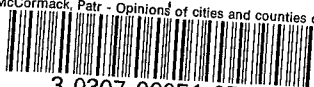


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OPINIONS OF CITIES AND COUNTIES ON THE IMPACT OF GAMBLING CASINOS ON THEIR COMMUNITIES

Patrick J. McCormack
Givonna Reed
Senate Counsel & Research
January 9, 1997

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SURVEY RESULTS 1/7/97

During the fall of 1996, the Minnesota Office of Senate Counsel and Research conducted a survey of Minnesota cities and counties to better understand local government attitudes toward Indian casino expansion. The survey found ambivalent attitudes among city and county officials with regard to the expansion of nearby casinos on Indian lands. Some Minnesota cities and counties have forged cooperative agreements with tribal governments, including extensive written contracts. Other cities blame casino expansion for rising social ills within their communities. In general, the survey found that most Minnesota cities and counties are undecided about the impact of expanding Indian casinos.

SURVEY METHODS

A map of Minnesota was marked with the locations of all 17 Indian gambling casinos. A circle encompassing a 20 mile radius was drawn around these locations. All cities and counties falling within this 20 mile radius were sent a survey asking a few brief questions about relationships between these communities and their nearby Indian casino.

A total of 137 cities were sent surveys, and 111 responded, which equals an 81 percent response rate. A total of 35 counties were surveyed, and 26 responded, which equals a 74 percent response rate.

This survey was designed as an opinion poll of local government leaders. Surveys were returned having been filled out by city and county clerks, mayors, council persons, staff, and departmental employees. The survey results contained in this report are at best descriptive of relations at this point in time between local communities and nearby tribal governments. Broader generalization should be resisted.

TRIBAL-LOCAL GOVERNMENT DISCUSSIONS

On the theory that discussions are the first step in forging relations, local governments were asked if their community had conducted discussions on a range of issues with their nearby tribal governments, or with casino management. The majority of cities and counties have not conducted such discussions, but a minority (26 percent of those surveyed) have discussed some issue with either tribal governments or casino management.

Police services were discussed by 16 cities and counties with tribal governments or casino management, and 12 have discussed fire services. Roads were discussed by 13 cities and counties, and sewers were discussed by 11. These are small percentages of the total number of cities and counties responding to this question -- in each case, about 10 percent.

In a few instances, other costs were discussed with tribal governments or casino management, ranging from airports to traffic costs, animal control to solid waste and parks to administration. Overall, 26 percent of the cities and counties responding to the survey had discussed any issues with surrounding tribal governments or casino management.

Some cities expressed frustration with their inability to connect with tribal governments (see appendices). Other cities thought that, even though a casino was within 20 miles, relationships between the casinos or the tribes and their local governments were irrelevant.

EFFECT OF CASINO GAMBLING ON LOCAL COMMUNITIES

Survey respondents were asked whether they thought that a number of social factors were increasing or decreasing due to the impact of casino gambling expansion. Estimating social impacts is a very inexact art. These responses are at best useful opinions from city and county officials.

TABLE 1
COMMUNITY OPINION ON SOCIAL IMPACT
OF CASINO GAMBLING EXPANSION

(136 Cities And Counties)

<u>ISSUE</u>	<u>Increasing</u>	<u>Decreasing</u>	<u>No Change</u>	<u>No Answer</u>
Public Assistance Costs	7.4%	11.0%	54.4%	27.2%
Unemployment	0.7	33.1	45.6	20.6
Tourism Income	24.3	5.1	49.3	21.3
Business Vitality	16.9	8.1	55.1	19.9
Crime	26.5	1.5	53.7	18.4
Traffic	36.8	1.5	47.8	14.0
Demand For City Services	13.2	1.5	65.4	19.9
Problem Gambling	37.5	1.5	41.2	19.9
Tax Base	7.4	5.9	66.9	19.9

(Numbers may not total 100 percent due to rounding.)

A number of respondents felt that casinos had a positive impact on local economies. Unemployment was seen as decreasing by 33.1 percent of the cities and counties, and tourism income was seen as increasing by 24.3 percent of respondents.

On the other hand, negative impacts were observed by some cities and counties. Crime was perceived as increasing by 26.5 percent of respondents. Problem gambling was reported as increasing by 37.5 percent and traffic by 36.8 percent.

Ultimately, respondents are divided in their perceived impact of casino expansion.

EXAMPLES OF WORKING RELATIONSHIPS

A small number of cities and counties have signed agreements with their nearby tribal government or casino management. These agreements include mundane fire, police, and sewer arrangements, as well as more detailed and comprehensive agreements. A few examples of such agreements are worth discussing.

Shakopee. The City of Shakopee has a signed road paving agreement with the Mdewakanton Sioux community. The agreement was signed in August, 1996, and calls for the city to pave the unpaved portion of McKenna Road, at tribe expense. Shakopee has received \$300,000 for road improvements from the Mdewakanton Sioux, and over \$10,000 for policing.

The City has filed suit against, and protested to the Department of Interior, plans of the tribe for placing land in trust, detailing extensive frustrations that the land trust issue has engendered. Overall, tribal-city relations are described by the city as varying, "from guarded cooperation to somewhat problematic."

St. Louis County. County officials describe relations with tribal officials as "very good." St. Louis County photocopied the original survey and had departmental staff in several policy areas complete the survey. As a result, it is clear that in a number of policy areas, ranging from criminal justice to land sales, human services to road improvements, the county and tribal governments have been able to forge working relationships.

In some instances, signed agreements exist for issues such as road maintenance. In other instances, no need has yet arisen for a signed agreement. One official noted that these relationships have been ongoing for years, and are basically unaffected by the advent of casino gambling.

Cass County. Cass County has discussed police services, road improvements, sewer costs and solid waste costs with tribal governments. Agreements have been signed covering solid waste, public health, social services and other public concerns. At one point, periodic meetings were held with the Leech Lake Council, and there is some hope that those meetings can resume in the future.

Contributions from the nearby tribal government have been seen in the public and private sectors. Negotiations have been long and involved, partially due to a concern on the part of tribal governments that any agreement not be seen as a precedent or as an abrogation of any tribal rights.

Scott County. Scott County has discussed law enforcement and road improvements with their nearby tribal government. The County has benefited from some selected road improvements made by the local tribal community for their casino and related activities. The relationship between the Mdewakanton Sioux community and Scott County is both beneficial in terms of employment and frustrating, in that the casino operations are a significant burden on existing county resources. In January of 1997, Scott County requested that the state of Minnesota reopen negotiations with the Mdewakanton tribe, in order to gain increased compensation for law enforcement and other service costs. The letter requesting new negotiations cited failed attempts to negotiate directly with the tribal government, which essentially means that Scott County feels that direct negotiations have exhausted further possibilities for compromise.

Duluth. Duluth has the most extensive and unusual arrangements with their nearby tribal government. This is partly due to the fact that arrangements for the downtown Duluth casino were made prior to federal laws being put in place, allowing the city an unusual ability to negotiate for a working arrangement. Extensive agreements with the city of Duluth exist. For example, 19 percent of net revenue from the downtown casino's slot machines is held by Duluth for capital improvement to the casino, road repairs, compulsive gambling programs and other uses.

IN GENERAL. Further examples of relationships between Carlton County, Prior Lake, Warroad, and other cities show that there are existing written and financial agreements in place across Minnesota. Typically, these agreements address issues of mutual concern: road improvements, fire and police services and community social services. The pattern of negotiation is also clear: tribal governments are not interested in agreements that abrogate their rights down the road, or that place the future of the tribal government or casino in any way in the hands of the local city councils and county boards. However, given that concern, limited agreements of mutual benefit are possible. Broad ranging agreements addressing all possible issues are atypical.

AMBIVALENT RESPONSES

After a recent survey of several hundred Minnesotans, conducted by St. Cloud State University for the Minnesota Lottery, Minnesotans were described in the media as ambivalent about gambling. This survey reiterates that finding.

Two strong feelings are revealed in this survey: a sense that economic gain has come to some cities and counties through casino gambling expansion; and a sense that negative social effects have come as well. These feelings are little more than opinions, hard to document further and difficult to form generalizations upon. At the end of this report, a short listing of some of the open-ended essay responses received from this survey will capture the sense of ambivalence that

respondents provide.

Finally, there is a feeling of frustration reported by some cities and counties who are either unable to begin negotiations, or who lack a bargaining position in negotiations with tribal governments and casino management. This may be partly due to a general confusion in the United States as to which level of government is responsible.

ANALYSIS OF LOCAL-TRIBAL RELATIONS

Geography has connected Indian governments, their casinos, and the nearby towns, cities, and counties that make up the Minnesota landscape. Neighboring communities have in some instances gone beyond propinquity and actually forged working, contractual relationships with their nearby tribal governments and casinos. Not all of these formal relationships are entirely satisfactory. Most cities and counties have no arrangements with tribes or casinos at all; yet local governments and casinos must co-exist as neighbors.

In Minnesota, 17 casinos are currently being operated by 11 tribal governments. The State of Minnesota is not responsible for the regulation of these casinos, except for some minor enforcement exceptions. Tribal governments are sovereign, and casino gambling is, due to both federal legislation and court precedent, largely outside of the criminal, tax and civil regulatory authority of states. Federal regulation and legislation has been slow to come and halting in application.

Local governments have no standing with tribal governments on a purely legal basis. As neighbors to the expanding gambling operations, local governments have legitimate concerns without statutory authority, obligations to their citizens without responsibility for any aspect of the expanding casino down the road, costs without recompense and side effects without control. Some of these local governments have been able to craft extensive relationships with tribal governments and gambling operations. Others are willing to do more, but have been unable to proceed.

CONCLUSION

This report is a brief overview of some of the new relationships that some tribal governments are forging with some local governments. The intention of the report is to inform the reader about the extent of these relationships. In cases where such cooperation exists, a pragmatic accommodation exists that benefits both tribal operations and local governments. There are also many local governments which would like to find a way to make arrangements and accommodations with tribal gambling, but have not yet succeeded. It is arguable that one major reason for the lack of existing cooperative agreements is the rapidity of the recent expansion of casinos. Many local and tribal governments are unaware of the exact nature of possible relationships and hesitate to go forward without guidance. If a template or a booklet of guidance were available to both tribes and local governments, more such arrangements might be possible. The very newness of this experience has itself been a major roadblock to facilitating agreements.

The arrival of Indian gambling in the form of casinos is a fairly recent phenomenon. There is still an open question of inter-governmental relations: which level of government, federal, state, or local, is best suited to work with sovereign and independent-minded tribal governments? This is a question that must eventually be settled by Congress, with input from tribal governments, state governments, and as this report shows, local governments.

APPENDIX A

QUESTIONNAIRE

QUESTIONNAIRE

MINNESOTA STATE SENATE RESEARCH OFFICE

The Minnesota Senate Research Office has developed a questionnaire to examine the relationship between tribal casinos and local governments. This questionnaire is designed to identify issues raised as a result of casino expansion. Please complete this questionnaire and use the enclosed envelope to return it to our office. All responses will be kept confidential.

1. Has your community discussed any of the following issues with the nearby tribal government or with casino management?

	<u>Discussed with Tribal Government</u>	<u>Discussed with Casino Management</u>	<u>No Discussions</u>
Cost of police services	_____	_____	_____
Cost of road improvements	_____	_____	_____
Cost of fire services	_____	_____	_____
Cost of sewer/water	_____	_____	_____
Other costs (_____)	_____	_____	_____

2. Has your community noticed any of the following benefits and/or costs from casino expansion?

	<u>Increase</u>	<u>No Change</u>	<u>Decrease</u>
Public assistance costs	_____	_____	_____
Unemployment	_____	_____	_____
Tourism income	_____	_____	_____
Business vitality	_____	_____	_____
Crime	_____	_____	_____
Traffic	_____	_____	_____
Demand for city services	_____	_____	_____
Problem gambling	_____	_____	_____
Tax base	_____	_____	_____

3. Has your unit of government received any financial payments from the tribal government or casino management for the following:

	<u>No</u>	<u>Yes</u>	<u>How Much?</u>
Roads	_____	_____	_____
Sewers	_____	_____	_____
Schools	_____	_____	_____
Fire protection	_____	_____	_____
Police protection	_____	_____	_____
In lieu of property taxes	_____	_____	_____
Other services (_____)	_____	_____	_____

4. Has your community received any nonfinancial services or benefits from the tribal government or casino management?

_____ No

_____ Yes. Please specify what services you have received: _____

5. Does your unit of government have any signed agreements with nearby tribal governments, casino management, or other tribal organization? (If so, please enclose a copy of such agreements.)

_____ No, we have no signed agreements.

_____ Yes, we have the following signed agreements: _____

(Please enclose a copy.)

1996 GAMBLING QUESTIONNAIRE - CITIES

COMMENTS ON QUESTION 4. Has your community received any nonfinancial services or benefits from the tribal government or casino management?

<u>CITY</u>	<u>COMMENTS</u>
Garrison	Yes. The tribe is a partner to the city in developing a sewer district consisting of the city, the West Shore and adjacent areas of Mille Lacs Lake and the reservation.
Granite Falls	Yes. Economic benefits to local economy. Expansion of local retail businesses due in part to growth of casino.
Hinckley	Yes. Share equipment - provided land for new well - assist fund raising for civic groups - equipment donated for community center.
Mahnomen	Yes. Tribal government donates a portion of a building for food shelves.
Onamia	Yes. Our community has benefited from the growth in the employment, tourist traffic and tax base generated from new housing and commercial development related to the casino.
Pine City	Yes. Donated some used kitchen fixtures (stainless steel sink) to our newly constructed concession stand at our softball fields.
Prior Lake	Yes. Joint training, use of Rifle and Gun Range , publicity for city through casino public relations, participation in PowWow and in city recreational events, contributions of video equipment and money to support community efforts, joint planning for mutual development.
Red Wing	Yes. (1) Tribal Council participants in Star of the North Games (2) Annual Native America week (3) Library program coordinated (4) Several grants to non-profit community organizations such as Habitat for Humanity.
Redwood Falls	Yes. Increased tourism and tourism-related economic development. Will expand with new hotel and convention center.
Walker	Yes. Donations to various organizations. Cooperation with prizes for fund raising.

1996 GAMBLING QUESTIONNAIRE - CITIES

COMMENTS ON QUESTION 6. Has your local unit of government conducted any discussions with your local tribal government, casino management, or other tribal organization?

<u>CITY</u>	<u>COMMENTS</u>
Carlton	Yes. We had a number of discussions in setting up the Fire Service Contract which is enclosed .
Duluth	Yes. Total negotiation of a compact.
Garrison	Yes. Meetings of the partnership about the sewer district.
Granite Falls	Yes. Have discussed extension of utilities and annexation of site south of city limits for proposed hotel and conference center.
Mahnomen	Yes. Numerous items of cooperation between the city of Mahnomen and the White Earth Reservation Tribal Council.
Red Wing	Yes. (1) Road Agreement (2) Park Development - pre 1990 (3) Police Agreement. (No copies of agreement enclosed)
Redwood Falls	Yes. Completed successful negotiations for capital improvement cost participation at Municipal Airport. Currently attempting to negotiate scheduled air or air charter service at the airport to better service the casino.
Renville	Yes. Discussed joint marketing opportunities for a new golf course.
Sandstone	Yes. Discussions have occurred regarding airport operation and maintenance. Also involved in collaborative effort with tribal government, school district and human service providers for creation of a family service center.
Savage	Yes. Update at meetings - status of city projects - casino projects.
Thief River Falls	Yes. There were many discussions and much interaction during the period when they planned to locate the casino within the City Limits. After their decision to locate six miles outside the city, there have been none.

Tower	Yes. Ambulance service (EMI's) - Water and Sewer - Work together for the annual Wild Rice Festival.
Walker	Yes. Possible sewer and water extension.
Warroad	Yes. Original agreement for Fire and Police Protection.

1996 GAMBLING QUESTIONNAIRE - CITIES

COMMENTS ON QUESTION 7. Please summarize the state of relations between your community and the nearby tribal government since the advent of casino expansion.

<u>CITY</u>	<u>RESPONSE</u>
Apple Valley	We have no tribal governments within our boundaries and have not worked with any tribal governments in other communities.
Askov	Very little contact before casino. Still very little contact -- so neither good nor bad relations. We are 15 miles from the casino.
Babbitt	The nearest casino is approximately 40 miles from Babbitt and there are no ties whatsoever between the City and the casino or tribal government.
Backus	The nearest casino is about 20 miles away. I am unsure of the effects it has had on our community.
Bellechester	Not any change. Some few people go there once in awhile for entertainment and do a little gambling.
Belview	We are located between Jackpot Junction and Firefly Creek Casinos, with each being approximately 20 miles away. Many of our area residents are employed by one of the casinos. The Casinos offer entertainment and dining that is enjoyed by many of our residents. In my opinion, the relationship between the Upper and Lower Sioux communities is a positive one.
Bena	Non existent. Higher welfare costs because parents are out gambling while kids are home starving and committing crime. Gambling should be eliminated or open to every business establishment.
Brook Park	The Lion's Club of Brook Park has had Bingo for many years, and has contributed to many non-profit organizations, one being the City of Brook Park Fire Department and Recreational Department. This will no longer be the case as the Casino now has bingo at Hinckley Grand Casino. The Lion's must maintain a certain amount of people at their Bingo night or they lose their license to have Bingo. The Casino has done nothing for the small towns that surround the area. They perhaps give Hinckley something, but they have yet to do anything for Brook Park, but cause us problems.

Carlton	Cordial. Cooperative, but tough job negotiating the Fire Services agreement. (Copy of Agreement enclosed with survey response)
Cass Lake	Fair, but improving.
Chanhassen	Chanhassen has no tribal government in close proximity.
Clements	Same.
Clarkfield	We really have no relation with them. The nearest casino is 17 miles away. A few people in Clarkfield have jobs at the casino, but not many.
Cloquet	The only change is a request for water extension which the tribal government paid for.
Coates	We have no casino within the City of Coates.
Cook	None.
Danube	N/A. The nearest casino to Danube is Jackpot Junction - approximately 30 miles south.
Duluth	Good.
Echo	No contact.
Evan	We are a small community, consisting of an elevator, body shop, gas station and repair and a bar. The only one benefiting from the Casino is the bar. We are 15 ½ miles from Jackpot Junction, so the traffic is heavy.
Gary	Housing in Gary is full -- either by rental or purchase. Otherwise, no change.
Goodridge	No change. Never had any relationship. Has hurt our liquor store, pull tabs -- even if a dry casino.
Granite Falls	Improved communication with Tribal Government. Development of good working relationship between City, Chamber of Commerce and Tribal Government. (Copy of Fire/Rescue Contract enclosed with survey)
Grasston	The casino is too far away to impact our very small city at all.

Gully	Anger that they do not pay taxes and charitable gambling in our town has been hurt. Donations to church and charities are down and some problem gambling for people who cannot afford it.
Hackensack	We have had no involvement with the casino.
Hanley Falls	N/A
Harding	Since our community lies in the seven county area being negotiated in federal court and since the goal of the Mille Lacs tribe is to obtain rights to 50% of the natural resources, there is not a lot of goodwill towards the casinos or tribe itself. Also, the Mille Lacs band has been purchasing a considerable amount of real estate and removing it from the tax roll.
Hector	Closest tribal government casino is 35 miles south of Hector.
Hermantown	No relationship.
Hinckley	Very Good. (Copy of Utility Extension Agreement enclosed with survey)
Isle	There are no relations between the community government and tribal government to the best of my knowledge.
Jordan	We really don't have a relationship. It's too far away to affect us. The major change is lack of workers and increased demand for rental property.
Lake City	None.
Lastrup	Haven't noticed any change in relations with tribal government, don't have much communication with the tribal government.
Longville	None.
Lonsdale	No tribal governments in locality.
Mahnomen	The past relationship between tribe and city was very positive. New tribal leadership at White Earth Reservation is currently unknown.
Maynard	We really have no contact with casino. Nearest casino is over ten miles away in Granite Falls, Minnesota.
McIntosh	McIntosh is too far away for an immediate impact. However, there are several residents that are employed at Mahnomen and Thief River Falls.

Mentor	The casinos are 30 to 40 miles from us so we've had no discussion or much of anything to do with them.
Montevideo	Very little, if any, relationship.
Mora	Cool.
New Market	Some people working there.
New Prague	None
New Trier	None
North Redwood	We are a small community two miles from Redwood Falls. December 30, 1996 we will consolidate with Redwood Falls.
Ogema	The same as allows. They go about their business and we tend to ours.
Ogilvie	N/A
Onamia	The tribal government and casino management have been very generous in attempting to work with area business
Pine City	The casino expansion has made little noticeable impact on our city. The project is about 13-14 miles north of us in Hinckley.
Prior Lake	(Police and Fire Protection Service Agreement, Memorandum of Understanding between Shakopee Mdewakanton Sioux Community and Metropolitan Council and Amendment to No. 1 Amended Sewer Construction and Maintenance Agreement enclosed with survey)
Proctor	None
Red Wing	(1) Major Economic impact to community. (2) Reduced welfare expenses. (3) Increased traffic and police services. (4) Creates short-term having shortage.
Redwood Falls	Cordial and are usually extensive. Lower Sioux representatives do not have the same sense of urgency on issues -- probably due to cultural differences. They do not readily share plans or their intent for plans or improvements, expenses or any casino operation.
Renville	Relations forged only due to joint marketing opportunity.

Rice	We have not had any relations or discussion on this subject as a local government body. We have heard some discussion took place with the Attorney General's office (the use of our city hall) and the Sportsman's Club has had discussions.
Rock Creek	None
Roosevelt	None
Sacred Heart	No special problems
Sandstone	We are not primary community for casino operations and have had difficulty developing a relationship with the tribal government. Several unsuccessful attempts have been made.
Savage	Cordial -- no working relationship.
Shakopee	Varies from guarded cooperation to somewhat problematic. City has filed suit to block a tract of land approximately 600 acres in size from being designated as "trust" status, thus, removing it from the city's jurisdiction. See attached letter dated June 9, 1995, which spells out those problems.
St. Hilaire	No relations
Thief River Falls	There has not been a lot of interaction, but what has taken place has been positive. We strongly suspect there will be more in the near future.
Tower	Good
Twin Valley	Our city is 20 miles from the nearest casino. It has provided some jobs for residents of our city, some new renters, and a few houses sold to newcomers. No direct benefits have been to our city as pertains to monetary contributions.
Victoria	N/A
Wahkon	Poorly
Walker	Excellent
Wanda	We have people employed at the casino and businesses unable to compete, so it is a double-edged sword. No official relations.

Warroad	Co-exist. (Copy of Fire and Police Protection Agreement enclosed with survey)
Watson	N/A
Woodland	None
Wrenshall	No change
Zumbrota	Have had no discussions -- are not directly affected by casino activities.

1996 GAMBLING QUESTIONNAIRE - CITIES

GENERAL COMMENTS

<u>CITY</u>	<u>COMMENTS</u>
Askov	We have had one business close due to owner's gambling -- and one business suffer greatly due to manager's embezzlement for his gambling habit -- this on a Main Street with a total of ten businesses!
Bellechester	There has been some donation by tribal government/casino management to Habitat House being built in our city -- amount unknown.
Bloomington	There are no tribal casinos within the boundaries of the City of Bloomington. We have not had any contacts or transactions with any tribal casinos located outside of Bloomington.
Independence City	No tribal casinos or tribes within area. Survey not applicable. (No questions answered on survey)
Plummer	Benefits and/or costs to community from casino expansion is difficult to determine. We have not done any survey. Policing is done by R.L. Co. And Public assistance is handled by R.L. Co. Social Services.
Prinsburg	Not applicable to City of Prinsburg.
Thief River Falls	Increase in economic crimes, i.e., theft, theft of services, which relate to lack of funds by defendants. Also, more incidences of expired vehicle registration, no auto insurance, etc.
Trail	The change in community was -- our Community Club sponsored bingo on Sundays, because of the casinos -- people went there -- high jackpots and prizes -- in turn -- Bingo ended. Less money for community projects.

APPENDIX C

COMMENTS FROM COUNTIES

1996 GAMBLING QUESTIONNAIRE - COUNTIES

COMMENTS ON QUESTION 4. Has your community received any nonfinancial services or benefits from the tribal government or casino management?

<u>CITY</u>	<u>COMMENTS</u>
Beltrami	These items have not been identified or quantified.
Carlton	Donations to area charities, etc.
Dakota	The Tribal Government donated approximately \$14,000 worth of property (14 acres) to create needed wetland replacement required by the construction.
Lake of Woods	Unwritten road easement.
Redwood	Increased tourism. Regional Convention Center.

1996 GAMBLING QUESTIONNAIRE FROM MN COUNTIES

COMMENTS ON QUESTION 5. Does your unit of government have any signed agreements with nearby tribal governments, casino management, or other tribal organization?

<u>CITY</u>	<u>COMMENTS</u>
Carlton	Police and fire protection. Copy of agreement kept by local authority, i.e. city.
Dakota	We do have an agreement with the BIA to fund \$172,000 for the bridge construction, this agreement is with the FHWA.
Mille Lacs	Law enforcement agreement with tribal police.
Redwood	Law enforcement.

1996 GAMBLING QUESTIONNAIRE FROM MN COUNTIES

COMMENTS ON QUESTION 6. Has your local unit of government conducted any discussions with your local tribal government, casino management, or other tribal organization?

<u>CITY</u>	<u>COMMENTS</u>
Beltrami	Joint meeting held in June -- not casino-related -- consisted of tour and discussion of items of common interest -- human services, solid waste, etc.
Carlton	Airport, road, environmental issues.
Dakota	Discussions about the bridge replacement and road closing took place. There were several meetings held to discuss the length of time the road needs to be closed and the design and level of service of the bridge.
Goodhue	Agreements with highway projects and law enforcement.
Lake of Woods	Road issues.
Mille Lacs	We have met to discuss mutual problems on several occasions. The county has asked for a payment in lieu of taxes and was turned down by the Mille Lacs Band.
Redwood	Joint meetings on airport expansion. Shared services with law enforcement, recycling and solid waste collection.
Yellow Medicine	Recent discussion centered on a land exchange. Tribal organization would like to purchase county land to build a motel in area. No action has taken place thus far since only one meeting was held. Further discussions are scheduled.

1996 GAMBLING QUESTIONNAIRE FROM MN COUNTIES

COMMENTS ON QUESTION 7. Please summarize the state of relations between your community and the nearby tribal government since the advent of casino expansion.

<u>CITY</u>	<u>RESPONSE</u>
Becker	With the change in leadership, there has been attempts for discussions on the mentioned subjects and there seems to be a positive reaction for needed discussions from tribal and governmental agencies.
Beltrami	Not really identified -- relations are ongoing and being worked on in a positive manner -- not casino-related.
Carlton	Good working relationship with the Fond du Lac Band.
Carver	Seems invisible.
Chippewa	None
Dakota	While we do not have close ties with the tribe, we do have a good working relationship when our services are needed. There have been some crimes investigated by Dakota County law enforcement that is clearly related to gambling addiction. These crimes include embezzlement and one bank robbery. The incidents of theft along the routes to and from the casino are higher than in other areas of rural Dakota County.
Goodhue	Better relationship due to the cooperative programs -- more communication.
Hennepin	We have no casinos.
Kanabec	Silent. They make the money. We pay the bills.
Lac Qui Parle	We have no casinos near our county.
Lake of Woods	No change.
Le Sueur	We have no nearby tribal governments.
Lyon	No tribal casinos in immediate area.
Marshall	O.K.

