



Office of the County Administrator

Administrative Services Office
635 2nd Street SE
Milaca, MN 56353

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September 20, 2017

Governor Dayton:

Thank you for taking an interest in public safety here in Mille Lacs County. Mille Lacs County was surprised and disappointed to see your letter dated September 18, 2017 containing an ultimatum with a deadline within two weeks without offering an opportunity to provide information to you or your office. Regrettably, we believe your letter is based on faulty information, incomplete information, or both.

Members of the County Board, County Attorney, County Sheriff and County Administrator respectfully request an opportunity to meet with you prior to your deadline of September 29, 2017 to share information with you and to discuss the issues surrounding a Cooperative Agreement. We are inviting you to Mille Lacs County for this meeting, but if necessary we are prepared to travel to St. Paul. Your letter makes clear that you met with one or more representatives of the Mille Lacs Band and relied on the information you were given in sending your letter. We are requesting the same courtesy.

Mille Lacs County faithfully entered into mediation with the Bureau of Mediation Services offered by the Governor and provided information from the Mille Lacs County Board, Sheriff, and County Attorney. All of these parties possess important information that should be shared with the Governor's Office before any important decisions are made.

While the current situation is less than ideal, the parties have adapted to the circumstances effectively. Following the revocation, the priority of the Sheriff's Office has continually been to provide 24-hours-a-day law enforcement coverage in tribal trust lands, including specifically designated patrol deputies and investigators. Band Police are also promptly notified of every call for service. All Mille Lacs Band Police and the additional Mille Lacs County Deputies are jointly patrolling tribal trust lands. This effectively doubles the armed, uniformed presence of patrol officers in these areas. Each and every one of these officers has been trained and can provide life-saving measures including NARCAN which counteracts the effects of opioid overdose. This increased response has saved lives in Mille Lacs County, including the overdoses referenced in your letter. In the event of a reported overdose, criminal prosecutions are not possible. Minn. Stat. § 604A.05.

Mille Lacs County continues to have concerns with providing the powers of state law enforcement to the Mille Lacs Band Police regarding hiding felony investigations, excluding the Sheriff's Office from Mille Lacs County crime scenes, attempting to run a drug task force that is outside the bounds of Minnesota law, providing inaccurate or misleading information to the media and other sources, and using the powers of a state law enforcement agency for political purposes. In our expected meeting, we are prepared to provide you a full explanation of these concerns and others that directly impact public safety in Mille Lacs County. The revocation of the 2008 Cooperative Agreement is about solving these problems permanently in the interest of public safety while allowing the Mille Lacs Band to continue to exercise the powers of a law enforcement agency in Mille Lacs County.



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Please see the attached proposed 2017 Cooperative Agreement that was drafted with experience gained over the past 25+ years. As the Sheriff recently stated to the Commissioner of Public Safety, this proposal "is a year's long culmination of many people's efforts and hundreds of hours of serious work all attempting to reach a new Cooperative Agreement."

Mille Lacs County will continue to focus on the priority of public safety and providing quality law enforcement services to all citizens of Mille Lacs County including excellent response times, thorough investigations, and protecting the Constitutional rights of all of its citizens.

Thank you for your consideration.

Very Truly Yours,

Roger Tellinghuisen,

Board Chairman

Joe Walsh,

Mille Lacs County Attorney

Brent Lindgren,

Mille Lacs County Sheriff

cc: Commissioner David Oslin
Commissioner Phil Peterson
Commissioner Genny Reynolds
Commissioner Timothy Wilhelm

Enclosure: Proposed 2017 Cooperative Agreement

2017 COOPERATIVE AGREEMENT

This Cooperative agreement is made and entered into by the Mille Lacs Band of Ojibwe (“Band”), The Mille Lacs County Sheriff (“Sheriff”) and Mille Lacs County by the Mille Lacs County Board of Commissioners (“County”) under Minn. Stat. § 471.59 to define and regulate the provision of law enforcement services under Minn. Stat. § 626.90.

