

# **PARTNERSHIP AGREEMENT**

**Between**

**Wisconsin's Eleven Federally Recognized Tribes**

Bad River Band of Lake Superior Chippewa Indians,  
Forest County Potawatomi Community,  
Ho-Chunk Nation,  
Lac Courte Oreilles Band of Lake Superior Chippewa Indians,  
Lac Du Flambeau Band of Lake Superior Chippewa Indians,  
Menominee Indian Tribe of Wisconsin,  
Oneida Nation,  
Red Cliff Band of Lake Superior Chippewa Indians,  
Sokaogon Chippewa Community,  
St. Croix Band of Chippewa Indians,  
Stockbridge-Munsee Community;

And

Wisconsin Division-Federal Highway Administration;

And

Wisconsin Department of Transportation

And

Bureau of Indian Affairs

**September 30, 2019**

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## Background

The United States government and federally recognized Indian tribal governments have a unique legal relationship as set forth in the Constitution of the United States, treaties, statutes, and court decisions.

The United States Department of Transportation (USDOT) issued Order 5301.1, "Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes" on November 16, 1999. This Order affirms the Department's and the USDOT Modal Administrations' unique legal relationship with Indian Tribes, establishes the Department's consultation and coordination process with Indian Tribes for any action that may significantly or uniquely affect them, and lists goals for Modal Administrations to meet when carrying out policies, programs, and activities affecting American Indians, Alaska Natives, and Tribes.

On November 6, 2000, President William J. Clinton issued Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 recognizes the unique legal relationship that the Federal government has with Indian Tribes and sets forth the criteria agencies should follow when formulating and implementing policies that have Tribal implications. In addition, Executive Order 13175 requires Federal agencies to establish a consultation process for interactions with Indian Tribes in the development of regulatory policies that have Tribal implications. The disclaimer language in the referenced Federal Executive Order shall apply to this MOA.

On September 23, 2004, President George W. Bush issued a Memorandum on Government-to-Government Relationships with Tribal Governments that tasked executive departments and agencies to establish to the greatest extent practicable and as permitted by United States law that the agency's working relationship with federally recognized tribal governments fully respect the rights to self-government and self-determination due to tribal governments.

In November 5, 2009, President Barack H. Obama issued a Memorandum on Tribal Consultation reaffirming the unique legal and political relationship with Indian Tribal governments and tasked executive departments and agencies with creating detailed plans of actions that they will take to implement the policies and directives of Executive Order 13175, "Consultation and Coordination with Indian tribal Governments" (Nov. 6, 2000). The memorandum gave agencies 90 days from issuance to create their plans of actions and directs agencies to create their plans in consultation with Indian tribes and tribal officials.

The USDOT affirmed its commitment to these principles, and those set forth in Executive Order 13175 and the President's November 5, 2009 memorandum, and submitted its Tribal Consultation Plan in 2010. The Secretary and the FHWA are committed to the Department's plan and to improving existing tribal resources. See: <https://www.transportation.gov/tribal>.

Wisconsin Governor Jim Doyle issued Executive Order #39 on February 27, 2004 "Relating to an Affirmation of the Government-to-Government Relationship Between the State of Wisconsin and Indian Tribal Governments Located Within the State of Wisconsin" which acknowledged the 11 federally recognized Tribes within Wisconsin (the Eleven Tribes) in 2004

and recognized the unique status of Indian Tribes and their right to existence, self-government, and self-determination; and

1. Directs cabinet agencies to recognize the unique legal relationship between the State of Wisconsin and Indian Tribes, respect fundamental principles that establish and maintain this relationship and accord Tribal governments the same respect accorded other governments;
2. Directs cabinet agencies to recognize the unique government-to-government relationship between the State of Wisconsin and Indian Tribes when formulating and implementing policies or programs that directly affect Indian Tribes and their members, and whenever feasible and appropriate, consult the governments of the affected Tribe or Tribes regarding state action or proposed action that is anticipated to directly affect an Indian Tribe or its members;
3. In instances where the State of Wisconsin assumes control over formerly federal programs that directly affect Indian Tribes or their members, directs cabinet agencies, when feasible and appropriate, to consider Tribal needs and endeavor to ensure that Tribal interests are taken into account by the cabinet agency administering the formerly federal program; and
4. Directs cabinet agencies to work cooperatively to accomplish the goals of this order.