Mille Lacs	Relations with the tribe vary throughout the community. Many community members have benefitted from the employment opportunities from the casino. Community members are concerned about picking up the additional tax burden that the casino has generated. In excess of \$1,000,000 of new county costs can be attributed to the casino and tribal law enforcement.
Pennington	Good relations as far as law enforcement.
Redwood	Tribal leaders changing have created more responsive government. We are resuming periodic joint meetings with tribal government. Joint road improvement projects and airport expansion have helped.
Rice	Nonexistent
Wabasha	Nearest casino is 30 minutes from county -- impact is not direct or easily assessed.
Yellow Medicine	All parties seem to be living in harmony with each other.

APPENDIX D

AGREEMENTS BETWEEN CITIES/COUNTIES AND TRIBAL COMMUNITIES

**LIST OF MINNESOTA CITIES OR COUNTY AGREEMENTS WITH CASINOS
RESPONSES AND ENCLOSURES FOR 1996 GAMBLING SURVEY QUESTIONNAIRE**

1. Carlton - Fire Service Agreement with Fond du Lac Reservation Business Committee
2. Cass County - Agreements with Leech Lake Tribal Council
Agreement between Cass County Community Health Agency and Leech Lake Tribal Council
Agreement between Cass County Social Services and Leech Lake Foster Care Agency, and
Cass County Department of Social Services and Leech Lake Tribal Council Social Service
3. Granite Falls - Fire/Rescue Contract with Sioux Agency County of Yellow Medicine, MN
4. Hinckley - Utility Extension Agreement and Payment Agreement with Mille Lacs Band of the Chippewa.
5. Prior Lake - Police/Fire Protection Service Agreement between Shakopee Mdewakanton Sioux Community and City of Prior Lake
Memorandum of Understanding between Shakopee Mdewakanton Sioux (Dakota) Community and Metropolitan Council - Amendment No. 1 to amended Sewer Construction and Maintenance Agreement - Amended Sewer Construction and Maintenance Agreement
6. Scott County Executive Summary of Cost Model of Scott County Services for the Mdewakanton Community
Shakopee Mdewakanton Sioux Community Chronology of Events through September , 1995
7. Shakopee - Agreement with Mdewakanton Sioux Community Re: McKenna Road
Shakopee Letter to Department of Interior
8. St. Louis County - Bois Forte Reservation Tribal Council Canister Site Operating Agreement
9. Warroad - Fire and Police Protection Agreement with Red Lake Tribal Council

FIRE SERVICES AGREEMENT

This Agreement dated April 23, 1996 is between the Fond du Lac Reservation Business Committee ("RBC") and the City of Carlton, Minnesota ("City"), and shall be governed by the following terms and conditions:

RECITALS:

WHEREAS, the RBC desires to procure, and the City has offered to provide, fire protection services for the Black Bear Casino ("Casino"), located at 601 Highway 210, Carlton, Minnesota, for the mutual purpose of promoting the public health, welfare and safety;

WHEREAS, the RBC and the City are both authorized and empowered to enter into an agreement concerning the responsibilities and obligations set forth herein;

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

1. Services to be Provided. The City shall render fire protection services as requested by the Reservation Business Committee or the Director or Assistant Director of the Black Bear Casino.
2. Term. This Agreement shall be for a one year term, commencing July 1, 1996, and ending June 30, 1997.
3. Allocation of Personnel and Equipment. In responding to fire calls at the Black Bear Casino, the fire chief or other officer in charge of the Carlton Fire Department at the time shall dispatch such personnel and equipment as in his or her opinion is reasonably necessary to the situation, but in no event shall less than three firemen be assigned to a response. If an emergency arises within the City of Carlton while personnel and equipment of the fire department are engaged in fighting a fire at the casino, the fire chief or other officer in charge may, at his discretion, recall such personnel and equipment as necessary to meet the emergency.
4. Maintenance of Personnel and Equipment. The City agrees to maintain sufficient personnel and equipment as reasonably necessary to meet its obligations under this Agreement, and to maintain all equipment in good working order.

5. Status of Personnel. It is understood by the parties that all personnel officers of the City's Department, when rendering the services contemplated by this Agreement, are not employees of the RBC, and that the City's Department shall be exclusively responsible for all salaries, benefits, taxes, workers compensation or other insurance coverage mandated by applicable law, and shall hold the RBC harmless for any civil or criminal liability resulting from errors or omissions in the performance of those services.
6. Compensation. In consideration of the services rendered by the City pursuant to Section 1, the RBC shall compensate the City as follows: an annual sum of seven thousand five hundred dollars (\$7500.00) to be invoiced and payable at the quarterly sum of eighteen hundred and seventy-five dollars (\$1875.00) within ten (10) days of the end of the quarters ending on September 30, 1996, December 31, 1996, March 31, 1997 and June 30, 1997. Each invoice shall include an itemized account of all services performed by the City under this Agreement, and the amount of time spent in the performance of such services.
7. Use of Casino Water Supply. The City shall have access to the Casino water supply in the event that, in providing the services described under Section 1 or in the immediate vicinity of the Casino, the City has exhausted the water supply carried on its vehicles. The City shall promptly inform the Casino management of its need for water from the Casino water supply for use for non-Casino purposes.
8. Preparation of Investigative Reports; Court Appearances. In connection with its investigation of any matter arising from the City's performance of the services described at Section 1, the City shall prepare a report in accordance with its standard procedures on such matters and provide a copy of each report to the RBC.
9. Immunities. Nothing in this Agreement shall be construed to modify, impair or diminish the immunities from liability or the exemptions from laws, ordinances and regulations which either party possesses, or shall be construed as a waiver of any legal defense available to either party. Nothing in this agreement shall be interpreted as a waiver of the sovereign immunity of the Fond du Lac Band, or shall be interpreted as consent by the Band to the jurisdiction of the State of Minnesota or as a consent to the operation of Minnesota law upon the Band, the Reservation Business Committee, the Black Bear Casino, or any of their respective officers, employees or agents.

Leech Lake Tribal Council



IN REPLY REFER TO:

To: Paul Z. Fairbanks
Fr: Bev-Nii

ALFRED R. PEMBERTON,
CHAIRMAN
DANIEL S. BROWN,
SECRETARY-TREASURER
ALFRED FAIRBANKS, JR.,
DISTRICT I REPRESENTATIVE
JACK H. SEELYE,
DISTRICT II REPRESENTATIVE
MYRON F. ELLIS,
DISTRICT III REPRESENTATIVE

LEECH LAKE RESERVATION TRIBAL COUNCIL

RESOLUTION NO. 96-62

WHEREAS, in March 1995, the Leech Lake Band of Chippewa Indians, acting by and through its Reservation Tribal Council, Commissioners, agreed to pay Cass County certain fees for the use of the County's solid waste transfer station at Pine River in lieu of the County Solid Waste Management Fee, which cannot be assessed against Band property, housing and businesses;

WHEREAS, the agreement with the County expired on December 31, 1995;

WHEREAS, the RTC has been actively exploring alternatives to the use of the County's transfer station;

WHEREAS, a feasible alternative is not yet in place;

NOW, THEREFORE BE IT RESOLVED, by the Reservation Tribal Council that:

(1) The extension of the 1995 Band/Cass County Solid Waste Agreement until March 31, 1996, as offered by the County in the attached January 8, 1996 letter from County Solid Waste Administrator Paul Fairbanks is hereby accepted and approved, subject to the express understanding that the extension is on the same terms and conditions as the 1995 agreement, which is attached hereto and incorporated herein; and



CASS COUNTY PUBLIC HEALTH SERVICES

Dorothy Ophelm, Director

P.O. Box 40 • Walker, MN 56484-0040 • (218) 547-2855 • Fax (218) 547-7232

Skilled Nursing
Home Health Aide/Homemakers
Physical Therapy
Senior Screening
Respite Care

Child and Teen Checkups
WIC
Immunizations
Parent-Child Health Services
Family Planning

March 7, 1996

Mary Fairbanks, Director
Leech Lake Public Health
Rt 3 Box 100
Cass Lake MN 56633

Dear Mary:

The Minnesota Department of Health has changed the payment process for the MCH Grant. Payments will be made to our agency on a monthly basis. We will inturn make a monthly payment to your agency. This should give us better cash flow and more consistency in managing the grant.

Your total grant for 1996 is \$13,578. This will give a monthly amount of \$1,131.50. As soon as the first payment arrives from the state we will pay you.

A quarterly report will still be required. Please continue to use the same forms. They should be submitted to our agency by April 30, July 30, September 30 and January 30, 1997.

If you have any questions please give me a call at 218-547-2855.

Sincerely,

Ane Rogers, PHN
MCH Coordinator

MCH PURCHASE OF SERVICES

THIS AGREEMENT, by and between County of Cass, by its duly certified Community Health Agency entitled Cass County Public Health Services, hereinafter called "Agency", and Leech Lake Tribal Council, a nonprofit corporation, hereinafter called "LLTC".

WITNESSETH,

WHEREAS, pursuant to the Maternal and Child Health Act, MN Statute 145.88 et seq. and MN Rule 4615.2100 et seq., the Cass-Todd-Wadena-Morrison Board of Health had identified a certain population within the four county area who are in need of consultation and support services; and

WHEREAS, Federal funds are available for the purchase of consultation and support services under 42 U.S.C. 701-9, through the State of Minnesota under the Maternal and Child Health Act; and

WHEREAS, Cass County Public Health Services, a nonprofit corporation, provides maternal child health services to residents of Cass County in their places of residence and in the community, and receives federal funds under the Maternal and Child Health Act and the Rural Health Outreach Grant; and

WHEREAS, Cass County, through its Agency, is charged with the responsibilities of coordinating community health services with the delivery of personal health services in the community, and further charged with coordinating local, state, and federal services and funding for community health services, and for these purposes may contract for services from private firms, nonprofit corporations, primary and secondary schools, state and local governmental agencies, or other community agencies to avoid unnecessary duplication of services and realize cost advantages; and,

WHEREAS, Agency wishes to enhance the efficiency, quality, effectiveness and accessibility of community health services for area residents; and,

WHEREAS, Agency is duly certified by the Secretary of Health and Human Services pursuant to Social Security Act, 42 U.S.C. Section 1395-1396d and 1981, et seq., and state and federal rules and regulations duly promulgated pursuant thereto, as a home health agency provider of services in the health insurance program for the aged, commonly known as "Medicare".

NOW THEREFORE, in consideration of the mutual understandings and agreements, Agency and LLTC agree as follows:

I. Services To Be Purchased

Agency agrees to purchase and LLTC agrees to furnish the services in the following category:

- Improved pregnancy outcome services to high-risk and low-income (<200% of poverty) persons.

Agency agrees to pay and LLTC agrees to accept Maternal and Child Health funding in the amount of \$32,626 during the period of January 1, 1994 to December 31, 1995.

Agency agrees to pay and LLTC agrees to accept Rural Health Outreach funding as available during the period of January 1, 1994 to August 31, 1994.

II. Method of Payment

- A. LLTC and employees will submit to Agency by the 25th of the months of April, July, October and January a Maternal Child Health Budget/Expenditure Report (Addendum A).
- B. LLTC will be reimbursed on a quarterly basis for expenses verified on the quarterly expenditure report.
- C. LLTC is responsible for reimbursing its employees for all salaries, fringe benefits and mileage.

III. Assessment of Agreement

In the event the Agency's revenues change, or the Agency is terminated, or other reasons dictate review of the contract, the amount of funding or other provisions of this agreement may be reevaluated, and either party, if not satisfied, may then terminate this agreement in accordance with paragraph XVI C., below. Any changes will not be applied retroactively so as to vary the reimbursement between the Agency and LLTC as provided herein. Termination shall be under provisions of paragraph XVI, below.

IV. Responsibilities of Agency

- A. LLTC shall cause each of its employees performing services under this agreement to consent and make available his/her employment application, license and continuing education documentation, physical examination data, confirmation of hire, and such other data as may be requested by the Agency and that relates to the employee's qualifications to perform services under this agreement.
- B. Agency will provide orientation of its policies and procedures and Department of Health policies and procedures, ongoing information and inservice necessary to function together with LLTC to provide patient care.

V. Responsibilities of LLTC

- A. LLTC will provide employees to perform services under this agreement who possess equivalent qualifications and training to employees of Agency engaged in similar tasks.
- B. LLTC employees will utilize Agency's policies and procedures and will utilize Agency forms providing for reimbursement and statistics.
- C. In order for Agency to be liable for reimbursement, LLTC must submit quarterly Maternal Child Health Budget/Expenditure reports before such reimbursement is made.
- D. LLTC shall possess and maintain the following records:
 - patient records with nursing notes for each patient visit made
 - nursing care plan for each patient
 - physician orders for each patient.

VI. Independent Contractor

The LLTC is an independent contractor and not an employee or agent of the Agency. No statement contained in this agreement shall be construed so as to find the LLTC to be

an employee or agent of the Agency. The LLTC, its officers, employees and agents shall be entitled to none of the rights, privileges or benefits of Agency or county employees. Nothing contained herein is intended nor shall be construed in any manner to create or establish a partnership relationship between the Agency and the LLTC, their respective officers, employees or agents. Any responsibility for workers' compensation, unemployment or other claims made by LLTC employees shall rest solely with LLTC.

VII. Conditions of the Parties' Obligations

- A. Before the termination date specified, Agency and LLTC shall evaluate performance by both parties under this contract to determine whether such performance merits renewal of the agreement.
- B. It is understood and agreed that the entire agreement of the parties is contained herein and that this agreement supersedes all oral agreements and negotiations between the parties relating to its subject matter as well as any previous agreements presently in effect between the parties relating to the subject matter hereof.
- C. In the event of a revision in federal regulation which might make this agreement ineligible for federal financial participation, parties shall review this agreement and renegotiate those items necessary to bring the agreement into compliance with new federal regulations.
- D. LLTC agrees to cooperate fully with the Agency and its designated representatives in the development and implementation of both qualitative and quantitative assessment of LLTC's services. Statistical data collected by either Agency or LLTC for the operation of Agency in meeting state and federal requirements will be mutually shared between Agency and LLTC.

VIII. Safeguard of Client Information

- A. The use or disclosure by any party of any information concerning a client in violation of any rule of confidentiality or for any purpose not directly connected with Agency's or LLTC's responsibility with respect to the purchased services is prohibited without the written consent of client, client's attorney or client's responsible parent or guardian. Client records are to be retained by the LLTC.
- B. LLTC agrees to comply in all respects with the Minnesota Government Data Practices Act, MN Stat. Chapter 13, in providing the purchased services, and further agrees to comply with any requests of the Agency which are necessitated by Agency's obligations under the act.

IX. Severability

The provisions of this agreement are severable. If a court of law holds any part to be contrary to law, or contrary to any rule or regulation having the force and effect of law, such ruling shall not affect the remaining portions of the agreement. However, upon the occurrence of such event, the parties shall immediately meet to negotiate a revised agreement which does not violate the above referenced ruling.

X. Evaluation

Joint evaluation of the terms of this contract and payment hereunder shall be

undertaken periodically, at least yearly. Subjects addressed shall include assessment of patient care, value of the program and time cost. The evaluation team shall consist of the public health nursing director, LLTC public health nurse, the State Public Health Nursing Consultant, and other appropriate administrative/supervisory/nursing management personnel from each party.

XI. *Mutual Compliance*

The parties agree that during the term of this agreement each shall:

- A. Act in compliance with the terms and conditions of the Medicare program and the state and federal rules and regulations governing the Medicare program, including, but not limited to, conditions of participation; and
- B. Not discriminate in the provisions of services or by employment practice on the basis of sex, race, age, creed, color or national origin, and comply with the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, et seq., Executive Order No. 11246, and 42 U.S.C. Section 2000d, et seq.

XII. *Liability*

Neither party assumes any responsibility or liability arising out of injury or damage caused by the acts or omissions, in contract or in tort, of the other party, its officials, officers, employees, or agents. Each party shall indemnify the other for such injury or damage resulting in claims, demands, costs or judgements arising out of the parties' performance of this agreement. In the event that costs, claims, or judgements are entered against either party, that party shall have a claim for contribution against the other according to the percentage of fault, if any, of that party against the other, which is determined to be a cause of the injury or damage giving rise to the costs, claims or judgements assessed.

XIII. *Insurance and Bonding*

LLTC agrees it will, at all times during the term of this agreement, maintain in force and provide evidence of:

- A. Professional liability insurance coverage in the minimum amount of \$1,000,000.00 bodily injury or death of one person, \$1,000,000.00 bodily injury aggregate.
- B. Workers' compensation insurance as required by law.

XIV. *Audit of Records*

LLTC shall allow its records to be reviewed for audit purposes as follows:

LLTC shall allow the Agency, the Minnesota Departments of Health and Human Services, and the United States Department of Health and Human Services, access to LLTC's records, as they related to the performance of this agreement, upon reasonable notice and during regular business hours to exercise each agency's responsibility to monitor and evaluate the services provided under this agreement.

XV. *Subcontracts*

LLTC shall not enter into subcontracts for any of its duties under this agreement without prior written approval of Agency. Any such subcontract shall be subject to the terms and conditions of this agreement. LLTC shall be responsible for the performance

of any subcontractor.

XVI. Cancellation, Default and Remedy

- A. In the event of default by Agency and/or LLTC, its agents and employees, the nondefaulting party may cancel this agreement, provided that the said party first gives written notice to the defaulting party including the nature of the default, and request that the default be corrected within thirty (30) days of receipt of said written notice. If the default is not corrected within this period of time, the contract is then canceled.
- B. Waiver of any default shall not be deemed to be a waiver of any subsequent defaults. Waiver or breach of any provision of this agreement shall not be construed to be a modification of the terms of this agreement unless stated to be such in writing signed by an authorized representative of Agency upon resolution of Board.
- C. This agreement may be terminated by either party without cause by giving thirty (30) days written notice to other party. Expenses which have accrued for services rendered shall survive any termination of this agreement.

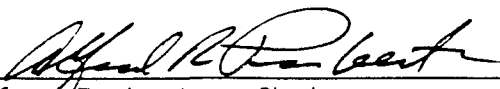
XVII. Amendment

This agreement may be amended at any time by mutual consent of the parties in writing and signed by each party.

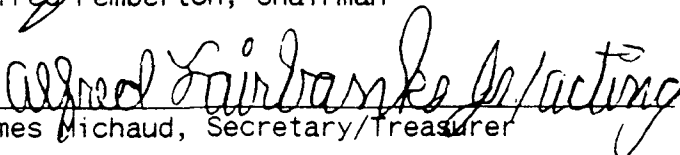
IN WITNESS WHEREOF, the parties have, hereunto set their hands and seals this 1st day of February 1994.

Leech Lake Tribal Council

Cass County Board of Commissioners


Alfred Pemberton, Chairman


Erwin C. Ostlund, Chairman


James Michaud, Secretary/Treasurer


Dorothy Opheim, Director 2-1-94

HOST COUNTY PURCHASE OF SERVICE AGREEMENT

The Cass County Social Services, Box 519, Walker, MN 56484, hereafter referred to as "Agency", and the Leech Lake Foster Care Agency, Route 3, Box 100, Cass Lake, MN 56633, hereafter referred to as the "Contractor", enter into this agreement for a period of one year from November 1, 1995 through October 31, 1996.

WHEREAS, the Contractor is licensed by the Minnesota Department of Human Services Division of Licensing as a Child Placement Agency under Minnesota Rule 4 to license family foster homes under Minnesota Rule 1 and to accept foster children for placement in such homes; and

WHEREAS, the Agency pursuant to Minnesota Statutes, section 373.01, 373.02, and 256E.08 may wish to use the Contractor's foster placement resources; and

WHEREAS, The Contractor represents that it is duly qualified and willing to make available such foster placement resources:

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, the Agency and Contractor agree as follows:

I. Contractor's Duties:

- A. The Agency agrees to purchase and the Contractor agrees to provide the following services when the Agency is unable to provide appropriate services within its own resources in compliance with federal and state laws. The Contractor will:
1. Respond to Agency request's for placement resources for Leech Lake children by providing information on all appropriate foster homes who have current space;
 2. Make available licensed Leech Lake family foster homes who are able to provide foster care in their homes to Leech Lake children needing placement;
 3. Provide ongoing training, support and problem resolution regarding foster care services provided by foster homes;
 4. Provide ongoing monitoring and regular evaluation of the foster care provided by the Contractor's foster homes;
 5. Maintain all family foster homes in a licensed status and notify the placing agency of any negative licensing decisions regarding a foster home in which a child under the agency's responsibility is placed;
 6. Provide assistance with preplacement visits to the foster home;
 7. Provide assistance with development of the placement plan in terms of the foster parents responsibilities;
 8. Provide assistance to foster parent in helping the child adjust to placement and in coordinating parental visits;
 9. Provide assistance in assuring receipt by child or appropriate medical, educational and other services;
 10. Provide ongoing communication as necessary regarding the placement and care provided which includes, but is not limited to regular telephone updates, coordination of quarterly staffing, etc.; and
 11. Provide case management services regarding the case plan requirements for the child, i.e: monthly contact with the child to assure implementation of the case plan, assure the safety of the child, etc.

B. The Contractor agrees to provide the Agency with the following which are attached hereto as Exhibit A through D and incorporated by references:

1. Description of screening, licensure, orientation and training process for foster homes (Exhibit A);
2. Description of staff responsibilities (job description), professional qualifications and identification of supervisory personnel (Exhibit B);
3. Estimated number of foster homes expected to be available and number of children who will be accepted for placement each quarter (Exhibit C); and
4. Program budget (Exhibit D).

II. Cost and Payment of Purchased Services:

A. The unit cost for services listed in I, A above shall be on a "per child per day in placement" basis. In addition to unit costs, the following will be paid or reimbursed by the Agency:

Initial
A Clothing allowance;

- Reasonable transportation costs for foster parent and Contractor's social worker for quarterly staffings outside the usual Cass County/Leech Lake trade area;
- For medically fragile or medical technology dependency children, foster parents reasonable transportation costs for the foster child's necessary medical purposes and costs of necessary equipment not covered by medical assistance.

The unit cost shall include foster care maintenance which the Contractor will pay to the foster home and an administrative rate for program support retained by Contractor. This cost shall not exceed amounts which are reasonable and necessary to assure quality of services. The unit cost for the contract period, renegotiate annually, will be as follows:

Maintenance: For medically fragile or medical technology dependent children, the rate will be determined prior to placement by the county agency using the statewide Difficulty of Care assessment schedule.

For all other children, the rate will be determined prior to placement by the county using the statewide Difficulty of Care assessment schedule. Reassessment. The county agency shall reassess a child:

1. At the end of 12 months;
2. At the request of a foster parent;
3. If a child's level of need changes.

Administrative: \$16.00 for all placements.

B. Contractor will request reimbursement for above cost for care of children placed by the Agency by submitting to the Agency a standard invoice within five (5) calendar days following the last day of each calendar month. The invoice shall indicate:

1. Name of each foster child and name of the foster home in which child has been placed;
2. Dates of placement and total number of days child was in placement during the month; and
3. Total maintenance and administrative cost for each child in placement and total costs for all placements for the month.

III. Audit and Record Disclosures:

- A. Contractor shall comply with Minnesota Department of Human Services requirements for record keeping and monitoring procedures.
- B. Contractor shall allow Agency personnel access to its foster homes relevant records at reasonable hours to exercise the Agency's responsibility to monitor purchased services.
- C. Contractor shall maintain all licensing and placement records pertaining to the agreement for four (4) years.
- D. Contractor shall send to the Agency a semi-annual financial statement indicating program costs and an evaluation of the success of placements using the "Measurement Tools" attached hereto as Exhibit E and incorporated by reference.
- E. The Contractor agrees to have an annual audit conducted by a Certified Public Accountant which meets the requirements of the single Audit Act of 1984, P.L. 98-502 and Office of Management and Budget. A copy of the audit report will be sent to the Agency upon request.

IV. Data Practices:

The Contractor agrees to maintain the confidentiality of all information concerning foster families, foster children and their families according to the Minnesota Government Data Practices Act (Laws of Minnesota, Chapter 13).

V. Fair Hearing and Grievance Procedures:

The Agency agrees to provide for a fair hearing and grievance procedure in conformance with Minnesota Statutes, Section 256.045 and with the Fair Hearing and Grievance Procedures established by administrative rule of the Department of Human Services.

VI. Bonding, Indemnity, Insurance:

- A. The Contractor shall maintain all time during the term of this agreement, a fidelity bond covering the activity of its personnel authorized to receive or distribute monies.
- B. The Contractor agrees that it will indemnify and hold harmless the Agency from any and all liability, loss, damages, costs or expenses which may be claimed by reason of:
 - 1. Any foster child suffering personal injury, death or property loss or damage while receiving foster care furnished by the Contractor's foster homes under this agreement, or while on premises owned, leased or operated by the Contractor, or while being transported to or from said premises in any vehicle owned, operated, leased or otherwise contracted for by the Contractor or assigns; or
 - 2. Any foster child's causing injury or damage to the property of another person during any time when the contractor or assigns, or employee thereof has undertaken or is furnishing foster care services under this agreement

VI. Bonding, Indemnity, Insurance continued

- C. The Contractor agrees, in order to protect itself under the indemnity provisions set forth above, to all times during the term of this contract, maintain a liability insurance policy for bodily injury or property damage.

V. Conditions:

- A. This agreement may be cancelled by either party at any time with or without cause, upon 30 days notice, in writing, delivered by mail or in person.
- B. Before the termination date of this agreement, the Agency may evaluate the performance of the Contractor in regard to the terms of this agreement to determine whether such performance merits renewal of this agreement.
- C. Any alterations, modifications or waivers or provisions of this agreement shall be valid only when they are:
1. In writing and attached to this agreement: and
 2. Approved by both the Agency and Contractor as signified by a duly authorized signature.
- D. No claim for services provided by Contractor, not specifically stated in the agreement, will be allowed by the Agency.

