -	\$ 108,902.51	\$ -	\$ -
					
DNR Commissioner Signature		Date	Administration Policy Board		Date
		3/21/2022			

**AMENDMENT NUMBER 2 TO MnDOT CONTRACT NUMBER: 1044825**

Contract Start Date: September 28, 2020	Original Contract Amount:	\$ 283,318.50
Original Contract Expiration Date: January 31, 2022	Previous Amendment(s) Total:	\$ 0.00
Current Contract Expiration Date: January 31, 2022	Current Amendment Amount:	\$ 0.00
New Contract Expiration Date: June 30, 2022	Total Amended Contract Amount:	\$ 283,318.50

State Project Number (SP): 4814-3355A  
Trunk Highway Number (TH): 169  
Project Identification: Whitefish Creek Burial Recovery

This amendment is by and between the State of Minnesota, through its Commissioner of Transportation ("State") and Mille Lacs Band of Ojibwa, a federally recognized Indian tribe ("MLBO").

**RECITALS**

1. State has a contract with MLBO identified as MnDOT Contract Number 1044825 ("Original Contract") to aid in the Whitefish Creek Burial Recovery project.
2. MLBO requires additional time to complete these services at an additional site. A revised end date of June 30, 2022 assumes that State's project components, and Covid-19 concerns still allow work to progress. Screening Waukon soils will begin once this amendment is executed, and will continue through contract completion, as Covid-19 protocols allow. Screening soils at this site will not require additional compensation.
3. State and MLBO are willing to amend the Original Contract as stated below.

**CONTRACT AMENDMENT**

Unless otherwise noted, in this amendment, deleted contract terms will be struck out and the added contract terms will be bolded and underlined.

**REVISION 1. Subarticle 1.2 is amended as follows:**

1.2 Expiration Date: This contract will expire on ~~January 31, 2022~~ June 30, 2022, or when all obligations have been satisfactorily fulfilled, whichever occurs first.

The Original Contract and any previous amendments are incorporated into this amendment by reference. Except as amended herein, the terms and conditions of the Original Contract and any previous amendment remain in full force and effect.

**THE BALANCE OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**STATE ENCUMBRANCE VERIFICATION**

Individual certifies that funds have been encumbered as required by Minnesota Statutes §16A.15 and §16C.05.

Signed: **Nicole Peszynski**  
Date: **2022.02.02 08:13:31 -06'00'**

Digitally signed by Nicole Peszynski  
Date: 2022.02.02 08:13:31 -06'00'

**MLBO**

MLBO certifies that the appropriate person(s) have executed the amendment on behalf of MLBO as required by applicable articles, bylaws or resolutions.

Signed: Kelly Cuyperato 2-1-2022

Title: Commissioner of Natural Resources

Date: 2-1-2022

**DEPARTMENT OF TRANSPORTATION**

(with delegated authority)

Signed: **Michael Beer**  
Title:  
Date:

Digitally signed by Michael Beer  
Date: 2022.02.02 09:24:17 -06'00'

**COMMISSIONER OF ADMINISTRATION**

Signed: **Sara Freedland**  
Date:

Digitally signed by Sara Freedland  
Date: 2022.02.09 08:36:14 -06'00'