Wisconsin Governor Tony Evers issued Executive Order #18 on April 9, 2019 "Relating to an Affirmation of the Government-to-Government Relationship Between the State of Wisconsin and Tribal Nations Located Within the State" which acknowledged that Tribal Nations have sovereign authority over their members and territory; treaties, rulings from Supreme Court of the United States, as well as Federal and State laws have established a unique legal relationship between states and Tribal Nations; there are eleven federally-recognized Tribal Nations within the State of Wisconsin; State policies, regulations, and decisions impact Tribal Nations both directly and indirectly; the State of Wisconsin and Tribal Governments both serve our citizens, and close collaboration is essential for productive, safe, sustainable, and wise decision-making and policy implementation; and:

1. Recognize the State of Wisconsin's unique legal relationship with Tribal Nations and engage them with the respect accorded to other governments.
2. Engage Tribal Governments, on a government-to-government basis, in developing policies or programs that directly impact Tribal Nations or their members, and appropriately consult Tribal Governments on matters that may indirectly impact Tribal Nations or their members.
3. Develop an updated consultation policy that does the following:
  - a. Ensures the State government workforce is educated on Tribal Nations and sovereignty;
  - b. Strengthens the day-to-day working relationships between Tribal and State government agencies;
  - c. Provides for at least annual consultation meetings with Tribal and State leaders; and

- d. Identifies at least one agency staff member to serve as a liaison between the agency and the Tribal Nations.
4. Ensure impacted Tribal Governments and interests are represented and respected when managing federal programs.

The Wisconsin Department of Transportation ("WisDOT"), a cabinet agency of Wisconsin, executed a Partnership Agreement on May 24, 2005, consistent with Executive Order #39 creating and defining the processes by which the WisDOT and the Wisconsin Division- FHWA and the Bureau of Indian Affairs Midwest Regional Office ("BIA"), will work in collaboration with the Eleven Tribes of Wisconsin, collectively, "the Partners".

The purpose of this Agreement was to acknowledge and support the government-to-government relationship between tribes and state and federal agencies and to support American Indian sovereignty;

The WisDOT established the Wisconsin Inter-Tribal Task Force ("ITTF") which consists of representatives designated by the tribal leaders and the WisDOT staff to carry out the Partnership Agreement. The ITTF's purpose is to serve as a tool to forge and enhance government-to-government relationships between the Eleven Tribes and state and federal transportation agencies while enhancing policies and provisions affecting the signatories (Partner's) interests.

A new Partnership Agreement (Agreement) was executed on October 26, 2010 to add Emphasis Areas and set Measurable Achievements.

The Partners continue to agree that:

1. Transportation systems play a vital role in the economic health and vitality of all Wisconsin communities;
2. Wisconsin's tribal governments continue to face distinct challenges in meeting the transportation related needs of their communities, such as equitable access to transportation programs;
3. These inequities often result in negative impacts upon tribal and local economies, human and natural environments, and quality of life; and
4. The goal of a government-to-government relationship is aimed at working with tribes as equal partners focused on economics, and natural and human environments to improve the quality of life for all.

The Partners further agree that additional Emphasis Areas as defined in Section 4, are appropriate for inclusion in the Agreement. The additional areas include: the building of municipal relationships; communications and public relations; identify and work to minimize institutional barriers; and emergency or unanticipated emphasis area. All provisions of the Agreement are subject to the authorities' applicable programs such as Tribal Transportation Program (also known as the "TTP"), formerly known as the Indian Reservation Roads Program ("IRR") and state and federal law including the Federal-aid Highway Program.

The WisDOT, FHWA, BIA, the Eleven Tribes of Wisconsin hereby enter into the 2019 Partnership Agreement in good faith.

