

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Washington, D.C.

SAN MANUEL INDIAN BINGO AND CASINO

and

Cases 31-CA-23673
31-CA-23803

HOTEL EMPLOYEES & RESTAURANT
EMPLOYEES INTERNATIONAL UNION,
AFL-CIO, CLC

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO, CLC

Parties In Interest

STATE OF CONNECTICUT

Intervenor

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**Brief of Amicus Curiae Menominee Indian Tribe of Wisconsin in
Support of San Manuel Band's Motion to Dismiss**

Amicus Menominee Indian Tribe of Wisconsin urges the National Labor Relations Board to reject the General Counsel's request to overrule its long line of precedent recognizing Indian tribes as exempt from coverage of the National Labor Relations Act, 29 U.S.C. § 151 et seq. ("NLRA" or "Act"), regarding their employment practices within Indian country, and to grant the motion of the San Manuel Band to dismiss the complaint.

INTEREST OF AMICUS CURIAE

The MENOMINEE INDIAN TRIBE OF WISCONSIN ("Menominee Tribe") resides on the Menominee Indian Reservation ("Reservation") in northeastern Wisconsin. The Reservation was initially established in the Treaty of Wolf River in 1854. 10 Stat. 1064 (May 12, 1854). Under the Menominee Indian Termination Act of 1954, Act of June 17, 1954, c. 303, 68 Stat. 250, the Menominee Tribe was terminated – that is, it lost its status as a federally-recognized tribe and the legal rights enjoyed by tribes, including the right to self-government. Termination was devastating to the Tribe:

As a result of termination, the Menominee Tribe plunged into years of severe impoverishment and community turmoil. Indeed, according to a 1965 BIA study of conditions on the former reservation, the economic and social effects were disastrous. Unemployment was 26 percent, compared to Wisconsin's 5 percent rate. The school dropout rate was 75 percent, and the per capita income was less than one-third of the state average. The local hospital, which was built with tribal funds, was shut down because it could not meet state standards, effectively eliminating local health care services which in turn increased mortality rates.

145 Congressional Record S5159 (daily ed., May 12, 1999) (remarks of Senator Kohl).

The Menominee Restoration Act, 25 U.S.C. §§903-903f, repealed the Menominee Indian Termination Act, restored the Menominee Tribe as a federally-recognized tribe, and restored the reservation status of the Wolf River Treaty Reservation. The Menominee Tribe governs itself under the Menominee Constitution and Bylaws, which have been approved by the Secretary of the Interior pursuant to Section 16 of the Indian Reorganization Act, 48 Stat. 984 ("IRA"), codified as amended at 25 U.S.C. § 476.

Menominee Tribal Enterprises ("MTE"), an arm of the Tribe under its Constitution and Bylaws, has been held to be exempt from the Act and Board jurisdiction. Letter from Acting Regional Director Joseph Cohen to James Youngdahl, re Menominee Tribal Enterprises, Case No. 30-CA-4920 (Oct. 19, 1978) (refusing to issue complaint against MTE), attached as Exh. A. Despite this exemption, MTE has, at times, entered into collective bargaining agreements. See Local IV-302, International Woodworkers Union of America v. Menominee Tribal Enterprises, 595 F.Supp. 859 (E.D. Wisc. 1984) (union sued MTE to enforce collective bargaining agreement).

Moreover, the Tribe has agreed to allow collective bargaining at a new gaming facility it is developing in Kenosha, Wisconsin, by an agreement between the Tribe and American Federation of State, County, and Municipal Employees, on behalf of a coalition of labor unions,

attached hereto as Exhibit B. That agreement, however, provides that the facility's employees -- unlike private employees covered by the NLRA -- will not be able to strike.

Amicus Menominee Tribe has an interest in preserving the tribal exemption from the Act and from the jurisdiction of the Board. The Tribe believes that it, like other governments, has the power and the authority to establish its own labor relations rules, and that Congress did not intend to subject Menominee Tribal employment within its Reservation to the NLRA.

ARGUMENT

THE BOARD SHOULD NOT OVERRULE ITS PRIOR RULINGS THAT TRIBES ARE NOT "EMPLOYERS" UNDER SECTION 2(2) OF THE ACT

A. Tuscarora Is Not Inconsistent with the Board's Prior Rulings

The Board has never asserted jurisdiction over Indian tribal employers on tribal lands. Tribes, including the Menominee Tribe, have always been held to be implicitly exempt from the Act's definition of "employer" with regard to employment by the tribe on the reservation. E.g., Ft. Apache Timber Co., 226 N.L.R.B. 503 (1976); So. Indian Health Council, Inc., 290 N.L.R. B. 436 (1988); Exh. A (Regional Director's decision not to issue complaint against MTE). A federal district court approved these holdings in Roberson v. Confederated Tribes of the Warm Springs of Oregon, 103 L.R.R.M. 2749, 2751 (D. Or. 1980).

The General Counsel urges the Board to overrule its precedent based on forty-year old dicta that "general Acts of Congress apply to Indians as well as to all others in the absence of a clear expression to the contrary." Federal Power Commission v. Tuscarora Indian Nation, 362 U.S. 99, 120 (1960). This dicta is overly broad, and has never been applied by the Supreme Court to divest Indian tribes of their sovereignty. Cases decided since Tuscarora make clear that the Court will not find divestment of a tribe's sovereign powers unless Congress has made clear its intention to do so. Merrion v. Jicarilla Apache Tribe, 455 U.S. 130, 149 (1982) (there must be "clear indications" of Congress's intent to divest tribal power); Santa Clara Pueblo v. Martinez,

436 U.S. 49 (1978). "Merrion, in our view, limits or, by implication, overrules Tuscarora, ... at least to the extent of the broad language relied upon by the Secretary contained in Tuscarora ...". Donovan v. Navajo Forest Prods. Indus., 692 F.2d 709, 713 (10th Cir. 1982).

Thus, courts have distinguished Tuscarora and have held that various federal employment laws of general applicability do not apply to tribes because such application may not be implied from Congressional silence on the matter. E.g., EEOC v. Fond du Lac Heavy Equip. and Constr. Co., 986 F.2d 246 (8th Cir. 1993) (Age Discrimination in Employment Act); EEOC v. Cherokee Nation, 871 F.2d 937 (10th Cir. 1989) (same); Navajo Forest Prods., 692 F.2d at 713 (OSHA). Cases to the contrary decided by other courts relied on by the General Counsel, e.g. Donovan v. Coeur d'Alene Tribal Farm, 751 F.2d 1113 (9th Cir. 1985); Reich v. Mashantucket Sand & Gravel, 95 F.3d 174 (2d Cir. 1996), were wrongly decided for several reasons; most importantly, they do not follow the Supreme Court's post-Tuscarora decisions that recognize that tribal sovereign rights cannot be assumed to have been abrogated by Congress where a statute is silent. And none of these cases involved a reversal of a consistent interpretation of the statute over a thirty-year period. The Supreme Court has held: "[C]ongressional failure to revise or repeal the agency's interpretation is persuasive evidence that the interpretation is the one intended by Congress." NLRB v. Bell Aerospace Co. Div. of Textron, Inc., 416 U.S. 267, 275 (1974). The General Counsel offers no reason to apply dicta in Tuscarora, rather than the holding in Bell Aerospace.

We agree with the Brief of Amici Indian Tribes and Tribal Organizations in Support of San Manuel Band's Motion to Dismiss that the Tuscarora dicta is inapplicable here, for the reasons stated in their brief.

B. Application of The NLRA to Tribes Would Infringe Tribal Sovereignty

The Menominee Restoration Act restored the Tribe to federal recognition, and "reinstated all rights and privileges of the tribe or its members under Federal treaty, statute or otherwise which may have been diminished or lost pursuant to" the termination of the Tribe. 25 U.S.C. § 903a(b). The Restoration Act provided for the adoption of a tribal constitution and bylaws. 25 U.S.C. § 903c. The Menominee Tribe has adopted the Menominee Constitution and Bylaws, and amendments thereto, which have been approved by the Secretary of the Interior pursuant to Section 16 of the Indian Reorganization Act, 48 Stat. 984 ("IRA"), codified as amended at 25 U.S.C. § 476. That constitution therefore informs and "supplement[s]" the Tribe's inherent powers. Quechan Tribe of Indians v. Rowe, 531 F.2d 408, 411 (9th Cir. 1976). The Constitution creates the Tribal Legislature, with legislative powers; a chairman, with executive powers; and a Tribal Court, with judicial powers.

Article XIII of the Constitution and Bylaws, attached as Exhibit C, provides that the Tribe may charter wholly-owned "tribal businesses." The Menominee Tribe has chartered various tribal businesses under this provision, including an auto service center, a tribal cooperative market, the Menominee Nation Casino (the Tribe's on-reservation casino), and the Menominee Kenosha Gaming Authority (to develop and operate the Tribe's planned casino in Kenosha). The Tribe also has a tribal forestry enterprise, Menominee Tribal Enterprises ("MTE"), established under the Tribal Management Plan and recognized by Article XII of the Constitution and Bylaws.

Menominee tribal businesses serve two important functions: they provide employment for tribal members, and they provide revenues for tribal programs. Unemployment on the Reservation is much higher than in the rest of Wisconsin. According to Bureau of Indian Affairs data for 1997 (the last year for which BIA figures are available), 42% of Indians (including both

Menominees and other Indians) residing on or near the Reservation were unemployed in that year. United States Department of the Interior, Bureau of Indian Affairs, 1997 Labor Market Information on the Indian Labor Force, at 13, attached as Exh. D. By comparison, monthly unemployment in the State of Wisconsin in 1997 ranged from 2.9% to 4.6%, according to the Wisconsin Department of Workforce Development. Exhibit E.

Providing meaningful employment opportunities to tribal members is an important priority to the Tribe. The Tribe grants a priority in hiring to qualified tribal member job applicants. Tribal Ordinance 82-10, as amended, attached as Exhibit F, provides: "the Tribal Government shall, to the maximum extent practicable, give preference in hiring to Menominee Tribal Members." *Id.*, § 2.03. The Ordinance applies to all employees of the Tribe, including employees of tribal businesses and MTE. *Id.* § 3.01, and 1998 Amendment § 1. Hiring preferences for Indians and tribal members are endorsed by various federal statutes. 42 U.S.C. § 2000e-2(a) (tribal governments exempt from Title VII of the Civil Rights Act; 25 U.S.C. § 450e(b),(c) (requiring Indian or tribal-member preference in hiring in any contract or grant with Indian organizations or for the benefit of Indians).

Tribal businesses also contribute revenues to the Menominee Tribe's operating budget. The Tribal budget grew from about \$2 million in 1992 to about \$13 million in 1998. About 80% of the Tribe's 1998 budget was provided by the Menominee Nation Casino.

Although the Menominee Nation Casino has made a significant contribution to Menominee tribal programs, it cannot possibly generate the kinds of revenues needed by the Tribe to adequately fund tribal programs. It is located on the Reservation, thirty miles from Green Bay, the nearest population center, where the Oneida Tribe has a large casino. Other competing tribal casinos are also nearer to population centers. Thus, despite the revenues from the casino, the Tribe still has significant unmet needs.

For these reasons, the Tribe has undertaken to develop, construct and operate a casino on lands to be acquired by the Tribe in Kenosha, Wisconsin. The Tribe is currently arranging financing, and is pursuing the necessary governmental approvals. Approvals and financing are expected later this year.

The Tribe has adopted a plan on how to spend the net revenues from the Kenosha casino once it opens. The Kenosha Gaming Revenue Disbursement Plan, attached as Exhibit G, provides that the Tribe will use 80% of its proceeds from the Kenosha casino primarily to provide funding for dozens of underfunded existing programs and critically needed new programs, including --

- health care, including increased funding for the Tribe's alcohol and drug abuse treatment center;
- an elderly care facility with beds for 24 seniors;
- social services, including the expansion of substance abuse programs, services for elderly and disabled, resident treatment for troubled and disabled youth, family assistance, housing, emergency shelter for abused children;
- housing programs, including an initiative to address the backlog in housing (over 500 units of new housing are needed; 277 units need repair); new apartment complexes for elders; start-up projects for low-income housing; a home loan revolving loan program;
- infrastructure, including replacement of the waste treatment facility (estimated cost \$9.6 million), new and upgraded roadways, and protective lighting;
- economic development, including development of an industrial park to create jobs; diversification into other types of income-producing properties; expansion of MTE; development of eco-tourism;
- educational and cultural programs, including expanding the curriculum at Menominee Community College; upgrading and expanding the facilities of Menominee Indian School District; creating the Menominee Higher Education Scholarship Fund; and establishment of the Menominee Museum and Education Center;
- law enforcement and criminal justice programs, including hiring additional staff for the Menominee Police Department; modernization and expansion of the tribal jail; development of a juvenile detention center; purchase of equipment for the police department; implementation of the findings of the Tribe's gang task force

- tribal court funding, including building a new tribal courthouse; and increased staff for the tribal court.