APPROVED AS TO FORM AND EXECUTION:

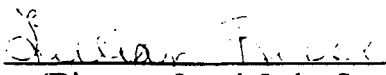
BY: _____
(County Attorney)

BY: 
(Director, Cass County Social Services)

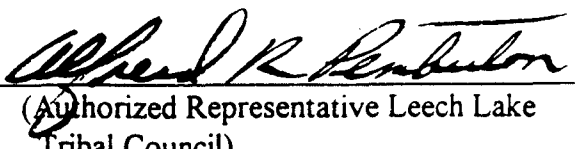
DATED: 11-21, 19 95

BY: 
(Chairperson Board) Welfare

DATED: 11-21, 19 95

BY: 
(Director, Leech Lake Social Services)

DATED: November 1, 19 95

BY: 
(Authorized Representative Leech Lake Tribal Council)

DATED: November 1, 19 95

CONSOLIDATE CHEMICAL DEPENDENCY TREATMENT FUND HOST COUNTY CONTRACT

The Cass County Department of Social Services, Box 519, Walker, MN 56484, hereafter referred to as the "Agency" and Leech Lake Tribal council Social Service Division, RR 3, Box 100 Cass Lake, MN 56633, hereafter referred to as the "Contractor," enter into this agreement for the period of January 1, 1996 to December 31, 1996.

WITNESSETH

WHEREAS, Minnesota Statutes, Chapter 254B, establishes the Consolidated Chemical Dependency Treatment Fund to enable counties [OR: Indian Tribal Governments] to provide chemical dependency treatment services to eligible clients;

WHEREAS, the County of Cass has designated the Agency to provide chemical dependency treatment services pursuant to Minnesota Statutes, chapter 254B, which outlines its duties, obligation and responsibilities in this regard;

WHEREAS, the Contractor is an organization located on federally recognized tribal lands and provides chemical dependency treatment services, which are eligible for funding by the Consolidated Chemical Dependency Treatment Fund, and for which this organization is licensed under Minnesota Chippewa Tribe, Ordinance 4.

WHEREAS, the Agency, pursuant to Minnesota Statutes, Chapter 254B, wishes to purchase such services from the Contractor;

WHEREAS, the Contractor represents that it is duly qualified and willing to perform such services [for culturally specific programs: and meets the definitions of a culturally specific program under Minnesota Rules, part 9530.6605, subpart 13]; and

WHEREAS, the Agency and the Contractor, according to Minnesota Rules, part 9550.0040, subparts 7 and 8, understand that this agreement serves as a host county agreement for services purchased by financially responsible agencies of other counties and reservation which may place Consolidated Chemical Dependency Treatment Fund eligible clients with the Contractor;

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, the Agency and Contractor agree as follows:

00000

1. **CONTRACTORS DUTIES:**

- a. The Agency agrees to purchase the Contractor agrees to furnish the following:
 - 1) Men's Halfway House facilities.
 - 2) Adult Outpatient Chemical Dependency Services.
 - 3) Detoxification Services.
 - 4) Women's Outpatient Chemical Dependency Services.
- b. Pursuant to Exhibit A, attached hereto and incorporated by reference, the Contractor agrees to provide:
 - 1) An explicit description of the services to be provided;
 - 2) An organization chart;
 - 3) The licensed program capacity;
 - 4) Program content; and
 - 5) Program budget.
- c. The Contractor shall, in writing within 10 days, notify the agency whenever it is unable to, provide the required quality or quantity of Purchased Services. Upon such notification, the Agency shall determine whether such inability will require modification or cancellation of said contract.
- d. The contractor shall participate in the Drug and Alcohol Abuse Normative Evaluation System (DAANES) or a comparable client information system which meets the criteria and reporting requirements of Minnesota Rules, part 9530.7030.

2. **COST AND DELIVERY OF PURCHASED SERVICES:**

- a. The unit cost for providing services to clients for Consolidated Chemical Dependency Treatment Fund reimbursement under Minnesota Rules, parts 9530.7000 to 9530.7020, shall be \$37.00 per day for the halfway House, \$45.00 per hour for Outpatient Chemical Dependency Services, \$87.00 per day for Detoxification Services and \$22.00 per hour for Women's Outpatient Services.
- b. The Contractor certifies that payment claims for Purchased Services will be in accordance with the rates of payment and amounts authorized by the Agency, or by the county or Reservation of financial responsibility, on the Client Placement Authorization Chemical Dependency Fund form. the Contractor agrees to submit all charges in a form and manner acceptable to the Consolidated Chemical Dependency Treatment Fund invoice processing system.
- c. Purchased services will be provided on the Leech Lake Reservation.

- d. The Contractor will obtain Agency approval prior to any provision of services in excess of the units, costs or dates of service authorized by the Agency at the time of placement on the Client Placement Authorization form for the Consolidated Chemical Dependency Treatment Fund.
- e. The Contractor shall notify the Agency and the client in writing whenever the Contractor proposes to discharge or terminate service (s) to their client. The notice must be sent prior to the proposed date of discharge or termination of service (s). The Contractor shall not discharge or terminate services to a client prior to the proposed date unless delay would seriously endanger the health, safety or well being of other clients.

5. **PAYMENT FOR PURCHASED SERVICES:**

- a. **Submission of Invoices:** The Contractor shall, within, 15 working days following the last day of each calendar month, submit an Invoice-Chemical Dependency Treatment Fund form, for each Consolidated Chemical Dependency Treatment Fund clients for chemical dependency services purchased, to the agency of financial responsibility identified in Block 49 of the form. the invoice shall show: (1) the period of service; (2) a description of the services provided; (3) the rate, number of units and amount of each service purchased; (4) gross charges, and (5) net charges.
- b. **Authorization of Payment:** The Agency of financial responsibility shall within 10 working days of receipt of Invoice-Chemical Dependency Fund form, review and submit invoice to Department of Human Services. The parties understand that if the period of service, rate per unit of service, or number of units of service provided was not authorized by the agency of financial responsibility the agency may disapprove portion of Invoice unless Contractor has had prior approval.
- c. **Payment:** The Department of Human Services shall review the Invoice-Chemical Dependency Fund form and make payments to the Contractor for reimbursement-eligible services payable under the Consolidated Chemical Dependency Treatment Fund. The parties understand that, pursuant to Minnesota Statutes, section 254B.06, subdivision 3, the Commissioner of Human Services shall pay eligible vendors for; placements make by local agencies according to Minnesota Statutes, section 254B.03 or by Tribal designated agencies according to Minnesota Statutes, section 254B.09.

6. **AUDIT AND RECORD DISCLOSURE:**

- a. Send the financial statistical and service reports to the Agency on an as requested basis:
- b. Participate in the DAANES or comparable client information system and comply with the reporting requirements of Minnesota rules, part 9530.7030.
- c. Allow personnel of the Agency, the Minnesota Department of Human Services, and the Department of Health and Human Services access to the contractor's facility and records at reasonable hours to exercise their responsibility to monitor purchased services.
- d. Maintain all records pertaining to the contract at the Accounting Office for four (4) years for audit purposes.
- e. Cooperate with the monitoring procedures of the Minnesota Department of Human Services established pursuant to Minnesota Statutes, chapter 254B.

7. **SAFEGUARD OF CLIENT INFORMATION:**

The use or disclosure by any part of information concerning an eligible client in violation of any rule or confidentiality provided for in Laws of Minnesota, Chapter 13, and Title 42, part 2 of the Code of federal Regulations or for any purpose not directly connected with the Agency's or Contractor's responsibility with respect to the Purchased Services hereunder is prohibited except on written consent of such eligible client, the client's attorney or the client's responsible parent or guardian, in conformance with these laws and regulations.

8. **EQUAL EMPLOYMENT OPPORTUNITY, CIVIL RIGHTS AND NONDISCRIMINATION**

(When applicable) The Contractor agrees to comply with the Civil Rights Act of 1964, Title VII (42 USC 2000e); including Executive Order No. 11246 and Title VI (42 USC 2000d); and the Rehabilitation Act of 1973, as amended by section 504.

9. **FAIR HEARING AND GRIEVANCE PROCEDURES:**

The agency agrees to provide for a fair hearing and grievance procedure in conformance with Minnesota Rules, parts 9530.6655 and 9550.0092 and Minnesota Statutes, section 256.045.

10. **BONDING, INDEMNITY, INSURANCE AND AUDIT CLAUSE:**

- a. **BONDING:** The Contractor shall obtain and maintain at all times during the term of this agreement, a fidelity bond covering the activity of its personnel authorized to receive or distribute monies. Such bond shall be in the amount of \$50,000.
- b. **Indemnity:** The Contractor agrees that it will at all time indemnify and hold harmless the Agency from any and all liability, loss, damages, costs or expenses which may be claimed against the Agency or Contractor:
 1. By reason of any service clients suffering personal injury, death or property loss or damages either while participating in or receiving from the Contractor the care and services to be furnished by the Contractor under this agreement, or while on the premises owned, leased or operated by the Contractor, or while being transported to or from said premises in any vehicle owned operated, chartered or otherwise contracted for by the Contractor or his assigns; or
 2. By reason of any service clients causing injury to, or damage to, the property of another person during any time when the Contractor or his assigns or employee thereof has undertaken or is furnishing the care and service called under this agreement.
- c. **Insurance:** The Contractor further agrees, in order to protect itself and the Agency under the indemnity provisions set forth above, to all times during the term of this contract, have and keep in force a liability insurance policy in the amount of \$500,000 for bodily injury or property damage to any one person and \$1,000,000 for total injuries or damages arising from any one incident.
- d. **Audit:** The Contractor agrees that within 60 days of the close of its fiscal year an audit will be conducted by a Certified Public Accounting firm which will meet the requirements of the Single Audit Act of 1984, P.L. 98-502 and the Office of Management and Budget Circular No. 1-128. After completion of the audit, a copy of the audit report must be filed with the Agency.

11. **CONDITIONS OF THE PARTIES' OBLIGATIONS:**

- a. This agreement may be cancelled by either party at any time, with or without cause, upon 30 days notice, in writing, delivered by mail or in person.
- b. Before the termination date specified in Section 1 of this agreement, the Agency may evaluate the performance of the Contractor in regard to terms of this agreement to determine whether such performance merits renewal of this agreement.
- c. Any alternations, variation, modifications or waivers of provisions of this agreement shall be valid only when they have been reduced to writing, duly signed and attached to the original of this agreement.
- d. No claim for services furnished by the Contractor, not specifically provided in the agreement, will be allowed by the Agency, nor shall the Contractor do any work or furnish any material not covered by the agreement, unless this is approved in writing by the Agency. Such approval shall be considered to be a modification of the agreement.
- e. In the event that there is a revision of Federal Regulations which might make this agreement ineligible for Federal financial participation, all parties will review the agreement and renegotiate those items necessary to bring the agreement into compliance.

12. **SUBCONTRACTING:**

The Contractor shall not enter into subcontracts for any of the goods and services contemplated under this agreement without written approval of the Agency. All subcontractors shall be subject to the requirements of this contract. The Contractor shall be responsible for the performance of any subcontractor.

13. **MISCELLANEOUS:**

- a. **Entire Agreement:** It is understood and agreed that the entire agreement of the parties is contained herein and that this agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the Contractor and any county social service agency relating to the subject matter hereof.

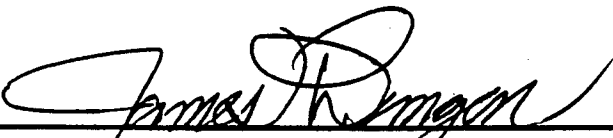
APPROVED AS TO FORM AND EXECUTION

DATED: _____ 19__

(County Attorney)

BY 
(Director, County Social Service Agency)

Dated: 2-20, 1996

BY 
(Chairperson, County Board of Commissioners)

Dated: 2-20, 1996

BY 
(Chairman of Leech Lake Tribal Council)

Dated: 3-1-96, 19__

BY 
(Director, Leech Lake Social Service Division)

Dated: January 29, 1996

FIRE/RESCUE CONTRACT

BY THIS AGREEMENT, the City of Granite Falls, Minnesota, hereinafter referred to as "City", and the town of Sioux Agency, county of Yellow Medicine, Minnesota, hereinafter referred to as "Town", agree with each other to the following terms from January 1, 1995, through December 31, 1995, the same to be automatically renewed for one year at a time, for a maximum duration of five years, to include the original one-year term and four one-year renewals, unless either party notifies the other in writing of its intent not to renew according to the terms hereof, not later than November 1 of the calendar year for which the agreement is in effect, to-wit:

ARTICLE I. The City agrees to furnish fire/rescue service to

1.25 Sections within the Town area for the compensation and on the conditions hereinafter set forth, and the City further agrees that a reasonable effort will be made by its fire department and rescue squad to attend all fires and other emergencies involving probably personal injury within the Town area whenever it is notified of such fires and emergencies subject to the following conditions:

A. Two or more fire and/or emergency calls received from the Town officers or from property owners within the Town area or any of the other Towns having similar contracts or with the City of Granite Falls, shall be answered in the order of their receipt unless the fire chief/rescue chief, or other officers in charge of the fire department/rescue squad at the time otherwise direct.

B. Road and weather conditions must be such that the fire/rescue run can be made with reasonable safety to the firepersons/rescue persons and equipment of the City. The decision of the fire chief/rescue chief or other officers in charge of the fire department/rescue squad at the time that the fire run cannot be made with reasonable safety to firepersons/rescue persons and equipment, shall be final.

C. The City shall not be liable to the Town for loss or damage of any kind whatever resulting from any failure to furnish or any delay in furnishing firepersons/rescue persons or fire equipment/rescue equipment, or from any failure to prevent, control or extinguish any fire or provide emergency rescue service, whether such loss or damage is caused by the negligence of the officers, agents, or employees of the City or its fire department/rescue squad, or otherwise.

D. In responding to fire/rescue calls within the Town area, the fire chief/rescue chief or other officers in charge of the fire department/rescue squad at the time shall dispatch only such personnel and equipment as in their opinion can be safely spared from the City. In case an emergency arises within the City while equipment and personnel of the fire department/rescue squad are engaged in fighting a fire or providing rescue services within the Town area, the fire chief/rescue chief or other officers in charge of the fire department/rescue squad may, in their discretion, recall to the City such equipment and personnel as they may, in their opinion, consider necessary to meet the emergency.

ARTICLE II. The City further agrees:

A. To keep and maintain in good order at its own expense one pumper (750 GPM minimum), one tanker (1500 gallons minimum), and one rescue vehicle for fire/rescue service within all contracted town areas, as well as within the City of Granite Falls;

B. To furnish not less than five firepersons and two rescue persons on each fire call and/or rescue call, respectively;

C. To make no claim against the town for damage to the property of the City or for personal injuries to its firepersons/rescue persons while en route to, or serving at, or returning from fires and/or emergencies within the Town areas.

ARTICLE III. The Town agrees:

A. To pay the City as compensation for the availability of fire/rescue personnel and equipment pursuant to this agreement, the sum of One Hundred Twenty-Five and 00/100 dollars (\$ 125.00) on or before July 1st of each year, this sum representing \$100 a section per year.

B. To make a Town fire protection levy or otherwise provide funds each year in an amount sufficient to pay the City the compensation above agreed upon.

C. To refrain from direct billings to recipients of fire/rescue service within the Town, whether on public right-of-way or private property, with the understanding that the City will directly bill property owners for this service.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed this 5th day of DECEMBER, 1994.

CITY OF GRANITE FALLS

By: Boy E. L...
Mayor

ATTEST:

Marjorie B. Bottge
City Clerk

And: [Signature]
City Manager

THE TOWN OF SIoux AGENCY, Minnesota

ATTEST:

Victor J. Nelson
Town Clerk

By: Larry Krause
Chairperson, Town Board

UTILITY EXTENSION AGREEMENT

I. PARTIES. This agreement is entered into this 15th day of March, 1991 by and between the City of Hinckley, a Municipal corporation of the State of Minnesota (herein "City"); the Corporate Commission of the Mille Lacs Band of the Chippewa Indians (herein "Chippewa"); and Grand Casino Management Corporation, a Minnesota corporation (herein "GCM"); and their successors and assigns.

II. RECITALS.

- (A) The Chippewa own certain property in Pine County, Minnesota located approximately one mile from the City's corporate boundary. GCM has entered into an Agreement with the Chippewa to develop the Chippewa property and may also develop other property in Pine County.
- (B) As Phase I of its development, GCM intends to construct and operate a Casino and Bingo Hall on the Chippewa property. Phase II of the GCM development will consist of a Hotel and Restaurant.
- (C) A public sanitary sewer and water system is not currently available to serve the GCM development. GCM has requested that it be allowed to connect its development to the City's sewage treatment and water facilities.
- (D) GCM has indicated that it will construct sanitary sewer mains, water mains, and appurtenances (such construction project herein "GCM Utility Improvements") as necessary, in order to connect the GCM development to the City's sewage treatment and water facilities; that it would pay the City for reserving part of its existing sewage treatment capacity in order to serve Phase I of the GCM development; and that it would participate in the cost of expanding the City's sewage treatment facilities, including the cost of preparing a preliminary study, in order to serve Phase II of the GCM development.
- (E) The City has the authority to extend its sanitary sewer and water services beyond its corporate boundaries and has expressed a willingness to permit GCM to do so if construction of the GCM Utility Improvements can be accomplished in a manner that also serves the best interests of the City.
- (F) The property which GCM intends to develop and the approximate location of the GCM Utility Improvements are illustrated on Exhibit A attached hereto.

III. TERMS AND CONDITIONS. In consideration of the mutual undertakings herein expressed, the City agrees to permit GCM to extend the City's sanitary sewer and water utilities to serve the GCM development subject to the following conditions:

- (A) Acquisition of Easements. GCM shall acquire, at its cost, all easements required in order to construct the GCM Utility Improvements. The easements shall be dedicated to the City.
- (B) Construction and Dedication of GCM Utility Improvements.
 - (1) The GCM Utility Improvements shall be constructed pursuant to plans and specifications approved by the City.
 - (2) The City or its representative shall make periodic inspections during construction of the GCM Utility Improvements to ensure compliance with approved plans and specifications.
 - (3) GCM shall construct and pay for all costs incurred in order to construct the GCM Utility Improvements.
 - (4) Upon completion, the GCM Utility Improvements shall be conveyed to the City subject only to the restriction expressed in Section III(C) hereof.
- (C) Recovery of Costs. GCM reserves the right to recover a portion of the cost of constructing the GCM Utility Improvements and GCM's share of the cost of expanding the City's sewage treatment facilities from other property owners who may eventually connect to the City's sanitary sewer and water utilities by means of the GCM Utility Improvements. The City and GCM have defined the areas which will be directly benefitted by construction of the GCM Utility Improvements and the expansion of the City's sewage treatment facilities. The directly benefitted sanitary sewer and water areas, consisting of approximately 550 acres, are highlighted in blue on the attached Exhibit A.
 - (1) Direct Benefit. Owners of property located within the directly benefitted areas, who wish to connect to the City's sanitary sewer and/or water utilities by means of the GCM Utility Improvements, shall reimburse GCM for a portion of the GCM construction cost and finance charges, according to the following formula:

$$R = \frac{a \times c}{A}$$

the amount of reimbursement for
within the directly benefitted

the number of acres being
to the GCM Utility Improvements.

represents the cost of constructing the
GCM Utility Improvements.

represents the total number of acres
within the directly benefitted area.

Indirect Benefit. Owners of property located beyond
the directly benefitted areas may be indirectly
benefitted by the GCM Utility Improvements. Owners
of property receiving an indirect benefit may
connect property to the GCM Utility Improvements by
paying GCM $\frac{1}{4}$ of the amount of reimbursement computed
pursuant to the direct benefit formula.

at the time of connection, the area to be connected is
part of the City, the property owner shall pay the amount
of required reimbursement to the City who shall remit the
amount to GCM. No property may be connected to the GCM
Utility Improvements unless the property owner obtains
consent from the City and pays all connection charges
required by the City. All property owners connected to
the GCM Utility Improvements shall agree to comply with
the City's sanitary sewer and water utility regulations.

- (D) Reservation of Capacity. As a minimum, the City shall reserve 18,000 gallons per day of sewage treatment capacity in its present lagoon and sewage treatment facility for Phase I of the GCM development and may reserve additional capacity, upon request of GCM, if such additional capacity is not otherwise required for City purposes.
- (E) Water Pressure. Under normal operating conditions when the City water storage tank is full, the City agrees to deliver a water flow of 1,100 gallons per minute with a residual pressure of 50 P.S.I at the intersection of Trunk Highway 48 and Morris Avenue where the water main portion of the GCM Utility Improvements will connect.

(F) City Utility Expansion Study. Upon execution of this Agreement, the City shall undertake a City Utility Expansion Study as discussed by the City's consulting engineer and GCM's consulting engineer. The Expansion Study shall include review of the current storage capacity of the City's sewage treatment facility and the feasibility of constructing sewage treatment facilities to serve the future needs of the City and GCM projected over a twenty (20) year period. GCM shall pay for the initial cost of the study provided however that the City shall reimburse GCM for one-half of the cost of the study in the event that GCM connects to Phase I of the GCM Development to the City's sewage treatment facilities.

(G) Expansion of City Utilities.

(1) Upon completion of the utility expansion study, the City shall estimate the cost of expanding its sewage treatment facilities to serve the future needs of the City and the construction of Phase II. The City shall provide such information to GCM, determine the feasibility of proceeding with the project and, if feasible, shall cause plans and specifications to be prepared all in accordance with appropriate State and City regulations.

(2) GCM agrees to reimburse the City for GCM's share of the project costs according to the following formula:

Total cost of project x percentage of additional sewage treatment capacity reserved for Phase II of the GCM Development ÷ 100% = GCM's share of project costs.

GCM's share of the project costs shall be paid to the City according to terms to be agreed upon between the parties prior to the City's award of a contract for the construction of the project.

(3) Cost sharing for additional expansion projects shall be as agreed upon by the parties.

(H) Maintenance. The City shall be responsible for maintenance of the GCM Utility Improvements after such improvements have been completed and accepted by the City.

- (I) Connection Charges. Prior to the occupancy and use of Phase I and before the City opens valves to the GCM Utility Improvements, GCM shall pay the City a total water and sanitary sewer connection charge of \$26,700.00. Prior to the occupancy and use of Phase II of the GCM Development, GCM shall pay the City water connection charges as required by the City's regulations.
- (J) Use Charges. In connection with Phase I, GCM shall pay the City sanitary sewer and water use charges as required by the City's regulations for similar uses within the City. In connection with Phase II, GCM shall pay the City water use charges as required by the City's regulations for similar uses within the City. In connection with Phase II, GCM shall pay a sanitary sewer use charge based upon actual usage (including operating and maintenance costs but not debt service costs incurred to finance the expansion of the City's sewage treatment facilities to serve Phase II).
- (K) Compliance with City Regulations. The Chippewa and GCM, for themselves, their successors and assigns, agree to comply with all current City sanitary sewer and water utility regulations and future amendments thereto. The City specifically reserves the right to discontinue sanitary sewer or water services for any violation of the City's sanitary sewer and water utility regulations.
- (L) Conditions Precedent. The rights and obligations of the parties hereto and the terms of this Agreement are subject to the following conditions precedent:
- (1) GCM shall obtain all permits from the State of Minnesota, Pine County, Barry Township, or other governmental units and agencies as necessary in order to construct Phase I of the GCM development including the construction of the GCM Utility Improvements.
 - (2) The City's verification that it can reserve 18,000 gallons per day of sewage treatment capacity in its current lagoon and sewage treatment facility for Phase I of the GCM development.
 - (3) GCM's payment of the sanitary sewer connection charge for Phase I of the GCM development.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

CITY OF HINCKLEY

By: Tom R Cieluch
Tom Cieluch, Mayor

By: Jim Ausmus
Jim Ausmus
City Clerk/Administrator

CORPORATE COMMISSION OF THE
MILLE LACS BAND OF CHIPPEWA INDIANS

By: Carol Thelert
Commissioner of Corporate Affairs

By: _____

GRAND CASINO MANAGEMENT CORPORATION

By: Stanley M. Raube
Stanley M. Raube
President

PAYMENT AGREEMENT

This PAYMENT AGREEMENT, dated as of September 9, 1992 (the "Agreement") among the City of Hinckley, Minnesota (the "City") and Grand Casino, Inc., a Minnesota corporation, and The Corporate Commission of the Mille Lacs Band of Ojibwe Indians (Grand Casino, Inc. and The Corporate Commission of the Mille Lacs Band of Ojibwe Indians are hereinafter referred to as the "Guarantors"):

WITNESSETH;

WHEREAS, the City intends to issue and sell its General Obligation-Revenue Wastewater Treatment Facility Note (the "Note") to the Public Facilities Authority of the State of Minnesota (the "Purchaser") in the principal amount of \$1,900,000 to finance the construction of an expansion to the City's wastewater treatment facility (the "Project");

WHEREAS, the Guarantors will be principal users of the Project through Grand Casino and peripheral development undertaken in and around Grand Casino (the "Development");

WHEREAS, it is estimated that \$1,000,000 of the costs of the Project is attributed to the Development and \$900,000 is attributed to the normal growth of the City;

WHEREAS, the Guarantors intend to pledge to pay an amount to the City which will equal \$1,000,000 in principal of the Note and interest accruing on such amount;

WHEREAS, the City will collect fees and charges from users of the Project in an amount to generate, at a minimum, net revenues which will pay the balance of the principal of and interest on the Note;

WHEREAS, the City has required the Guarantors to execute and deliver this Agreement as a condition precedent to the City's issuance of the Note;

NOW, THEREFORE, to induce the City to issue the Note and the Purchaser to purchase and accept the Note, the Guarantors hereby represent, covenant and agree as follows:

SECTION 1

Representations

1.1. The Guarantors each represent and warrant that the execution and delivery of this Agreement and the fulfillment of the

terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms, conditions or restrictions of any agreement or instrument to which the Guarantors are now a party and do not and will not constitute a default under any such agreement or instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Guarantors contrary to the terms of any instrument or agreement.

SECTION 2

Covenants

2.1. The Guarantors hereby unconditionally and irrevocably promise to pay to the City the amounts set forth in the following paragraph and guarantee to the Purchaser the full and prompt payment of \$1,000,000 in principal of and accruing interest on the Note as further provided herein.

The \$1,000,000 in principal amount of the Note and interest thereon at a rate equal to the interest rate to be paid by the City to the Purchaser of the Note shall be paid by the Guarantors to the City over a period of seven years, as provided in the amortization schedule attached hereto as Exhibit A. Payments shall be made to the City on a monthly basis. The City agrees to prepay the Note from the payments it receives from the Guarantors. The payments received representing principal prepayment shall be applied to the prepayment of principal on the Note. The interest received shall be applied to pay interest on the Note. Payment by the Guarantors is limited to \$1,000,000 of the Note, plus accrued interest and any costs of collection relating to such portion, and this Agreement shall be deemed satisfied when total payments have been made by the Guarantors aggregating \$1,000,000, plus accrued interest and any costs of collection.

The Guarantors, separate and apart from any payments due under this Agreement, will pay to the City any customary charges or user fees which may be levied by the City and are consistent with those charges and fees paid by other users of the Project, except the Guarantors shall not be charged for any portion of the charges or fees which relate to the payment of principal of and interest on the Note.