The Partners place significant value in working as equal partners and agree that government-to-government relationships are best served when they are guided by moral, ethical and professional principles and applicable law. This Agreement expresses the desire of the WisDOT, FHWA, BIA, and the Eleven Tribes to implement the guiding principles of government-to-government relations pursuant to each partner's authority.

## **1. Agreement.**

As Partners under this Agreement, all Partners agree to:

- A. Work together under the framework of the Guiding Principles in Section 2 by providing the transportation related programs and services to better serve their communities and the public.
- B. Follow protocols to enhance collaboration and implement a timeline identifying measurable results and specific contact staff for timely communication. Addendum 1 is incorporated as a part of this Agreement and is a map of statewide regions and tribal locations, including a link to detailed regional tribal liaison contacts who are the essential key points of communication with WisDOT to facilitate the successful implementation of partnership projects and action items.
- C. Reaffirm the ITTF as the primary forum to address immediate and long-standing transportation issues that may impact tribal communities.
- D. Recognize that administration and financial support is essential to the success of the state and federal agency programs, including but not limited to: ITTF; Tribal Historic Preservation Officer (THPO); and the Tribal Labor Advisory Committee (TLAC) programs, partnership projects, and action items. This Agreement does not determine specific individual tribal funding issues or state or federal funding formulas.
- E. Be bound to act in good faith for any dispute resolution processes relating to transportation issues that may impact tribal communities.
- F. Except as expressly provided in this Agreement, nothing in this Agreement is intended to replace government-to-government communication between leadership of respective Partners.

## **2. Guiding Principles.**

All Partners hereby agree to the following Guiding Principles:

- A. Foster meaningful government-to-government relations.
- B. Improve or create programs that positively impact tribes.
- C. Ensure meaningful tribal input into transportation programs, policies and activities that impact tribes.
- D. Ensure uniform and effective delivery of tribal programs throughout the state.
- E. Assist in implementing tribal infrastructure projects.

- F. Assist tribes in developing transportation capacities.
- G. Facilitate communications between Partners regarding national tribal infrastructure policy and programs provided by the federal government.
- H. Recognize tribal culture, values, expertise, knowledge, experience, perspectives, and needs in a collaborative manner to achieve success in transportation related activities.
- I. Allocate or dedicate resources to support the initiatives of this Agreement and build upon the partnerships reaffirmed in this Agreement to achieve success.
- J. Advance the shared goals of the Partners through improved working relationships and partnership building.
- K. Adhere to or exceed applicable consultation framework to ensure the long-term success of this Agreement.
- L. Work together in a proactive, cooperative and good faith manner.

### 3. **Government-to-Government Communications in Emphasis Areas.**

This section does not preclude direct communications between tribal leaders and state or federal agency officials.

- A. **Communications Initiated by Tribes to WisDOT.** When initiating contact, a tribe should first contact their regional liaison. This may be verbally or in writing. Individual tribes shall designate a main point of contact for agency staff to reach (Tribal Chair, ITTF representative or Tribal Historic Preservation Officer). At any time, a Tribe may request federal agency involvement in any matter. When an issue is identified that impacts multiple tribes, the issue may be addressed through the Statewide Tribal Liaison, ITTF or other applicable tribal transportation program/s.
- B. **Communications Initiated by WisDOT to Tribes.** WisDOT Tribal Regional Liaison shall contact, in writing, the ITTF Tribal Representative, and applicable federal agencies, including, if necessary, the WisDOT Statewide Tribal Liaison. The Regional Tribal Liaison shall monitor and facilitate the communication process through resolution.
- C. **Communications Initiated by Federal Agencies.** As federal agencies, the FHWA and BIA shall comply with applicable federal tribal consultation policies. Consultation obligations under this Agreement shall not disturb or replace any federal agency consultation efforts and obligations with tribes directly. The Partners shall seek to appropriately consult with tribes to fulfill their obligations under this Agreement and applicable federal law.