Proceeds of the facility will also be paid to the City and to the County of Kenosha to be spent on local governmental services. In addition, the Tribe has agreed to make revenue-sharing payments to the State of Wisconsin.

Although the Tribe is now exempt from treatment as an "employer" under the NLRA, see Exh. A, and so does not have to allow its employees to engage in collective bargaining, the Tribe has agreed to allow collective bargaining at its new gaming facility in Kenosha. The Tribe has entered into an agreement with the American Federation of State, County, and Municipal Employees ("AFSCME"), on behalf of a coalition of labor unions, which provides that tribal employees at the new facility may organize and bargain collectively. The agreement, attached hereto as Exhibit B, has been heralded by organized labor as an "historic" agreement:

Like all Native American tribes, the Menominee Indian Nation is exempt from the National Labor Relations Act for commercial enterprises on its land. But in Kenosha, Wis., the Menominee Nation and a coalition of unions convened by **AFSCME District Council 40** signed an historic agreement earlier this month that will allow workers at its proposed Paradise Key Casino in Kenosha to organize and bargain collectively. The agreement also expands the rights of the casino employees beyond what is required under state and federal labor laws. Earlier, the Menominee Nation signed a project labor agreement with the Southwestern Wisconsin Building and Construction Trades Council.

AFSCME bulletin, attached as Exh. H.

The project labor agreement mentioned in the AFSCME bulletin is a standard Project Labor Agreement for Construction between the Tribe, its developer, and the Southwest Wisconsin Building and Construction Trades Council. That agreement, attached as Exhibit I, provides for union access to the worksite, and that the provisions of applicable local collective bargaining agreements shall apply to its signatories on the Kenosha site. Id., Arts. II & III. It also contains a "no strike, no lockout" clause. Id., Art. IV.

The agreement with AFSCME provides that the facility's employees -- unlike private employees subject to the NLRA -- will not be able to strike.

The Tribe is not opposed to collective bargaining in any and all circumstances, as these agreements make clear. The Tribe's position is that it should not be treated as a private employer with respect to the NLRA because the Tribe is a government. The Act excludes from its coverage all other governmental employees. Were the Act held to apply to tribal governments, they would be the only public employers in the entire United States to be treated as "employers" subject to the Act.¹ Although federal employees and many state employees have been granted similar rights pursuant to other laws, *e.g.*, Federal Service Labor - Management Relations Act, 5 U.S.C. §§ 7101 *et seq.*, employees' rights under those laws are not as extensive, nor are those laws as intrusive to the governments. Federal employees and many state employees generally do not have the right to strike, for example. *See* 5 U.S.C. §§ 7116 (b)(7), 7311. The same AFSCME bulletin announcing the Tribe's historic agreement regarding the Kenosha facility also announced the status of efforts to unionize Puerto Rican government employees, just months after that government had passed legislation to allow its workers to organize for the first time. Exh. H. There is no basis in the NLRA for treating Indian tribes in a discriminatory manner vis-a-vis Puerto Rico and other governments. A strike would be just as disruptive to a Tribe (if not more so) as it would be to any other governmental body.

Coeur d'Alene and its progeny err in not recognizing that the provision of jobs to tribal members, and the raising of revenues for governmental programs, are vital to tribal governments.

¹ The governments of the Commonwealth of Puerto Rico, the Virgin Islands, and even the Commonwealth of the Northern Mariana Islands are treated as State government not covered by the Act. Saipan Hotel Corp. v. N.L.R.B., 114 F.3d 994 (9th Cir. 1997) (Commonwealth of the Northern Mariana Islands); Chaparro-Febus v. Internat'l Longshoremen Ass'n, 983 F.2d 325 (1st Cir. 1993) (agency of Commonwealth of Puerto Rico); Compton v. National Maritime Union, 533 F.2d 1270, 1274 (1st Cir. 1976) (Puerto Rico Maritime Shipping Authority); Virgin Islands Port Auth. v. SIU de Puerto Rico, 354 F.Supp. 312 (D.V.I. 1973).

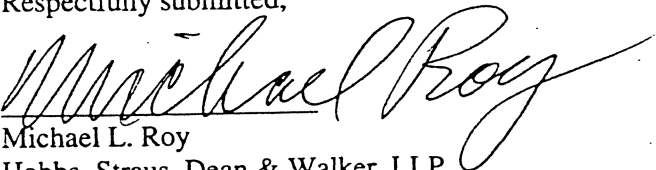
The Tribe has recognized the importance of these goals in its Constitution and Bylaws, which specifically provide for the establishment of "tribal businesses" as arms of the Tribe, in Ordinance No. 82-10, which grants an employment preference to tribal members, and in the planned development of the Kenosha facility and the plan for the use of the revenues from the facility.

Thus, the Tribe agrees with the Brief of Amici Indian Tribes and Tribal Organizations in Support of San Manuel Band's Motion to Dismiss that Coeur d'Alene and its progeny should not be followed here, and that the Board should reaffirm its decision in Fort Apache.²

CONCLUSION

The Board should dismiss the complaint because San Manuel Band, an Indian tribe, is not an "employer" under Section 2(2) of the Act. The Board should not overrule its decision in Fort Apache, but instead should reaffirm that Indian tribes are not subject to the Act in regard to their on-reservation activities.

Respectfully submitted,



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² We concur in the argument of San Manuel Band and Amici Indian Tribes and Tribal Organizations that IGRA totally preempts any regulation of tribal labor relations by the Board with respect to tribal gaming operations, and with the argument of Amici Indian Tribes and Tribal Organizations that tribal sovereign immunity bars NLRB consideration of charges against tribes. See Local IV-302, 595 F.Supp. 859 (dismissing suit by union to enforce collective bargaining agreement with arm of Menominee Tribe because of Tribe's sovereign immunity to suit).

LIST OF EXHIBITS

- A. Letter from Acting Regional Director Joseph Cohen to James Youngdahl, re Menominee Tribal Enterprises, Case No. 30-CA-4920 (Oct. 19, 1978)
- B. Agreement between the Tribe and American Federation of State, County, and Municipal Employees, on behalf of a coalition of labor unions
- C. Article XIII of the Constitution and Bylaws, and amendment thereto
- D. United States Department of the Interior, Bureau of Indian Affairs, 1997 Labor Market Information on the Indian Labor Force, at 13
- E. Monthly Unemployment in the State of Wisconsin in 1997, Wisconsin Department of Workforce Development.
- F. Tribal Ordinance 82-10, as amended
- G. The Kenosha Gaming Revenue Disbursement Plan
- H. AFSCME bulletin
- I. Project Labor Agreement for Construction, between the Tribe, its developer, and the Southwest Wisconsin Building and Construction Trades Council



NATIONAL LABOR RELATIONS BOARD

REGION 30

Suite 230, Commerce Building, 744 North Fourth Street

Milwaukee, Wisconsin 53203

Telephone (414)

291-3880

October 19, 1978

Young, Larrison G. Agea
Attn: James E. Youngdahl, Esq.
P. O. Box 6030
Little Rock, Arkansas 72216

Re: Menominee Tribal Enterprises
Case No. 30-CA-4920

Dear Mr. Youngdahl:

The above-captioned case, charging a violation under Section 8 of the National Labor Relations Act, as amended, has been carefully considered.

As a result of the investigation, it appears that Menominee Tribal Enterprises is the business arm of the Menominee Tribal Council and, as such, is responsible for the operation of the lumber mill. It therefore appears that further proceedings would not be warranted inasmuch as the Tribal Council's enterprise is implicitly exempt as an employer within the meaning of the Act. Fort Apache Timber Company, 226 NLRB No. 63. I am, therefore, refusing to issue a complaint in this matter.

Enclosed are instructions concerning the procedures for filing any appeal in this matter.

Very truly yours,

Joseph Cohen
Joseph Cohen
Acting Regional Director

Enclosures

CERTIFIED MAIL

Return Receipt Requested

cc: International Woodworkers of America,
Local IV-302
Attn: John W. Hutter, Regional Director
208 North Third Avenue
Kausau, Wisconsin 54401

Joseph F. Preloznik, Esq.
122 West Mifflin Street
Madison, Wisconsin 53703

✓ Menominee Tribal Enterprises
Attn: Mr. Larry Johnson
Neopit, Wisconsin 54150

General Counsel
National Labor Relations Board
1717 Pennsylvania Avenue, N.W.
Washington, D. C. 20570

B

MEMORANDUM OF AGREEMENT

WHEREAS, the Menominee Indian Tribe of Wisconsin ("Tribe" or "Employer") is a federally-recognized Indian Tribe;

WHEREAS, the Tribe is planning to develop a commercial enterprise to include a gaming facility in Kenosha, Wisconsin, on land described in Attachment A to this Agreement (the "Complex");

WHEREAS, the land on which the Complex is to be developed will be transferred to the United States to hold in trust for the Tribe;

WHEREAS, upon such transfer to the United States, the land will be within the governmental authority of the Tribe and will constitute "Indian lands" within the meaning of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.;

WHEREAS, as required by the Indian Gaming Regulatory Act, 25 U.S.C. § 2710 (b)(2)(A), the Tribe will have the sole proprietary interest and responsibility for the conduct of gaming at the Complex;

WHEREAS, the National Labor Relations Board has held that on-reservation tribal employers are exempt from the National Labor Relations Act, For Apache Timber Co., 226 NLRB No. 63 (1976); and

WHEREAS, the Tribe desires good relations with employees of the Complex, and wishes to extend to such employees the right to organize and to bargain collectively;

NOW, THEREFORE, THIS AGREEMENT is made and entered into by and between the American Federation of State County and Municipal Employees, Council 40 ("AFSCME" or "Union"), for and on behalf of the Kenosha Area Entertainment Employees Coalition, a coalition of labor organizations convened by AFSCME, and the Tribe.

- i. Pursuant to the terms of this Agreement, employees shall have the right to self-organization, to form, join, or assist the Union, to bargain collectively through the Union (provided that a majority of employees select the Union as their representative, as set forth in the procedure discussed below), and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. The word "Employees" is defined to include all individuals employed at the Complex in non-supervisory, non-guard, non-regulatory, non-governmental, and non-confidential positions, and excluding employees in the table games operations, slot operations and cage & coin divisions, or such other

departments or divisions as may be organized to include the Employer's gaming and casino cage operations, with the exception of pari-mutuel clerks, slot change employees and slot technicians. After one year of operating the casino, the parties agree to meet and entertain a proposal from the Coalition regarding the possible unionization of gaming employees and to discuss the proposal in good faith, based upon the Tribe's experience under this Agreement. The Tribe shall have no obligation to agree to the Union's proposal, nor shall the proposal be submitted to final and binding interest arbitration, discussed below. The Employer shall refrain from any interference with, restraint or coercion of employees in the exercise of these rights, provided that the exclusive remedy for a violation of these obligations shall be the procedure set forth within this agreement. The term "Employer" means the Tribe. The Tribe agrees that as a condition to any management contract or subcontract it will require the manager or subcontractor to comply with this agreement. The bargaining unit contemplated by this agreement shall be a single unit of the Employer's employees.