2.2. The obligations of the Guarantors under this Agreement are joint and several and shall be absolute, irrevocable, and unconditional, and, subject to the conditions provided under Section 2.1 hereof, shall remain in full force and effect until the entire principal and interest on the Note have been paid or provided for, and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including, without limitation, any of the following:

(A) any failure, omission, delay or lack on the part of the City to enforce, assert or exercise any right, power or remedy conferred on the City under this Agreement or the Note or any other act or acts on the part of the City;

(B) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of debts, or other similar proceedings affecting the the City or the Guarantors, or any of the assets of any of them, or any allegation or contest of the validity of this Agreement in any such proceedings;

(C) to the extent permitted by law, the release or discharge of the Guarantors from the performance or observance of any obligation, covenant or agreement contained in this Agreement or arising by operation of law;

(D) the default or failure of the Guarantors, either individually or jointly, to perform any of the Guarantor obligations set forth in this Agreement;

(E) any determination of the illegality, invalidity or unenforceability of the Note; or

(F) any other event or occurrence with respect to the Project or the Note.

2.3. The Guarantors agree to pay all the costs, expenses and fees (including all reasonable attorneys' fees), which may be incurred by the City in enforcing or attempting to enforce this Agreement following any default on the part of the Guarantors hereunder, whether the same shall be enforced by suit or otherwise.

2.4. The Guarantors hereby waive, demand, notice, presentment, notice of dishonor, dishonor, and any defense of impairment of collateral or recourse, or any other defense at law or equity which the Guarantors may lawfully waive.

2.5. No set-off, counterclaim, reduction, or diminution of any obligation, or any defense of any kind or nature which the Guarantors have or may have against the City shall be available hereunder to the Guarantors against the City in any proceeding hereunder.

2.6. In the event tax increment is generated from projects undertaken within the Development, it is anticipated that at least one-half of such revenues will be applied to the principal portion of the Note being paid by the Guarantors and a new amortization schedule for the Guarantors will be established.

2.7. In the event any of the property within the Development is annexed by the City, a prorated portion of the principal portion of the Note being paid by the Guarantors may be assessed against such property, and a new amortization schedule for the Guarantors will be established.

SECTION 3

Rights of City and Purchaser

3.1. If the Guarantors fail to make any payment under this Agreement upon demand of the City or the Purchaser, the City or the Purchaser may institute a judicial proceeding for the collection of the sums so due and unpaid, and may prosecute such proceeding to judgment or final decree, and may enforce the same against the Guarantors or any other obligor upon the Note and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Guarantors, wherever situated.

3.2. The Corporate Commission of the Mille Lacs Band of Ojibwe Indians (the "Commission") expressly waives in a limited manner its immunity from suit and consents to be sued in the Court of Central Jurisdiction of the Mille Lacs Band of Ojibwe Indians, and the United States District Court for the District of Minnesota, the United States Court of Appeals for the Eighth Circuit, and the United States Supreme Court in respect of any and all claims arising out of this Agreement. If and only if the United States District Court for the District of Minnesota lacks jurisdiction, then and only then the Commission consents to be sued in the Minnesota state court system.

SECTION 4

Termination

4.1. This Agreement shall terminate upon seven years from the date of issuance of the Note or such earlier date on which the principal and interest on the Note to be paid by the Guarantors have been paid in full. If amounts remain unpaid the Agreement shall remain in effect.

SECTION 5

Notification

5.1. Any notification from the City to the Guarantors of a shortfall in the amount of funds available to make principal and interest payments on the Note will be addressed to each of the Guarantors at the addresses indicted below:

Grand Casino, Inc.
13705 First Avenue North
Plymouth, Minnesota 55441
Attention: Jeff Rice, Vice President - Construction

The Corporate Commission of the
Mille Lacs Band of Ojibwe Indians
HCR 67, Box 194
Onamia, Minnesota 56359
Attention: Doug Twait, Commissioner of
Corporate Affairs

IN WITNESS WHEREOF, the Guarantors have executed this Agreement and the City has accepted the same of the date first above written.

GRAND CASINO, INC.

By *Jeff Rice*
Its *Jeff Rice*

And By *Thomas E. Allen*
Its *Vice Pres*

THE CORPORATE COMMISSION OF THE
MILLE LACS BAND OF
OJIBWE INDIANS

By *Doug Twait*
Its *Doug Twait*

And By _____
Its _____

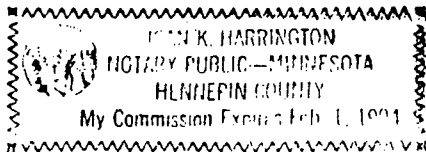
ACCEPTED:

CITY OF HINCKLEY, MINNESOTA

By *James M. Cummings*
Its *Clark - Admin*

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss.

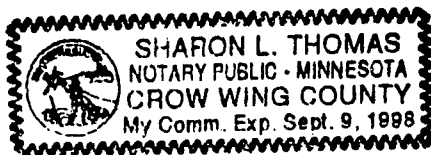
The foregoing instrument was acknowledged before me this 5
day of OCTOBER, 1992, by Lyle Berman and
THOMAS SKLAR, the PRESIDENT
and VICE PRESIDENT, respectively of Grand
Casino, Inc., the Guarantor.



Frank K. Harrington
Notary Public

STATE OF MINNESOTA)
COUNTY OF Crow Wing) ss.

The foregoing instrument was acknowledged before me this 19th
day of October, 1992, by Doug Twait and
Sharon L. Thomas, the Commissioner
and of Corporate Affairs, respectively of The
Corporate Commission of the Mille Lacs Band of Ojibwe Indians, the
Guarantor.



Sharon L. Thomas
Notary Public

**POLICE AND FIRE PROTECTION SERVICE AGREEMENT
BETWEEN
THE SHAKOPEE MDEWAKANTON SIOUX COMMUNITY
AND
THE CITY OF PRIOR LAKE**

This Intergovernmental Police and Fire Protection Service Agreement is made this _____ day of February, 1996, by and between the Shakopee Mdewakanton Sioux (Dakota) Community, a sovereign Indian Tribe, federally recognized and organized under the Indian Reorganization Act of 1934, 25 U.S.C. § 476 (hereinafter "Community") and the City of Prior Lake, a municipal corporation in Scott County, Minnesota, (hereinafter "City").

WHEREAS, the Community and City entered into the Police and Fire Protection Service Agreement on July 30, 1993, which was executed on August 2, 1993; and

WHEREAS, the Community and City have determined to renegotiate various terms of the Agreement and that this Agreement shall replace any and all previous agreements between the two; and

WHEREAS, the Community and City desire to maintain a strong and mutually supportive intergovernmental relationship whereby the City provides to the Community police, fire and emergency response services to the best of its capabilities and as required by law and the Community assists the City in meeting the costs of such services; and

WHEREAS, the Community's General Council has authorized the Tribal Chairman to enter into a binding agreement with the City whereby the City will provide to the Community police and fire protection services.

Now Therefore, the parties hereto agree as follows:

1. **Continued Provision of Services.** The City shall continue to provide police, fire, emergency response services to the Community at a level not less than that provided to the balance of its service area as required by law and for the full term of this Agreement. The parties agree that the City shall have the right to subcontract for the provision of services to the Community. The Community shall have the right to see any subcontract the City may have entered for the provision of services to the Community.
2. **Term and Termination.** The term of this Agreement shall be four years. This Agreement may be terminated by either party within thirty (30) days of the provision of written notice to the other party. Upon termination of this Agreement, the Community shall pay to the City the balance outstanding for the services provided prior to termination.
3. **Payment for Services.** (a) **Fee Amount for Years 1996 and 1997.** The Community shall pay City a fixed fee of Two Hundred Forty Thousand Dollars (\$240,000) per year for the

Intergovernmental Police and Fire Service Agreement

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first two years of the contract term. Fee distributions to the City shall be made in equal quarterly payments of \$60,000 no later than fifteen days after the beginning of each new calendar quarter.

Included in the fixed fee amount for the years 1996 and 1997 are all fees for police, fire and emergency response services and the "local share" (as defined by the federal grant guidelines) of the funding obligation designated for the COPS FAST program.

(b) Fee Amount for Years 1998 and 1999. The fee amount for the Years 1998 and 1999 shall be negotiated in good faith by the parties, which negotiations shall begin on November 1, 1997 and shall conclude no later than December 31, 1997.

Included in the negotiated fee amount for years 1998 and 1999 shall be all fees for police, fire and emergency response services. The "local share" (as defined by the federal grant guidelines) of the funding obligation designated for the COPS FAST program shall be paid separate and in addition to the negotiated fee amount.

4. Conditions. Payment of fees by the Community to the City shall be subject to the following conditions:

(a) For the purposes of this Agreement, an incident response shall be defined as the response by the City to one (1) call originating from a Community business, Community patron or a Community member, whether the City responds with a single police officer and squad car, or with more than one officer and squad car, provided, the response occurs within the boundaries of the Shakopee Mdewakanton Sioux Reservation. In determining whether an event is an incident response, the parties agree to the following:

- (i) Service Response to False Alarms. The City's police department shall respond to all business and residential security alarms that are triggered and such responses shall be included as a incident response even though the triggered alarm may be the result of a false alarm or an alarm triggered for a reason other than an emergency requiring police service.
- (ii) Training Exercises. When the City's police department provides robbery training exercises for the Community enterprises, such exercise shall be treated as one police incident response.
- (iii) Inter-departmental Assistance. Any assistance or service provided by the City's police department as a result of a request from any law enforcement agency or governmental agency other than the Community that requires the City's police department to travel to any Community location shall not

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be included as an incident response.

(b) The City shall provide the Community written documentation of the number of incidents for which the City considers an incident response, which documentation shall include the time of day of response to the incident, the location of the incident, the number of units dispatched to the incident, the action taken by the responding units, and the time the units cleared the incident location.

(c) The Community is aware that under certain circumstances, (including, but not limited to catastrophic events of natural origin and major criminal activity or other similar extraordinary events) the fee schedule will be inadequate to fully reimburse the City for the City's response to the event. If such event were to occur, the Community hereby agrees to meet with the City and to negotiate in good faith to determine an amount adequate to fully reimburse the City for the cost of the response, and agrees to pay the City such amount in addition to the amounts herein specified.

(d) All personnel responding to calls at the Community shall be fully qualified to undertake the response required of a person acting as a police officer, fire response person, or medical emergency response person, and shall be fully trained and licensed, when such licensure is required by the State of Minnesota.

5. **Limitation On Ability of City to Respond.** It is hereby understood and agreed to by the parties that in certain circumstances the ability of the City to respond to incidents within the Community service territory may be limited by road conditions, the involvement of the equipment and personnel and other incidents in the City or the townships to which the City is required to provide service, or by other circumstances beyond the control of the City. For the purposes of this Section 5, such failures shall be deemed involuntary. Such involuntary failure to respond shall not be deemed a violation of this Agreement. However, it is understood and agreed by the parties that such failure to respond shall be considered a violation of the terms and provisions of this Agreement if such failure to respond by the City is voluntary, and if it is determined that the failure to respond is voluntary, then the City shall not be exempt from liability to the Community.

6. **Limitation On Liability of the City for Failure to Respond.** The Community agrees that the City shall not be held liable to the Community for failure by the City's fire department or rescue team to respond to a call, or to arrive in time to prevent the destruction of property which might occur from failure to respond in a timely manner, provided that such failure to respond is involuntary as that term is defined in Section 5 of this Agreement. The Community hereby also agrees that the City shall not be held liable to the Community for any failure of the City's Police Department to respond to a call for service, provided that such failure to respond is not voluntary.

Intergovernmental Police and Fire Service Agreement
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However, the parties hereto hereby acknowledge that the Community cannot restrict the right of any individual member of the Community to bring suit for whatever reason, and agree that the Community does not indemnify the City from and hold the City harmless against any cause of action, suit, or proceeding which an individual member of the Community might bring against the City for failure to respond, or for any actions taken in association with a response by the City to an incident.

7. **Sums Due From Insurance For Fire, Emergency, Medical or Rescue.** The parties hereby agree that the City shall have a right to reimbursement from any insurance policies of any individual, government or business for services provided to the Community where such policies provide for reimbursement to the provider for the provision of emergency medical personnel, fire department service or rescue service, whether the service be provided to the policy holder or to a visitor to the home, business or governmental establishment, and the parties further agree that such reimbursement shall be subtracted from the total cost to the Community for emergency ambulance services, emergency medical personnel, fire department service or rescue service.

8. **Notice.** Notice provided under this Agreement shall be in writing, signed by the officers signatory to this Agreement or their successors, and shall be sent by Certified Mail, Return Receipt Requested, to the Parties at the following Addresses:

To the Community:

Stanley R. Crooks, Chairman
Shakopee Mdewakanton Sioux (Dakota) Community
2330 Sioux Trail N.W.
Prior Lake, MN 55372

With a Copy to:

Tribal Administrator
Shakopee Mdewakanton Sioux (Dakota) Community
2330 Sioux Trail N.W.
Prior Lake, MN 55372

To the City of Prior Lake:

City Manager
City of Prior Lake
Prior Lake City Hall
4629 Dakota Street S.E.
Prior Lake, MN 55372


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9. **Authorization.** The Community General Council authorized the Tribal Chairman to enter into a binding agreement with the City by passing General Council Resolution 11-14-95-002.

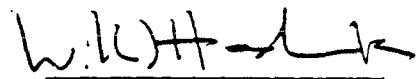
IN WITNESS WHEREOF, the parties have caused this Amendment to be executed.

Shakopee Mdewakanton Sioux Community

Approved as to form:


By: 
Chairman

2-13-96
Date


Attorney for Community

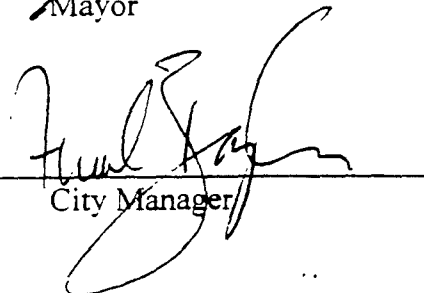
City of Prior Lake, Minnesota.

Approved as to form:

By: 
Mayor

2/20/96
Date

Legal Counsel

By: 
City Manager

2/20/96
Date

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY
AND
THE METROPOLITAN COUNCIL

- WHEREAS, the SHAKOPEE MDEWAKANTON DAKOTA COMMUNITY, also known as the SHAKOPEE MDEWAKANTON SIOUX COMMUNITY, (hereinafter the "Community") is a sovereign Indian Tribe, federally recognized and organized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. 461 *et seq.*; and
- WHEREAS, the METROPOLITAN COUNCIL (hereinafter the "Council") is a governmental body organized under Minnesota Statutes, Chapter 473, and exercising authority delegated to it by the Minnesota Legislature for the purpose of promoting comprehensive planning of a scope sufficient to address the issues and concerns raised by urban economic growth and development in the seven county Metropolitan area, and to address the impact of that growth and development on the provision of services related to the infrastructure systems of wastewater treatment, transportation, aviation, and regional parks and open spaces, and water use and supply; and
- WHEREAS, the Council recognizes and accepts that the sovereign status of the Community excepts the Community from the jurisdiction of the Council; and
- WHEREAS, the Council further recognizes and accepts that the Community's sovereignty accords the Community a unique legal status which requires the Council to interact with the Community on a government to government basis to prevent an unacceptable intrusion by any agency or political subdivision of the State into the affairs of the Community, which intrusion would be an impermissible infringement on the sovereignty of the Community; and
- WHEREAS, the Council has a legitimate need for information regarding proposed development by the Community, which information will ensure that development by the Community will be considered by the Council in planning for the various physical infrastructure systems upon which the communities of the seven county area rely; and
- WHEREAS, the Community recognizes and accepts the legitimate need of the Council for information regarding development by the Community in order for the Council to effectively plan for the provision of services to the Community and the other communities in the seven county area; and

WHEREAS, the Community desires to cooperate with the Council to engage in an orderly process of development which will encourage and enhance the government to government relationship between the Council and the Community; and

WHEREAS, the Community is experiencing a period of growth and development which will impact those aforementioned infrastructure systems which the Council oversees.

NOW, THEREFORE, in order to insure the future success of the government to government relationship which exists between the Council and the Community; to ensure that the Community will continue to be provided those services over which the Council exercises planning authority; to ascertain that issues relating to development by the Community and the need by the Council for information relating to that development are addressed in a manner which respects the sovereign status of the Community and provides a mechanism to meet the Council's responsibility to protect the functioning of those regional infrastructure systems, the parties to this Agreement do hereby agree as follows:

1. Definitions.

(a) Community. "Community" shall mean the Federally recognized tribal government of the Shakopee Mdewakanton Sioux (Dakota) Community, which is organized under the provisions of the Indian Reorganization Act of 1934, and which is located within the geographical city limits of the Cities of Prior Lake and Shakopee, Scott County, Minnesota.

(b) Council. "Council" shall mean the agency created by Minnesota Statutes, Section 473.123.

(c) Environmental Laws. "Environmental Laws" shall mean those laws which relate to and govern the conduct of the parties with regard to the discharge of substances into the sewer facilities, and to the containment and control of nonpoint source pollution.

(d) Governmental Unit. "Governmental Unit" shall mean any county, city, town, school district or other political subdivision lying in whole or in part within the metropolitan area.

(d) MPCA. "MPCA" shall mean the agency known as the Minnesota Pollution Control Agency, created by Minnesota Statutes, Section 116.02

(e) Parties. "Parties" shall mean the Community and the Metropolitan Council both of whom are signatory parties to this Agreement.

(f) Reservation. "Reservation" shall mean all the lands which have been transferred to trust status, and which are designated as part of the Shakopee Mdewakanton Sioux (Dakota) Reservation by the Secretary of the Interior.

2. Statement of Purpose. The parties hereby agree that the purpose of this Agreement is to provide a framework for the interaction of the Community and the Council which will respect the sovereign status of the Community; to provide information for the Council to incorporate into its planning process for the seven county Metro area; to define the rights, duties and understandings of the Community and the Council; to further the government to government relationship between the Community and the Council; and to develop a precedent for future interactions of the Community and the Council.

3. Term. This Memorandum of Understanding shall remain in effect for a term beginning on the date of execution hereof, and continuing through January 1, 2089.

4. Conditions. This Agreement is subject to the following conditions:

4.1 Continued Existence of the Council. It is hereby accepted as a condition of this Agreement that this Agreement shall remain in effect only so long as the Council shall remain in existence, and that the rights, duties and obligations of the parties to this Agreement shall terminate without further act of either party hereto at that date at which the Council ceases to exist, unless the successor entity to the Council, if any, is granted substantially the same authority as the Council, and assumes all the Council's duties hereunder.

4.2 Continued Authority of the Council. It is hereby accepted as a condition of this Agreement that this Agreement shall remain in effect only so long as the Council exercises that authority delegated to it by Minnesota Statutes, Chapter 473, in substantially the same manner as that which the Council exercises as of the date hereof, and if there is a material change to the statutory authority of the Council, whether in scope or degree, then this Agreement shall terminate without further act of the parties hereto.

4.3 Continued Existence of the Sovereign Status of the Community. It is hereby accepted as a condition of this Agreement that this Agreement shall remain in effect only so long as the Community is a sovereign entity, and if the Community should cease to be a sovereign entity then this Agreement shall terminate without further act of either party hereto.

4.4 Representations and Warranties. The representations and warranties of the parties contained in this Agreement must be true now and for the full term of this Agreement as they are on the date of execution.

5. Rights of the Parties. The rights of the parties hereto shall be as follows:

5.1 Rights of the Community. The Community shall have the following rights:

5.1.1 Right to Sewer Service. The Community shall have the right, as specified in the Sewer Construction and Maintenance Agreements pertaining to the Reservation, to approval by the Council of allocation of sewer capacity, which allocation shall be made on the basis of the following factors, which factors shall be accorded equal weight in the decision-making process of the Council:

(a) Long Term Life of Sewage Treatment Facility. The long term life of the sewage treatment facilities and the carrying capacity of the lines which serve the Community.

(b) Community Need. The need of the Community for sewer service shall be considered separate and apart from that of the surrounding governmental units, and shall be determined exclusively on the basis of the needs of the Community, and the sewer capacity allocated to the Community shall not be limited by the needs of the surrounding governmental units.

(c) Regional Limitations As Limitation on Community. Notwithstanding the above language, it is understood that certain regional limitations in sewer capacity exist which might impact the sewer capacity which shall be available for allocation to the Community in the future, however the Council shall not act without notice to and consultation with the Community.

5.1.2 Right to Information. The Community shall have the right to the following information:

(a) Information Regarding Regional Planning. The Community shall have the right to remain informed of decisions regarding regional planning issues made by the Council which have the potential to have a substantial impact on the provision of services to the Community, including, without limitation, decisions regarding revisions of chapters of the Metropolitan Development Guide. The Council agrees to inform the Community of such decisions within thirty days of official action regarding such issues; and

(b) Information Regarding Comprehensive Plan Changes. The Community shall have the right to receive notification of proposed changes to the comprehensive plans of any adjacent Governmental

Units.

5.1.3 Right to Representation. The Community shall have the right to be represented before the Council in all Council matters which have the potential to impact the economic development of the Community, and the Council agrees that it shall consider in good faith the position of the Community relative to any matters having such potential impact .

5.1.4 Right of the Community to Define Reservation. The Community shall continue to have the sovereign right, subject to the approval of the Secretary of the Interior, to make decisions regarding the boundaries of the Reservation, and shall retain the sovereign right to request the Secretary of the Interior to transfer into trust status those fee lands acquired by the Community.

5.1.5 Right of the Community to Determine Appropriate Development. The Community shall retain the sovereign right to determine development of the Community's resources, and to make decisions, free from interference by the State of Minnesota or any political subdivision thereof, regarding commercial, residential or industrial growth and progress, and the Council further agrees that the Community shall not be constrained from future development so long as the Community complies with the terms of this Agreement.

5.1.6 Right of the Community to Services. The Community shall have a continuing right to the provision of services to the same extent as all other Governmental Units in the seven county Metropolitan area, and no action of the Council shall abridge, restrict, limit or otherwise diminish the right of the Community to the continued provision of services, however, the Community recognizes that the provision of services for future development by the Community might be constrained as a consequence of the limited capacity of the various infrastructure systems over which the Council exercises planning authority.

5.1.7 Right of the Community to Determine Land Use. The Community shall retain the right to determine appropriate land use on lands owned by, held in trust for, or otherwise within the jurisdiction of the Community, however, the Community recognizes that the provision of services for future development by the Community might be constrained as a consequence of the limited capacity of the various infrastructure systems over which the Council exercises planning authority.

5.2 Rights of the Council. The Council shall have the following rights:

5.2.1 Right to Information.
following information:

The Council shall have the right to the

- (a) A land use map which shows the existing land uses on lands owned by, held in trust for, or otherwise within the jurisdiction of the Community;
- (b) A land use map which shows proposed future uses of land owned by, held in trust for, or otherwise within the jurisdiction of the Community to the year 2000, which shall be updated every ten years;
- (c) The information normally contained in a Tier 1 sewer policy plan, the content of which is included as Exhibit A;
- (d) Land use information that includes specific land use types and density information to ensure consistency with highway capacities and design recommendations of the Metropolitan Council's Transportation Development Guide/Policy Plan. This information would include methods and actions to mitigate incompatibilities between transportation facilities and adjacent land uses.
 - (1) Any information generated by the Community regarding the number of trips, whether of bus, auto or service vehicles, to business establishments located on the Reservation on a per day basis, and the time, or times of day when the peak number of trips occur.
 - (2) Any information generated by the Community or agents of the Community which relates to transportation demand management and the efforts by the Community to discourage single occupancy vehicle use by patrons of the Community's businesses located on the Reservation.
- (e) Identification of permanent private and emergency use airports and heliports allowed under local controls. Identification of all man-made structures 500 feet above ground level.
- (f) Application of design standards, such as from the National Urban Runoff Program, for new storm water ponds that will reduce the contaminant loadings from surface water runoff. Application of the MPCA's urban "best management practices," entitled *Protecting Water Quality in Urban Areas*, or an equivalent set of standards.
- (g) A water supply plan including:

(1) A description of the existing water supply system, including the source of water, well and treatment plant locations, and major supply lines; an inventory of commercial and industrial users; and indication of the community's intent to make future changes or additions to the system, including projections for population and industrial and commercial use and the methods by which this growth will be served.

(2) A statement of the community's objectives, policies, and standards for operating the water supply system;

(3) A conservation program that contains the goals of the program, demand and supply conservation techniques to be used, an evaluation of pricing methods that could be used to reduce demand, the conditions under which conservation actions would occur, a process for reducing nonessential uses according to a priority system established by the Community, and the education program that will be used to inform the public of the need to conserve and the methods available to achieve conservation;

(4) A copy of an emergency preparedness or contingency plan demonstrating that the Community has developed and adopted a strategy to deal with a disruption in the Community's water supply;

(5) An indication of the possibility for joint efforts with neighboring communities or other public entities for sharing water sources and treatment, interconnection for routine or emergency supply, pursuit of alternative supplies, and water source protection; and

(6) A statement of the water supply problems that the community experiences or expects to experience and any proposed solutions, especially those that would impact other communities or the region; and

(7) A wellhead protection plan adopted in accordance with applicable laws.

5.2.2 Right to Update of Information Provided. The Council shall have the right to an update, at two year intervals, of the information so provided.

5.2.3 Right to Regular Informational Meetings. The Council shall have the right to regular meetings with the Community, which meetings shall take place at six month intervals. The frequency of meetings will be reevaluated one year after execution of this Agreement, and any change in the frequency of meetings shall be agreed to by the parties hereto in writing.

6. Duties of the Parties. The parties hereto shall have the following duties:

6.1 Duties of the Community. The Community shall the following duties hereunder:

6.1.1 Duty to Provide Information. The Community shall have a duty to provide the Council with the following information within twelve months of the date of this Agreement:

(a) A land use map which shows the existing land uses on lands owned by, held in trust for, or otherwise within the jurisdiction of the Community;

(b) A land use map which shows proposed future uses of land owned by, held in trust for, or otherwise within the jurisdiction of the Community to the year 2000, which shall be updated every ten years;

(c) The information normally contained in a Tier 1 sewer policy plan, the content of which is included as Exhibit A;

(d) Land use information that includes specific land use types and density information to ensure consistency with highway capacities and design recommendations of the Metropolitan Council's Transportation Development Guide/Policy Plan. This information would include methods and actions to mitigate incompatibilities between transportation facilities and adjacent land uses.

(1) Any information generated by the Community regarding the number of trips, whether of bus, auto or service vehicles, to business establishments located on the Reservation on a per day basis, and the time, or times of day when the peak number of trips occur.

(2) Any information generated by the Community or agents of the Community which relates to transportation demand management and the efforts by the Community to discourage single occupancy vehicle use by patrons of the Community's businesses located on the Reservation.

(e) Identification of permanent private and emergency use airports and heliports allowed under local controls. Identification of all man-made structures 500 feet above ground level.

(f) Application of design standards, such as from the National Urban Runoff Program, for new storm water ponds that will reduce the contaminant loadings from surface water runoff. Application of the MPCA's urban "best management practices," entitled *Protecting Water Quality in Urban Areas*, or an equivalent set of standards.