- 4. **Emphasis Areas.** The Emphasis Areas and Measurable Achievements of this Agreement shall be established by the Partners working together through the annual ITTF strategic planning process. These shared emphasis areas and implementing activities promote the partnership's core values of quality, opportunity, engagement, and sustainability, and shall lead to means of measuring successful engagement and achievements. The core emphasis areas identified by tribes and acknowledged by the transportation agencies are as follows:

- A. **Partnership.** The ITTF shall develop and distribute to each Partner an annual work plan that sets forth the goals under the Partnership Agreement. The annual work plan shall include objective means to measure achievement of these goals.  
See: <http://wisdottribaltaskforce.org/about-itff/annual-work-plan/>
- B. **Transportation Safety.** The ITTF shall work to identify and expand joint transportation related safety initiatives and opportunities involving education, enforcement, engineering, and emergency response that bring benefits to tribal communities and other partners, including law enforcement initiatives such as tribal inclusion in state patrol data systems and training.
- C. **Economic Development.** The ITTF shall work with all appropriate groups, agencies, and committees to identify, assess and enhance infrastructure development, entrepreneurial assistance, and youth development programs meaningful to each Partner.
- D. **Building Capacity of Tribally Owned and Tribal-Individual Owned Businesses.** The ITTF shall work with the Partners to ensure that tribes and tribal members receive employment, training, business, and economic opportunities for Indian-owned businesses afforded by law, such as the Indian Self-Determination and Education Assistance Act (the "ISDEAA")(25 U.S.C. Chapter 46), recognizing that the ISDEAA does not apply to the Federal-aid Highway Program but with the purpose to: provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes. See also Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.) and the related obligations imposed by Executive Order 11246 (requiring equal opportunity in employment). Efforts by the ITTF shall focus on training sessions for labor and tribal businesses; to reduce unemployment rates; enhance tribal economies; administer contracts; and comply with applicable regulations.
- E. **Native American Labor Development.** The ITTF shall continue to work diligently with the Statewide Native American Labor Initiative to fulfill the following goals and initiatives:
1. Enhance the capacity of tribal employment offices to maintain information on their ready, willing and able work force and create a more efficient means of recruitment and referral for WisDOT projects;
  2. Develop and create a centralized inter-tribal Native American employment database;
  3. Establish a standard process by which contractors can recruit and/or receive referrals of qualified individuals that are ready, willing, and able to work on WisDOT construction projects;
  4. Enhance the monitoring and reporting of Native American labor activities on WisDOT projects. Increase cultural awareness and understanding between tribal



- employment offices and the construction industry to foster the development of stronger partnerships;
5. Institutionalize a formal method of regular coordination and communication between tribal governments and the industry to ensure the Native American Labor Initiative and TLAC is effectively and efficiently applied;
  6. Establish outreach initiatives that promote communication between all stakeholders engaged in Native American labor activities;
  7. Enhance communication and labor activities;
  8. Ensure tribal members have an equitable opportunity to engage in WisDOT/FHWA training programs that support their introduction into the construction industry;
  9. Ensure tribal employment offices have adequate training in Transportation Alliance for New Solutions (TrANS) and methods for successfully placing applicants into the work force;
  10. Increase hiring and long term employment opportunities for Native American TrANS graduates and qualified individuals interested or working in the construction industry;
  11. Utilize non-WisDOT training services to enhance tribal labor work force development opportunities;
  12. Provide educational materials and reference tools to enhance tribal participation in training programs, union and non-union apprenticeships and training programs;
  13. Increase incentives for utilizing Native American labor; and
  14. Support the government-to-government relationship between the state and the tribes and enhance Native American labor employment opportunities for projects that are located on or partially on tribal or reservation lands.
- F. **Compliance with Tribal Labor and Indian Preference Codes.** The ITTF shall continue to work diligently with the TLAC to achieve full compliance with tribal labor and Indian preference codes, where they apply.
- G. **Transportation Training.** The ITTF shall work with Partners to identify mutually-beneficial transportation related training needs and identify funding sources for such training that helps each Partner achieve higher levels of success for their respective stakeholders.
- H. **Cultural Resources and Environmental Matters.** The Partners, in coordination with Tribal Historic Preservation Officer(s) or Tribal Representative(s), shall serve as a forum to network, assess and develop data management system/s, develop policy, identify funding sources to deliver training to meet shared cultural resource goals and objectives, and support the development of inter-governmental/agency agreements for the same. WisDOT shall adhere to its Facilities Development Manual ("FDM") consultation process for federal cultural resources and environmental issues. WisDOT