2. Union and/or the Tribe shall have the opportunity to settle, in accordance with the terms of this agreement, any claims, disputes or controversies arising out of any alleged violation of this agreement.
3. The parties agree that they have created a system for resolving all problems that may arise during the term of this Agreement. Therefore, there does not exist the need for either party to resort to practices intended to pressure the other party in order to resolve a problem or achieve a goal. Union agrees that it will not engage in strikes, sympathy strikes, work stoppages, slowdowns, picketing, sit-downs, sit ins, boycotts, handbilling, refusal to handle merchandise, economic activity, protest or demonstration at or in relation to the Complex, or any related enterprise in the Complex including but not limited to conduct, activities, protest or other efforts that are intended to or have the effect of disrupting the quiet enjoyment of any third parties doing business with the Employer, including but not limited to, the Employer's tenants, joint venturers, subcontractors, third party management companies or their assignees or guests, in or about the premises of the Employer, or directed at customers of the Employer or of other businesses on its property, or using the name of the Employer.

The parties agree to the following:

- A. The Employer will not do any action nor make any statement that will directly or indirectly state or imply any opposition by the Employer to the selection by such employees of the Union as a bargaining agent.
- B. The Employer shall not interfere with access by duly authorized Union representatives in the employee dining room and employee break rooms, to communicate with employees during non-work time, concerning employees' terms and conditions of employment and representation by the Union, provided that the Union shall not interfere with the performance by

employees of their work. In its attempts to organize the employees or other activities, the Union shall not interfere with the normal business operations of the Complex. There shall be no solicitation or distribution of organizing or other union-related materials at workstations, or other areas open to the public within the Complex. Such organizing activity shall not interfere with the normal work routine of the employees and shall be done on non-work times in non-work areas designated by the Employer. Neither the Union nor its representatives and agents shall pressure employees, nor engage in fraudulent conduct, in the procurement of authorization cards. The Employer shall allow Union representatives to conduct meetings with employees on Complex premises, on mutually agreeable dates and mutually agreeable times. Such meetings shall be in areas designated by the Employer, and shall last for no more than one (1) hour per meeting.

- C. Employees shall not individually, concertedly or mutually engage in strikes, sympathy strikes, work stoppages, slowdowns, picketing, sit-downs, sit-ins, boycotts, handbilling, refusal to handle merchandise, economic activity, protest or demonstration at or in relation to the Complex, or any related enterprise in the Complex, including but not limited to conduct, activities, protest or other efforts that are intended to or have the effect of disrupting the quiet enjoyment of any third parties doing business with the Employer, including but not limited to, the Employer's tenants, joint venturers, subcontractors, third party management companies or their assignees or guests, in or about the premises of the Employer, or directed at customers of the Employer or of other business on its property, and shall have no protections or rights under this agreement if they engage in such conduct.
- D. The Employer shall provide upon request, to the Union the names, addresses, telephone numbers and work classification or titles of each employee within ten (10) working days after such request. Additionally, the Employer shall provide updated lists monthly.
- E. On or after the first date the Employer has a substantial and representative complement of employees engaged in regular work duties, the Employer shall recognize the Union as the exclusive representative for the employees, provided that the Union submits to an arbitrator or impartial person selected pursuant to the terms of this agreement, written, signed and dated authorizations from a majority of the employees authorizing the Union to serve as their representative; and provided further that the arbitrator shall verify the authenticity of the authorizations, the majority status of the Union and that the cards were signed within twelve months of the demand for recognition.

F. Following recognition of the Union as provided in section E, above, the Employer shall:

- (i) Engage in an informal exchange of information and documents about the terms and conditions of employment of its employees.
- (ii) Recognize the Union as the exclusive representative of employees in the enforcement of the protections provided to employees in this agreement.
- (iii) Upon the sixty (60) day anniversary of recognition, negotiate in good faith with the Union for a collective bargaining agreement covering employees represented by the Union on wages, hours and other terms and conditions of employment.

G. If the parties are unable to reach agreement within three months following commencement of negotiations for a collective bargaining agreement, either party may initiate the selection of an arbitrator to mediate the unresolved issues. The arbitrator/mediator shall be selected pursuant to the procedure set forth in paragraph 3H, below. The arbitrator/mediator shall employ all appropriate and reasonable methods to facilitate agreement by the parties.

In the event that the arbitrator/mediator is not successful in facilitating a final and complete collective bargaining agreement within one month, all unresolved issues shall be submitted for final and binding interest arbitration to the arbitrator/mediator. The arbitrator/mediator shall consider, but not be limited to, the following factors:

- (i) Wages, hours and other terms and conditions of employment of the Employer's competitors, and/or other businesses in and around Kenosha, Wisconsin, a list of which shall be mutually agreed upon by the Union and the Employer or which shall be established by the arbitrator;
- (ii) Size and type of Complex operations;
- (iii) Ability to pay, if placed at issue by the Employer;
- (iv) Regional and local market conditions;
- (v) Ability of Employees, through a combination of wages, hours and benefits, to earn a living wage to sustain themselves and their families;
- (vi) Cost of living;

- (vii) The Complex' costs or revenues, if raised by the Employer;
- (viii) Factors uniquely applicable to the security needs of a gaming facility;
- (ix) Stipulations of the parties;
- (x) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties.

The arbitrator shall select the final proposal(s) of one of the parties and shall issue an award incorporating those proposals without modification.

H. The Employer and the Union shall submit to final and binding arbitration any and all questions or disputes arising under this Agreement. The arbitrator shall enforce and apply the terms of this agreement, but shall not modify, add to or subtract from this agreement. The arbitrator shall be selected by alternate striking of names from a panel of five arbitrators, who are residents of Wisconsin and members of the National Academy of Arbitrators, supplied by the American Arbitration Association. The party submitting the matter to arbitration must strike from the list first and each party is entitled to strike no more than two (2) names. Any decision, award or order by the arbitrator shall be enforceable in the Menominee Off-Reservation Gaming Disputes Court, with all parties to the arbitration sharing equally in the fees and expenses of the arbitrator, but bearing their own fees and expenses for their own representation. The arbitrator shall have the right and power to determine and order all questions of procedure and to frame all issues on matters submitted for arbitration.

I. Where an arbitrator determines that the Employer or the Union has materially violated this agreement, the arbitrator shall determine an appropriate remedy consistent with the terms of this agreement.

- 4. Employees have the right to refrain from any and all activities described in paragraph 1 above, and the Union agrees not to restrain or coerce employees in the exercise of the rights described in this subsection.
- 5. Individuals who are currently employed at the Dairyland Greyhound Park who comply with the Employer's employment application process and are qualified for employment at the Complex, shall be given a right of first refusal to employment

opportunities as employees at the Complex, and their seniority shall be recognized in their initial hire by the Employer.

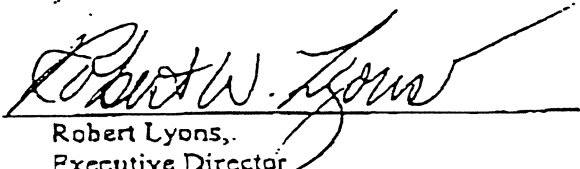
6. The Employer agrees to comply with and be subject to:
- (i) Wisconsin Worker's Compensation Act, Section 102, Wis. Stats.;
 - (ii) The federal Occupational Safety & Health Act of 1970 as amended, 29 U.S.C. § 651. et seq.;
 - (iii) Wisconsin's Unemployment Compensation Act, Sec. 108, Wis. Stats.;
 - (iv) The Fair Labor Standards Act, as amended, 29 U.S.C. § 201.
7. THE TRIBE'S LIMITED WAIVER OF SOVEREIGN IMMUNITY. By this agreement, the Tribe does not waive, limit, or modify its sovereign immunity from uncontested suit except as provided in this section. The Tribe expressly waives in a limited manner its immunity from suit and consents to be sued in the Menominee Off-Reservation Gaming Disputes Court, provided, that this waiver is contingent upon the enactment by the Tribe of an amendment to its constitution which authorizes such a waiver. The Tribal Legislature has approved such an amendment for consideration by the members of the Tribe in a referendum. Said waiver is specifically limited to the following actions and judicial remedies:
- A. MONETARY DAMAGES. The enforcement of an award of money damages by arbitration pursuant to this Agreement; provided that the arbitrator(s) and/or Court shall have no authority or jurisdiction to execute against any assets of the Tribe except for assets of the Complex (not including the real property or the physical building structure or fixtures) and future undistributed proceeds of the Complex.
 - B. INJUNCTIVE RELIEF AND SPECIFIC PERFORMANCE. The enforcement of a determination by arbitration pursuant to this Agreement that mandates the Tribe to specifically perform any obligation under this agreement.
 - C. ACTION TO COMPEL ARBITRATION. An action to compel arbitration pursuant to this agreement.
8. If any provision of this Agreement is held invalid by operation of law or by the Menominee Off-Reservation Gaming Disputes Court, or if compliance with, or enforcement of any provision of this Agreement should be restrained by such body, the remainder of this Agreement shall not be affected thereby; and the parties shall immediately meet for the purpose of negotiating a mutually satisfactory replacement for said provision.

9. The terms of this agreement apply only to the Complex in Kenosha, Wisconsin, located on land described in Attachment A. The terms of this agreement do not apply to any other business, operation or venture, operated and/or managed by the Tribe and/or Nii Jii Entertainment, LLC, on land adjacent to the Complex, elsewhere in Wisconsin, or any other location.
10. This Memorandum of Agreement shall expire upon the execution of a collective bargaining agreement by the Tribe and the Union. However, the parties specifically agree that the prohibition against strikes and other economic activity, protests and demonstrations described in paragraphs 3 and 3C above, the procedure for negotiation of a collective bargaining agreement set forth in paragraphs 3F, 3G, 3H and 3I; the specification of the rights and treatment of individuals currently employed at the Dairyland Greyhound Park, set forth in paragraph 5; and the Employer's agreement to comply with specified state and federal laws, set forth in paragraph 6; and the Tribe's limited waiver of sovereign immunity, set forth in paragraph 7, above, shall be incorporated in a collective bargaining agreement, unless the parties agree otherwise.
11. This agreement is enforceable only by the signatories thereto.

Executed and dated in Washington, D.C. this 22 day of October, 1998:

AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES, COUNCIL 40, FOR AND ON
BEHALF OF THE KENOSHA AREA ENTERTAINMENT
EMPLOYEES COALITION, A COALITION OF LABOR
ORGANIZATIONS CONVENE BY AFSCME

By:


Robert Lyons,
Executive Director

MENOMINEE INDIAN TRIBE OF WISCONSIN

By:

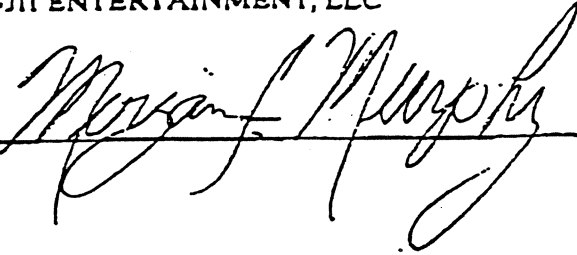

Apsanahkwat, Chair

ACKNOWLEDGMENT:

The undersigned acknowledges as manager the above agreement and agrees to abide by it.

NII-JII ENTERTAINMENT, LLC

By:

A handwritten signature in cursive script, appearing to read "Morgan J. Murphy", is written over a horizontal line.

ARTICLE XIII - TRIBAL BUSINESSES

Section 1. Interrelationship Between Tribal Businesses And The Tribal Legislature.

All business ventures of the Tribe shall be conducted by tribal businesses established by written charters issued by the Tribal Legislature by ordinance. Such tribal businesses shall be established for purposes of management only and no tribal assets shall be transferred to the ownership of such business; however, such business may be authorized to acquire property in its own name. Such tribal businesses shall not be authorized to pledge, mortgage, lease, or otherwise encumber tribal lands or interests therein subject to their management. However, such tribal business may, consistent with Federal law, be authorized to pledge, mortgage, lease, and otherwise encumber land or interest therein held in its own name as security for debts, and to acquire, sell, lease, exchange, transfer, or assign personal property or interests therein. Each tribal business shall be subject to the authority and control of a Board of Directors, or such other form of management as the Tribal Legislature designates in the charter. The Tribal Legislature shall not interfere with the business decisions of the management of the business; however, the Tribal Legislature shall retain all authority and power to exercise all proper governmental and sovereign functions over the tribal business and over property managed or owned by the tribal business. Profits of such tribal businesses shall be shared with the Tribe on an equitable basis. Regular reports on the financial status of such tribal businesses shall be made to the Tribal Legislature and to the tribal members.