1. Satisfaction of Requirements for Band to Have the Powers of a State Law

Enforcement Agency. In order to satisfy the requirements of Minn. Stat. § 626.90, sub. (a), for the Band to have the powers of a State law enforcement agency, the Band has already taken, hereby takes, or agrees to take the following actions:

- a. The Band agrees to be subjected to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of a law enforcement agency function conferred by Minn. Stat. § 626.90, to the same extent as a municipality under Minn. Stat. Ch. 466. The Band further agrees, notwithstanding Minn. Stat. § 16C.05, sub. 7, to waive its sovereign immunity for purposes of claims of this liability. This waiver of sovereign immunity does not extend to claims by employees of the Band against the Band as an employer arising out of the employment policies or practices of the Band, including but not limited to claims due to demotion, selection, dismissal, and failure to promote.
- b. The Band has filed and agrees to maintain on file with the Minnesota Board of Peace Officer Standards and Training (“POST Board”) a bond or Certificate of insurance for liability coverage for the maximum amounts set forth in Minn. Stat. § 466.04 and an annual cap for all occurrences within a year of three times the single occurrence amount.
- c. The Band has filed and agrees to maintain on file with the POST Board a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution; and

- d. The Band agrees to be subject to Minn. Stat. § 13.82 and any other laws of the State of Minnesota (“State”) relating to the data practices of law enforcement agencies.

The Band agrees to annually provide to the Sheriff written evidence that it has complied with these requirements, provide P.O.S.T. Board license renewal verifications for all Band Police Officers, and in addition provide documentation that Band police officers have completed the required CJIS mobile certification to meet BCA Audit requirements. Prior to any appointment of a Band Police Chief, the Band shall have an independent background investigation completed by either the Sheriff or an outside law enforcement agency.

- 2. **Definition of Trust Property Involved in This Agreement.** The legal descriptions of the Trust Properties involved in this Agreement are set forth in Appendix A hereto. The Band and the County shall update Appendix A when additional properties (if any) are acquired in Mille Lacs County by the United States in Trust for the Band or the Minnesota Chippewa Tribe (“Tribe”).

- 3. **Concurrent Law Enforcement Authority under State Law and This Agreement.**

- a. By entering into this Agreement, the Band has concurrent jurisdictional authority under Minn. Stat. § 626.90 with the Sheriff under the following circumstances:
 - i. Over all persons in the geographical boundaries of the property held by the United States in trust for the band or the Tribe, as set forth in Appendix A;
 - ii. Over all members of the Tribe within the boundaries of the Treaty of February 22, 1855, 10 Stat. 1165, in Mille Lacs County; and
 - iii. Over any person who commits or attempts to commit a crime in the presence of an appointed Band peace officer within the boundaries of the treaty of February 22, 1855, 10 Stat. 1165, in Mille Lacs County.
- b. The County and the Sheriff acknowledge that the courts have recognized that the Band has some inherent criminal authority, the extent of which has not been fully delineated, and civil/regulatory authority over Mille Lacs Band members, and possibly inherent tribal criminal jurisdiction over

individuals who are enrolled members of federally recognized Indian tribes other than the Mille Lacs Band, for offenses occurring in Indian country. The parties disagree over the extent of Indian country in Mille Lacs County, since the County and the Sheriff believe that Indian country is limited to the lands held in trust by the United States for the Mille Lacs Band or the Minnesota Chippewa Tribe, while the Band claims that Indian country is encompassed within the boundaries of the original Reservation established by the 1855 Treaty. Without waiving or compromising the respective positions of the parties in this regard, the parties hereby agree to the following procedures for law enforcement activities during the existence of this Agreement:

- i. The Band will not exercise inherent tribal criminal or civil/regulatory authority outside of the trust lands as defined by Exhibit A to this Agreement and the roadways designated on Exhibit B, which are exclusively within trust lands defined by Exhibit A.
- ii. The Band will not exercise inherent tribal criminal or civil/regulatory jurisdiction over any persons who are not enrolled members of a federally recognized Indian tribe, regardless of where the activity occurs in Mille Lacs County.
- iii. The Band will not exercise federal law enforcement authority outside of trust lands under the SLEC Commissions authorized by 25 U.S.C. § 2804.
- iv. The Band agrees to timely transmit all information on law enforcement activities to the Sheriff through the appropriate records management system or electronic mail and to promptly submit within ten (10) days of the occurrence all matters to the County Attorney for review and prosecution, subject to the provisions of Paragraph 7, in the following circumstances:

 1. An occurrence outside of trust lands and the roadways through trust lands identified on Exhibit B; or
 2. An occurrence that involve persons who are not members of a federally recognized tribe anywhere in Mille Lacs County; or