(g) A copy of an emergency preparedness or contingency plan demonstrating that the Community has developed and adopted a strategy to deal with a disruption in the Community's water supply.

(1) A description of the existing water supply system, including the source of water, well and treatment plant locations, and major supply lines; an inventory of commercial and industrial users; and indication of the community's intent to make future changes or additions to the system, including projections for population and industrial and commercial use and the methods by which this growth will be served.

(2) A statement of the community's objectives, policies, and standards for operating the water supply system;

(3) A conservation program that contains the goals of the program, demand and supply conservation techniques to be used, an evaluation of pricing methods that could be used to reduce demand, the conditions under which conservation actions would occur, a process for reducing nonessential uses according to a priority system established by the Community, and the education program that will be used to inform the public of the need to conserve and the methods available to achieve conservation;

(4) A copy of an emergency preparedness or contingency plan demonstrating that the Community has developed and adopted a strategy to deal with a disruption in the Community's water supply;

(5) An indication of the possibility for joint efforts with neighboring communities or other public entities for sharing water sources and treatment, interconnection for routine or emergency supply, pursuit of alternative supplies, and water

source protection; and

(6) A statement of the water supply problems that the community experiences or expects to experience and any proposed solutions, especially those that would impact other communities or the region; and

(7) A wellhead protection plan adopted in accordance with applicable laws.

6.1.2 Duty to Update Information Provided. The Community shall have a duty to update the information provided above at two year intervals from the date at which the information is first provided to the Council, and hereby agrees that additional requirements regarding areas of information can be added by amendment to this Agreement, subject to the agreement of the parties.

6.1.3 Duty to Meet With Council. Following the execution of this Agreement, the Community agrees to meet with the Council every six months to provide information regarding the future infrastructure and other public service needs of the Community based on existing and planned development of the Community. The frequency of meetings will be reevaluated one year after execution of this Agreement, and any change in the frequency of meetings shall be agreed to by the parties hereto in writing.

6.1.4 Duty Not To Exceed Permissible Discharge Levels. It shall be the duty of the Community to insure that its discharges of materials into the sewer facilities does not exceed the levels which are provided for in the permits relating to environmental laws issued to the operators of the sewer facilities to which the Community is connected.

6.2 Duties of the Council. The Council shall have the following duties hereunder:

6.2.1 Duty to Provide Sewer Service. The Council shall have a duty to approve the allocation of sewer capacity to the Community, as specified in the Sewer Construction and Maintenance Agreements, which allocation shall be made on the basis of the following factors, which factors shall be accorded equal weight in the decision-making process of the Council:

(a) Long Term Life of Sewage Treatment Facility. The long term life of the sewage treatment facilities and the carrying capacity of the lines which serve the Community.

(b) Community Need. The need of the Community for sewer service shall be considered separate and apart from that of the surrounding governmental units, and shall be determined exclusively on the basis of the needs of the Community and the sewer capacity allocated to the Community shall not be limited by the needs of the surrounding governmental units.

(c) Regional Limitations As Limitation on Community. Notwithstanding the above language, it is understood that certain regional limitations in sewer capacity exist which might impact the sewer capacity which shall be available for allocation to the Community in the future, and the duty of the Council to provide services shall be circumscribed by the availability of those services on a regional basis.

6.2.2 Duty to Provide Information. The Council shall have a duty to provide the following information to the Community:

(a) Information Regarding Regional Planning. The Council shall have a duty to inform the Community of decisions regarding regional planning issues made by the Council which have the potential to have a substantial impact on the provision of services to the Community, including, without limitation, decisions regarding the revision of chapters of the Metropolitan Development Guide, and the Council agrees to inform the Community of such decisions within thirty days of official action regarding such issues.

(b) Information Regarding Comprehensive Plan Changes. The Council shall have a duty to provide the Community with notice of proposed changes to the comprehensive plans of any adjacent Governmental Units within thirty days of first receipt of the notice of such proposed changes by the Council.

6.2.3 Duty to Permit Representation by the Community. The Council shall have a duty to permit the Community to be represented before the Council in all matters with which the Council deals which have the potential to impact the development of the Community, economic or otherwise, and the Council agrees that it shall consider in good faith the position of the Community relative to any matters which the Council might consider which have such potential.

6.2.4 Duty to Respect the Sovereign Right of the Community to Define Reservation. The Council shall have a duty to officially acknowledge and respect the Community's continued exercise of its sovereign right, subject to

the approval of the Secretary of the Interior, to make decisions regarding the boundaries of the Reservation, and the Community shall retain the sovereign right to request the Secretary of the Interior to transfer into trust status those fee lands acquired by the Community.

6.2.5 Duty Not to Interfere In Internal Affairs of the Community. T h e Council shall have a duty hereunder to refrain from interfering with the sovereign right of the Community to determine internal affairs, including, but not limited to, the right of the Community to determine development of the Community's resources, and to make decisions, free from interference by the State of Minnesota or any political subdivision thereof, regarding commercial, residential or industrial growth and progress, and the Council further agrees that the Community shall not be constrained from future development, except that the provision of services to accommodate such growth shall be subject to regional limitations on the capacity of the various infrastructure systems for which the Council has planning responsibility and which affect all development in the seven county Metro area. However, nothing contained in this Section 6.2.5 shall be considered to limit the right of the Council to participate in any proceedings involving the Community to the same extent to which the Council would otherwise have such right, whether those proceedings be administrative, legal or equitable in nature. However, nothing contained in this sentence shall be construed to be a waiver of the Community's sovereign immunity from suit.

6.2.6 Duty to Provide Services to the Community. The Council shall have a duty hereunder to provide services to the Community to the same extent as any City or Governmental Unit in the seven county Metropolitan area, and the Council shall have a further duty to ascertain that no action of the Council shall abridge, restrict, limit or otherwise diminish the provision of services to the Community.

6.2.7 Duty to Respect Sovereign Decisions of the Community. T h e Community shall reserve the right to determine appropriate land use on lands owned by, held in trust for, or otherwise within the jurisdiction of the Community, and it shall be the duty of the Council to refrain from interfering with the Community's rights, including, but not limited to, the right to determine appropriate land use, however, the Community recognizes that the provision of services to accommodate certain uses by the Community might in the future be constrained as a consequence of regional limitations which exist in the capacity of the various infrastructure systems.

7. Warranties and Representations. The parties hereto warrant and represent as follows:

7.1 Warranties and Representations of the Community. The Community hereby warrants, represents and covenants that it is a sovereign Indian Tribe, recognized and organized under the Indian Reorganization Act of 1934, 25 U.S.C. 461, *et seq.*, in good standing under the laws of the United States of America; that it has the requisite power and authority to enter into and perform this Agreement, and this Agreement has been duly authorized by all necessary action on the part of the Community and has been duly executed and delivered; such execution, delivery and performance by the Community of this Agreement does not conflict with or result in a violation of any procedures or organic documents governing the Community's existence or operations; that the execution and delivery of this Agreement does not violate any judgment, order, or decree of any court or arbiter to which the Community is a party; that this Agreement is a binding, legal commitment of the Community, enforceable in accordance with its terms and subject to its conditions; and that the Community shall comply with all duties hereunder.

7.2 Warranties and Representations of the Council. The Council hereby warrants, represents and covenants that it is a legitimately established governmental agency of the State of Minnesota, organized under Chapter 473 of the Minnesota Statutes, and is in good standing under the laws of the United States of America and the State of Minnesota; that has the requisite power and authority to enter into and perform this Agreement, and this Agreement has been duly authorized by all necessary action on the part of the Council and has been duly executed and delivered; such execution, delivery and performance by the Council of this Agreement does not conflict with or result in a violation of any documents governing the Council's existence or operations; that the execution and delivery of this Agreement does not violate any judgment, order, or decree of any court or arbiter to which the Council is a party; that this Agreement is a binding, legal commitment of the Council, enforceable in accordance with its terms and subject to its conditions; and that the Council shall comply with all duties hereunder.

8. Events of Default. Events of default, as used herein, shall mean any of the following events (whatever the reason for the occurrence of such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law pursuant to any judgment, order, or decree of any court or any order, rule or regulation of any administrative or governmental body):

8.1 Failure to Perform Duties. The failure by either party hereto to timely perform the individual duties required of them hereunder.

8.2 Misrepresentation. Any material misrepresentation of fact by either party hereto, including, but not limited to, misrepresentations made in the provision of information in compliance with the informational provisions of this Agreement.

8.3 Opportunity to Cure. If either part commits a default under the terms

hereof, or fails to perform any obligation with regard to this Agreement, then the non-defaulting party shall provide the defaulting party with notice of the default which complies with the notice provisions of Section 10 hereof, and if the defaulting party fails to cure such default within thirty (30) days of notice of the default, then the non-defaulting party may exercise the remedies available hereunder, however, such thirty (30) day period shall not be held to apply if cure cannot be had within the prescribed period and if the defaulting party is proceeding with due diligence to effect cure to the satisfaction of the non-defaulting party.

9. Remedies. The parties hereto agree that remedies for events of default shall be exclusively limited to arbitration, and that each party shall have the right to choose one certified arbitrator, and that the two arbitrators so chosen shall then pick a third arbitrator, and the affirmative decision of the majority of the arbitrators shall be considered the decision of all, however, nothing contained herein shall be construed to be a waiver of the Community's sovereign immunity from suit.

10. Notice. Notice provided under this Agreement shall be in writing, signed by the officers signatory to this Agreement or their successors, and shall be sent by Certified Mail, Return Receipt Requested, to the Parties at the following addresses:

To the Community:

_____, Chairman
Shakopee Mdewakanton Sioux Community,
2330 Sioux Trail N.W.
Prior Lake, MN 55372

With a Copy to :

Tribal Administrator

To the Metropolitan Council:

Chair
Metropolitan Council
Mears Park Center
230 East 5th Street
St. Paul, MN 55101

Notice of Amendments to the Notice of Addresses shown above shall be provided in accordance with the terms of this Section.

The parties hereto signify that they have read and understand this Agreement.

Signed:

Shakopee Mdewakanton Sioux Community,

Approved as to form:

By: *Stanley R. Crook* 8/2/93
Chairman Date

Steve Olson

Metropolitan Council,

Approved as to form:

By: *Nottie Rietow* 8-19-93
Chair Date

BO

EXHIBIT A.

TIER I - CONTENT REQUIREMENTS FOR SEWER ELEMENT IN LOCAL COMPREHENSIVE PLAN (Council and Commission Review)

A. Sewered Areas within the Metropolitan Urban Service Area

1. Projected number of households and employees to be served by metropolitan interceptor service area in 2000 and 2010.
2. Map showing the interceptor service areas and staging through 2010, including intercommunity connections and proposed changes in government boundaries.
3. Projected flows in 2000 and 2010 for the total areas to be served and for each metropolitan interceptor service area. (Indicate methodology and assumptions used in calculating flows.)
4. Existing and proposed land use by local service area as proposed in current comprehensive plan (unless an amendment is proposed) by the following categories: industrial, commercial, residential (by density), public open space, and protected or conservation areas (wetlands, floodplains, etc.)
5. Community objectives, policies and strategies for preventing and reducing excessive infiltration and inflow (I/I) in local sewer system. Summary of Community policy requirements and standards for minimizing I/I in new systems. Indication of extent, source and significance of existing I/I problems and determination of what can be cost-effectively removed. Community policy, program strategy, priorities, scheduling, regulations and financing mechanisms for reducing and preventing the problem.

B. Rural Service Areas

1. Map showing the following, as applicable:
 - a. Areas where allowable density exceeds 4 units per 40 acres;
 - b. Areas generally unsuitable for conventional on-site systems;
 - c. Location(s) of existing public and private treatment systems.
2. Description of on-site sewage disposal system management program, covering the applicable requirements in Table 8.

3. Description of conditions under which private, community treatment systems (for example, package treatment plants, community drainfields) would be allowed, including but not limited to allowable land uses, installation requirements and management requirements, including local government responsibilities.
4. Capacity of and existing flows to public and private treatment systems.
5. For the expansion of existing and the development of new municipal treatment systems, a description of the following:
 - a. Projected number of households and employees to be served in 2000 and 2010.
 - b. Map showing the service area and staging through 2010.
 - c. Projected flows in 2000 and 2010.
 - d. Existing and proposed land use by service area as proposed in current comprehensive plan (unless an amendment is proposed) by the following categories: industrial, commercial, residential (by density), public open space and protected or conservation areas (wetlands, floodplains, etc.)
 - e. Local objectives, policies and strategies for preventing and reducing excessive infiltration and inflow in the local sewer system.
 - f. Proposed system timing and financing.

**AMENDMENT NO. 1 TO AMENDED SEWER
CONSTRUCTION AND MAINTENANCE AGREEMENT**

This Amendment No. 1 to Amended Sewer Construction and Maintenance Agreement, provides as follows:

1. The Shakopee Mdewakanton Sioux Community (the Community), the City of Prior Lake, Minnesota (the City), the Metropolitan Council (the Metropolitan Council) and the Metropolitan Waste Control Commission (the MWCC) have heretofore entered into an Amended Sewer Construction and Maintenance Agreement (the Amended Agreement) relating to the construction and maintenance of sanitary sewer facilities to serve the Community's Reservation in the City.

2. The Amended Agreement has been submitted to the Area Director, Minneapolis Area Office, Bureau of Indian Affairs, United States Department of the Interior for approval as required by 25 U.S.C. 81.

3. In order to satisfy the requirements of 25 U.S.C. 81, it is necessary to amend the Amended Agreement in order to state a fixed, limited time for the Amended Agreement to run.

NOW, THEREFORE, in order to comply with the provisions of 25 U.S.C. 81, the Amended Agreement is hereby amended in order to add the following Section XVI:

XVI. Term; Renewals. This Amended Agreement shall be in effect for a term beginning on the Effective Date described in Section XIII and ending on January 1, 2089. At any time within the one year period immediately preceding the scheduled termination date hereof, the Community, by written notice to the other parties hereto, may extend the term of this Amended Agreement for an additional 99 years, provided that:

(a) all amounts payable by the Community hereunder have been fully paid, and

(b) the Community is not in default in the performance of any of its obligations hereunder.

At any time during the term hereof, this Agreement may be terminated pursuant to mutual agreement of the parties or pursuant to the provisions of Section VIII. Upon the termination of this Amended Agreement, either the City or the MWCC may disconnect the Interceptor from the Facility, or refuse to provide service to the Facility, in accordance with the provisions of Subsection C of Section VIII hereof.

Except as expressly amended hereby, the Amended Agreement is hereby ratified and confirmed in all respects.

Signed:

Shakopee Mdewakanton Sioux Community,

By: James L. Prescott
Chairman

12-22-88
Date

Approved as to form:

[Signature]

City of Prior Lake, Minnesota,

By: L. Anderson
Mayor

1-29-90
Date

Approved as to form:

By: David J. Hummel
City Manager

1-26-90
Date

Mum 3.1

Metropolitan Council,

By: Steve Keefe
Steve Keefe, Chair

1-3-90
Date

Approved as to form:

L. Belger 1/3/90

Metropolitan Waste Control Commission,

By: Lurline Bakula
Chair

Date

Approved as to form:

By: Susan O. Umi
Chief Administrator

1/9/90
Date

[Signature]

I hereby approve this agreement on behalf of the United States Department of Interior, Bureau of Indian Affairs, pursuant to the authority delegated to me under the provisions of 25 U.S.C. §81.

By: Robert O. Wymore
Acting Area Director, Minneapolis
Area Office, Bureau of
Indian Affairs

3-22-90
Date

AMENDED SEWER CONSTRUCTION
AND MAINTENANCE AGREEMENT
AMENDMENT NO. 2

This Amendment No. 2 to the Amended Sewer Construction and Maintenance Agreement, provides as follows:

WHEREAS, the Shakopee Mdewakanton Sioux (Dakota) Community (the Community), the City of Prior Lake, Minnesota (the City), the Metropolitan Council (the Council) and the Metropolitan Waste Control Commission (the MWCC) have heretofore entered into an Amended Sewer Construction and Maintenance Agreement (the Amended Agreement) relating to the construction and maintenance of sanitary sewer facilities to serve the Community's Reservation in the City; and

WHEREAS, the Amended Agreement was submitted to the Area Director, Minneapolis Area Office, Bureau of Indian Affairs, United States Department of the Interior for approval as required by 25 U.S.C. §81. It was subsequently amended to state a fixed, limited time for the Amended Agreement to run (Amendment No. 1).

WHEREAS, the Amended Agreement, and Amendment No. 1 to the Amended Agreement, was approved by the Area Director, Minneapolis Area Office, on March 22, 1990, pursuant to 25 U.S.C. §81; and

WHEREAS, the Metropolitan Council, as the governmental body charged with responsibility for overseeing development in the seven county Metropolitan area, has a need for information regarding proposed development by the Shakopee Mdewakanton Sioux (Dakota) Community, which information will ensure that development by the Community will not exceed the capacity of the various physical infrastructure systems which the communities of the seven county area use; and

WHEREAS, the Shakopee Mdewakanton Sioux (Dakota) Community recognizes the legitimate need of the Metropolitan Council for information regarding development by the Community, and the Community desires to cooperate with the Metropolitan Council to engage in an orderly process of development which will encourage and enhance the government to government relationship of the Metropolitan Council and the Community; and

WHEREAS, the Shakopee Mdewakanton Sioux (Dakota) Community has acquired additional property which will require sewer service, and has development projects planned for those lands which form the reservation, which development will require that additional sewer service be provided; and

WHEREAS, the consent of the City of Prior Lake is required to permit those sewer facilities contemplated by this Agreement to pass through lands outside the Reservation which are under the jurisdiction of the City of Prior Lake; and

WHEREAS, the consent of the MWCC, as the entity which provides sewage treatment facilities, is required for the Community to expand sewer capacity as contemplated by this Agreement.

NOW, THEREFORE, in order to insure the future success of the government to government relationship which exists between the Metropolitan Council, the MWCC, the City of Prior Lake and the Community, and to ensure that those additional issues which are necessarily within the coverage of this agreement are addressed, the 1989 Amended Agreement and Amendment No. 1 of 1990 are hereby amended as follows:

Section I. Paragraphs G and M are hereby amended as follows:

I. Definitions.

G. Engelhardt. "Engelhardt" shall mean W.R. Englehardt & Associates, an engineering firm in the State of Minnesota.

M. Reservation. For the purposes of this Agreement only, "Reservation" shall mean all the lands identified on the map attached hereto as Exhibit A, which lands consist of two separate and distinct parcels, one lying north of Scott County Road 42, and the other lying south of Scott County Road 42, together with those additional lands, not to exceed a total of 300 acres, which the Community may hereafter acquire within the next six (6) months which are contiguous to the present reservation, and which are thereafter transferred to trust status, however, this Agreement applies only to the south portion of the Reservation. Upon acquisition of the additional lands, the Community shall promptly provide to the City of Prior Lake, the Metropolitan Council, and the MWCC a revised Exhibit A reflecting the added lands.

Section II. Paragraphs A and B are hereby amended as follows:

II. Recitals.

A. Need of the Community. Although the need originally designated in this section in the original agreement of 1989 and the amendment of 1990 still exists, sanitary sewer facilities have been added to the Community. The Community has increased its land base and additional development has taken place in the Community since that time and it is anticipated that development will continue. The parties agree that it is appropriate and necessary for them to address the additional needs of the Community occasioned by the recent opportunity for land acquisition

and for development on the Reservation.

B. Prior Relevant Action. At the date of execution of this second amendment the facility construction and road construction referenced in this subsection in the 1989 agreement has been completed. Further construction of Community facilities is under way and such facilities shall serve both the Shakopee Mdewakanton Sioux (Dakota) Community and the surrounding communities. As noted in the First Amended Agreement the parties hereto have determined that these new developments by the Community have made certain perfecting amendments desirable.

Section III is hereby amended as follows:

III. Construction of Sanitary Sewer Facilities. For the reasons described in Sections II. A and II. B of the Amendment No. 1 to the Amended Sewer Construction and Maintenance Agreement, and under the terms of Section III of that same agreement, the Parties agreed that the Facility would be constructed to serve the Reservation (and in the event a portion of the Facility is oversized in accordance with Section XIV, to serve other residents of the City), and to connect to the Interceptor. The Parties reaffirm that language from Section III of Amendment No. 1 and hereby specify that the services for the Reservation from the Facility shall include all development on the Reservation on all land South of County Road 42. A separate services agreement shall be executed by the Parties for services to property North of County Road 42. The parties recognize that the present sewer facilities for the South portion of the Reservation have a limited capacity, and the Community hereby agrees that it will proceed with construction of additional facilities at that point at which utilization of the present facilities is within twenty per cent of the upper limit of the total capacity of said facilities. Costs of construction shall be borne by the Community, and all other aspects of the construction shall proceed in the manner described in Section III, A-F, of the Amended Sewer Construction and Maintenance Agreement of 1989-90, provided however, that the City shall conduct off-Reservation inspections and shall be reimbursed for the cost of the same.

G. Regional Limitations As Limitation on Community. The Community recognizes that certain regional limitations in sewer capacity exist which might impact the sewer capacity which shall be available for allocation to the Community in the future.

Section IV, "Reserve Capacity" is hereby amended as follows:

IV. Reserved Capacity. The Community agrees to pay the MWCC reserve capacity charges (which presently take the form of Service Availability Charges), or any statutory successor to such charges, pursuant to MWCC regulation and policy. Such payments will be made to the MWCC through the City of Prior Lake which shall immediately pass on such payments to the MWCC. Although the City of Prior Lake shall collect for the MWCC those

reserve capacity charges owed by the Community to the MWCC, in no case shall the City of Prior Lake bear ultimate responsibility for the collection of such charges pursuant to Minnesota Statutes, Chapter 473, for connections within the Reservation, and responsibility for collection of said charges shall remain at all times with the MWCC. Furthermore, any default in payment of charges due from the Community shall only be considered a default by the Community and shall not, under any circumstances, be considered a default by the City of Prior Lake. Upon the occurrence of an event of default by the Community under the terms of this Agreement, or a default by the Community in the payment of charges due under this clause, the MWCC shall bear all responsibility for seeking cure of the default, and shall be responsible for collecting any and all fees outstanding. Reserve capacity payments which will become due and payable for any new construction, modifications of existing construction, or alterations of whatever type which result in additional sewage discharge, whether of a residential, commercial or industrial nature shall be made at or before the date of the issuance of the first building permit for the proposed project.

Section IV B is hereby amended as follows:

4. Notice of Construction Where Construction May Require Amendment of This Agreement. If a construction project, development project, capital improvements project or other project of whatever kind is planned, anticipated, contemplated or considered which would have the capacity to increase the sewage flow rates by 25 REC units or more over the level which exists at the first date at which the project is considered, anticipated, planned or contemplated, then the Community shall provide notice of the anticipated project to the Metropolitan Council, the MWCC, and to the City in a manner which complies with the notice provisions of this Agreement.

Section IV C is hereby amended as follows:

C. Maximum Flow Permissible. Subject to the Community's meeting the requirements of Section IV. B of the First Amended Agreement, the Community shall be entitled to discharge up to, but not more than, 825 Residential Equivalent Units into the Facility and the Interceptor for the South portion of the Reservation. This maximum amount shall pertain to that land base identified in Section III herein, and to those additional lands, up to 300 acres which the Community may hereafter acquire within the next six months and which are submitted for transfer into trust status. The right to discharge sewage which the Community obtains under the terms of this Agreement, and the amount of capacity which the Community has the right to use is obtained exclusively by and for use by the Community, and no portion, allotment, apportionment or share of the rights obtained by the Community may be assigned, allocated, granted or sold by the Community to any other person, governmental body, corporation or entity of whatever type during the term of this Agreement. An amendment to this Second Amended Agreement would be necessary, in addition to any other applicable requirements, should the Community

desire to discharge more than the amount designated herein.

Section VI is hereby amended as follows:

VI. Use and Monitoring of the Facility.

A. Ordinance. The Community has adopted the Ordinance, which is intended to supplement and aid the enforcement of the Waste Discharge Rules of the MWCC, but which is not intended to and does not preempt those Rules. It is the express agreement of the Parties that the Waste Discharge Rules of the MWCC (including the MWCC's strength discharge provisions) shall apply to users of the Facility within the boundaries of the Reservation. The use of the Facility on the Reservation shall be in all respects consistent with the provisions of the Permit for the Construction and Operation of a Disposal System, issued to the Community or the IHS by the MPCA, and shall also be consistent with the terms of the Ordinance, which incorporates and applies with full force and effect the provisions of the Permit. By execution of this Agreement, the Community agrees that it will take no action to rescind or modify the Ordinance before it has provided written notice of such action, in accordance with the provisions of Section IX. of this Agreement, to the Metropolitan Council, the MWCC, and the City of Prior Lake, not less than thirty days in advance of the effective date of such action.

B. Metering. Sewage flow from the Reservation shall be metered at a point of outlet from the Facility to the Interceptor. The electronic controls for the metering station shall be installed to permit the meter to record sewerage flow accurately. The Community shall be responsible for the cost of acquisition, installation and maintenance of the electronic controls and meter. Once electronic metering is functioning, the meter shall be read on a routine basis by representatives of the City, and the maintenance portion of such charges as are customarily charged to users similarly situated shall be paid by the Community to the City. Copies of all sewage flow records will be made available to the Community and City, and duly authorized representatives of the Community and the City shall have access to all records and to the metering device. During periods when the metering device is out of operation the flow from the Community shall be assumed to be the same as the previous billing period or 274 gallons per Residential Equivalent Unit per day, whichever is mutually agreed upon by the Community and City.

Section VIII is hereby amended as follows:

VIII. Remedies for Non-Performance. In addition to, and not in lieu of, any other remedies that may be available to the Parties under law, the Parties agree that the following remedies for non-performance shall be available under this Agreement:

A. Non-Performance by the City of Prior Lake or the MWCC. If, by reason of any negligent or wilful failure by the City of Prior Lake or the MWCC to perform any obligations or provide any services contemplated by this Agreement, the Community reasonably incurs any expense, then the Community may deduct the amount of such expense from any amounts that may in the future be owing from the Community to the City of Prior Lake or the MWCC, as the case may be, under this Agreement, and the Community may seek equitable relief, including, but not limited to, specific performance, from any court of competent jurisdiction. The remedies in paragraph VIII B., including waiver of immunity, extend to any suit brought by the City or the MWCC to recover any funds deducted by the Community pursuant to this Section VIII. A.