shall consult the Eleven Tribes with any updates or modifications to the FDM related to cultural resources and environmental matters pertinent to the tribe or tribes. The Partners recognize that obligations extend beyond this Agreement such as those set forth in federal laws such as NEPA, NHPA, NAGPRA and other applicable law. Consultation obligations under this Agreement shall not disturb or replace any federal agency consultation efforts and obligations with tribes directly. The Partners shall seek to appropriately consult with tribes to fulfill their obligations under this Agreement and applicable federal law.

- I. **Building Municipal Relationships.** The Partners recognize the need to build municipal partnerships and seize opportunities to maximize mutually-beneficial outcomes. Where WisDOT has contract or project control and the activities under consideration are within WisDOT's statutory authority, if requested by any Partner, the WisDOT shall lead the facilitation of relationship building with affected tribes and local cities, towns, villages, and counties for transportation-related matters. Such facilitation may include training or presentations, safety coordination, law enforcement coordination and training, exploration of cost-share opportunities, formation of agreements on jurisdictional concerns and encouraging communications between all parties to the project or contract.
- J. **Communications and Public Relations.** The Partners agree to seek collaborative support for and funding to erect signage that credits the program Partners and other stakeholders at successful project sites. The Partners agree to promote and encourage participation in ITTF events, conferences, activities and public service announcements or initiatives. The Partners agree to maintain and enhance the web-related resources available to accomplish the purpose, principles and Emphasis Areas of this Agreement.
- K. **Identify and Work to Minimize Institutional Barriers.** Whenever possible, streamline and reduce bureaucracy between the Partners in a true government-to-government relationship.
- L. **Emergency or Unanticipated Emphasis Area.** At the recommendation of any Partner, the ITTF shall assist in identifying areas of concern not listed above, propose solutions and assist in seeking funding to resolve emergency and unanticipated tribal transportation matters provided any such solutions are within the implementing Partner's authority to do so.

To facilitate a common background starting point for the Partnership Agreement, Addendum 2 provides a historic overview. For convenience and to assist partnership communication, Addendum 3 provides a list of commonly used key reference terms as defined by the Partnership Agreement Revisions Committee.

## 5. **Measurable Achievements.**

The Partnership Agreement Work Plan shall be evaluated by the ITTF and provided to all Partners on an annual basis.

See: <http://wisdottribaltaskforce.org/about-ittf/annual-work-plan/>.

## 6. **Dispute Resolution Process.**

From time to time, disagreements and disputes will occur. The key to forging lasting relationships is the manner in which differences are resolved. At any time prior to or during the dispute resolution process, any Partner(s) may request any other Partner(s) to participate in the dispute resolution process. If a tribal party requests signatory agency participation (federal or state agency), the agency must participate where an issue affects that agency. The goal of the resolution process is to have Partners continue working together seeking mutual solutions. This resolution process applies to the communication between Partners of this Agreement. The process is meant to lend assistance in the resolution of any issue. Tribes can contact WisDOT's Statewide Tribal Liaison directly with any issue if they feel issue resolution is more effective outside this process. The dispute resolution process will be honored by WisDOT for all tribes including those that are not Partners in this Agreement.

### *Step 1: Reporting a Dispute*

The dispute resolution process is initiated when a Partner submits a completed Dispute Resolution Form (DRF), attached as Addendum 4 to this Agreement, in writing or online to any other Partner(s), and the WisDOT Statewide Tribal Liaison who shall monitor the entire process through resolution.