Section 2. Duty to Enforce.

The Tribal Legislature shall enforce this Article by a code of laws establishing, insofar as practicable, uniform rules governing the establishment and operation of tribal businesses.

Section 3. Forestry Business Exception.

This Article shall not be applicable to the forestry business of the Tribe which is covered by Article XII of this Constitution.

The Menominee Tribal Legislature on this 8th day of August, 8th, 1991 hereby certifies this page (*pn) of the Menominee Constitution & Bylaws as a True & Correct page of the Document.

Glen T. Miller
Chairman, Glen T. Miller

8-8-91
Date

Seal

Lucille B. Chapman
Secretary, Lucille B. Chapman

8-8-91
Date

EXHIBIT A

AMENDMENT
TO ARTICLE XIII OF
MENOMINEE CONSTITUTION AND BYLAWS

ARTICLE XIII

Section 4. Other Powers and Rights of All Tribal Businesses, Including Kenosha Gaming Business.

- (a) Any tribal gaming conducted in Kenosha, Wisconsin, shall be conducted through a tribal gaming business chartered by the Tribal Legislature which shall have all the powers of a tribal business under Section 1 of this Article. The Tribal Legislature may delegate such governmental powers as it deems necessary or convenient to the tribal gaming business or any other tribal business chartered under this Article. The Tribal Legislature may lease land in Kenosha to the tribal gaming business and may lease other tribal land on or off the reservation to any other tribal business chartered under this Article.
- (b) Any charter issued under this Article may authorize the tribal gaming business or other tribal business to consent in writing to be sued in any court of competent jurisdiction, and/or to consent to arbitration or mediation of disputes. The Tribe may guarantee contracts entered into by the tribal gaming business, and may consent to be sued in any court of competent jurisdiction, and/or to arbitration or mediation, to enforce any such guarantees. Exhaustion of tribal remedies shall not be required in any such suit, arbitration, or mediation, by or against the tribal gaming business or the Tribe. This Section 4 constitutes authority to grant a limited waiver of immunity.
- (c) In any suit for monetary damages against the Tribe or the tribal gaming business authorized by this Section 4, recovery of such monetary damages shall be limited to the undistributed or future net revenues or other assets of the tribal gaming business.
- (d) In the event of any conflict between this Section 4 and any other provision of this Constitution and ByLaws, this Section shall govern; provided, however, the Tribal Legislature shall not waive or limit the right of the Menominee Indian Tribe to be immune from suit, except as authorized by this Article, Article XII, or Article XVIII of this Constitution.

D

Male and Female Indians Living On-or-Near Reservation
Summary by Tribe or Reservation

MINNEAPOLIS AREA COMBINED TOTALS																	
Agency, Tribe, and Reservation Names	State(s)	Tribal Enrollment (A)	Total Indian Resident Service Population (1)+(2)+(3)	Age Distribution				Labor Force				Total Employed		Employed, but Below Poverty Guidelines # %			
				Age Under 16 (1)	Age 18-64 (2)	Age 65 & Over (3)	Not Available for Work (4)	Work or Total Workforce (5)	Number Employed (6)	Number Not Employed (7)	Unemployed as % of Labor Force (8)	Public (9)	Private (10)		Total (11)		
Minneapolis Area Office																	
Lower Sioux Indian Community	MN	904	564	225	324	15	27	312	104	208	67%	68	36	104	40	38%	
Menominee Indian Tribe	WI	7,657	4,467	1,406	2,799	262	668	2,393	1,397	996	42%	762	615	1,397	779	56%	
Prairie Island Indian Community	MN	540	280	113	158	9	17	150	94	56	37%	41	53	94	9	10%	
Sac & Fox Tribe	IA	1,214	1,081	413	603	65	104	564	294	270	48%	131	163	294	0	0%	
Shakopee Sioux Community	MN	254	602	227	359	16	50	325	312	13	4%	37	275	312	0	0%	
Upper Sioux Indian Community	MN	347	383	163	198	22	19	201	88	113	56%	32	56	88	0	0%	
Great Lakes Agency																	
Bad River Band	WI	6,372	1,722	501	1,131	90	230	991	568	423	43%	359	209	568	30	5%	
Forest County Potawatomi	WI	1,087	657	251	383	23	143	263	151	112	43%	93	58	151	0	0%	
Ho-Chunk Nation of Wisconsin	WI	5,747	2,643	695	1,756	192	419	1,529	967	562	37%	123	844	967	182	19%	
Lac Courte Oreilles Band	WI	5,403	7,168	1,374	5,238	556	1,348	4,446	2,078	2,368	53%	1,956	122	2,078	850	41%	
Lac du Flambeau Band	WI	2,900	1,356	324	925	107	270	762	488	274	36%	94	394	488	123	25%	
Oneida Tribe of Indians	WI	13,184	5,163	2,582	2,079	502	459	2,122	1,780	342	16%	662	1,118	1,780	NR	NR	
Red Cliff Band	WI	3,879	1,721	356	1,229	136	310	1,055	497	558	53%	149	348	497	243	49%	
Sokaogon Chippewa Community	WI	1,169	530	161	342	27	73	296	191	105	35%	54	137	191	75	39%	
St. Croix Chippewa Indians	WI	972	1,775	482	1,180	113	126	1,167	430	737	63%	176	254	430	63	15%	
Stockbridge-Munsee Community	WI	1,505	857	176	440	241	176	505	428	77	15%	240	188	428	20	5%	
Michigan Agency																	
Bay Mills Indian Community	MI	1,255	863	241	586	36	0	622	572	50	8%	260	312	572	5	1%	
Grand Traverse Band	MI	3,373	3,195	1,010	2,032	153	0	2,185	2,175	10	0%	700	1,475	2,175	1,074	49%	
Hannahville Indian Community	MI	641	390	185	196	29	42	183	147	36	20%	88	59	147	29	20%	
Huron Potawatomi, Inc.	MI	460	85	16	63	6	12	57	31	26	46%	3	28	31	15	48%	
Keweenaw Bay Indian Community	MI	3,267	1,452	209	1,100	143	346	897	554	343	38%	318	236	554	291	53%	
Lac Vieux Desert Band	MI	366	259	104	150	5	11	144	122	22	15%	34	88	122	0	0%	
Little River Band of Ottawa Indians	MI	2,558	291	56	216	19	2	233	187	46	20%	17	170	187	44	24%	
Little Traverse Bay Band	MI	2,883	942	232	617	93	92	618	508	110	18%	254	254	508	306	60%	
Pokagon Band of Potawatomi	MI	2,483	1,158	387	718	53	13	758	609	149	20%	292	317	609	24	4%	
Saginaw Chippewa Indian Tribe	MI	2,715	820	239	495	86	179	402	179	223	55%	107	72	179	84	47%	
Sault Ste. Marie Tribe of Chippewa	MI	27,855	16,415	3,599	12,062	754	0	12,816	3,541	9,275	72%	3,541	0	3,541	785	22%	
Minnesota Agency																	
Bois Forte Band of Chippewa Tribe	MN	2,650	2,430	949	1,311	170	431	1,050	608	442	42%	441	167	608	195	32%	
Fond du Lac Band of Lake Superior	MN	3,847	4,741	2,134	2,401	206	0	2,607	2,089	518	20%	2,089	0	2,089	0	0%	
Grand Portage Band of Chippewa	MN	975	518	157	317	44	0	361	233	128	35%	233	0	233	NR	NR	
Leech Lake Band	MN	8,013	8,669	2,595	5,272	802	2,235	3,839	2,841	998	26%	2,330	511	2,841	1,989	70%	
Millie Lacs Band of Ojibwe Indians	MN	3,125	1,825	666	1,073	86	256	903	725	178	20%	725	0	725	95	13%	
White Earth Band	MN	20,989	6,491	1,862	3,582	1,047	2,734	1,895	848	1,047	55%	452	396	848	85	10%	
Red Lake Agency																	
Red Lake Band of Chippewa	MN	9,264	7,974	2,641	4,975	358	383	4,950	1,900	3,050	62%	1,559	341	1,900	933	49%	
MINNEAPOLIS TOTALS																	

Tribe's name in blue = self-governance tribe; NR = totals Not Reported by tribes



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Division of Workforce Excellence

Department of Workforce Development

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Updated on 02/08/00

Wisconsin Economic Indicators
January 1990 - Current Month

Print landscape

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
L1 COMPOSITE INDEX OF LEADING INDICATORS 1994 = 100												
1990	97.0	94.9	98.2	94.0	96.8	91.9	92.2	94.5	88.3	87.7	86.5	81.4
1991	83.4	76.6	75.2	80.7	80.9	81.7	82.8	81.1	84.1	82.0	80.1	83.1
1992	79.7	89.8	81.6	82.2	83.9	84.5	88.1	85.5	81.5	83.4	85.1	86.3
1993	85.8	90.7	90.8	84.0	81.8	82.2	82.7	84.3	92.2	85.6	100.5	96.0
1994	88.4	94.5	94.5	97.0	100.6	105.6	99.8	104.4	104.4	104.4	103.3	104.4
1995	98.8	97.7	113.4	88.2	98.5	96.9	96.4	103.4	91.8	99.9	93.2	94.9
1996	102.6	98.6	97.5	103.1	110.0	98.9	102.5	103.0	107.4	105.2	108.0	106.2
1997	129.1	114.5	107.5	128.5	111.3	110.9	124.9	114.1	119.4	135.0	120.9	122.3
1998	130.1	125.8	131.9	131.6	118.4	119.0	130.3	123.1	125.4	114.9	124.0	132.7
1999	132.5	134.0	147.6	139.2	129.3	136.4	136.3	131.4	134.0	132.1	168.4	140.8

L2 AVG. WORKWEEK, MFG.

Original Series

1990	41.0	41.2	41.5	40.1	41.3	41.6	41.2	41.6	42.5	41.6	40.7	42.4
1991	41.1	40.8	40.8	40.8	40.9	41.3	41.1	41.3	42.4	41.8	42.2	42.4
1992	41.4	41.5	41.5	40.6	41.8	41.7	41.6	41.9	42.1	42.1	42.6	42.6
1993	41.6	41.9	41.9	41.3	41.6	41.7	41.2	41.7	42.7	42.6	43.0	43.1
1994	42.0	42.3	42.2	42.3	42.5	42.5	42.5	42.9	43.4	42.9	43.3	43.6
1995	42.6	42.4	42.1	41.2	41.9	41.9	40.8	42.4	42.7	42.2	42.0	42.3
1996	41.7	41.7	41.8	41.7	41.9	42.2	41.6	42.2	42.9	42.4	42.8	43.3
1997	42.1	42.2	41.7	42.3	42.2	42.1	41.7	42.4	43.2	42.7	43.0	43.2
1998	41.9	41.8	41.6	41.1	41.6	41.7	40.7	42.0	42.2	41.9	42.5	42.8

Seasonally Adjusted

1990	620	619	770	689	644	583	557	631	603	565	588	477
1991	576	545	533	526	483	483	534	495	469	613	527	460
1992	522	479	530	545	551	608	586	429	538	523	512	573
1993	519	584	502	563	537	515	514	547	636	588	541	605
1994	527	427	593	514	531	604	621	588	586	551	653	656
1995	687	664	540	562	657	677	592	646	635	606	560	530
1996	576	607	772	687	627	583	551	422	624	683	586	563
1997	593	546	696	850	392	451	540	458	414	433	479	495
1998					495	533	475					

C1 HELP-WANTED ADVERTISING INDEX (Milwaukee) 1987 = 100

Seasonally Adjusted

1990	99	95	97	96	97	91	91	94	91	90	83	67
1991	69	75	72	71	72	70	70	68	70	71	71	89
1992	67	70	77	75	72	75	77	76	77	75	78	77
1993	92	81	80	79	81	80	69	81	87	85	91	88
1994	93	99	100	99	99	92	101	103	99	100	90	87
1995	109	101	95	107	97	95	124	88	104	91	84	89
1996	100	96	95	91	84	108	85	88	82	82	81	81
1997	84	88	90	89	84	106	97	98	106	86	84	86
1998	116	98	93	95	117	117	97	98	88	81	83	88
1999	108	92	89	90	106	86	89	118	81	95	72	82