B. Non-Performance by the Community. To ensure its performance under this Agreement, the Community agrees to obtain two irrevocable letters of credit, one in favor of the MWCC, which shall be in the amount of fifty thousand dollars (\$50,000.00), and one in favor of the City of Prior Lake, which shall be in a sum of twenty-five thousand dollars (\$25,000.00), which letters of credit shall be paid prior to the execution of this Agreement for a five year term, and which shall serve as the letters of credit for the Sewer Construction and Maintenance Agreements for both the North and South portions of the Reservation, and which are attached hereto as Exhibit B. The letters of credit shall be in a form acceptable to the MWCC and the City of Prior Lake, and shall be automatically reissued after the initial five year term has expired, and after each five (5) year period thereafter during the term of this Agreement. If, by reason of any failure by the Community to perform any obligations or provide any services contemplated by this Agreement, the City of Prior Lake or the MWCC incurs any expense, or does not receive payment as provided herein, then the City of Prior Lake or the MWCC, as the case may be, may proceed against the letter of credit in its favor to obtain compensation for such expense or payment. In addition, if the Community fails to perform its obligations under the provisions of this Agreement, then either the City of Prior Lake or the MWCC may disconnect the Interceptor from the Facility, or refuse to provide service to the Facility, in accordance with the provisions of Subsection C of this Section, or the City of Prior Lake, the MWCC, or the Metropolitan Council may sue the Community in a court of competent jurisdiction for equitable relief against the Community's failure to perform its obligations, including its obligation not to exceed the average flow of sewage permitted under Section IV of this Agreement. It is expressly agreed by all of the Parties that the Community does herewith waive its immunity from suit for the following express purpose only: if the MPCA and/or any of the Parties contend that the Community has violated its obligations with respect to the amount or type of sewage entering the Facility, or with respect to the number of hookups connected to the Facility or the payments owing to the City of Prior Lake or the MWCC under the provisions of Section IV of this Agreement, the Community waives its immunity from suit by the MPCA and/or any of the Parties for equitable relief only from such violations in any court which would have subject matter jurisdiction over such an

action. Immunity from suit for damage relief shall not be waived and is denied. The Community does not waive its immunity from suit for any other purposes nor to any other provision or aspect of this Agreement. The Community reserves the right to cancel the letters of credit from the issuing financial institution if the Community determines to enter into a relationship with another financial institution during the five-year period for which the letters are issued. However, before the Community may exercise this right, the Community shall provide thirty (30) days notice to the City and the MWCC of intent to exercise its right to cancel, and the Community shall, prior to the termination of the then current letters of credit, secure replacement letters of credit in the amounts set forth above and in form acceptable to the City and the MWCC, but the term for the replacement letters shall be the remainder of the then current five-year term.

C. Procedures for Disconnection or Refusal to Provide Services. No action shall be taken by the MWCC or the City of Prior Lake to disconnect the Facility from the Interceptor, or to refuse to provide service to the Facility, for any failure of the Community to comply with this Agreement, unless the Community has first been provided thirty (30) days' written notice, in accordance with Section IX of this Agreement, of such failure and of the intention of the City of Prior Lake or the MWCC to take such action. It is understood by the Parties, however, that the MWCC retains the right to shut off service in accordance with its rules in emergency cases when such shutoff is consistent with its Rules.

D. Order of Remedies. The parties agree that in the event of a failure by the Community to perform hereunder, or in the event one of the parties is subject to liability for which the Community must indemnify that party, the remedies available shall be exercised as follows: (i) if the Community defaults in the payment of money due the City or the MWCC hereunder, then the City or the MWCC shall have recourse to the letters of credit for the amount of such default, and if the default in the payment of monies due hereunder continues for more than thirty (30) days, then the City or the MWCC may proceed with an action for equitable enforcement of the payment provisions of this Agreement, and shall be indemnified for the costs and expenses of such action, and the payment of such indemnification may be ordered by the Court simultaneously with the equitable relief; (ii) if the City, the Metropolitan Council or the MWCC is subject to any claim, liability, action, demand, damage, or loss including costs and expenses arising out of the negligent or wilful acts of the Community or its employees, officers or agents, and which result in bodily injury, sickness, disease or death, or injury for the destruction of tangible personal property under the provisions of Section X of this Agreement, then the aggrieved party may proceed with a claim for indemnification, and may proceed simultaneously with an action for equitable relief requiring compliance by the Community with the provisions of this Agreement and, if the activity of the Community which gave rise to the claim for indemnification has not been voluntarily terminated by the Community, equitable relief requiring termination of the activity of the Community

which gave rise to the claim for indemnification; and (iii) if the City, the MWCC, or the Metropolitan Council are subject to penalties for environmental harms which are attributable to the Community under the provisions of Section X of this Agreement, then the aggrieved party may proceed with a claim for indemnification, and may proceed simultaneously with an action for equitable relief requiring compliance by the Community with the provisions of this Agreement and, if the activity by the Community which gave rise to the penalty against the City, the MWCC or the Metropolitan Council has not been voluntarily terminated by the Community, equitable relief requiring termination of the activity of the Community which gave rise to the penalties in the first instance.

Section X is hereby amended as follows:

X. Hold Harmless and Indemnification.

A. The Community agrees to indemnify and save the Metropolitan Council, the City of Prior Lake and the MWCC harmless against and from any and all claims, liabilities, actions, demands, damages, costs and expenses, including reasonable attorneys' fees for the defense thereof, arising out of or resulting from any negligent or wilful breach or default on the part of the Community in the performance of any covenant or agreement on the part of the Community required to be performed pursuant to the terms of this Agreement, provided that such claim, suit, damage, loss, action, demand or expense is attributable to bodily injury, sickness, disease or death, or to injury for the destruction of tangible property including loss of use resulting therefrom, or to economic loss or costs incurred by the MWCC in operating or repairing the Facilities, but only to the extent caused by negligent or wilful acts of the Community, a contractor or subcontractor for the Community, anyone directly employed by them or anyone for whose acts they may be liable. The liability of the Community on any claim within the scope of this section shall not exceed (i) two hundred thousand dollars (\$200,000.00) when the claim is one for death by wrongful act or omission and two hundred thousand dollars (\$200,000.00) to any claimant in any other case; (ii) six hundred thousand dollars (\$600,000.00) for any number of claims arising out of a single occurrence; or (iii) twice the limits provided in clauses (i) and (ii) when the claim arises out of the release or threatened release of a hazardous substance, whether the claim is brought under Chapter 115B.01 to 115B.15 of the Minnesota Statutes or under any other law. No award for damages on any such claim shall include punitive damages. The liability of the Community for the act of any employee, officer or agent of the Community for a tort arising out of an alleged negligent or wilful act or omission occurring in the performance of duty shall not exceed the amounts and shall be subject to the same conditions as the liability of the Community, and the liability of any employee, officer or agent for any tort arising out of an alleged negligent or wilful act or omission occurring in the performance of duty shall not exceed the amounts and shall be subject to the same conditions as the liability of the Community. The total liability of the Community

on a claim against it or its employees, officers or agents shall not exceed the limits set forth in (i), (ii), and (iii) above. The limitations imposed on individual claimants by this section includes damages claimed for loss of services or loss of support arising out of the same tort, and includes damages for loss of business profits.

The Community further agrees to indemnify the City, the Metropolitan Council and the MWCC against, and hold them harmless from those claims, liabilities, demands, damages, costs and expenses arising out of negligent or wilful actions by the Community, its employees or residents which result in penalties imposed against the City, the Metropolitan Council or the MWCC, whether by federal, state or local governmental units, for violations of permits which are required for the City, the Metropolitan Council or the MWCC to continue operation of the sewer facilities to which the Community is connected. Such indemnification shall be limited to those violations for which the liability of the Community is shown by clear and convincing evidence, and shall be available to the complainant only after notice to the Community and failure by the Community, within a reasonable time, to discontinue the activity which violates the permit, however, the indemnification remedies shall still be available to the extent of any liabilities and costs already incurred.

For the purposes of those seeking relief under this section, jurisdiction over any and all claims, liabilities, demands, actions, damages, costs and expenses shall be available in any court of competent jurisdiction, including, but not limited to, the Federal District Court for the District of Minnesota. In the sole event of a claim brought by one of the parties hereto, that party shall first seek relief in the Federal District Court for the District of Minnesota for indemnification, and the Community hereby expressly and unequivocally grants a waiver of its sovereign immunity from suit for the limited purpose of permitting the exercise of the indemnification remedies provided in this Section X. Such specific and limited waiver of the Community's sovereign immunity from suit is not and shall not be construed to be a general waiver of the Community's sovereign immunity from suit or a consent to suit for any other purpose than to permit the parties to this Agreement to seek relief for indemnification under the limitations of this Section X., nor shall this specific and limited waiver be deemed to be a consent to suit other than to the extent necessary to secure and exercise the rights of the parties to indemnification hereunder. The parties agree that the limitations on indemnification for penalties imposed against the parties hereto for which the liability of the Community is shown, as set forth in the first paragraph of this Section X., shall be the maximum amount of any liability of the Community to any party hereunder, and shall be sufficient to cover any loss to the parties indemnified under this Section X. In the event of an inconsistency or conflict between the terms of this Section X. and any other provision of this Agreement or any other document made a part of this transaction, the terms of this Section X. shall prevail.-

B. The City of Prior Lake agrees to indemnify and save the Community harmless

against and from any and all tort claims, liabilities, demands, actions, damages, costs and expenses, including reasonable attorneys' fees for the defense thereof, arising out of any negligent acts on the part of the City of Prior Lake or its employees with respect to the portions of the Facility located outside the boundaries of the Reservation to the extent permitted, and not to exceed the maximum liability authorized, pursuant to Minnesota Statutes, Section 466.01, et seq.

Section XI is hereby amended as follows:

XI. Jurisdiction. Except as provided in Section VIII. B of the First Amended Agreement, nothing herein shall be deemed to affect the jurisdictional powers and immunities which the Community, the City, the MWCC or the Metropolitan Council enjoy under the laws of the Shakopee Mdewakanton Sioux Community, the laws of the United States of America or of the State of Minnesota.

Section XIV. Possible Oversizing of a Portion of the Facility, is hereby amended as follows:

XIV. Possible Oversizing of a Portion of the Facility. The Parties recognize that the City of Prior Lake may wish to have a portion of the Facility near the Interceptor constructed with a gravity sewer pipe of 12 inches, for purposes of providing sanitary sewer service to an area in the City of Prior Lake outside the Reservation. As to this possibility, the parties agree that the Facility shall not utilize a force main larger than six inches, and shall not be connected to any building or development outside the Reservation, unless the following requirements are met:

A. Increased Cost to be Borne by City. Any difference in the cost of the design and construction of the Facility that results from the oversizing contemplated by this Section XIV will be borne by the City of Prior Lake, and the City hereby agrees that the costs of such construction shall be paid by trunk charges.

B. Necessary Approvals. No assessments for those facilities outside the Urban Service Area or use of the facilities outside the Urban Service Area will be made by the City unless the Metropolitan Council allows the redesignation of said lands to include them within the Urban Service Area. This provision shall not be construed as a redesignation of said lands within the Urban Service Area.

C. Non-Reservation Use Not to Affect Community's Allocation. Any allocation of sewer capacity to the areas in the City of Prior Lake lying outside the Reservation will not affect the Community's conditional entitlement to 325 Residential Equivalent Units under the provisions of Section IV of this Agreement.

XVI. Intent to Enter Into Memorandum of Understanding. It is hereby agreed that it is the understanding of the parties hereto that the Community and the Metropolitan Council will enter into a Memorandum of Understanding regarding long-range planning, which

Memorandum shall be executed simultaneously herewith, and which shall determine the understandings, rights and duties of the Council and the Community with regard to their government to government interactions.

XVII. Intent to Enter Into Fees In Lieu of Taxes for Services Provided Agreement. It is hereby agreed that the City and the Community will enter into a Fees In Lieu of Taxes Agreement regarding the compensation provided by the Community for those services provided to the Community by the City, which Agreement shall be executed simultaneously herewith.

Except as expressly amended hereby the Amended Agreement, dated 1989, and Amendment No. 1, dated 1990, are hereby ratified and confirmed in all respects.

Signed:

Shakopee Mdewakanton Sioux Community,

Approved as to form:

By: Stanley R. Crook 8/2/93
Chairman Date

Kurt V. Bha Day

City of Prior Lake, Minnesota,

By: Lynne Anderson 8/2/93
Mayor Date

Approved as to form:

By: Paul Dahl 8/4/93
City Manager Date

Paul Dahl

Metropolitan Council,

Approved as to form:

By: Notte Pieter 8-19-93
Chair Date

Notte Pieter

Metropolitan Waste Control Commission, Execution by MWCC is subject to the interpretations and representations set forth in the letter attached hereto and made a part hereof as Exhibit C.

By: Louis R. Clark 10/5/93
Chair Date

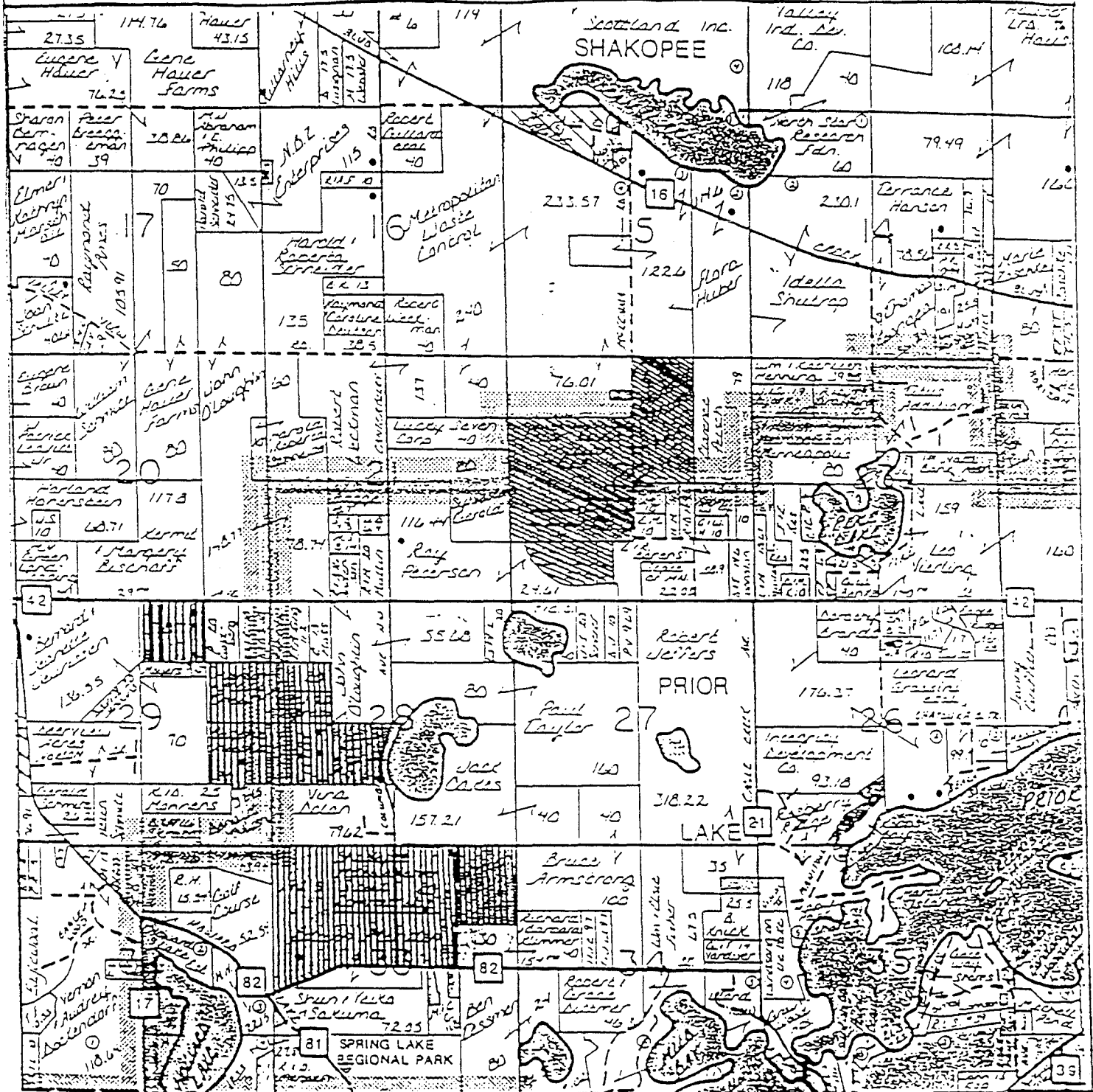
Approved as to form:

By: Sam A. U. U. U. 10/8/93
Chief Administrator Date

I herewith approve this agreement on behalf of the United States Department of Interior, Bureau of Indian Affairs, pursuant to the authority delegated to me under the provisions of 25 U.S.C. §81.

By: _____
Area Director, Minneapolis
Area Office, Bureau of
Indian Affairs
Date _____

SHAKOPEE MDEWAKANTON SIOUX COMMUNITY RESERVATION LAND



RESERVATION LANDS NORTH AGREEMENT



RESERVATION LANDS SOUTH AGREEMENT

Prior Lake State Bank

June 16, 1993

IRREVOCABLE LETTER OF CREDIT NO. 1141

City of Prior Lake
2629 Dakota St. SE.
Prior Lake MN 55372

Expiration: June 16, 1994

Gentlemen:

Prior Lake State Bank hereby establishes an Irrevocable Letter of Credit in the amount of Twenty-five Thousand and 00/100ths dollars (\$25,000.00) in your favor for the period beginning June 16, 1993 and expiring June 16, 1994 for the account of Shakopee Mdewakanton Sioux Community.

This credit shall be available against your draft at sight on us accompanied by the original Letter of Credit.

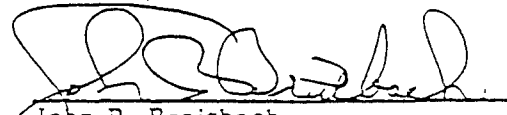
This Letter of Credit sets forth in full terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument or agreement referred to herein or in which the Letter of Credit is referred to or to which this Letter of Credit relates. Any such reference shall not be amended to incorporate herein by reference any document, instrument or agreement.

Your draft so drawn must bear this clause "Drawn under Prior Lake State Bank, Prior Lake, Minnesota Irrevocable Letter of Credit Dated June 16, 1993."

We hereby agree with the drawers, endorsers and bona fide holders of all drafts drawn on and in compliance with the terms of this credit that such drafts will be duly honored upon presentation to the drawee. In connection herewith, we specifically waive our rights (if any) including but not limited to Section 5-122 (1) A & B of the UCC Code, to defer or delay honor of any sight draft.

This Letter of Credit is subject to the Uniform Customs and Practices for Documentary Credit (1983 Revision) International Chamber of Commerce Publication No. 400.

Sincerely,


John R. Breitbach
Vice President

BLUEDOG LAW OFFICE, P.A.

KURT V. BLUEDOG
WILLIAM J. HARDACKER
ANDREW M. SMALL
STEVEN F. OLSON

SOUTHGATE OFFICE PLAZA, SUITE 570
5001 WEST 80TH STREET
BLOOMINGTON, MN 55437
PHONE (612) 893-1813
FAX (612) 893-0650

October 5, 1993

Mark Thompson
Metropolitan Waste Control Commission
Mears Park Center
230 East Fifth Street
St. Paul, MN 55101-1633

Re: *Shakopee Mdewakanton Dakota Community Sewer
Agreements*

Dear Mr. Thompson:

This letter is provided to confirm the substance of our conversation of yesterday, October 4, 1993. As I indicated yesterday, it was not the intention of the parties to limit the penalties which could be assessed against the Community in the event of a permit violation to the amounts available to a party in a suit against the Community under a tort theory of liability. Furthermore, as I informed you yesterday, Indian tribes are subject to all the provisions of the Clean Water Act, including the citizen's suit provisions.

Additionally, it was not the intention of the parties to eliminate the right of the MWCC or the City of Prior Lake to inspect the facilities to the same extent such inspections were permitted under the Amended Sewer Construction and Maintenance Agreements of 1989. While the parties did execute an additional amendment to the Agreement of 1989 which appears to have excluded the language addressing the need for inspections, this was clearly an oversight. It was the intention of the parties that the access for inspection would remain the same for the South portion of the Reservation as it had been in the past. There should have been a provision B., Access For Inspections, included in the Amended Agreement for the South portion of the Reservation identical to that which was included in the Agreement for the North portion of the Reservation.

I hope this addresses your concerns, and provides the assurances needed to have the MWCC sign off on these Agreements, as the Community is anticipating completion of the project before winter, and at present, the project cannot continue without the signature of the Chair

EXHIBIT C



Prior Lake State Bank

June 8, 1993

IRREVOCABLE LETTER OF CREDIT NO. 1140

Metropolitan Waste Control Commission
Mears Park Center
230 East 5th St
St Paul MN 55101

Expiration: June 8, 1994

Gentlemen:

Prior Lake State Bank hereby establishes an Irrevocable Letter of Credit in the amount of Fifty Thousand and 00/100ths dollars (\$50,000.00) in your favor for the period beginning June 8, 1993 and expiring June 8, 1994 for the account of Shakopee Mdewakanton Sioux Community.

This credit shall be available against your draft at sight on us accompanied by the original Letter of Credit.


This Letter of Credit sets forth in full terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document, instrument or agreement referred to herein or in which the Letter of Credit is referred to or to which this Letter of Credit relates. Any such reference shall not be amended to incorporate herein by reference any document, instrument or agreement.

Your draft so drawn must bear this clause "Drawn under Prior Lake State Bank, Prior Lake, Minnesota Irrevocable Letter of Credit Dated June 8, 1993."

We hereby agree with the drawers, endorsers and bona fide holders of all drafts drawn on and in compliance with the terms of this credit that such drafts will be duly honored upon presentation to the drawee. In connection herewith, we specifically waive our rights (if any) including but not limited to Section 5-122 (1) A & B of the UCC Code, to defer or delay honor of any sight draft.

This Letter of Credit is subject to the Uniform Customs and Practices for Documentary Credit (1983 Revision) International Chamber of Commerce Publication No. 400.

Sincerely,



John R. Breitbach
Vice President

BLUEDOG LAW OFFICE, P.A.

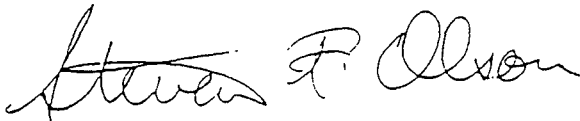
Mark Thompson

October 5, 1993

Page 2

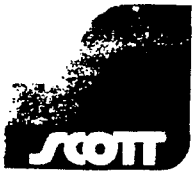
of the MWCC. If you have any questions, please call me at once, as it is imperative that the project not be delayed further than it already has.

Sincerely,

A handwritten signature in cursive script that reads "Steven F. Olson". The signature is written in dark ink and is positioned above the printed name.

Steven F. Olson

EXHIBIT C



SCOTT COUNTY
OFFICE OF THE ADMINISTRATOR
COURTHOUSE 110
428 HOLMES STREET SOUTH
SHAKOPEE, MN 55379-1382
(612) 496-8100

GARY L. CUNNINGHAM
COUNTY ADMINISTRATOR

Fax: (612) 496-8180

August 13, 1996

Mr. Patrick J. McCormack
Legislative Analyst
Senate Counsel & Research
G-17 State Capitol
St. Paul, MN 55155

Dear Mr. McCormack,

Enclosed please find the completed Survey regarding the relationship between Scott County and the Shakopee Mdewakanton Sioux Community, operators and owners of the Mystic Lake and Little Six Casinos. I have also attached the County's current cost analysis and the chronology of events related to our negotiations with the local tribal government. I hope this information is helpful in your research.

On behalf of the Scott County Board of Commissioners I am requesting any information and/or reports that are published on this subject. In researching this issue it is clear that other state governments throughout the Country (such as Connecticut, Wisconsin, Mississippi, Louisiana, and others) have negotiated gaming compacts with various tribes that include payments to local governments to ensure that non-tribal citizens are not subsidizing the cost of services for casino operations. Minnesota's compact with tribal governments only includes payments to local governments as one of the ways in which gambling proceeds can be used.

The Shakopee Mdewakanton Sioux Community has had an agreement with Prior Lake for several years to provide police and fire protection. This agreement, however, only covers a portion of the true costs, particularly in the area of the criminal justice system which is largely a County responsibility. The agreement with the City of Prior Lake also does not take into account the significant impact of the casino's operation on County roads and infrastructure. By leaving each local government unit to negotiate with the tribes independently, the State and the

Mr. Patrick J. McCormack

Page 2

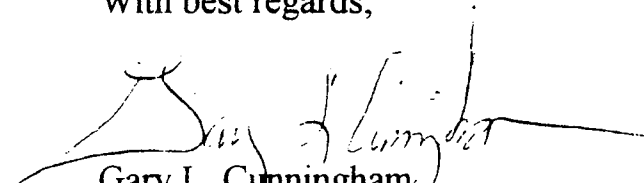
August 13, 1996

Federal governments have inadvertently created a system wherein local governments are subsidizing a portion of tribal casino operations.

The Shakopee Mdewakanton Sioux Community has participated in the reconstruction of County Road 83 directly in front of the casino. They have also provided a radar gun for the Sheriff's office and other donations of a similar nature. These types of contributions are appreciated, but do not address the magnitude of the impact casino operations are having on County property taxpayers.

If I can be of any further assistance to you in your research, or if you need additional clarification, please feel free to contact me.

With best regards,



Gary L. Cunningham
County Administrator

Enclosure

GLC:jh

Executive Summary

Cost Model of Scott County Services for the Mdewakanton Community

Executive Summary

Below is a summary of costs incurred by Scott County to provide direct services to the Mdewakanton Community including Mystic Lake and Little Six. These are services for which a quantitative cost estimate can be made based on 1995 activities and services provided. Information on caseloads, staff use and one-time costs are based on estimates provided by department managers for the current year. Labor costs are estimated based on 1995 salary midpoints for those job classes most likely to provide the service. Fringes and benefits costs and department overhead allocations are based on standardized rates identified and used in the County's fee-for-service cost analysis study just recently completed.

The analysis shows that \$11.3 Million (\$2.3 Million per year) has been spent by the County or will be spent in support of the Community.

SUMMARY OF SCOTT COUNTY COSTS FOR SERVICES PROVIDED TO THE MDEWAKANTON COMMUNITY 1991 - 1995

<u>Department:</u>	<u>Description:</u>	<u>Cost:</u>
Highway	Increased annual road maintenance on CR82 due to casino traffic	\$10,000/year
Highway	Road improvements previously made due to increased casino traffic	\$3,553,000
Highway	Proportion of total road replacement costs due to premature wear wear of roadway caused by increased casino traffic volume	\$6,240,000 to be incurred over next 15 years
Sheriff Communication	911 and incident reporting	\$21,000/year
Sheriff Jail	Bookings, jail days, transports, warrants	\$35,000/year
County Attorney	Criminal, juvenile and civil cases handled related to Mdewakanton Community	\$38,000/year
Court Services	Court ordered services related to offense and probation monitoring	\$63,000/year
Court Administration	Schedule cases, send notices, file and retain judgements	\$142,000/year

Assuming that casino activity began in 1991, five years of annual costs have been incurred (1991 through 1995) for a total of \$1.545 Million. This, plus the fixed one-time costs already paid (\$3.553 Million) plus future costs of \$6.24 Million to be incurred for road improvements directly related to casino traffic, gives a grand total of \$11,338,000 over the 5 years or \$2.3 Million per year.