### *Step 2: Providing Notice*

The initiating Partner must deliver the DRF to the WisDOT Statewide Tribal Liaison and the Regional Liaison via fax, email (receipt/read response preferred), and/or U.S. Mail, return receipt requested. The Statewide Tribal Liaison shall acknowledge receipt to the complaining Partner and any listed involved Partners on the dispute form within ten (10) WisDOT's business days of actual receipt, unless emergency expedited review is requested and/or warranted at the discretion of the Statewide Tribal Liaison or his/her delegate.

### *Step 3: WisDOT Response*

Up to but not more than thirty (30) calendar days after the WisDOT Statewide Tribal Liaison acknowledges receipt, the Statewide Tribal Liaison shall commence due diligence regarding the notice. The WisDOT Statewide Tribal Liaison will draft a response regarding the notice. The response will: determine whether the dispute is within the scope of this Agreement; assess the situation and create a plan for resolution; and identify what Partners are stakeholders. If the notice is determined to be within the dispute process herein, the WisDOT Statewide Tribal Liaison will prepare a detailed Dispute Resolution Plan (the "DR Plan") and issue the same, in writing, to all involved or affected Partners. The response will be provided via fax, email (receipt/read response preferred), and/or U.S. Mail, return receipt requested. If expedited review applies, then the State Tribal Liaison shall make reasonable efforts to respond as soon as possible. If the DRP is applicable, the DR Plan shall include:

1. The appropriate level in the transportation agencies and Tribe/s for resolution;
2. The applicable federal agency dispute resolution process or WisDOT Dispute Resolution Process herein;
3. The liaison shall facilitate contact with the appropriate internal staff or management;
4. Identification of the issue/s and options for resolution;

5. The appropriate method of communication such as face-to-face meetings, teleconference calls, etc.; and
6. A timeline.

*Step 4: Responding and Finalizing the Dispute Resolution Plan*

All involved Partners shall respond to the Statewide Tribal Liaison with detailed edits, comments or concerns about the draft DR Plan within thirty (30) calendar days (the Comment Period), unless emergency expedited review applies. If any Partner does not submit input on the draft DR Plan within the prescribed Comment Period, the Partner has waived their opportunity to do so. The Statewide Tribal Liaison or his/her delegate shall consider all comments submitted within the prescribed Comment Period and issue a final DR Plan for implementation to all involved Partners.

*Step 5. Implement the DR Plan or Determine Elevated Resolution is Necessary*

The Statewide Tribal Liaison shall monitor the implementation of the final DR Plan. The Partner(s) hereby acknowledge that some disputes may not be able to be resolved to the satisfaction of all Partners. After reasonable good faith efforts to implement the final DR Plan and if any involved Partner(s) or the Statewide Tribal Liaison determines that the final DR Plan is ineffective or inappropriate, only then can any Partner request Elevated Dispute Resolution and justification thereof, in accordance with Step 6 as follows.

*Step 6: Elevated Dispute Resolution, When Necessary*

If any Partner requests an Elevated Dispute Resolution, then the Statewide Tribal Liaison shall initiate consultation with each Partner on the following levels as follows:

1. BIA – Regional Director or authorizing official;
2. FHWA – Division Administrator;
3. WisDOT – Secretary of Transportation; and
4. Tribes – Tribal Chair or President.

The Statewide Tribal Liaison shall provide the Dispute Resolution Form, the final DR Plan and any substantive documents related to the dispute resolution to each Partner. In the event a dispute remains unresolved through Steps 1-5, an affected Partner may request mediation. Affected Partners may recommend a mediator or moderator within fourteen (14) calendar days after notice from the Statewide Tribal Liaison is issued. All affected Partners will vote on mediator or moderators and the highest vote total shall be the selected mediator or moderator. The mediator or moderator shall then timely commence the Elevated Dispute Resolution process. The Partners shall then make good faith efforts to work together to resolve the underlying dispute. Findings and recommendations from the mediation process shall not be binding on the Partners.