C2 TOTAL UNEMPLOYMENT RATE

Original Series

1990	5.3%	5.1%	5.0%	4.5%	3.9%	4.4%	4.2%	4.0%	3.9%	4.0%	4.5%	4.5%
1991	5.9%	6.5%	6.6%	5.9%	5.4%	5.7%	5.2%	5.0%	4.7%	4.8%	5.0%	4.9%
1992	6.0%	6.2%	6.0%	5.4%	5.1%	5.6%	5.1%	4.9%	4.7%	4.5%	4.3%	4.2%
1993	5.1%	5.2%	5.6%	5.2%	4.8%	5.1%	4.7%	4.4%	4.1%	4.1%	4.4%	4.4%
1994	5.7%	6.1%	5.8%	5.2%	4.7%	5.1%	4.6%	4.3%	3.9%	3.8%	3.8%	3.7%
1995	4.6%	4.7%	4.5%	4.1%	3.6%	3.8%	3.4%	3.2%	3.1%	3.1%	3.3%	3.2%
1996	4.3%	4.6%	4.2%	3.8%	3.3%	3.7%	3.4%	3.1%	2.9%	2.9%	3.0%	3.1%
1997	4.5%	4.6%	4.5%	4.0%	3.5%	4.0%	3.7%	3.3%	3.1%	3.0%	3.0%	2.9%
1998	3.9%	4.0%	3.9%	3.1%	2.9%	3.5%	3.6%	3.1%	3.0%	3.1%	3.2%	3.1%
1999	4.2%	4.2%	3.9%	3.3%	3.1%	3.1%	2.9%	2.6%	2.0%	2.3%	2.5%	2.6%

Seasonally Adjusted

1990	4.6%	4.1%	4.2%	4.2%	4.1%	4.2%	4.3%	4.4%	4.5%	4.7%	4.9%	5.0%
1991	5.3%	5.5%	5.8%	5.6%	5.5%	5.5%	5.4%	5.4%	5.4%	5.4%	5.4%	5.4%

1992	5.3%	5.2%	5.2%	5.1%	5.3%	5.3%	5.3%	5.3%	5.3%	5.2%	4.8%	4.7%
1993	4.4%	4.2%	4.8%	5.0%	4.9%	4.8%	4.8%	4.8%	4.7%	4.7%	4.9%	4.9%
1994	5.0%	5.2%	5.0%	4.9%	4.8%	4.8%	4.8%	4.7%	4.6%	4.4%	4.3%	4.1%
1995	3.9%	3.8%	3.8%	3.8%	3.7%	3.6%	3.5%	3.5%	3.7%	3.7%	3.8%	3.7%
1996	3.7%	3.7%	3.5%	3.6%	3.6%	3.5%	3.5%	3.4%	3.4%	3.4%	3.5%	3.6%
1997	3.8%	3.8%	3.8%	3.8%	3.8%	3.8%	3.7%	3.7%	3.6%	3.5%	3.4%	3.4%
1998	3.3%	3.1%	3.2%	2.9%	3.2%	3.3%	3.6%	3.5%	3.5%	3.6%	3.6%	3.6%
1999	3.5%	3.4%	3.2%	3.1%	3.4%	2.9%	3.0%	3.0%	2.6%	2.8%	2.9%	3.0%

C3 MOTOR FUEL TAXED (Millions of Gallons)

	Original Series												
1990	186.0	154.0	149.9	165.6	163.7	184.9	184.4	197.4	203.1	168.7	170.4	175.0	
1991	173.9	163.4	147.1	159.2	165.3	186.4	183.1	199.4	196.9	168.8	183.2	170.0	
1992	175.8	166.5	156.6	155.6	169.2	196.0	180.1	196.6	195.6	176.0	186.9	173.2	
1993	185.4	161.9	160.1	175.4	166.5	185.7	193.0	206.1	199.5	181.0	190.1	183.3	
1994	191.1	165.0	166.9	177.2	202.5	279.7	252.5	268.3	262.9	251.7	246.1	240.9	
1995	233.2	221.6	210.3	237.5	228.5	260.0	269.9	261.7	271.6	252.9	255.9	247.7	
1996	245.7	238.2	225.1	236.6	236.3	271.0	251.0	279.7	282.7	246.9	267.9	256.1	
1997	249.4	235.2	213.6	248.1	237.6	273.9	262.1	288.8	272.2	258.4	281.0	239.3	
1998	247.8	241.5	210.2	272.8	252.2	271.7	279.5	295.1	278.7	278.2	285.4	255.5	
1999	278.3	244.6	220.6	270.4	249.2	286.5	283.1	302.5	301.5	272.8	280.7	254.1	

Seasonally Adjusted

1990	183.3	171.6	173.4	174.8	173.6	174.3	174.5	177.8	181.3	172.3	165.9	179.1
1991	171.6	181.5	170.1	168.2	176.0	174.7	174.1	178.5	175.7	172.1	179.1	173.9
1992	174.3	184.7	181.5	164.3	180.6	183.5	170.7	174.9	175.5	178.2	182.5	177.5
1993	185.8	178.9	185.8	185.1	177.8	173.5	182.5	183.6	180.2	181.8	185.2	187.4
1994	193.3	181.6	193.6	186.5	216.8	261.6	238.5	239.6	238.9	251.2	238.2	246.3
1995	237.5	242.7	244.2	250.0	244.5	243.7	255.2	234.1	248.1	250.7	246.2	253.3
1996	251.8	259.2	261.7	249.3	252.1	254.7	237.9	250.6	259.7	243.9	255.7	263.0
1997	256.8	253.9	247.7	251.3	252.4	257.7	249.9	259.3	251.3	254.9	266.2	246.5
1998	255.2	259.5	242.9	288.3	267.5	255.8	267.9	265.0	257.7	274.9	268.8	263.5
1999	286.6	262.2	254.4	285.8	264.3	269.8	272.0	271.8	278.9	269.8	263.6	262.2

C4 NEW CAR REGISTRATIONS

	Original Series												
1990	9,699	11,883	10,913	18,838	15,265	13,750	16,634	14,515	15,480	13,067	12,378	11,797	
1991	9,953	9,245	11,363	12,586	13,025	16,945	12,140	13,028	14,129	11,060	10,439	10,571	
1992	7,543	9,774	13,604	12,663	14,018	13,776	11,682	15,333	10,977	11,316	12,002	9,423	
1993	10,556	7,992	10,107	11,588	16,458	13,079	14,036	15,413	11,480	14,778	10,501	11,710	
1994	10,298	9,507	9,474	12,243	16,262	11,524	16,043	12,295	11,127	14,410	11,595	12,135	
1995	9,888	10,030	10,560	12,797	11,964	11,602	13,404	12,006	11,583	13,370	9,934	9,941	

F

SECTION 7. It shall be a violation of this ordinance for MTE to employ other than a qualified tribal member. When a charge of employment discrimination is made against MTE by a tribal member, that tribal member shall be required to exhaust all MTE administrative remedies firstly; and if a satisfactory solution is not reached by the administrative process, either party may seek a remedy in Tribal Court.

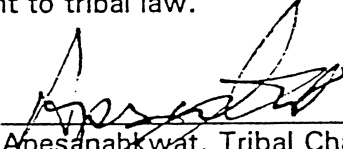
SECTION 8. If the Tribal Court finds discrimination on the part of MTE, Tribal Court is hereby authorized to order MTE to employ the grieving tribal member and assess reasonable costs against MTE, including attorney fees.

SECTION 9. For purposes of employment under PART TWO, MTE shall list by order of preference:

- (1) Enrolled Menominee tribal members;
- (2) Descendants of enrolled Menominee Tribal members of the first degree. First degree means a parent of the descendant is an enrolled Menominee tribal member; and
- (3) All others.

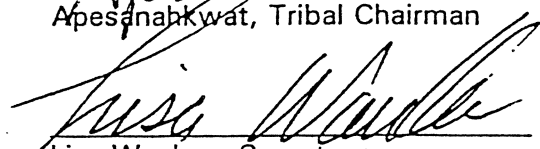
CERTIFICATION

We, the undersigned, do hereby certify that the foregoing amendment to Tr. Ord. No. 82-10 was approved for Final Consideration at a meeting on August 15, 1998, with a quorum present, by a vote of 7 for, 0 against, 0 abstaining, 2 absent; and we further certify that the foregoing ordinance has been posted pursuant to tribal law.



Apesanahkwat, Tribal Chairman

DATE: AUGUST 15, 1998



Lisa Waukau, Secretary

MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE
AMENDMENT TO ORDINANCE NO. 82-10
MENOMINEE TRIBAL PREFERENCE

FINAL APPROVAL (2nd Reading)

BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

Menominee Nation Ordinance No. 82-10 is hereby amended in its entirety and replaced with the following sections:

1. **TITLE.** This ordinance shall be entitled "Menominee Tribal Preference."
2. **PURPOSE.**
 - 2.01 This ordinance is enacted in order to provide, to the fullest extent possible, for the social and economic benefits of tribal members by giving to them the highest priority in employment in the administration of tribal affairs. Further, by this enactment, the Tribal Legislature recognizes its responsibilities toward the well-being of tribal members as requested by Resolution, presented at the General Council, December 5, 1981, and in conformity with Art XV of the Menominee Tribal Constitution.
 - 2.02 The Tribal Legislature finds that the Tribal Constitution requires all employment with the Tribe to be based on a merit system. The Tribal Legislature finds that it is essential for the health, welfare and safety of the Tribe to hire individuals best suited to work in any tribal program. The Legislature also is committed to ensure the highest possible level of employment of tribal members in tribal programs.
 - 2.03 That the Tribal Government shall, to the maximum extent practicable, give preference in hiring to Menominee Tribal Members.
 - 2.04 Nothing in this ordinance shall be construed to create an employer/employee relationship between the Menominee Indian Tribal Government and an employee of a tribally chartered business.
3. **APPLICABILITY.**
 - 3.01 Application. This ordinance shall apply to all employment with Menominee Tribal Government, appointed tribal government positions, and tribal businesses chartered pursuant to Article XIII of the Tribal Constitution.

3.02 Restrictions. This ordinance shall not apply to any of the following:

- a. Where it would violate provisions of the Menominee Tribal Constitution, applicable federal law, applicable federal administrative statute or other applicable law or regulation.
- b. Private businesses, non-tribal government employment, elected officials or Tribal Judges.
- c. Any procurement policy as may be written or amended under Menominee Nation Ordinance No. 80-7, entitled "Accounting System."

4. **DEFINITIONS.** As used in this ordinance:

4.01 "Administration" means the Tribal Chairperson, Program Coordinator, Personnel Manager, Legislators, Committee Members, Directors, and any other persons who participate in the administration of tribal affairs.

4.02 "Qualified" means the applicant meets the requirements for a position as they are written and posted in the job description.

4.03 "Tribal Employment" means work of any type or kind for which the tribal government worker receives monetary compensation. Work includes full time, part time, permanent, temporary, hourly, consultant services, or any other designation of time, type or kind.

5. **POSTING OF POSITIONS.**

5.01 All employment positions with the Tribe shall be posted a minimum of three working days and in conformity with the Menominee Tribe's current Policies and Procedures or as later adopted or amended.

5.02 The employment positions shall contain the minimum requirements to adequately do the job that is required.

5.03 The posted positions shall clearly state what the minimum requirements are, and what the other desirable qualifications, if any, are for the position.

5.04 Pursuant to Title IV of the Indian Child Protection Act (Pub. Law 101-630), job postings involving positions which involve regular contact with or control over Indian children shall be subject to a criminal records check. Such investigation shall be conducted to ensure that none of the individuals hired or appointed to the above-mentioned positions shall have been found guilty of or entered a plea of nolo contendere or guilty to, any offense under Federal, State or Tribal law involving crimes of violence, sexual assault,

molestation, exploitation, contact or prostitution; or crimes against persons.

6. GENERAL PROVISIONS.

6.01 Employers subject to this ordinance shall give preference in hiring to Menominee Tribal Members to the greatest extent practicable.

6.02 Hiring Priority. Except where federal law requires Indian preference, every new position or vacancy which occurs shall be filled according to the following priority:

- a. Qualified enrolled members of the Menominee Indian Tribe.
- b. Qualified descendant of an enrolled member of the Menominee Indian Tribe.
- c. Qualified legally married spouses of an enrolled member of the Menominee Indian Tribe.
- d. Qualified Indian enrolled in another tribe.
- e. Qualified descendant of an Indian enrolled in another tribe.
- f. Non-Indian.