The following is a brief explanation of how the above costs were developed. This is followed by exhibits in attachment to this report showing how the exact numbers were calculated.

Highway

The County has completed \$3.553 Million in road improvements due to increased casino traffic (see Exhibit 1). This work would not have been done if there was no casino in the County. \$15.89 Million will need to be expended over the next 15 years to replace roadways serving the casino with \$6.24 Million of this cost being directly related to premature wearing of road pavement due to casino traffic volume. In addition, the Highway department's maintenance costs on CR83 are in excess of \$10,000/year above what otherwise would be an average for a road without casino traffic volume.

Sheriff

911 calls and incident reports in 1995 related to the Mdewakanton Community averaged 2.1% of total communication division activity for an allocated cost of \$21,000/year. Jail services include bookings, jail days, transport and jail warrant checks. Based on actual 1995 trends, deputy salary and overhead costs, \$35,000 in jail service costs are provided per year.

County Attorney

A total of 116 cases were handled requiring 813 hours of Attorney staff time for the first 10 months of 1995. Extending this trend for the entire 1995 year, and using average attorney and overhead costs, services will cost \$38,000 per year.

Court Services

Caseloads for court-ordered services for adult offenses and probation monitoring related to incidents occurring in the Mdewakanton Community exceed 21% of total. This is equivalent to one full-time agent. With benefits and department overhead costs, the annual cost of these services is \$63,000 per year.

Court Administration

Court clerical and office staff labor costs, benefits, department supply and operating costs and building occupancy costs are all county-paid costs. The department schedules cases, prepares and sends notices to appropriate parties, files and retains records of findings and judgements. Unfortunately, caseload has not been historically tracked by activity related to the Mdewakanton Community. However, there is probably a parallel to workload of the Court Services department which has over 21% of its activity related to the Community. If one estimates that 25% of the total 1995 Court Administration budget provided services for the Community, costs would be \$142,000 per year. These costs do not include judge, bailiff, public defender or other supportive court costs paid by the State of Minnesota.

Human Services

Human Services has provided a broad range of services for the Community. It has provided assistance related to children left in cars, child abuse, requests for emergency housing or cash, requests from employees/former employees for chemical dependency services, and for households who have moved into the County for employment at the casino who need Human Services assistance. However, due to data privacy concerns, these costs have not been tracked at this time.

There are probably several other services provided by departments that have not been identified in this analysis that are provided at significant cost to the County.

EXHIBIT 1 - HIGHWAY DEPARTMENT

Completed Highway Projects for Improvements Due to Increased Casino Traffic

Road	Location	Description	Cost
42	CSAH 18 to Boone	4 lane divided	\$3,200,000
42	CR 83	Signal Revision	11,000
83	CSAH 16	Signal Installation	92,000
83	Bypass to 0.8 mi N	4 lane upgrade	<u>250,000</u>
			\$3,553,000

Premature Road Replacement Costs Due to Casino Traffic Volume

Road	Location	% Life Expectancy Reduction Due to Casino*	Time Frame for Replacement	Total Cost	Cost Due to Increased Casino Traffic
83	CR 82 to CR 42	53%	0 - 5 yr	\$4.84 M	\$2.57 M
83	CR 42 to CSAH 16	45%	5 - 10 yr	2.25 M	1.01 M
83	CSAH 16 to TH 101	38%	5 - 10 yr	2.25 M	.86 M
42	CR 83 to CSAH 21	25%	10 - 15 yr	2.25 M	.56 M
42	CSAH 21 to CSAH 18	25%	10 - 15 yr	2.25 M	.56 M
82	CSAH 17 to CR 83	60%	5 - 10 yr	.55 M	.33 M
82	CR 83 to CSAH 21	23%	10 - 15 yr	1.50 M	<u>.35 M</u>

Portion of Cost of Reconstruction that is due to
Casino Traffic Volume:

\$6.24 M

*Assumes normal traffic growth of 5% per year which has been removed from changes in traffic volume growth, pre-casino versus after casino construction.

EXHIBIT 2 - SHERIFF'S SERVICES

Communication Division

911 Calls 2.7% of total} Mdewakanton Community Related
Incident Reports 1.8% of total} for Period 10/1/94 - 10/1/95

Weighted Average 2.1%

1995 Budget \$1,001,924

Allocated Cost \$21,040

Jail

Bookings 75 (7) x 1.25 avg. hrs. x 14.50 (6) x 1.35 (2) x 1.37 (3) = \$ 2,514

Jail Days 664 x 23.58/day (4) = \$15,657

Transport 114.75 hrs. x 36.50/hr (5) = \$ 4,188

Jail Warrant Checks 404.25 hrs. x 16.45 x 1.35 x 1.37 = \$12,299

Total Sheriff's Costs \$34,658

(7) Based on actual data from 1/1-10/31/95 adjusted to annualized costs

(6) Deputy salary midpoint \$16.45/hr.

(5) Use of an officer and vehicle cost per fee study

(1) Midpoint of corrections worker salary/hr \$14.75/hr

(2) Benefits 35.2% of salary

(3) Overhead \$5.35/labor hr = 37%

(4) Board inmate daily cost 23.50/day per fee-for-service study

EXHIBIT 3 - COUNTY ATTORNEY

Activities related to Mdewakanton Community

1/1-10/31/95 116 Cases Estimated Hours: 815

Annualized Rates 139 Cases Estimated Hours: 978

Average Salary (1995) Attorney II \$20.77/hr Benefits 35.2% Overhead 37%

Annual Costs: 978 hours x 20.77 x 1.35 . 1.37 = **\$37,569**

EXHIBIT 4 - COURT SERVICES

Activities related to Mdewakanton Community

For 1995, 21% of total department's adult caseload was Community related. This is equivalent to one full-time agent at a 1995 salary schedule midpoint of \$37,148 (Court Services Agent II), with benefits at 35% and department overhead at 25%.

$$\text{\$37,148} \times 1.35 \times 1.25 = \text{\$62,687 or approximately \$63,000 per year}$$

**SHAKOPEE MDEWAKANTON SIOUX COMMUNITY
CHRONOLOGY OF EVENTS
THROUGH SEPTEMBER, 1995**

- | | |
|--------------------|--|
| 1992 | Informal staff level meetings held periodically between the Scott County Highway Engineer and Shakopee Mdewakanton Sioux Community staff regarding a transportation plan for the Mdewakanton Community |
| September 28, 1993 | Transmittal letter to Highway Engineer Brad Larson from Tribal Administrator Bill Rudnicki with a draft of an agreement for participation in the construction of Scott County highways. |
| November 16, 1993 | Letter to Chairman Crooks from Chairman Underferth requesting discussions to further the proposals for an agreement on highway improvements. |
| November 29, 1993 | Transmittal letter from Highway Engineer Brad Larson to Tribal Administrator Bill Rudnicki with a draft of the Cooperative agreement between the Shakopee Mdewakanton Sioux Community and Scott County for participation in funding of County highways. |
| December 21, 1993 | Letter from Tribal Administrator Bill Rudnicki to Highway Engineer Brad Larson stating, "At the present time, the Council does not plan to enter into an agreement with your agency. Instead, they would rather look at the county road system on a year to year basis. Currently, we have our engineers developing plans for County road 83 from County road 42 to County road 82." |
| July 8, 1994 | Last draft of a Memorandum of Agreement between the Shakopee Mdewakanton Sioux (Dakota) Community and Scott County, Minnesota. |
| January 31, 1995 | Meeting with Commissioner Underferth, Commissioner Mackie, Acting County Administrator Gary Cunningham and Tribal Administrator Bill Rudnicki |

- March 31, 1995 Letter sent from Chairman Dick Underferth to Chairman Stanley Crooks to request a meeting to create a sustaining dialogue of open communication and continue the positive working relationship between the Mdewakanton Sioux Community and Scott County.
- April 21, 1995 Meeting held at the Tribal Government Center with Chairman Crooks, Congressman Minge, Representative Kelso, Scott County Board Chair Dick Underferth, Commissioner Art Bannerman, County Administrator Gary Cunningham, representatives from the City of Shakopee and Jon Albinson, Valley Green Industrial Park
- May 1, 1995 Shakopee Mdewakanton Sioux Community requests from the Bureau of Indian Affairs, acquisition and application for reservation status of property located near Shakopee.
- May 12, 1995 Received notification from the United States Department of the Interior, Bureau of Indian Affairs regarding the Shakopee Mdewakanton Sioux Community's application to place 593 acres in trust. Thirty days provided to respond. (Note: letter sent to County Recorder's Office and forwarded to Administration.)
- June 7, 1995 Scott County responded to the United States Department of the Interior, Bureau of Indian Affairs regarding the application for Acquisition of Land for the Shakopee Mdewakanton Sioux Community. Concern was expressed for contributing to a higher tax burden for residents of Scott County and the negative impact on the County's ability to meet critical needs of Scott County residents.
- June 9, 1995 Requested information from Scott County Departments regarding the impact that Mystic Lake Casino/Shakopee Mdewakanton Sioux Community has on service delivery in Scott County.

Chronology
Page 3.

- June 13, 1995 Discussion at Committee of the Whole regarding the Shakopee Mdewakanton Sioux Community's petition to put land in trust. Representatives from the Community and the City of Shakopee were present.
- June 13, 1995 R.O. Sweeney of the Shakopee City Council reported to the Board of Commissioners that the City had requested and received a Temporary Restraining Order restricting the Bureau of Indian Affairs from filing any trust deeds. The order was issued until July 14, 1995.
- June 16, 1995 Received copy of the Shakopee Mdewakanton Sioux Community's application to the Bureau of Indian Affairs to put land in trust from Tribal Administrator Bill Rudnicki.
- June 16, 1995 County Administrator Gary Cunningham met with Tribal Administrator Bill Rudnicki to discuss relations between Scott County and the Shakopee Mdewakanton Sioux Community.
- June 19, 1995 Developed a draft negotiation strategy between Scott County and the Shakopee Mdewakanton Sioux Community to include monthly meetings between Tribal Chairman and County Board Chairman and Tribal Administrator and County Administrator.
- June 28, 1995 Received draft outline of an "Agreement in Principal Between Shakopee Mdewakanton Sioux Community and Scott County" from Tribal Administrator Bill Rudnicki.
- July 7, 1995 County Administrator Gary Cunningham and Tribal Administrator Bill Rudnicki meet to discuss relationships between the Shakopee Mdewakanton Sioux Community and Scott County.

- July 7, 1995 Shakopee Mdewakanton Sioux Community Tribal Chairman Stanley Crooks and Scott County Board of Commissioners Chairman Dick Underferth hold meeting to discuss issues of mutual interest
- July 8, 1995 Draft of an agreement between the Shakopee Mdewakanton Sioux Community and Scott County prepared regarding road improvements in and around the tribal lands.
- July 17, 1995 County Administrator Gary Cunningham and County Attorney Tom Harbinson met with Tribal Administrator Bill Rudnicki and Tribal Counsel Willie Hardacker to define clear parameters to negotiations between the Shakopee Mdewakanton Sioux Community and the County of Scott.
- August 2, 1995 Sent draft of an agreement between the Shakopee Mdewakanton Sioux Community and Scott County to Tribal Administrator Rudnicki for review prior to August 4, 1995 meeting.
- August 4, 1995 County Administrator Gary Cunningham and County Attorney Tom Harbinson met with Tribal Administrator Bill Rudnicki and Tribal Counsel Willie Hardacker to continue discussion of terms for a memorandum of agreement between the Shakopee Mdewakanton Sioux Community and the County of Scott.
- September 6, 1995 Received notification from the United States Department of the Interior, Bureau of Indian Affairs regarding the Shakopee Mdewakanton Sioux Community's re-application to place 593 acres in trust. Thirty days provided to respond.

Chronology
Page 5.

September 18, 1995

Scott County Board Chairman Dick Underferth received letter from Shakopee Mdewakanton Sioux Community Chairman Stanley Crooks stating the Community will negotiate an agreement with the County when there is "tangible and irrefutable data that the Community and its operations place an extraordinary burden on Scott County resources..."

September 26, 1995

Following discussion of the letter received from Chairman Crooks on September 18, 1995, Commissioners directed staff to draft a letter to Scott County's congressional delegation requesting intervention to ensure that Scott County tax payers do not have to continue subsidizing the cost of services, road construction and other non-taxable activities for the Mdewakanton Sioux Community enterprises.

**AGREEMENT BETWEEN THE SHAKOPEE
MDEWAKANTON SIOUX COMMUNITY AND THE
CITY OF SHAKOPEE REGARDING SURFACING
THE UNPAVED PORTION OF MCKENNA ROAD**

This Agreement is made this 6th day of August 1996 by and between the Shakopee Mdewakanton Sioux (Dakota) Community, a federally recognized Indian Tribe organized pursuant to 25 U.S.C. § 476 ("Community"), and the City of Shakopee, a municipal corporation in Scott County, Minnesota ("City").

WHEREAS the Community desires to see the unpaved portion of McKenna Road (as further described below) surfaced and is willing to pay the costs associated with such road surfacing; and

WHEREAS the City is willing to administer the design and construction of such a surfaced road,

NOW THEREFORE in consideration of the mutual promises and conditions hereafter contained the parties agree as follows:

1. **Undertakings Of The City.** The City agrees to undertake the following activities:

a. The Improvements. The City shall administer the construction of a 7 ton design, 38' wide graded, 28' wide bituminous surface road on the unpaved portion of McKenna Road, which is generally described as a portion of the city street known as McKenna Road beginning at the center line of Sections 15 and 22, Township 115 North, Range 22 West, a distance of approximately 4,950 feet outlying the City of Shakopee, County of Scott, State of Minnesota, as shown on the attached Exhibit A (the "Improvements"). Such construction shall include subgrade preparation,

sub-base and base preparation, permanent surfacing, right-of-way grading, traffic signing, and all appurtenant facilities including any necessary drainage facilities (as shown on approved plans filed in the office of the City Engineer).

b. Construction Plan And Approval Thereof. The City will engage a duly registered professional civil engineer authorized to practice within the State of Minnesota to prepare detailed plans, specifications, and a cost estimate for complete installation of the Improvements, in accordance with City Design Criteria and Standard Specifications and submit same to the Shakopee Public Utilities manager and the Community. The City Engineer will include in such cost estimate the estimated engineering, material testing, survey and inspection costs to be incurred in connection with installation of the Improvements. The City's internal costs shall be limited to those costs incurred by the Engineering Division of the Department of Public Works. The amount of the cost estimate shall be referred to herein as the Estimated Cost.

c. Construction. Upon the City Council adopting a resolution approving this Agreement, the Improvements shall be administered and constructed, in all respects not inconsistent with the terms of this Agreement, as other City improvements made pursuant to the provisions of M.S.A. Chapter 429 and other applicable statutes. That is: 1) The City shall have sole responsibility for administration of the project; 2) The City will use its best efforts to meet the completion schedule appended as Exhibit B, but will not be responsible for any damages as a result of delays in the project; 3) The project administered by the City shall allow for any increase in project cost as permitted by M.S.A. 429 (but not to exceed 110% of the cost

amount on the accepted bid); and 4) Any changes or any additional work required shall be approved by the City and Community.

d. Final Approval. After approval of final plans and specifications by the City Engineer and following acquisition of all necessary easements as provided herein, the City shall advertise for bids for a three week period as required by Minnesota Statutes § 429.041, subd. 1. The City shall present the bids to the Community for its review upon receipt. The Community shall have ten (10) days from receipt of the lowest and best bid in which to determine whether to proceed with the project, with failure to make a written election within such period deemed to be a determination not to proceed. If the Community agrees to continue this Agreement for construction of the Improvements, the Community shall, within five (5) days of its election to proceed, make the deposit described in Section 3. Promptly following such deposit, the City shall award contracts for the installation of the Improvements under the City's complete supervision. The City shall be responsible for preparing and conducting the bidding process, including preparing legal documents for use with the contractor(s) receiving the award.

e. Easements. Subject to the Community's obligation to grant easements pursuant to Section 2(c), the City shall be responsible for obtaining all necessary easements to establish an 80' corridor for installation of the Improvements. Easement acquisition costs shall be included in project costs; provided that the City shall be solely responsible for all costs associated with the acquisition of additional area beyond that necessary to create an 80' corridor. The allocation of such costs, in

the case of easements obtained from third parties, shall be pro-rata based on land area.

f. Inspection And Testing. The City shall be responsible for inspection during and upon completion of installation of the Improvements, and construction testing.

g. Maintenance. The City shall maintain the Improvements at its expense.

h. Future Improvements. If at a future date the City determines to upgrade the Improvements to above a 7 ton design, 38' wide graded, 28' wide bituminous surface road, the City shall be responsible for the cost of such future improvements.

2. **Undertakings Of The Community.** The Community agrees to undertake the following activities:

a. Payment Of Costs. The Community agrees to pay the entire actual cost of the installation of the Improvements, including any reasonable engineering, material testing, survey and inspection costs, expenses of the Engineering Division of the Public Works Department and land/easement acquisition costs incurred by the City, up to an amount not to exceed 110% of the Estimated Cost, but excluding the City's other internal overhead and administrative costs.

b. Decisions To Proceed Or Terminate. (a) Prior to incurring any land/easement acquisition costs hereunder, the City shall submit to the Community for its review the total amount of such costs for which the Community is responsible. Upon receipt of such amount, the Community shall have ten (10) days in which to

determine whether to proceed with the project, with failure to make an election within such ten (10) day period deemed to be a decision not to proceed. (b) The Community shall determine upon receipt and review of bids for construction of the Improvements whether to proceed with such construction or not to proceed and to terminate this Agreement, and shall notify the City of its decision, prior to award of the contract for construction. (c) In the event the Community determines not to proceed and terminates this Agreement pursuant to (a) or (b) above, the Community nonetheless agrees to pay the actual engineering, material testing, survey and inspection costs and expenses of the Engineering Division of the Public Works Department of the City incurred to the date of termination, but shall have no other obligations hereunder.

c. Easements. The Community shall make available to the City, at no cost to the City, all permanent or temporary easements over property owned by the Community necessary for installation of the Improvements. Subject to the provisions of Section 1(e), such easements shall be of a width sufficient to allow for placement of overhead electric lines such that the lines will not have to be relocated in the event the City determines to upgrade the Improvements as described in Section 1(h).

3. **Payment Method.** Upon execution of this Agreement, the Community shall deposit into escrow with the Shakopee office of Chicago Title Insurance Company the amount of \$25,000 for payment of engineering, material testing, survey and inspection costs and the expenses of the Engineering Division of the Department of Public Works plus the Community's share of estimated land/easement acquisition costs. If the Community then determines to proceed with

construction of the Improvements it agrees, prior to award of the contract, to place 110% of the Estimated Cost of the installation of the Improvements into escrow. The deposits into the escrow account shall be invested according to reasonably prudent instructions from the Community, and all interest earned on monies in the account shall be paid periodically to the Community. The escrow agreement shall further provide for release of funds to the City for payment to contractors upon monthly presentation of invoices for work certified by the City as completed. Prior to the presentation of each invoice, the City shall solicit the Community's input regarding the work covered thereby, provided that the failure to obtain such input within a reasonable time shall not impair the City's ability to submit an invoice. In the case of the City's expenses, the invoice shall detail on an hourly basis the actual work performed to date. In the event of contingencies which raise the cost of installation of the Improvements over the Estimated Cost, the Community shall pay such additional costs (up to a maximum of 110% of the Estimated Cost) within thirty (30) days of presentation by the City of invoices for work certified by the City as completed, accompanied by a statement of the nature of the contingency.

4. **Additional Provisions.** This Agreement includes the following additional provisions:

a. **Notices.** Any notices permitted or required to be given or made pursuant to this Agreement shall be delivered personally or mailed by United States Mail to the addresses hereinafter set forth by certified or registered mail. Such notices, demand or payment shall be deemed timely given or made when delivered

personally or when deposited in the United States Mail in accordance with the above.

Addresses of the parties hereto are as follows:

If to the City: City Administrator
 City Hall
 129 East First Avenue
 Shakopee, MN 55379

If to the Community: Stanley R. Crooks, Chairman
 Shakopee Mdewakanton Sioux
 (Dakota) Community
 2330 Sioux Trail N.W.
 Prior Lake, MN 55372

With a copy to: Tribal Administrator
 Shakopee Mdewakanton Sioux
 (Dakota) Community
 2330 Sioux Trail N.W.
 Prior Lake, MN 55372

b. Incorporation By Reference. All City of Shakopee Design Criteria, Standard Specifications, including bonding provisions, the approved plans, addenda, change orders, special provisions, proposals, specifications and contract for the Improvements furnished and let pursuant to this Agreement shall be and hereby are made part of this Agreement by reference and as if set out herein in full.

c. Authorization. Each party warrants and represents to the other that it has full authority to enter into this Agreement and holds the other harmless from any claim that such authority does not exist.

d. Headings. The headings in this Agreement are informational only and are not intended by the parties to alter the terms of the text of the Agreement.

e. Disputes. Any disputes hereunder shall be resolved through mediation-arbitration before a qualified neutral, using the procedures of Rule 114,

General Rules of Practice for Minnesota District Courts, which shall be final and binding on the parties. Notwithstanding the foregoing or anything to the contrary contained herein, nothing in this Agreement shall be construed as a waiver of the Community's sovereign immunity or as acquiescence to the jurisdiction of any court or to the authority of the State of Minnesota or any subdivision thereof.

f. Termination. The City shall have the right to terminate this Agreement upon 30 days written notice in the event conditions beyond its control render construction of the road impractical or impossible. Either party shall have the right to terminate this Agreement upon a breach by the other party which continues fifteen (15) days after receipt of written notice of such breach (provided that if the breach is of such a nature that it cannot reasonably be cured in such period, the breaching party shall be deemed to have timely cured if it commences such cure within fifteen (15) days after receipt of notice and diligently proceeds it to completion).

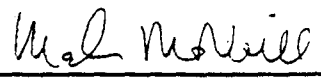
g. Hold Harmless. The Community, for itself, its heirs, administrators, representatives, successors and assigns, releases all of its rights to any relief of any kind from and against the City and its governing body members, officers, agents, employees, former employees and insurers arising from the City's construction of the Improvements and agrees that it will not bring any lawsuit or administrative agency claims, or assert any claims or demands, against the City or its officers, agents, employees or former employees for any acts or failure to act that occurred as a result of the City's construction of the Improvements; provided, however, that nothing herein shall be construed to: (i) relieve the City from its obligations under this Agreement or prohibit the Community from enforcing this Agreement against the City; or (ii) constitute

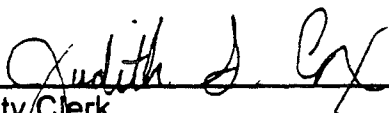
a release of any right or waiver of any claim against any third party contractor other than the City who constructs the Improvements.

IN WITNESS WHEREOF, the City and the Community have caused this Agreement to be duly executed on the day and year first above written.

CITY OF SHAKOPEE

By 
Mayor

By 
City Administrator

By 
City Clerk

SHAKOPEE MDEWAKANTON SIOUX
(DAKOTA) COMMUNITY

By 
Its Chairman

M1:0145372.12



SHAKOPEE

June 9, 1995

Ms. Denise Homer
Area Director
United States Department of the Interior
Bureau of Indian Affairs
331 South 2nd Avenue
Minneapolis, MN 55401

Dear Ms. Homer:

The City has been provided with a copy of a letter from you to Ms. Pat Boeckman, Scott County Recorder, regarding consideration of an application to place certain land in trust for the benefit of the Shakopee Mdewakanton Sioux Community. This land is commonly known as "the old MWCC parcel", and encompasses approximately 580 acres, all within the City of Shakopee. We are very concerned about this proposal.

First please allow us to address three procedural matters: notice to the City, timing, and adequacy of information. Regarding notice to the City, there was none. Ms. Boeckman was kind enough to send us a copy of her letter. However, the land in question is subject to the jurisdiction of the City. The City did not directly receive notification of this proposal, and should have.

Regarding timing, the letter indicates that we have 30 days from the date of the letter to respond, yet the letter is undated. Our copy has been stamped "May 12 1995", but it is unclear whether the letter was stamped by your office before it was sent, or by Ms. Boeckman after she received it. We certainly did not receive the letter on or about May 12th. We are not sure of the time frame in which we must respond. We are assuming that we have until June 11th to respond.

In order to give us adequate time to respond appropriately, we have requested, in writing, an extension to June 25, 1995. This request was discussed with Mr. Bob Howard of your office on June 2, and repeated by telephone message on June 7. Mr. Howard said he would speak with you and send a response by facsimile to us on June 7, but he did not. Mr. Howard did inform us that we either respond by the deadline or trust status for the land would be approved without regard to any concerns we might have. When we tried calling on June 8, no one answered the telephone, despite it ringing more than a dozen times each of the times we called.

COMMUNITY PRIDE SINCE 1857

129 Holmes Street South - Shakopee, Minnesota 55379-1351 612-443-3630 FAX 612-443-6715

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Regarding adequacy of information, please note that our response is supposed to address potential conflicts in land use. This issue is identified as the fourth issue in your letter, and also specified in 25 CFR 151.10(f). However, your letter does not indicate how the tribe proposes to use the land. In order to address potential conflicts in a concise and focussed manner, the City needs to know the anticipated land use.

On June 2 we spoke to Mr. Howard, and sent him a letter requesting information regarding the proposed land use. In speaking with Mr. Howard on June 7, he stated flatly that he would not send the City a copy of the application to place land in trust, nor would he advise the City as to what use is proposed for that land. We believe this to be a grossly inappropriate response, unfair to the City, and in violation of the intent of the federal regulations and your own procedures.

Mr. Howard's response appears to be inconsistent with the present practice of your office, as well. Letters relating to placing land in trust which have been received by Mille Lacs County in December 1994 and by Pine County in early June 1995 did advise as to the proposed use of the land. We are distressed that we have been treated differently and not afforded the information necessary to provide a precise and intelligent response to your letter.

The City has been placed in the poor position of having to respond without receiving proper notice, having an unclear deadline for our response, and without any information as to the proposed use. This forces the City to respond without knowing whether our concerns are unnecessary, off the point, or otherwise inappropriate. Please recognize, therefore, that our comments are necessarily broad, and additional comments may be in order once we learn the proposed use of the land.

Under 25 CFR 151.10, certain specific factors must be considered in evaluating requests for approval of acquisition of land by the federal government for placement in trust status. That section provides as follows:

In evaluating requests for the acquisition of land in trust status, the Secretary shall consider the following factors:

- (a) The existence of statutory authority for the acquisition and any limitations contained in such authority;
- (b) The need of . . . the tribe for additional land;
- (c) The purposes for which the land will be used; . . .
- (e) If the land to be required is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls;

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(f) Jurisdictional problems and potential conflicts of land use which may arise; and

(g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

The City has been requested to respond to items (e) and (f). Although the tribe presumably communicated items (b) and (c) to the Bureau of Indian Affairs, we have no idea as to what was said, and therefore cannot focus our response on any particular stated need or purposes. It is worth mentioning that it is difficult to guess what might be the stated need for this land being placed into trust. This tribe is quite wealthy, running the second most successful casino in the United States. Therefore, it does not need to be exempt from paying taxes. Likewise the tribe does not need to obtain additional lands in order to become self-sufficient, since it is economically self-sufficient already.