3. An occurrence that involves, or could potentially involve, an investigation of a targeted misdemeanor offense as defined in Minn. Stat. § 299C.10(1)(e) (2015), an enhanceable misdemeanor offense as defined in Minn. Stat. § 609.153 (2015), a gross misdemeanor offense as defined in Minn. Stat. § 609.02(4), a felony offense as defined in Minn. Stat. § 609.02(2) or other felony as described in Paragraph 4.d related to any person anywhere in Mille Lacs County,; or
 4. All other matters where the Band or its tribal police officers determines that investigation and/or handling by the Mille Lacs County Sheriff or County Attorney is warranted or appropriate.
- v. The provisions of Paragraphs 3 and 4 neither acknowledge the existence of inherent tribal criminal or civil/regulatory authority outside of the trust lands, nor is this agreement to voluntarily limit the use of inherent tribal criminal and civil/regulatory jurisdiction to trust lands to be construed as either an acknowledgement that inherent tribal criminal and civil/regulatory jurisdiction exists outside of the trust lands, or an acknowledgement that inherent tribal criminal or civil regulatory jurisdiction does not exist outside of the trust lands.

4. Law Enforcement Procedures. The Band and the Sheriff shall follow these procedures:

- a. **Band Members.** The Sheriff and the Sheriff's Deputies shall refrain from issuing citations of Band members on trust lands or designated roadways on Exhibit B for civil/regulatory/petty misdemeanor/non-criminal purposes. If a civil/regulatory/petty misdemeanor/non-criminal citation is inadvertently issued to a Band member by the Sheriff or the Sheriff's Deputies regarding an offense location on trust lands or designated roadways on Exhibit B in a circumstance where it was not known at the time of the traffic stop whether or not the cited individual is a Band member, it shall be dismissed by the prosecuting authority upon receiving reliable information that the cited individual is a Band member.

- b. Non-Tribal Members.** In addition to the requirements and limitations in Paragraph 3, the Band and its Police Officers shall refrain from performing traffic stops of non-Tribal members for civil/regulatory/petty misdemeanor/non-criminal purposes outside of trust lands or the roadways on Exhibit B. Prior to making a stop for civil/regulatory/petty misdemeanor/non-criminal purposes outside of trust lands of Tribal members, the Band Police Officer shall confirm that the individual suspect is a Tribal member by visual confirmation, license plate confirmation, past law enforcement contact with the individual suspect, or other articulable basis for knowledge of the Tribal membership status of the individual suspect. If the Tribal Police Officer cannot confirm Tribal membership of the individual suspect, the Tribal Police Officer shall by radio relay the information to a Sheriff's Deputy who will either proceed to make the stop themselves or direct the Tribal Police Officer to make the stop and detain the suspect until the Sheriff's Deputy arrives. In the unlikely event a Band Police officer inadvertently stops a non-Tribal member by mistake they will immediately via the radio contact the Sheriff's designee or officer in charge and report the inadvertent stop.
- c. Citizen Arrest and Fresh Pursuit Provisions.** Nothing in the above provisions (a) and (b) shall limit the ability of a Band Police Officer or a Sheriff's Deputy to effectuate a citizen's arrest pursuant to Minn. Stat. §§ 629.34 and 629.37. Nevertheless, citations must still be written by a Law Enforcement Officer with valid jurisdiction. Additionally, nothing in the above procedures shall limit or prevent a Band Police Officer or a Sheriff's Deputy from stopping an individual where the officer is involved in fresh pursuit; provided, however, that in that instance the Band Police must be notified and summoned if the individual involved is a Band member and the stop occurs on trust lands or the roadways designated on Exhibit B and the Sheriff's Office must be notified and summoned if the stop occurs by a Band Police Officer and the individual involved is not a Tribal member.
- d. Crime Scene Authority and Notification.** The Sheriff is the chief law enforcement officer in the County and obligated to keep and preserve the peace of Mille Lacs County, pursuant to Minn. Stat. § 387.03 as clarified by Op. Atty. Gen. 2681, which is fully incorporated by reference herein.

The Sheriff or other officer in charge of the Sheriff's Office will have the ultimate discretion to control any designated crime scene and officers of the Band's Police will cooperate and undertake the commands of the Sheriff or other officer in charge of the Sheriff's Office. The Band shall cooperate with the Sheriff in all respects with regard to the investigation and the crime scene and assist and cooperate with the Mille Lacs County Attorney in the prosecution of any of these crimes.