6.03 A routine form shall be developed which shall be used to grade job applicants. The form shall be based on a point system whereby each applicant may obtain a maximum possible score of 125 points and a minimum score of 25 points. The following points shall be assessed:

- a. 25 points for an enrolled member of the Menominee Indian Tribe.
- b. 20 points for a descendant of an enrolled member of the Menominee Indian Tribe.
- c. 15 points for a legally married spouse of an enrolled member of the Menominee Indian Tribe.
- d. 10 points for an Indian enrolled in another tribe.
- e. 5 points for a non-Indian or descendant of an Indian enrolled in another tribe.
- f. Points shall additionally be assessed in accordance with the job applicants qualifications as designated in the job posting.

g. Employers shall use the attached form, or a variation thereof approved by the Menominee Tribal Legislature, in conducting all interviews.

6.04 Tribal enrollment status shall be one significant factor in any hiring decision by the Tribal Government which will be weighed along with other qualifications that an applicant may have.

6.05 This ordinance shall not be construed to mean that tribal members are guaranteed employment based on tribal membership only, or guaranteed continued employment if they fail to perform at a satisfactory level.

6.06 Any time an employer subject to this ordinance hires a non-Menominee for a position which an enrolled Menominee has applied, the interview team shall:

a. Notify, by certified mail, enrolled Menominee applicants within three working day of the denial for the desired employment position;

b. Prepare a written statement listing the reasons why the non-Menominee was hired for the job over an enrolled member of the Menominee Indian Tribe; and

c. Forward one copy of the written statement to the Office of the Vice-Chairperson, where it shall be held in confidence on file, and forward one copy to the enrolled Menominee(s) denied employment.

7. **VIOLATION, ENFORCEMENT, PENALTIES.** An enrolled member of the Menominee Indian Tribe who believes he or she has been unlawfully denied employment in violation of this ordinance shall have the right to administrative review by the Administrative Review Committee in the manner herein set forth:

7.01 A grievance must be filed in writing and delivered to the Personnel Department within five working days of notification that the job applicant was not selected for the desired employment position.

7.02 The Personnel Department shall refer all grievances received above to the Administrative Review Committee and shall notify the Legislative Staff Services Department within five working days of receipt.

7.03 The Administrative Review Committee shall, within twenty (20) working days, conduct a hearing on record on the grievance or deny hearing the grievance.

a. The Administrative Review Committee shall only deny hearing a grievance if said grievant fails to cite specific allegations whereby a

G

Kenosha Gaming Revenue Disbursement Plan
March 25, 1999

The disbursement plan will consist of three major groups: Underfunded Existing Programs, Critically Needed New Programs, And an Annual Per Cap Payment from Net Revenues Of 20%. We will limit our discussion to the undefended existing programs and critically needed new programs. Even though we have limited ourselves to the current identified areas; one should keep in mind that in the future new initiatives and or programs maybe identified.

I. Underfunded Existing Programs & Critically Needed New Programs

A. CARE SERVICES

1. Health Care

Provision of adequate and affordable health care is a critical unmet need for the tribal members on the Menominee Reservation. The expansion of an affordable health care system would tremendously benefit the members and help to foster a healthier and more positive standard of life. Because of high poverty and unemployment rates, a large majority of the population has no health care at all, especially the young and the elderly. The Benefits Program at Paradise Key will help provide affordable and quality health care services. Providing catastrophic health care in addition to standard health care is an issue that should also be addressed once the basic health care issues are stabilized. Refer to Exhibit E for a document that outlines health care needs in more detail.

2. Elderly Care

Many of the elderly in the Menominee Tribe have received little or no education and have only had the opportunity to work for low wages. Consequently, the poverty rate is very high among this population; and many elders find themselves

unable to support even a meager lifestyle or provide for basic living needs. Care facilities for the elderly population are a necessity that the Menominee people can no longer go without. An elderly facility would provide this segment of the population with the ability to maintain a decent standard of living throughout the latter portion of their life. There are currently 534 elderly on the Reservation. This number has increased by 43.5% since 1980. As the population expands and the elderly increase in number, care facilities of this type will always be in demand.

A 1996 study entitled "The Wisconsin Rural Indicator and Assessment of the Conditions and Needs of Rural Wisconsin" states that factors affecting elderly health care include nutrition, isolation, companionship and psychological changes surrounding attachments to place. A Milwaukee Journal Sentinel article reports "that rural communities in Wisconsin have higher rates of chronic illness and disability, diabetes, cancer, high blood pressure, heart disease, stroke and lung disease." Nowhere is this more true than in Menominee County. Statistics reveal that the number of deaths actually exceed the expected number of deaths by a large percentage.

The Menominee population over the age of sixty-five, on the Reservation, is currently 534. Using the states formula of 45 beds per 1,000 seniors results in a need for 24 nursing beds. Need, justification and operating costs are included Exhibit E.

3. Social Services

The Menominee Reservation is unique in that the boundary lines for the county and the Reservation are coextensive and there has always been a gray area of where the tribal and county government responsibilities cross. The tribe is continuously asked to provide many services that the county would normally be responsible for. In addition, pending state approval, a portion of Shawano County will be annexed to Menominee County requiring the Tribe to pick up all

of the social costs associated with the Wolf River Ranch. A variety of programs will be developed from proceeds of the Paradise Key Project for the expansion of substance abuse programs, services for the elderly and disabled resident treatment for youth (mentally, spiritually, emotionally), family assistance, transitional housing, AODA programs (Alcohol & Other Drug Abuse), emergency shelter for abused children, domestic abuse facility, single parent family support services, hospice care and home health care. Investments into these types of programs will greatly help in the improvement of the family and individual life for current tribal members and future members.

B. HOUSING INITIATIVES

1. New Construction and Existing Home Repair

A recent housing survey by the Tribal Community Development Department Staff indicated there are 277 housing units on the Reservation needing repair and 254 units needing replacement. In addition, the Tribal Housing Department has over 250 families on its waiting list for housing. The Tribe proposes to construct up to 250 housing units over a 5-year period. This initiative will help address the current housing shortage that exists on the Reservation. For the long term, the proceeds from Paradise Key will help fund additional housing as the Reservation population increases year after year.

Proceeds will help create new apartment complexes for Elders, start-up Projects for new home ownership for low income families, expanded rehabilitation programs for those who own homes in disrepair, and other Projects that will put the population into better home environments. This will enhance the quality of life for Tribal members who currently live on the Reservation and for those generations to come.

2. Revolving Loan Program

Exhibit A

The Tribe will also utilize proceeds from the venture to establish a Tribal Home Loan program. This program will allow off-Reservation tribal members to obtain grants and loans to acquire or construct housing where they reside. This will address a significant problem many off Reservation tribal members have in obtaining financing to become a homeowner. The revolving loan fund will be able to offer below market interest rates to members.

C. CHILD CARE

The Menominee Tribe has 489 pre-school children on the Reservation. A lack of licensed childcare facilities on the Reservation is creating serious social and family problems. Demand vastly exceeds supply and the in-home programs that do exist are not adequate. Proceeds from the Paradise Key Casino will be used to establish and expand childcare centers in Reservation communities with a noticeable lack of such services. In addition, the Tribe will use proceeds to foster the role of tribal elders in childcare. Stipends will be provided to elders who participate in intergenerational activities at the childcare centers.

D. ECONOMIC DEVELOPMENT

1. Infrastructure

Currently, waste treatment facilities are at their maximum capacity, hampering economic development and threatening contamination to water supplies. This is a critical area, and updating the infrastructure will allow economic development expansion and will create new job opportunities for tribal members. The refurbishment and expansion requires \$9,600,000 for the upgrades. The Proceeds from Paradise Key Casino will be used to replace existing outdated waste treatment facilities and build additional systems. Other infrastructure improvements that will promote future economic development include new and upgraded roadways and protective street lighting. As the population continues to increase on the Reservation, the community's infrastructure needs can be met with the proceeds on an ongoing basis.

2. Industrial Park

The proceeds from Paradise Key Casino will allow for the development of an industrial park where new industries, high tech businesses and value-added

manufacturing can be established. In addition to creating services to support the new developments, the industrial park will create job opportunities that will provide competitive wages, which will help to improve the standard of living for tribal members. As expansion takes place, both from improved economic improvements of the Tribe and from Menominee companies or members supplying products to the Paradise Key Casino, the park will need to be evaluated and expanded as needed to accommodate business space requirements over time.

3. **Property Management**

Proceeds from the operation of Paradise Key Casino will be used to explore a variety of revenue generating ventures, primarily in the area of commercial and industrial land developments and acquisition. This diversification will offset the cyclical economic conditions affecting casino proceeds and create a more stable flow of revenues to be used in Tribal programs.

4. **Expansion of Menominee Tribal Enterprises (MTE)**

Menominee Tribal Enterprises is a forest and timber operation owned by the Menominee Tribe. This mill and its accompanying operations were created to benefit employment opportunities to Tribal members with less emphasis on "profit." A number of factors associated with Termination/Restoration have resulted in significant direct and opportunity costs to the Menominee Tribal Enterprises. For example, the outstanding bond issue, annual interest payments, and bond sinking fund contributions/estate accrued interest obligations have extracted an estimated \$14 million out of MTE operations over the past 28 years.

Aging and antiquated equipment within MTE's wood products manufacturing operations has contributed to inefficiencies and lost profits. Recent efforts at improved processes (e.g. inventory, management, quality control, and production scheduling) combined with expanded product and market development have begun a revitalization process to begin to increase profit margins over the past

Exhibit A

several years. These investments were made out of necessity and utilized essentially all of MTE's available cash reserves, other than working capital.

Considerable work must be done to address asset replacement needs as well as required value-added expansion needs. Expansion needs have been identified and designed to complement MTE's sustainable forest management plan needs and vertical integration to add more value to each extracted log expanding and sustaining this Menominee employment and natural resource base. This initiative, titled the **MTE Revitalization and Value-Added Expansion Project**, has been designed to be consistent with the Menominee Constitution, MTE Management and Forest Management Plan.

The MTE forestry and sawmill operations are the largest employers on the Reservation. The immediate capital needs for each division of these operations are unique. The Menominee Tribal Enterprises forestry and road maintenance programs, a responsibility assumed from the BIA, has unmet annual needs of \$9,662,288. The estimated production facility asset replacement needs are \$14,200,000. A detailed account of these needs appear in Exhibit D.

The Menominee Nation and its MTE operation is successfully balancing an existence between two worlds: the traditional world representing the core Menominee beliefs and the contemporary world of politically driven global economies. Investment of profits from the Paradise Key Casino will help the Menominee Tribal Enterprises progress and provide the benefits originally intended when the Federal Government established MTE upon Restoration.

5. **Recreation, Tourism and Entertainment Development**

A portion of the proceeds from the operation of Paradise Key will fund the development of eco-tourism. This effort, consisting of educational tours developed jointly between the College of the Menominee Nation and MTE, would be designed to post a profit while furthering the economic and aesthetic

Exhibit A

value of the Menominee forest. As discussed earlier, the expansion of the cultural center will draw tourists to the Reservation.

Proceeds from Paradise Key Casino would be used to upgrade the existing casino based on a cost/benefit analysis designed to determine risk, short-term and long-term benefits for the Menominee. The current gaming facility is approximately eleven years old. In order for the Menominee Nation Casino to remain competitive, the property must undergo updates and renovations. Plans suggest the renovation will take approximately two years. These modifications are necessary for the Menominee Tribe because, if the facility is unattended, this valuable source of gaming revenue could be in jeopardy.

The cost of these needs for these improvements are:

Temporary Building	\$ 630,000.00
Upgrade Cash Room	\$ 170,000.00
New Building	\$7,300,000.00
Completion and Demolition	<u>\$1,500,000.00</u>
Total	\$9,600,000.00

The July, 1998 study provided by Hoffman Corporation is attached hereto as Exhibit G.