No purpose for using the land in trust has been identified, as mentioned above. A common reason given for requesting acquisition of land in trust is to give tribes sufficient land for residential development, so that there are no landless members. According to the 1990 census, this particular tribe has a population of 227. The United States owns 614 acres for them in trust in Prior Lake, and another 120 acres for them in trust in Shakopee. The tribe owns this 580-acre parcel, and possibly other land. The tribe certainly does not need property in trust to avoid its members being landless.

Your own procedures governing this request, as set forth in a Memorandum from Ada E. Deer to All Area Directors and dated May 26, 1994, expand upon the federal regulations. Those procedures provide that evaluation of a proposal to place land in trust will be evaluated by considering both "Impact" and "Problems/conflicts". The language of that memo is as follows:

(4) Impact. Present policy dictates that timely notices be given to state and local governments to resolve possible conflicts over taxation. Documentation must include copies of notices sent and responses. An evaluation must be made of any negative responses received. The tribe, after consultation with local governing bodies, will explain how these concerns will be addressed.

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(5) Problems/conflicts. Analyze the property to be acquired and state any jurisdictional problems and potential conflicts of land use which may arise. Every effort should be made to resolve any conflicts. Potential issues to be addressed include: cross-deputization, utilities, zoning, contributions for fire protection, etc. All issues need to be addressed. Cooperative agreements could be used as a means of resolution. (Tribes within P.L. 83-280 states [which includes those in Minnesota] should attach copies of any agreements made with local law enforcement.)

We would like to point out that the tribe does not have any cooperative agreements with the City of Shakopee, and has not consulted at all with the City regarding its proposal to place land in trust.

These various documents request or allow us to comment on the following: (1) present taxes and anticipated impact on the City if the property is removed from the tax rolls; (2) present special assessments and related items assessed against the property; (3) government services presently provided to the property, and problems with providing services should the property be placed in trust status, including police and fire services and utilities; (4) present zoning and potential conflicts of land use which may arise; (5) other jurisdictional problems which may arise if the land is placed into trust status. These will be addressed in order.

(1) Present taxes and anticipated impact on the City if the property is removed from the tax rolls. Presently these 580 acres are on the tax rolls, and generate \$16,125.78 in taxes per year. The City uses its share (approximately 15%) of this tax revenue to pay for the provision of police and fire services, public works, regulation of construction and development to protect the safety and welfare of our residents, and general government expenses. The school district and County use their shares to provide schools and county services. These taxes are low due to the current use of the land for agriculture.

Presently this property requires trivial amounts of public services. This land was used most recently as a sludge farm by the Metropolitan Waste Control Commission. There are no residents for the Police Department to protect, no structures for the Fire Department to protect, and no residences or businesses requiring infrastructure. Once this property develops, however, substantially increased tax revenue will be necessary to support the provision of public services.

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Should this land develop into residential uses while it is subject to taxation, the taxes would increase substantially. Assuming that houses are constructed to a typical density of 2.5 units per acre, this would result in 1,450 single family homes. Assuming an average value of \$150,000 per house (which is lower than the apparent value of many houses currently being constructed on the reservation), this would result in taxes of approximately \$4,717,000 per year. If houses with an average value of \$200,000 were constructed, then the taxes would be approximately \$6,821,000 per year. From this total the City would receive tax revenues between \$707,000 and \$1,023,000 per year.

Should this land develop into commercial or industrial uses, the taxes would increase even more. Assuming that the standard Shakopee building coverage of 0.30 applies here, this would result in 7,579,440 square feet of buildings. With a tax burden of \$1.05 to \$2.00 per square foot, this would result in taxes of \$8,000,000 to \$15,000,000 per year. Of this the City would receive \$1,200,000 to \$2,250,000 per year.

Shakopee would suffer greatly from this loss in tax revenue. Unlike some cities, Shakopee receives nearly all of its revenues from local sources, rather than from intergovernmental transfers. In Shakopee, approximately 56% of all general revenue comes from local taxes. Another 15% to 23% comes from charges we make for services we provide. If we are unable to receive taxes and charges for services, then the City will receive less than 30% of the revenue that this area should provide to help pay for services.

Currently the City receives a total of \$2,806,000 in tax revenues per year. We provide services to an area of 17,000 acres, including this 580-acre parcel. The City provides approximately \$1130 in services per household each year. If this land develops residentially with 1450 households, and if we are to maintain our level of service, we would need to receive revenues of \$1,638,500 to pay for services to these people.

Typically in Shakopee, when residential development occurs, a portion of it is for multi-family dwellings, and a portion is for single family houses. If the 580 acres develop consistently with other development in Shakopee, there would be 650 multi-family units, and 1290 single-family units, for a total of 1940 households. The City would need to receive revenues of \$2,192,200 to cover our provision of services to these people.

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If these 580 acres are placed in trust status, the City will lose the tax benefit of a sizeable portion of our acreage, while having to maintain services to the same acreage. Since more than 56% of our total revenues is from property taxes, the absence of tax revenues would make it impossible to continue providing services at our current level. Assuming that the City provides services to this area like it does to other areas of the City, the result will be a city-wide reduction in the quantity and quality of services.

Development of this land will require tremendous amounts of infrastructure, police protection, and fire service. If this parcel does not pay its fair share of taxes to provide that infrastructure and those services, then the sole source of tax revenue for those services will be the taxpayers in the rest of Shakopee. Shifting the burden of taxes to the other residents and businesses in Shakopee will significantly increase the tax burden on those residents and businesses. With the City's limited ability to raise taxes, and the property owners' limited ability to pay taxes, this will substantially impair the City's ability to provide services to this property and to other property within the City.

(2) Present special assessments and related items assessed against the property. Presently there are no special assessments pending against this property. The City recently considered imposing substantial special assessments against this property as a result of the construction of a major interceptor and trunk sewer line known as the Chaska Interceptor Sewer. This sewer is being constructed under a contract with the Metropolitan Council. The Chaska Interceptor Sewer is a combined interceptor sewer for Chaska and trunk sewer to serve the south and south-central portion of Shakopee. The cost to the City of contributing to this sewer project is approximately one-half the cost of constructing the trunk sewer alone. Nonetheless, the City owes approximately \$2,125,000 for its share of the sewer.

Instead of imposing special assessments on the benefitted property, the City adopted a trunk sanitary sewer charge policy and modified its sewer flow rate. The trunk sanitary sewer charge policy requires the payment of \$1251.66 per acre upon the final platting of property benefitted by this sewer, in order to cover the cost of the trunk sanitary sewer. For the portion of this 580-acre parcel served by this sewer, the trunk sanitary sewer charge would be \$725,963. In addition, each billing period the property would owe \$1.74 per 1000 gallons of sanitary sewer flow.

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(3) Government services presently provided to the property, and problems with providing services should the property be placed in trust status, including police and fire services and utilities. Presently this property receives limited government services. These include fire protection, limited police protection, and maintenance of McKenna Road. The County maintains the other two roads abutting the 580 acres, namely County Roads 16 and 83.

If the property is placed in trust, significant problems arise with providing and funding these services. The City has concerns with police protection, fire services, sanitary sewer service, storm sewers, water service, and roads. These issues are detailed below.

Police protection. An increase in population brings an increase in crime. Land within a reservation is served by tribal courts, but the local police still must be involved in many cases. Criminal matters occurring across jurisdictional lines can cause conflicts and present a substantial problem in terms of pursuing, arresting, and prosecuting defendants. Without a well-drafted cooperation agreement, providing proper police protection will be extremely difficult or impossible.

In addition, police protection is costly. Without a corresponding increase in the tax revenue to support police services, the City will be unable to hire additional officers or provide for the necessary increase in police protection.

It is extremely difficult to predict and plan for providing police protection without knowing in advance the anticipated use of the land. We would be in the position of responding to the situation re-actively, rather than pro-actively. Dense low-income residential development, casinos, and amusement parks generate far more police calls than low-density high-income housing. Our ability to control the environment and prevent criminal activity also will be eliminated without City regulatory control of how buildings are constructed, how and where services are provided, and licensing control.

Fire services. Provision of urban-level fire services may be difficult. The City's right to enter onto trust land to put out a fire may be questioned, and the City's ability to expend funds for fire protection will be limited, since no revenues will be available to repay those expenditures. In addition, this property is an extremely long distance from the City's sole fire station. Development in this area is inappropriate due to the difficulty in

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getting quickly to this property with only the one existing fire station. As the City develops, additional fire stations are planned, but none have been constructed in this area yet or are planned for construction in the immediate future. The construction of a fire station to serve this property appropriately is anticipated to cost \$2,500,000 for a building, and at least another \$1,500,000 for trucks and equipment.

Sanitary sewer service. There is no sanitary sewer service presently available to this property. The sanitary sewage from this site was anticipated to go eastward into the Prior Lake Interceptor Sewer. However, another sanitary sewer line will be constructed north of this property in the near future, known as the Chaska Interceptor Sewer. If this property is developed in the near future, and a lift station is constructed to place sewage into the Chaska Interceptor Sewer, this will cause the sewage in that pipe to exceed the planned capacities. Under the City's contract with the Metropolitan Council, the City is limited in the amount of sewer flow and sewage capacity it may utilize. Capacity was designed in this pipe to serve the northern one-third of the 580-acre parcel, but only for agricultural or low-density residential development. More intense development will exceed the sewer capacity. If this extra sewage is placed into the sewer pipe at that location, the pipe will fill and will cease to serve the property upstream that it was designed to serve, specifically much of Shakopee and Chaska.

In addition to the interceptor sewer, trunk sewers would need to be constructed to serve this property. The City will not construct these sewers if it cannot recoup its expense.

This property is unsuitable for urban residential, commercial, or industrial development with septic tanks, either. The Scott County Soil and Water Conservation District has studied this area, and determined that the ground water underlying this property is highly susceptible to contamination. Therefore, the placing of any pollutants in the ground, including septic systems, should be avoided. Contamination of the ground water in this area will foul water wells, prohibiting the use of those wells as a source of drinking water.

Storm sewers. No storm sewers have been constructed to serve the 580-acre property, but approximately 4465 acres of land in Shakopee drain through this parcel. As in the case of sanitary sewers, without local control, there is no assurance that this water from upstream will be allowed to continue to flow through. If the water flow were blocked or dammed, then flooding would occur upstream. Storm water drainage also needs to be provided from this

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property to the Minnesota River, which will be difficult to arrange if there is no local control over this property.

Water service. The 580 acres are not served with water. This property is located in what is known as the "First High Elevation Service District", because it is located at an elevation too high to be served by any existing water towers. This area cannot be served with water at this time, since the Minnesota Department of Natural Resources prohibits the construction of a water well or water tower in this district. Prior to that prohibition being placed on the City, the City did develop a comprehensive water plan showing the construction of three different 12-inch trunk watermains sometime after the year 2000, in order to adequately serve this property with water. The City will not construct these watermains if it cannot recoup its expense.

Roads. This property has County roads on the north and west, and a gravel City road on the east. No public roads cross this property. The City has plans to reconstruct the gravel road to collector street standards in the future, but will be unable to do so under its current policies if this property is placed in trust. The City normally would require that one-half the right-of-way come from this property, and that the property owner pay a substantial portion of the road construction costs. These policies cannot be enforced if the land is in trust. The City also has plans to construct a collector street across the property in an east-west direction, but these plans are for 20 to 40 years into the future.

In summary, this property presently has limited fire service, but no other services or utilities. Providing police protection would be limited and difficult without appropriate funding and a cooperation agreement between the City and the tribe. Other services are not available. This property is not suitable for development, due to the difficulty in providing proper fire protection, sanitary sewers, storm water drainage, water service, and roads.

(4) Present zoning and potential conflicts of land use which may arise. Responding to this item is extremely difficult, since your office has refused to tell the City what use is anticipated for this land. We have done our best to provide some general comments, but would have more specific comments if we had been provided with information as to the planned use. We will have additional comments after we are so informed.

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The 580 acres is zoned agricultural. The City's zoning ordinance states that the purpose of the agricultural zone is "to preserve and promote agriculture in the unsewered areas of the City which are suitable for such use, to prevent scattered and leap-frog non-farm growth, and to prevent premature expenditures for such public services as roads, sewer, water, and police and fire protection." Development of this land in the next 20 to 40 years would violate each of the listed items in the purpose statement.

This property is surrounded by rural and agricultural uses. The land to the east and to the south is zoned agricultural. The land to the west of this land is zoned agricultural and rural residential. A small portion of the land to the north of this land is zoned light industrial, and the rest is zoned rural residential. So long as the land continues to be used for agricultural purposes, as described in the City ordinance, no conflicts of land use will occur. If this property is developed for any other land use, then it will conflict with the surrounding uses.

For example, if this land should develop commercially, it would conflict with the agricultural nature of the area and the residential character of the nearby rural residential properties. Industrial development also would harm the nearby residences and farms. The small abutting industrial parcel to the north ends at County Road 16, and industrial development is not desired south of that road. The City's comprehensive plan anticipates that this land would develop into urban uses, mainly residential, at a distant time in the future.

The City adopted a comprehensive plan in 1980, and has approved a new, draft comprehensive plan earlier this year. (Although we have approved the 1995 plan, it is not final until the Metropolitan Council also approves it.) The draft 1995 comprehensive plan recognizes that development in Shakopee is limited by two main factors: the Metropolitan Urban Service Area limitations placed by the Metropolitan Council, and sanitary sewer capacity in constructed pipes. The City has had to stage its anticipated development described in the comprehensive plan over the next 20 years, and has analyzed appropriate development for the next 40 years in the comprehensive sewer plan. The 580 acres of property proposed to be placed in trust status are not appropriate for development until after the year 2020. The City is staging development to occur south and eastward from the existing core city, and southwestward from the interchange between the new Bloomington Ferry Bridge and the Highway 101 bypass which currently are under construction. The 580 acre parcel is precisely in the middle between the two anticipated development areas, and will

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cause substantial financial hardship on the City if it were to develop and demand services sooner than the other areas. Since all the City's plans are integral, premature development of this property will destroy the careful planning for all infrastructure prepared by the City. The City has expended more than \$300,000 for these plans in the past 3 years.

Any large-scale commercial, industrial, or major recreation development in this area would be contrary to the City's planning. The City already has identified and planned sufficient land area for those uses, in areas that are better suited due to surrounding land uses, infrastructure, and transportation.

The proposed trust property is at a critical crossroads for the City for long-term residential development, since it links residential growth areas south of the Highway 101 Bypass on both the east and west ends of the City. The location of this 580-acre property makes it a critical parcel for providing basic residential services such as schools, parks, and a fire stations for the City in the future. Although precise locations have not been determined due to the length of time before development is appropriate, these services will be needed in this location to serve the residential developments planned to the east, as well as the residential growth on this property. Development of a greater intensity than neighborhood commercial would be incompatible with this long term growth plan.

(5) Other jurisdictional problems which may arise if the land is placed into trust status. The City also is concerned about lack of control of ground water usage, potential groundwater contamination, water and electric utility improvements, sanitary sewer improvements, storm water control, collector streets, wetlands, building code enforcement, recreation programs, and development conflicts.

Water availability. Presently land in eastern Shakopee is limited in its ability to obtain water. The Minnesota Department of Natural Resources has determined that any new well in this area will adversely impact the Savage fen, Boiling Springs, and the Eagle Creek Trout Stream. At this time the Department of Natural Resources will not issue any new water appropriation permits for the area south of the Minnesota River. They would issue a permit if the applicant could prove that the appropriation of water would not impact the Savage fen, but this cannot be shown. This parcel of land is particularly impacted, because it is in a high elevation area, which cannot be served by existing wells.

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A series of environmental studies of the Savage fen, Eagle Creek Trout Stream, and the aquifers in Savage, Prior Lake, and Shakopee have shown that inadequate ground water exists in this area to support full growth of the cities if water continues to be removed from the aquifer at the present rate. Any attempt to appropriate additional water from the aquifer in this area will result in depletion of the aquifer. The City is extremely concerned about its future water supply. The Minnesota Department of Natural Resources is attempting to prioritize water needs and claims. Removing this property from trust will eliminate their regulatory authority over this water issue, and undoubtedly result in litigation over water rights.

Groundwater contamination. The groundwater underlying this property is highly susceptible to contamination. The Scott County Water and Soil Conservation District has studied this area and found that a wide swath of land south of the Minnesota River, including this property, has the water table near the land surface. The soil and rock above the water table is described as "both thin and highly permeable". Water moves readily through the spaces between the grains and pebbles in this ground, resulting in the high susceptibility to contamination. Since this water is so easily polluted, the land uses above it must be carefully controlled and restricted.

Water and electric utility. The City has a water and electric utility. The City is concerned about the need to construct system improvements (such as larger watermains and electrical substations) in and through the 580-acre parcel to serve other areas. If this land is placed in trust, the City will not be able to regulate development to assure that appropriate systems are constructed to match planned development. The City also will need to determine how it can fund those improvements without taxes and City fees. The placement of this land in trust makes it difficult for the City to be able to plan its utility system in a comprehensive fashion.

If this property were to develop out-of-sequence with other development in the City, it would be more costly to provide services. The timing of infrastructure improvements can have a significant impact on their cost.

Sanitary sewer. The City's Comprehensive Sanitary Sewer Plan shows that this site is planned to be served by two trunk sewers. The northern one-third of the property is planned to be served by a trunk sewer that first must cross acreage north of County Road 16, which in turn is planned for future industrial development. The City currently has an adequate supply of vacant industrial property, and construction of this sewer line prematurely would put

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United States Department of the Interior

excessive development pressure on this property. The cost of and availability of the sewer would cause the property owner to want to develop when in fact this would be a leap-frog development apart from other industrial development of the City.

The southern two-thirds of the property is planned to be served by a trunk sanitary sewer line that runs to the Prior Lake Interceptor. This trunk sewer also would serve 2580 acres upstream from the 580 acre parcel. This is the only economic way to serve the upstream properties. From these properties some 2.039 million gallons per day would flow into the 580 acre parcel, and an estimated 2.195 million gallons per day would flow out and eastward to the Prior Lake Interceptor Sewer.

The location and design of this southern sewer line make it one of the very last which would be constructed in Shakopee, with construction anticipated to be sometime after the year 2040. At this point it has not been designed in detail or specifically located. In particular, the portion of the sewer line east of the 580 acre parcel is not anticipated to be needed until at least 40 years in the future. If this line had to be constructed now to serve the 580 acres, the pipe's 40-year useful service life would expire before any other use could be made of it, and the City would have to pay twice to construct the pipe prior to its actual use for the eastern land.

The property west of the 580-acre parcel is fully dependent on the provision of a sufficient, reliable and permanent sanitary sewer connection. However, without local control, there is no assurance that the upstream pipe could be constructed to flow through this property, and that the flow would not be blocked or interrupted.

Construction of these trunk sewers within the next 20 to 40 years would be contrary to the City's staging policy, and result in poor, leap-frog development. This also violates the policy of the Metropolitan Council regarding development of the metropolitan area. This will create large-scale City-wide inefficiencies in providing services and basic infrastructure, since it will redirect growth northward from the City's southern boundary, rather than southward from the existing development in the north.

Storm water. The 580-acre parcel is in an area which will have significant storm water run-off when it is developed. An extremely large quantity of storm water (577 cubic feet per second) flows into and through this property. This must be allowed to enter the site, or else the area southwest of this property will be

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Area Director
United States Department of the Interior

flooded. The maximum discharge possible from the site, however, is 663 cubic feet per second to the east, and 143 cubic feet per second to the north. City design standards require ponding to reduce the quantity of runoff flowing to downstream properties. If this property is placed in trust, then the City policy requiring ponding could not be enforced. If the City cannot rely on the ponding, then it would either have to require the downstream systems to be greatly oversized, or else risk flooding those properties.

As a separate issue, the Prior Lake Overflow Channel runs through this property. This channel ensures that areas adjacent to Prior Lake do not flood. Losing governmental control over this channel could result in the channel becoming choked with weeds or debris, or otherwise blocked, and ceasing to carry adequate water to prevent flooding. When this channel was constructed, it was sized to handle limited future development. If the tribe utilizes this channel for storm water run-off but exceeds the design capacity, it will flood the surrounding areas.

Collector street system. The City has a collector street system planned for the entire City. Presently two collector streets are planned for this property. The City plans to construct McKenna Road as a collector street on the eastern boundary of this property. One-half of the right-of-way for the street would be expected to come from this property. The City also plans for Valley View Road to extend east-west through this parcel as a collector street. The City cannot follow its plans for these streets if the land is placed in trust status.

Wetlands. Wetlands currently are protected under state law, under the Wetland Conservation Act of 1991. This law is administered by the City as the local governmental unit. The City wetland inventory shows wetlands adjacent to or on this site (the detail of the maps makes it difficult to tell). Placing the parcel in trust will remove it from the City's jurisdiction, leaving no local governmental unit to administer the act.

Building codes. The City also protects the safety of its residents through enforcement of the state building, housing, plumbing, fire, and electrical codes. If this land is placed in trust, both the residents of the area and any visitors could be subjected to unnecessary risk of injury or death, because these codes would not apply and could not be enforced to ensure the proper construction of buildings.

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Recreation programs. The City provides recreation programs for its residents. These are provided substantially below cost, with tax revenues making up the difference. If residents of trust status land desired to take part in City recreation programs, the majority of the cost of their participation would be paid by the taxpayers of the City. The taxpayers should not be required to support residents who do not pay taxes.

Development conflicts. Development of this land will be in direct competition with land which is not in trust status. The tiny population of the tribe does not need additional land for residences, and therefore it can be assumed that the land will be developed for commercial or industrial purposes. Developing land subject to Shakopee's jurisdiction pays its own way in development charges. For example, at the time of platting, land in this area must pay a trunk sewer charge of \$1251.66 per acre, as discussed above. A park dedication fee of 10% of the property value also is due then, as provided by state law. At the time of connection to the water lines, a trunk water charge of \$701.00 per acre is due. When a building permit is requested, City sewer availability and water availability charges are paid, at a rate of \$400 and \$465 per "sac" unit, respectively. Various building permit fees themselves also are due at differing rates based on the building value. In addition there are fees for plan checks, grading and survey checks, a state surcharge, the certificate of occupancy, and other items.

Developed property in Shakopee also has recurring costs to pay. The storm drainage utility fee is \$18.18 per "residential equivalency factor", which ranges from 0.33 for single family residential structures to 5 for heavy industrial property. This is calculated per acre, and due each quarter of the year. There also is a base rate sanitary sewer fee of \$8.00 per account due each month, and a flow rate sanitary sewer fee of \$1.74 per 1000 gallons due each billing period. Of course, sales taxes also are due on all City businesses outside the trust status property.

If the land is placed in trust, and commercial or industrial uses are constructed there, these will compete directly with existing businesses and other property within Shakopee. Unlike these businesses and property, however, land in trust does not have to pay taxes, pay state or local fees, or comply with state and local regulations. The trust land would be worth a great deal to any business which desired to avoid these financial and regulatory responsibilities. Existing businesses and property would not be able to compete with the lower cost of doing business on trust property, and many may be expected to be driven out of business.

Tribal Council, Box 16, Nett Lake, MN 55772, (218) 757-3261


8. Entire Agreement/Modification

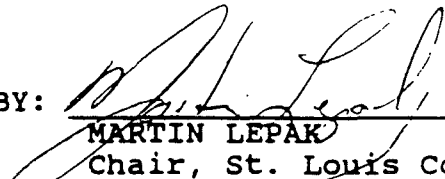
This Agreement constitutes the entire Agreement between the TRIBAL COUNCIL and the COUNTY and supersedes all prior written or oral agreements for this project. Any term, condition, prior course of dealing, course of performance, usage of trade, understanding, purchase order, or agreement purporting to modify, vary, supplement, or explain any provision of this Agreement is null and void and of no effect unless in writing and signed by representatives of both parties authorized to amend this Agreement.

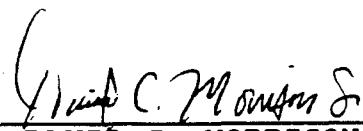
IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

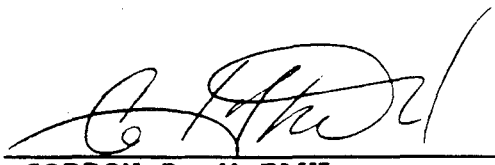
TRIBAL COUNCIL

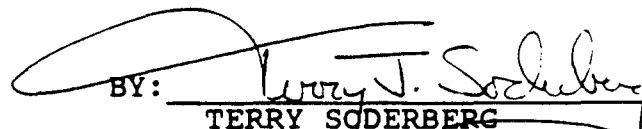
ST. LOUIS COUNTY

BY: 
GARY W. DONALD
Chairman, Bois Forte
Reservation Tribal Council


BY: 
MARTIN LEPAK
Chair, St. Louis County Board

BY: 
DAVID C. MORRISON, SR.
Secretary /Treasurer
Bois Forte Reservation
Tribal Council

BY: 
GORDON D. McFAUL
County Auditor

BY:  5/9/95
TERRY SODERBERG
Solid Waster Program Director

APPROVED AS TO FORM & EXECUTION

BY: 
MICHAEL R. DEAN
Assistant County Attorney

4/13/95:yme
1995-58



Resolution
of the
Board of County Commissioners
St. Louis County, Minnesota

Adopted on: May 9, 1995

Resolution No. 387

Offered by Commissioner: Prebich

WHEREAS, the Bois Forte Tribal Council has developed and equipped a solid waste canister site; and

WHEREAS, St. Louis County has agreed to pay for the haulage and disposal of the solid waste generated on the Reservation, and to pay for the haulage, processing, and marketing of recyclables; and

WHEREAS, tribal residents pay the applicable tipping fees and a reduced annual service fee of \$29.00 per household and \$87.00 per commercial property;

NOW, THEREFORE, BE IT RESOLVED, that St. Louis County approves a one-year extension of the service contract with Bois Forte Tribal Council for providing services which assist in the operation of the canister site.

Commissioner Prebich moved the adoption of the Resolution and it was declared adopted upon the following vote:

Yeas - Commissioners Mattson, Krueger, Kron, Forsman, Prebich, Raukar, and Chair Lepak - 7

Nays - None

STATE OF MINNESOTA

Office of County Auditor, ss.

County of St. Louis

I, GORDON D. MCFAUL, Auditor of the County of St. Louis, do hereby certify that I have compared the foregoing with the original resolution filed in my office on the 9th day of May, A.D. 1995, and that the same is a true and correct copy of the whole thereof.

WITNESS MY HAND AND SEAL OF OFFICE at Duluth, Minnesota this 9th day of May, A.D., 1995

GORDON D. MCFAUL, COUNTY AUDITOR

By

Karen Erickson

Clerk of County Board/Deputy Auditor