The Band shall provide immediate notice to the Sheriff of all suspected, potential or actual major crime investigations arising anywhere in Mille Lacs County including all death investigations, homicide, manslaughter, criminal vehicular homicide, criminal vehicular operation, kidnapping, criminal sexual conduct including sex trafficking (felony level), incest, assault and domestic assault (felony level), abuse or neglect of a child or vulnerable adult (felony level), false imprisonment, arson, burglary (felony level), robbery, theft (felony level), possession of a firearm in violation of Minn. Stat. § 624.713 (felony level), and possession and/or sale of a controlled substance involving a maximum punishment greater than 5 years in prison and/or a \$10,000 fine, including attempts or conspiracy to commit these crimes, immediately upon receiving information that a crime may have occurred.

- e. **Notice of Search Warrants to be Issued within Mille Lacs County.** The Band agrees to notify the Sheriff prior to executing a search warrant issued by the courts of the State of Minnesota within Mille Lacs County. This is a requirement of Minn. Stat. § 626.13 because the Band Police Department is not the "organized full-time police department of the municipality." The Sheriff shall have the option to provide an officer to assist in the execution of the search warrant.
- f. **Mille Lacs County Public Safety Answering Point.** The Band will provide employees of the Band to be dispatchers who will be incorporated within the Mille Lacs County's Public Safety Answering Point (PSAP) so that one Band employee is on duty as a dispatcher twenty-four (24) hours a day, seven (7) days a week, and 365 days per year. The Mille Lacs Band employee who is part of PSAP will dispatch calls to the Band Police. The Band shall notify PSAP immediately of any calls for service they may

receive directly. The Band will publish and encourage its members to contact PSAP directly for all law enforcement needs. The Band will not publish or encourage citizens to contact the Band Police through other channels.

g. Press Releases. For the major crimes reported to the Sheriff identified in Paragraph 4.d above, only the Sheriff shall issue a press release. All other Band Police press releases shall be prepared by representatives of the Band Police subject to the Minnesota Government Data Practices Act.

h. Cultural Training. All cultural training sessions conducted by the Band for law enforcement training are open to attendance by the Sheriff's Deputies and any local municipality police officers with state jurisdiction within Mille Lacs County. The Band shall provide at least one P.O.S.T. approved annual training on multiple days/times of 4 to 8 hours in length regarding cultural issues relevant and important to Mille Lacs Band members, and it shall be mandatory for the Sheriff's Deputies to attend one cultural training session per year, based upon the availability of Sheriff's personnel as determined by the Sheriff.

5. Referral of Cases to the United States Attorney's Office. The Band shall provide written notice to the Mille Lacs County Attorney when self-referring cases to the United States Attorney's Office that arise from criminal activity occurring outside of trust lands in whole or in part. For any case referred to the United States Attorney's Office arising out of any portion of Mille Lacs County, a copy of all relevant reports and evidence submitted to the United States Attorney's Office shall also be provided to the Mille Lacs County Attorney's Office contemporaneous with submission to the United States Attorney's Office. In the event that the United States Attorney's Office declines prosecution of a matter, that matter shall be resubmitted to the Mille Lacs County Attorney's Office within three (3) days of the United States Attorney's Office decision to decline prosecution. For ongoing investigations continuing for ten (10) days or more, the provisions of paragraph 7 herein shall apply whether or not the Mille Lacs Band intends to refer a case to the United States Attorney's Office in the future; this specifically includes conduct that could be both a violation of federal law and a violation of state law as described in paragraph 7 herein.

- 6. Mutual Aid and Assistance.** The Band's Law Enforcement Agency and the Sheriff's Office shall provide mutual aid and assistance to each other in accordance with the following provisions.
- a. When the band's Chief of Police or other officers in charge of the Band's Police, or the Sheriff or other officer in charge of the Sheriff's Office, requests law enforcement assistance from the other, the responding party may provide such assistance in the form of personnel and equipment that the responding party determines is available to satisfy the request.
 - b. When the responding party supplies law enforcement officers to the requesting party, such officers shall remain under the direction of control of the responding party, be paid by the responding party, be protected by Worker's Compensation of the responding party, be covered by tort liability policies of the responding party, and otherwise be deemed to be performing regular duties for the responding party, the responding party shall undertake to coordinate with the requesting party the police assistance it provides, *provided that*:
 - i. The Sheriff or other officer in charge of the Sheriff's Office shall continue to have the ultimate discretion to control any designated crime scene and officers of the Band's Police will cooperate and undertake the commands of the Sheriff or other officer in charge of the Sheriff's Office; and
 - ii. If available and appropriate, investigation of any automobile accident resulting in death or injury shall be undertaken by the Minnesota Highway Patrol.
 - c. A responding party shall be responsible for its own personnel, equipment and supplies and for injuries or death to any such personnel and damage to any such equipment or supplies, except that, when the assistance provided consists of the furnishing of equipment and supplies by the responding party to the requesting party for use by the requesting party's law enforcement personnel, the requesting party shall be responsible to return such equipment or supplies to the responding party in their original condition or to repair or replace the same, as appropriate, as soon as circumstances permit.