A. EDUCATIONAL INITIATIVES

1. Menominee Museum and Cultural Center

The Menominee Nation will use proceeds from the Paradise Key to establish the Menominee Museum and Cultural Awareness Center. The 60,000 square foot facility will feature a variety of artifacts and other historical items that reflect the rich tradition of the Menominee Nation. In addition, the facility will offer on-going language and cultural classes to tribal members. The facility will also serve

as a valuable resource to the surrounding community by providing interactive educational opportunities for people of all ages.

2. **Menominee Community College**

Proceeds from the Paradise Key will help establish specialized training programs in the emerging technologies as well as traditional trade and vocational skills for students at the community college. These training programs will assist tribal members in preparing for positions within today's job market. In addition, proceeds will be used to expand curriculum opportunities for students at the College.

3. **Menominee Indian School District**

In the days of Termination, Menominee's reacted to the situation in socially debilitating ways: many young people dropped out of school, fell pray to alcohol, had children out of wedlock at an early age, and did not regularly visit doctors or dentists. The net result was two generations with a high rate of children with fetal alcohol syndrome. Studies show 35% of children in the school system are in need of special education service, especially in the cases of emotionally disturbed children, children with learning disabilities and children who possess Attention Deficit Disorder. A 50% drop out rate between the 9th and 12th grades is attested to by low standardized test scores.

The Tribe can reverse the effects of Termination only by taking an aggressive approach through the increase of funding for early childhood education; Head Start, Menomonee Tribal School, Menomonee Indian School District, College of Menominee Nation and Native American Education Services. Goals for these programs must include smaller class sizes, tribal tutoring programs, creative parenting initiatives, fully funded Menominee language programming, pre-college initiative for middle school students, and aggressive continuing education funding. Through these efforts, today's leadership can confidently turn the

Menomonee Reservation into to a sober, healthy, well educated, and highly skilled group capable of leading the tribe in the new millennium.

Proceeds will be used to upgrade and expand current facilities to accommodate the increasing enrollment Projections. Computer technology hardware and high-speed access connections will be added to increase the level of learning available to all students and will better prepare them for education beyond high school or for the job market. This initiative will help reduce juvenile crime and gang problems in the system.

4. **Menominee Higher Education Scholarship Fund**

The Menominee Nation is strongly committed to education as the basis for continued tribal viability and growth. Therefore, the tribe will provide four-year college scholarships to enrolled Menominee tribal members to the college of their choice. In addition, if the student commits to at least two years of employment with the Menominee Tribal government, an additional stipend per year will be provided to the student.

E. **TRIBAL GOVERNMENT SERVICES**

1. **Maehnowesekiyah Treatment Center Expansion**

The Maehnowesekiyah Treatment Center is an alcohol and substance abuse program and the recognized AODA (Alcohol & Other Drug Abuse) treatment center of the Menominee tribal government. The center operates three licensed treatment programs, including residential, outpatient and day treatment, as well as a woman's residential program. Statistical data for 1998 reveals that the Maehnowesekiyah facility serves an average of 600 unduplicated clients annually. The present incidence of alcohol and drug abuse among the Menominee people presents many long-term personal, financial, and social hardships. This problem

becomes magnified when considering the stifling effects alcoholism has on the lifestyles and personal health concerns of Menominee family life.

An accurate alcoholism rate cannot be statistically ascertained, but Menominee Indian alcoholism is considered excessively high, perhaps as high as 65-75% of the entire Reservation. A quantifiable alcoholism rate remains difficult to ascertain because many "drinkers" perceive their condition as non-alcoholic. Drug usage coupled with the high alcoholism rate has debilitating consequences for individual health, tribal/county law enforcement, and tribal/county social services. Statistical data bears out what many have been saying for years, that this condition, unless arrested, will have long lasting effects upon the entire Reservation.

Maehnowesekiyah continues to pursue and establish preventative programs as a function of its administrative duties and responsibilities. Under a T.R.A.I.L.S. and Adolescent Health program, community and school service activities are coordinated. Adolescent programs help the Menominee youth to make educated choices in their daily lifestyles. Quite often larger community events including the annual AODA Prevention Week is given top billing by the Maehnowesekiyah Prevention Department. These events and monthly newspaper editions continue to provide the youth of the community accurate information about the merits of staying free from the crippling effects of these inherent dangers.

2. Gang and Drug Prevention Initiative

The Menominee Tribal Government has created a gang task force in response to escalating gang and drug activity on the Reservation. There have been numerous arrests in the past few years due to this problem. The task force set forth a variety of recommendations to address the problem. Proceeds from the Paradise Key will be used to implement the task force recommendations and establish a baseline of support for this entire initiative. Not only will this help to enhance the quality of

residents living in problem areas, but it will also help the ones in trouble to become productive members of society.

3. Law Enforcement

The lack of adequate staffing for the Menominee Police Department has necessitated many officers to work extensive overtime hours without being properly compensated. A need clearly exists to hire additional office staff and to expand the overall administrative staff for the Menominee Tribal Police Department. In addition, the current jail is outdated and requires modernization as well as an expansion to address growing needs. Proceeds from the Paradise Key will be earmarked for these activities. The development of a juvenile detention center is an important key to curtailing gang and juvenile crimes and maintaining separation from the adult criminals.

The Menominee Reservation has seen its population increase in the last years. The Tribe is building homes in new locations, which is putting a strain on the Police Department. The crime rate has risen in the past years.

The Menominee Tribal Police Department is understaffed with office personal, patrol officers and jailers. The Department lacks adequate staffing, jail space and equipment. The Police Department needs more room for office personnel or an updated records room, evidence room-indoor and outdoor, photo lab, computers, office equipment, squad cars, firearms, body arm or Emergency Response Team. The Police Department needs \$3 million to update the department.

The jail is not meeting state inspections due to outdated equipment, overcrowded cells and inadequate existing control room, records room, recreation room, laundry room and kitchen. There is a dire need for a Juvenile Detention Center with cultural teaching. The jail needs \$7.5 million just to update the jail and meet its most urgent needs (Refer to Exhibit H for Law Enforcement Needs/Justification).

Central Communications needs updated equipment, more dispatchers and insurance with updated wages and a new radio tower for emergency vehicles. Updating the Central Communication Center will cost \$1million.

The total cost to update the Police Department and Communication Center will be \$11.5 million. These are monies that are long overdue for the safety of the Menominee Nation.

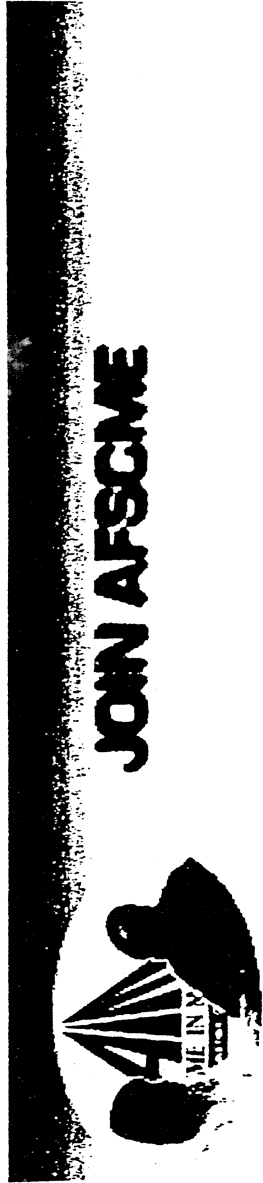
4. Tribal Court System

The Tribal Court is also understaffed and in need of a new facility. Proceeds from the Paradise Key would fund building a new courthouse and adding additional staff, attorneys and judges to better accommodate current and future case loads. Menominee Constitution and By Laws specifically state that the Tribal Court system shall have priority funding. This is not always the case with so many other pressing needs to be addressed with the few dollars that are realized from the Menominee Nation Casino and other funds.

II. **Annual Per Capita Payment**

Payment

The Menominee Tribe does anticipate submitting a per capita plan for distribution of annual net proceeds from the project of 20%. Consideration will be given to how these funds shall be distributed to the members. One consideration of how the per capita payment will be distributed is as follows: A portion of each members annual per capita payment maybe earmarked to put into a retirement plan for the member. This will assure when each member retires, that he/she will have a higher quality of retirement years. Another important aspect of this is that it will help to control the upward pressure on using additional proceeds to sublimate member's retirements as they retire. This will allow future proceeds of the project to be used to fund all the critical and underfunded programs and initiatives without interruption.



- AFSCME Home
- Join AFSCME

- AFSCME In Motion
- AFSCME Corrections United
- United Nurses of America
- AFSCME Retiree Program
- AFSCME Advantage

- About AFSCME
- The AFSCME Web
- Legislative Action
- Health & Safety
- Stop Privatization
- AFSCME LaborLinks
- Publications
- What's New
- Calendar
- Contact AFSCME
- Search
- AFSCME en Español

AFSCME In Motion: Organizing Together

DECEMBER 1998

- HUSKERS GO UNION.

The Nebraska Association of Public Employees/ AFSCME recently signed up 260 new members around the state. NAPE is currently in statewide bargaining.

- AFSCME GAINS.

AFSCME won three recent elections, gaining 272 new members. In St. Paul, Minn., 150 employees of the Federation of Social Justice Advocates voted for Council 14. Sixty-six workers at the Mineral County Community Hospital in Helena, Mont., joined Council 9, while 56 employees of the Town of Hanover (Mass.) Schools voted for Council 93.

- NEW DAY DAWNING IN PUERTO RICO.

Several unions in Puerto Rico plan to ring in the New Year by filing for elections that could bring in as many as 170,000 new members. Last spring, Gov. Pedro Rosello signed a law allowing public sector workers to unionize. January 1 is the first day unions can file for elections. AFSCME, SEIU, UAW, UFCW, AFT and the Fire Fighters have been laying the groundwork for organizing government workers, including school janitors, tax assessors and emergency technicians. The AFL-CIO's Organizing Institute trained more than 100 organizers to handle the unprecedented demand.

NOVEMBER 1998

- DESIGNING A VICTORY.

Twenty-six gardeners, boiler plant operators and other workers in the office of the Architect of the Capitol voted for AFSCME Council 26 representation on Nov. 26. The new AFSCME members work in the Botanic Gardens near the U.S. Capitol in Washington, D.C.

- NO GAMBLE FOR WORKERS.

Like all Native American tribes, the Menominee Indian Nation is exempt from the National Labor Relations Act for commercial enterprises on its land. But in Kenosha, Wis., the Menominee Nation and a coalition of unions convened by AFSCME District Council 40 signed an historic agreement earlier this month that will allow workers at its proposed Paradise Key Casino in Kenosha to organize

and bargain collectively. The agreement also expands the rights of the casino employees beyond what is required under state and federal labor laws. Earlier, the Menominee Nation signed a project labor agreement with the Southwestern Wisconsin Building and Construction Trades Council.

- CHECK THIS OUT.

In Liverpool, N.Y., 80 library workers won voluntary recognition with CSEA/AFSCME Local 1000 last month. The Greater Syracuse Labor Council pitched in with help for the workers' organizing drive at the busiest suburban library in the area.

OCTOBER 1998

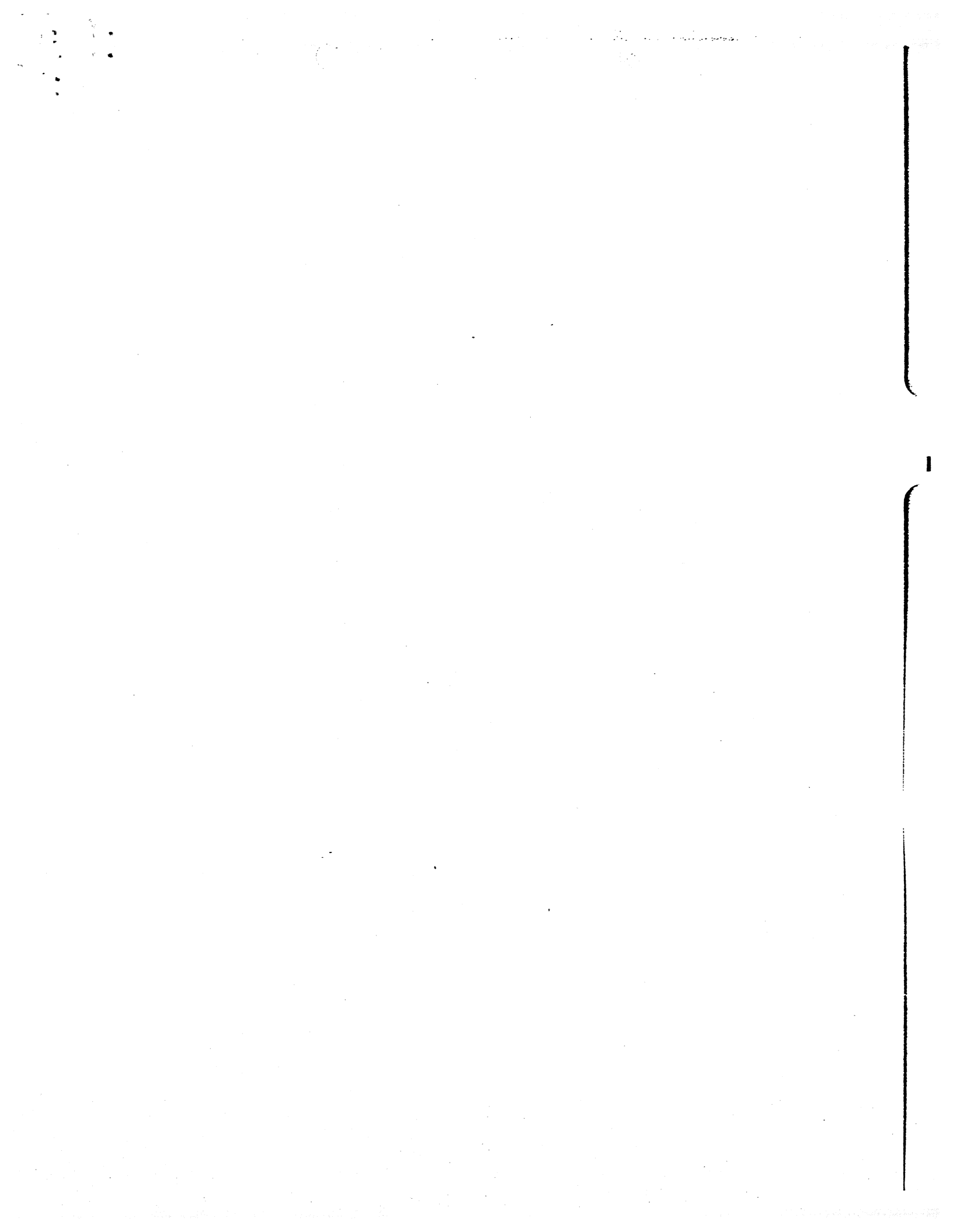
- AFSCME'S HEAD START.

A four-year struggle by 500 Head Start employees in Toledo, Ohio, ended in a win last month when they voted by more than a 3-1 margin for Ohio Association of Public School Employees/AFSCME Local 2 representation. Toledo area unions, the Ohio AFL-CIO and the Rev. Jesse Jackson all threw their support behind the workers' organizing efforts. It was the biggest win in OAPSE's history.

SEPTEMBER 1998

- WORKERS INTERVENE, VOTE UNION.

Workers at Interventions South Side, a Chicago drug rehabilitation service provider, tuned out management's strong anti-union campaign and voted for AFSCME Council 31 representation last week. Among management's tactics were daily anti-union literature, phone calls to workers at home, which included threats to terminate benefits, and promotion of employees out of the unit to supervisory positions. The 104 employees perform work that the city of Chicago has privatized.



PROJECT LABOR AGREEMENT FOR CONSTRUCTION

OF

NII-JII Entertainment, LLC/Menominee Tribe of Wisconsin Kenosha Project
(name of project)

WHEREAS, this Agreement is entered into this 13 day of August, 19 98, by and between NII-JII Entertainment LLC and Menominee Tribe Company (hereinafter referred to as the "Company") and the Southeastern Wisconsin Building and Construction Trades Council, AFL-CIO, (hereinafter referred to as the "Council"), acting as agent and representative of its member-unions;

WHEREAS, the Council and the Company, by this Agreement, intend to provide close cooperation between the Council and its member-unions and the Company for the express purpose of completing the construction of the above-named Project (hereinafter referred to as "Project"), without delays, strikes or work stoppages caused by any reason or dispute; and

WHEREAS, the parties wish to have this Agreement continued in effect during the full course of the construction of said Project.

NOW THEREFORE, in consideration of the above recitals and promises herein, the adequacy of which is hereby acknowledged, the parties agree as follows:

ARTICLE I: PURPOSE

The purpose of this Agreement is to promote efficient Project construction site, and to provide for peaceful settlement of labor disputes without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the work.

It is also the intent of the parties to set our uniformly standard working conditions, to establish and maintain harmonious relations among all parties to the Agreement, to secure optimum productivity and to eliminate delays in the prosecution of the work undertaken by the Employers on behalf of the Company.

ARTICLE II: SCOPE OF AGREEMENT

This Agreement shall apply to construction work, including trucking work, at the Project jobsite. The provisions of applicable local collective bargaining agreements shall apply to the work performed on the Project for those Employers signatory to the local agreement, unless any provision therein conflicts with a provision of this Agreement, in which case, this Agreement shall control. This Agreement shall remain in force until final completion of the Project or until such other time as may be mutually agreed upon by the Company and the Council.

ARTICLE III: UNION REPRESENTATION

Authorized representatives of the Unions shall have access to the jobsite provided they do not interfere with the work of employees and fully comply with the general rules established for visitors and security on the Project.

ARTICLE IV: NO STRIKE, NO LOCKOUT

As it is the specific intent of all parties that there shall be NO STRIKES OR LOCKOUTS, the Company shall include the following in the job specifications, to be adhered to by all parties:

- A. In the event of a strike or lockout in the building industry, the construction of the Project shall not be halted in any respect or for any reason, but will continue with the understanding that all settlements made between any affiliated local union of the Council and appropriate contractor groups shall be made retroactive to the expiration of the applicable collective bargaining agreement.
- B. It is specifically agreed between the parties hereto that the no-strike, no lockout obligation set forth in this Agreement applies to any type of work stoppage or interruption and with equal force to sympathy strikes of any kind whatsoever; including the honoring of picket lines at the Project. Strikes, stoppages, work interruptions and lockouts shall not occur under any circumstances.
- C. In the event of a violation in any respect of said no-strike, no-lockout obligation by any union, individual, contractor or subcontractor, any aggrieved party (including a union) may immediately commence an action for injunctive relief and, in said action, shall seek an order restraining such conduct. Upon a showing of such a violation, such injunctive relief may be issued by the court forthwith. Any such action for injunctive relief shall not restrict the right of an aggrieved party to recover monetary damages for any such violation.
- D. In all jurisdictional disputes, area and trade practices shall prevail as provided in the Rules and Procedures of the Plan for Settlement of Jurisdictional Disputes in the Construction Industry. Such Rules and Procedures shall govern all parties, including subcontractors, whether or not they or their associations are presently signatories to the Plan. There shall be no strikes or stoppages as a result of such disputes. The no-strike, no-lockout conditions set forth herein shall apply to such disputes.
- E. Prior to the commencement of construction work, and at the mutual direction of the employer or Building Trades Council, a pre-job conference shall be held between the representatives of the unions and employers to discuss all anticipated work assignments.
- F. In the event of a dispute or grievance other than jurisdictional disputes affecting the Project, the Business Representatives of the crafts involved shall submit such grievance to the Company Representative on the site, who shall have the authority to enforce the settlement of such grievances, and if settlements are not reached in this matter, grievance procedures prescribed in the applicable Local Agreement shall be followed. Any remedy may include back pay. There shall be no strikes or stoppages as a result of any such dispute. The no-strike, no-lockout conditions set forth herein shall apply to such disputes, as well as any other disputes which may arise.

ARTICLE V: SUBCONTRACTS

The Company agrees that neither it nor any of the subcontractors on the jobsite shall subcontract any work to be done at the site of construction except to a person, firm or corporation who is a party to a Collective Bargaining Agreement with an appropriate Union affiliated with the Council and who continues that Collective Bargaining Agreement in effect with respect to work related to this Project for the duration of said Project. Each contractor or subcontractor retains full authority for management of its operation and direction of work forces as provided in the applicable local labor agreement.

ARTICLE VI: TRUST FUND PAYMENTS

In the event a Union's Collective Bargaining Agreement permits a withholding of services in response to an Employer's willful failure to pay Union Trust Fund payments, withholding of services by employees of employers who have failed to make payments to the Union Trust Funds for established fringe benefits shall not be considered a violation of this Agreement, provided such withholding of services shall not be accompanied by picketing, hand billing or advertising to the public on any evidence of a labor dispute against the delinquent Employer.

Before withholding services by employees from the delinquent Employers, the appropriate Union shall notify the Employer involved, the contractor and the Council by written notice immediately of any delinquency to any Union Trust Fund so that the delinquency can be remedied without the necessity of withholding services by employees of the delinquent Employer. Immediate notice shall be defined as five (5) working days written notice in advance of any action by any Union to withhold services by employees from a delinquent Employer, or as per Local Union Collective Bargaining Agreement, if less than five (5) days.

ARTICLE VII: INCORPORATION INTO CONTRACT

The conditions set forth herein shall be made part of the Contract Documents and shall apply to all contracts and subcontracts relating to this Project. These conditions shall govern the no-strike, no-lockout obligations (and other obligations set forth herein) of all contractors, unions and employees involved in this Project, notwithstanding any other provision of any other Collective Bargaining Agreement or other Agreement which may be inconsistent with the provisions hereof.

ARTICLE VIII: DISPUTES

In the event of a dispute between the parties as to the meaning and/or interpretation of any terms and conditions of this Agreement, it is specifically agreed that there shall be no strikes, lockouts or other interruptions of any nature with the progress of the Project. The no-strike, no-lockout obligations set forth herein shall apply. With respect to any such dispute involving the interpretation or application of this Agreement, the parties to such dispute shall make an effort to resolve such dispute by joint meetings and discussions. If such disputes cannot be resolved by such discussions, they shall be submitted to arbitration for resolution by a neutral arbitrator (chosen from a panel of seven (7) persons submitted by the Federal

Mediation and Conciliation Service) for a final binding decision. Each party shall be responsible for its own expenses of said proceedings.

ARTICLE IX: NONDISCRIMINATION

The parties hereto agree not to discriminate against any individual with respect to hiring, compensation, terms or conditions of employment because of such individual's race, color, religion, sex, national origin, age or disability, nor will they limit, segregate, or classify employees in any way to deprive any individual employee of employment opportunities because of race, color, religion, sex, national origin, age or disability.

ARTICLE X: AFFIRMATIVE ACTION

The Southeastern Wisconsin Building Trades Council and the Unions it represents recognize the Company's commitment to Affirmative Action of the Project and pledge their cooperation to the greatest extent possible with the contractors and subcontractors working on the project towards fulfilling this commitment.

IN WITNESS WHEREOF, the undersigned have cause these presents to be executed this 13th day of August, 1998.

Dated: August 13, 1998

SOUTHEASTERN WISCONSIN BUILDING & CONSTRUCTION TRADES COUNCIL

By: Thomas D. Keihyze

Title: Vice President

Dated: Aug 13, 1998

MENOMINEE TRIBE

By: Apersonant

Title: Chairman

Dated: August 13, 1998

NII-JII ENTERTAINMENT LLC

By: [Signature]

Title: Manager

na7/ADDENDUMS
GENERIC-SEWISB
OPEIU 9 AFL-CIO-CLC
UNIPLEX

CERTIFICATE OF SERVICE

This is to certify that on this 18th day of February, 2000, a true and correct copy of the above and foregoing instrument was mailed first-class postage pre-paid, to:

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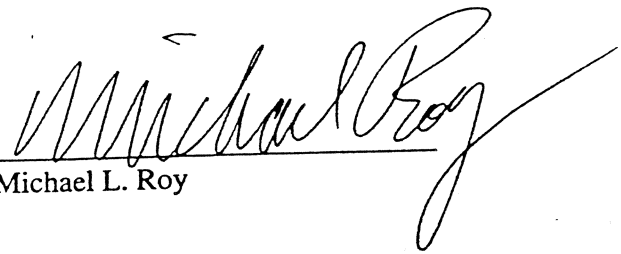
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