- 7. Prosecuting Authority.** Under state law, the Mille Lacs County Attorney (“County Attorney”) is responsible to prosecute or initiate petitions for any person arrested, investigated or detained by Band officers appointed under Minn. Stat. § 626.90, Subd. 3 and acting under the authority conferred by Minn. Stat. § 626.90. All investigations of actual or possible state law violations consisting of targeted misdemeanors as defined in Minn. Stat. § 299C.10(1)(e), enhanceable misdemeanors as defined in Minn. Stat. § 609.153, gross misdemeanor violations as defined in Minn. Stat. § 609.02(4), felony violations as defined in Minn. Stat. § 609.02(2), or other felonies as described in Paragraph 4.d., occurring anywhere in Mille Lacs County, whether or not referred for federal or tribal prosecution, except for civil regulatory violations by Band members on trust lands, shall be either:
- a. Completed promptly and submitted to the Mille Lacs County Attorney for review, and possible charging or decline; or
 - b. A confidential memorandum will be sent to the Mille Lacs County Attorney’s office within ten (10) days after the investigation is commenced from the Office of the Solicitor General stating the factual circumstances of the investigation, the party being investigated, any information provided to law enforcement by that party, and why the investigation will not be submitted at that time. The County Attorney, after review, may require that the matter be submitted to the County Attorney for review and prosecution. In such circumstance, reports will be completed and evidence preserved in the same manner as with a case that was submitted to the Mille Lacs County Attorney for review and possible charging.
- 8. Notification of Civil/Regulatory Actions Related to State Criminal Jurisdiction.** The Band shall provide notice to the Sheriff and the Mille Lacs County Attorney of any and all data or police reports related to civil/regulatory enforcement that impact the exercise of state criminal jurisdiction within ten (10) days of the discovery of the underlying circumstances, including but not limited to:
- a. A dog that meets the definition of a “dangerous dog” or “potentially dangerous dog” pursuant to Minn. Stat. § 347.50 so that Mille Lacs County can enforce the criminal provisions of Minn. Stat. § 347.55;
 - b. The ownership of a dog by a person described in Minn. Stat. § 347.542 or a household member of that person so that Mille Lacs County can enforce the provisions of Minn. Stat. § 347.55;

- c. Any tribal restraining order or order for protection enforceable pursuant to Minn. Stat. § 518B.01(14).

9. Investigative Reports, Additional Investigative Activities, and Court Appearances.

- a. In connection with the investigation of any crime or offense conducted by the Band's Police under the authority conferred by Minn. Stat. § 626.90 and over which the County or State has prosecutorial authority, the individual Band officer responding and providing law enforcement ("Responding Officer") will prepare and forward a report to the County Attorney,
- b. The County Attorney may request that the Responding Officer conduct additional investigative activities with respect to the crime or offense at issue, including interviewing witnesses and executing process including search warrants. Such a request shall be made to the band's Chief of Police or the officer in charge of the investigation for the Band's Police. If the Band's Police, as the responding party, agrees to provide such assistance, the Responding Officer shall undertake the requested activities in accordance with subparagraphs 4(a) and 4(b) above, and will prepare and forward a report of such activities, including proof of service, in a manner that permits the County Attorney to timely carry out his or her duties and functions.
- c. A Responding Officer shall be available for any hearing set by the Mille Lacs County District Court in connection with the crime or offense at issue upon receipt of written notice from the Mille Lacs County Court Administrator or the Mille Lacs County Attorney's Office or other prosecuting authority, *provided* such prosecuting authority makes all reasonable attempts upon notice to request continuances due to officer illness, vacation, or other conflicts that may prevent an officer from attending any scheduled hearing or trial. The obligation to attend hearings under this subparagraph extends throughout the time of trial. Attendance at hearings will not necessitate travel or mileage allowances, the need to subpoena officers, or other out-of-pocket compensation including wages that may be incurred by officers who are waiting for hearings to occur.
- d. Nothing in this Agreement shall:

- i. Require a Band Police officer to prepare and forward a report to the County Attorney regarding the investigation of, or appear in State Court with respect to, any petty misdemeanor or misdemeanor that is neither a targeted misdemeanor as defined in Minn. Stat. § 299C.10(1)(e) (2015), nor an enhanceable misdemeanor as defined in Minn. Stat. § 609.153 (2015) involving a Band member and occurring on trust land or on roadways designated on Exhibit B in which the Band Police officer acted independently of his or her authority under Minn. Stat. § 626.90, subject to the provisions stated in paragraph 7 herein;
- ii. Preclude an officer of the Band's Police from forwarding a report of the investigation of any crime or offense to the Band's Chief of Police and/or the Band's Solicitor General; iii. Preclude an officer of the Band's Police from consulting with the Band's Solicitor General regarding his or her duties under this Agreement or Minn. Stat. § 626.90; or iv. Authorize, govern or limit the Band's prosecution of any crime or offense within its prosecutorial jurisdiction, subject to the provisions stated in paragraph 7 herein, the Indian Civil Rights Act (25 U.S.C. §§ 1301–04) and other applicable Federal law including 18 U.S.C. § 1153.

10. Remuneration. No monetary exchange or remuneration shall be due by either the Band or Sheriff to the other for any assistance which may be requested or for law enforcement services which may be provided under this Agreement unless such payment or remuneration is agreed upon in writing separately and apart from this Agreement.

11. Band Law Enforcement and Sheriff to Share Records Management System.

The Mille Lacs County Sheriff's office has a negotiated contract with LETG for its law enforcement records management database system, which can be utilized at no additional cost by the Band. The Band, upon execution of this Cooperative Agreement, shall arrange to merge its law enforcement records management database into the Sheriff's LETG system, and shall thereafter maintain its law enforcement records on the Sheriff's law enforcement records management database system. In the event that this Agreement is terminated by either party, the

Band shall be granted access to the Sheriff's law enforcement records management database system to allow the transfer back to the Band and its record keeping system the records that were created by Band law enforcement officers under the Sheriff's records management database system. Mille Lacs Band Law Enforcement authority may not seal or sensitize case files as to either the Mille Lacs County Sheriff or the Mille Lacs County Attorney.

- 12. Conflict Investigations.** The Band Police shall develop a comprehensive procedure and protocol for addressing criminal investigations where there is a conflict involving any Band Police Officer, any direct supervisor of the Chief of the Band Police including the Solicitor General, or any Mille Lacs Band elected or appointed official. A current copy of that protocol shall be provided to the Sheriff. Conflict investigations that may constitute a state law violation shall be conducted by the Sheriff unless the Band's Chief of Police elects to have the investigation conducted by the Minnesota Bureau of Criminal Apprehension or a law enforcement agency selected by the Minnesota Sheriff's Association.
- 13. State Crime Reporting Obligations.** State crime reporting obligations arising from the Band's law enforcement activities under Minn. Stat. § 626.90 and this Agreement shall be coordinated with the Sheriff's Office. The Band shall provide the Sheriff's Office with information, reports, and forms sufficient so that the Sheriff's Office can discharge duties of state crime reporting. All efforts will be made to statistically distinguish state crime reporting based upon cases investigated by the Band's Police and the Sheriff's office.
- 14. Jurisdiction and Defenses Not Waived.** Nothing in this Agreement shall be construed to affect or waive the jurisdiction of the United States, the State, the County, or the Band which each has under present laws or which each may have under future laws. Nothing in this Agreement or its performance by the parties or their law enforcement officers shall prejudice the respective positions of the Band and the County regarding either the current existence and status of the Mille Lacs Indian Reservation or the extent of Indian country in the County. The parties agree that Minn. Stat. § 626.90, this Cooperative Agreement, and any prior Cooperative Agreement or Mutual Aid Agreement between the parties, may never be used in any administrative proceeding or any litigation regarding the existence, boundaries, diminishment or disestablishment of the Mille Lacs Indian Reservation established

by the Treaty of 1855 or any other treaty. All parties reject the position that Minn. Stat. § 626.90, this Agreement or any prior Cooperative Agreement/Mutual Aid Agreement may be construed or interpreted as evidence of or as a deferral to the Band's sovereign authority. The termination of this Agreement shall not affect the obligations of the parties under this provision, which shall survive termination of the Agreement. This Agreement shall not constitute a Waiver of any legal defense, except as specifically provided for in the Agreement, that officers of either the Band's Police or the Sheriff's Office may have in any civil or criminal action brought as a result of law enforcement activities authorized under this Agreement. Any authority granted by this agreement and/or Minn. Stat. § 626.90 is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving the Band or current reservation boundaries or entitle the Band as a municipality or subdivision of government to any fine or penalty revenue allocation under Minn. Stat. § 484.90.

- 15. Outside Law Enforcement Agencies.** The Band agrees that if it enters into an agreement with any outside law enforcement agency to provide officers for law enforcement services within Mille Lacs County, that the outside law enforcement agency shall:
- a. If the outside law enforcement agency is a tribal law enforcement agency, the Mille Lacs Band agrees that those parties shall enter into a Joint Powers Agreement (JPA) pursuant to Minn. Stat. § 471.59 among independent tribal law enforcement agencies lawfully appointing peace officers pursuant to Minn. Stat. §§ 626.90-93, and that the parties to the JPA certify they have express authority to enter into the JPA granted by the action of the parties' respective governing bodies; and
 - b. That the outside law enforcement agency enters into a written agreement with the Band and the Sheriff in which the parties agree that any actions undertaken by peace officers or law enforcement agencies from the outside law enforcement agency are governed by the requirements and conditions of Minn. Stat. § 626.90 as further defined and regulated by this Cooperative Agreement between the Band, the Sheriff, and the County, and that the outside law enforcement agency, the Sheriff, the Band, and the County agree that this Cooperative Agreement applies to all actions undertaken pursuant to the written agreement in Mille Lacs County; and

- c. All sovereign tribal entities, peace officers and law enforcement agencies acting pursuant to the JPA in Mille Lacs County agree to waive sovereign immunity for each law enforcement agency participating in JPA activities in Mille Lacs County, shall follow the requirements of the Band, pursuant to Minn. Stat. § 626.90(2)(1) and this Cooperative Agreement, and shall be subject to liability and shall meet the requirements of Minn. Stat. § 626.90 as well as the Data Practices requirements of Minn. Stat. § 13.82; and
- d. No outside law enforcement agency under this paragraph shall provide law enforcement services outside of the trust lands on Exhibit A or the designated roadways on Exhibit B, which are exclusively within trust lands defined by Exhibit A.

The Band shall provide prior notice to the Sheriff of all out-of-jurisdiction full-time officers providing temporary law enforcement services within Mille Lacs County at the request of the Band.

- 16. Audit as a Law Enforcement Agency.** The Band Police will comply with any audit or regulation that applies to a police department of a municipality within the State of Minnesota, including without limitation audits conducted by the Office of the Legislative Auditor, the Office of the State Auditor, the Bureau of Criminal Apprehension, the Board of Peace Officer Standards and Training (POST) and the Violent Crime Coordinating Council. This duty to comply with audits will survive the existence of this Agreement and continue for one (1) year after the termination of this Agreement.
- 17. Notice of Meetings of Law Enforcement Agencies.** The Band shall notify the County and the Sheriff of any and all meetings relating to the exercise of law enforcement and/or criminal jurisdiction within Mille Lacs County, including meetings with the FBI, the United States Attorney's Office, or other federal law enforcement officials, and invite the Sheriff and the Mille Lacs County Attorney to participate in those meetings. The Band's Chief of Police or officer in charge of the Band Police must also make reasonable efforts to attend the monthly Chiefs of Police Meetings and the weekly Investigator Meetings, as scheduled by the Sheriff.
- 18. Brady/Giglio Notices.** The Band's Chief of Police and the Band's Solicitor General shall develop a policy and provide a copy of same to the Mille Lacs County Attorney whereby the Band shall provide all information to the Mille Lacs County Attorney's Office regarding any potential disclosures that must be made

pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. U.S.*, 405 U.S. 150 (1972), and/or their progeny, including but not limited to information discovered during a background investigation, within ten (10) days of the discovery of the information. This generally includes all information concerning the credibility of law enforcement officers. In particular, all final dispositions of substantiated misconduct from current or former employers must be disclosed to the Mille Lacs County Attorney together with any applicable documentation.

19. Implementation; Dispute Resolution. The Band's Chief of Police, the Band's Solicitor General, the Sheriff and the Mille Lacs County Attorney shall meet at least monthly and more often if necessary to review implementation of this Agreement, to discuss and to attempt to resolve any disputes that may arise under this Agreement, to discuss ongoing cases, investigations, and other day-to-day issues, and to address other matters of mutual concern. If the parties hereto are unable to resolve a dispute arising under this Agreement through such meetings and discussions, the sole remedy shall be for one or more of the parties to exercise its right to terminate this Agreement; provided however, that upon notice of termination, the parties shall mediate during a mandatory 60-day mediation period which begins upon written notice of termination under this paragraph and paragraph 23. This mandatory mediation shall be before a qualified neutral pursuant to Minn. Rules of General Practice 114 or other mediator agreed upon by the parties; provided, however, that if the parties cannot agree upon a mediator, one shall be selected by the following process: the names of five (5) qualified mediators shall be selected by the Minnesota Bureau of Mediation Services, who will not necessarily be mediators used or employed by the State of Minnesota. The parties, starting with the Band, shall alternate striking names from the list until only one mediator remains. The remaining mediator shall be the mediator for the parties to this Agreement.

During this mandatory mediation period, the parties shall meet for two (2) confidential mediations to identify the issues arising out of the termination of the Agreement and to attempt to develop a new Cooperative Agreement pursuant to the confidential mediation process. Except as specifically provided in paragraph 1 above, nothing in this Agreement shall be construed as a waiver of the Band's sovereign immunity from suit. No suit to enforce the terms of this Agreement shall be brought against any party to this Agreement; provided, however, this provision

shall not prevent claims against the Band for which the Band has waived its sovereign immunity under paragraph 1 above.

- 20. Mandatory Meet and Confer Before Statutory Modification.** The parties agree to meet and confer before either party seeks a modification in the Minnesota Legislature of the provisions of Minn. Stat. § 626.90 or any other state statute that would change or impact the rights or duties of the parties under Minn. Stat. § 626.90 or this Agreement including Minn. Stat. Chs. 471, 626, and 629.
- 21. Band DNR Officers.** Without limiting or restricting the authority of the Band's Department of Natural Resource or Conservation Officers in enforcing the hunting, fishing and gathering rights of the Band under the 1837 Treaty and the Band's Conservation Code, the Band's DNR or Conservation Officers shall, if performing law enforcement duties outside of the 1837 Treaty and the Band's Conservation Code, follow the requirements of this Agreement in the same manner as Band Police Officers.
- 22. Amendments.** This Agreement may be amended by mutual consent of the Band, the Sheriff, and the County. Any amendment shall be in writing and signed by such parties to become a part of this Agreement.
- 23. Effective Date; Duration; Notice of Termination.** The Agreement shall become effective when executed by the Band, the Sheriff and the County, and shall continue in force until terminated by any party upon ninety (90) days written notice to the other parties, subject to the mandatory meet and confer requirements of Paragraph 19 above. Notice of termination shall be addressed to the parties as follows: Chief of Police, Mille Lacs band of Ojibwe, 43408 Oodena Drive, Onamia, Minnesota 56359; Solicitor General, Mille Lacs Band of Ojibwe, 43408 Oodena Drive, Onamia, Minnesota, 56359, Mille Lacs County Sheriff; 640 3rd Street SE, Milaca, Minnesota 56353; and Chairman, Mille Lacs County Board of Commissioners, 635 2nd Street SE, Milaca, Minnesota 56353.
- 24. Interpretation of the Agreement.** This Agreement shall be interpreted and construed pursuant to the laws of the State of Minnesota. All parties to this Agreement have had a full and clear opportunity to have this Agreement reviewed by legal counsel and have been advised of the effects of this Agreement. Neither party shall be deemed the drafter of this Agreement for purposes of interpretation. This Agreement, therefore, shall be interpreted pursuant to its terms and plain meaning and shall not be construed in favor of either party in its interpretation.

25. Official Capacity. This Agreement is entered into by the parties in their official capacities and shall be binding on their successors unless and until terminated pursuant to the requirements of Paragraphs 19 and 23.

26. Agreement Not to Confer Jurisdiction. The Sheriff and the County shall not be subject to the regulatory or adjudicative jurisdiction of the Band by virtue of this Agreement or any of its provisions. The Band shall not be subject to the County or State's regulatory or adjudicative jurisdiction by virtue of this Agreement or its provisions, except as the Band has expressly agreed in Paragraph 1.

MILLE LACS BAND OF OJIBWE

Melanie Benjamin, Chief Executive

Date

Sarah Rice, Interim Chief of Police

Date

Todd Matha, Solicitor General (Reviewed as to Date
Content and Form)

MILLE LACS COUNTY SHERIFF

Brent Lindgren, Sheriff

Date

MILLE LACS COUNTY

Roger Tellinghuisen, Chairman

Date

MILLE LACS COUNTY ATTORNEY

Joe Walsh
(Reviewed as to Content and Form)

Date