7. **Miscellaneous Provisions.**

- A. **Agreement Date.** This Agreement shall become effective upon signature by at least one Tribal Partner and both FHWA and WisDOT. All Partners shall be duly authorized to enter into this Agreement by their respective governmental entities.
- B. **Amendment.** This Agreement shall not be modified, amended or otherwise altered without the prior written consent of all signatory Partners. Any modification, amendment or otherwise altered provision of this Agreement shall become effective in accordance with the execution of all signatory Partners. All Partners agree to enter into good faith negotiations regarding proposed amendments. Any disputes over the obligation to negotiate in good faith or in dispute of proposed amendments may be resolved under the Dispute Resolution Process in Section 6 of this Agreement.
- C. **Duration.** The duration of this Agreement shall have an initial term for five (5) years and thereafter be automatically extended for terms of five (5) years. Partners may provide written notice of non-renewal or withdrawal as a Partner at any time. Withdrawal by any tribal Partner or Partners does not invalidate this Agreement as to remaining Partners. Should an agency Partner wish to withdraw from this Agreement, the signatory Partners should explore prospective amendments subject to Section 7(B) above prior to the effective date of such withdrawal.
- D. **Non-Waiver of Sovereign Immunity.** The Partners do not waive their sovereign immunity, under either state or federal law, by entering into this Agreement and no provision of this Agreement is intended to waive, alter, or affect Tribal, State, or Federal sovereign immunity.

**[SIGNATURE PAGES FOLLOW]**

## SIGNATURE PAGES

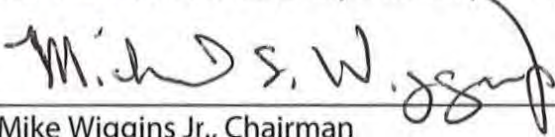
Wisconsin Department of Transportation  
Tribal Partnership Agreement  
September 30, 2019

IN WITNESS WHEREOF, the undersigned Partners, as signatories to this Agreement, being duly authorized hereto by their respective governmental entities, hereunto agree.

BY:



Bad River Band of Lake Superior Chippewa Indians

  
Mike Wiggins Jr., Chairman



Forest County Potawatomi Community

  
Ned Daniels Jr., Chairman



Ho-Chunk Nation

  
Marlon WhiteEagle, President



Lac Courte Oreilles Band of Lake Superior Chippewa Indians

*Louis Taylor*  
Louis Taylor, Chairman



Lac du Flambeau Band of Lake Superior Chippewa Indians

*Joseph Wildcat Sr.*  
Joseph Wildcat Sr., President



Menominee Indian Tribe of Wisconsin

*Douglas Cox*  
for Doug Cox, Chairman



Oneida Nation of Wisconsin

*Tehassi Hill*  
Tehassi Hill, Chair



Red Cliff Band of Lake Superior Chippewa Indians

A handwritten signature in black ink, appearing to read "Rick Peterson".

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Rick Peterson, Chairman



Sokaogon Chippewa Community

A handwritten signature in black ink, appearing to read "Garland McGeshick".

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Garland McGeshick, Chairman



St. Croix Chippewa Band of Lake Superior Chippewa Indians of Wisconsin

A handwritten signature in black ink, appearing to read "Susan Lowe" with "for SUSAN LOWE" written below it.

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Susan Lowe, Chairwoman



Stockbridge-Munsee Community

A handwritten signature in black ink, appearing to read "Shannon Holsey".

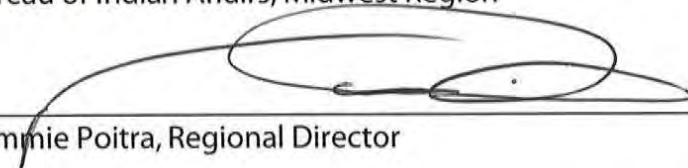
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Shannon Holsey, President





Bureau of Indian Affairs, Midwest Region



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Tammie Poitra, Regional Director



Wisconsin Division-Federal Highway Administration



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Glenn Fulkerson, Division Administrator



Wisconsin Department of Transportation

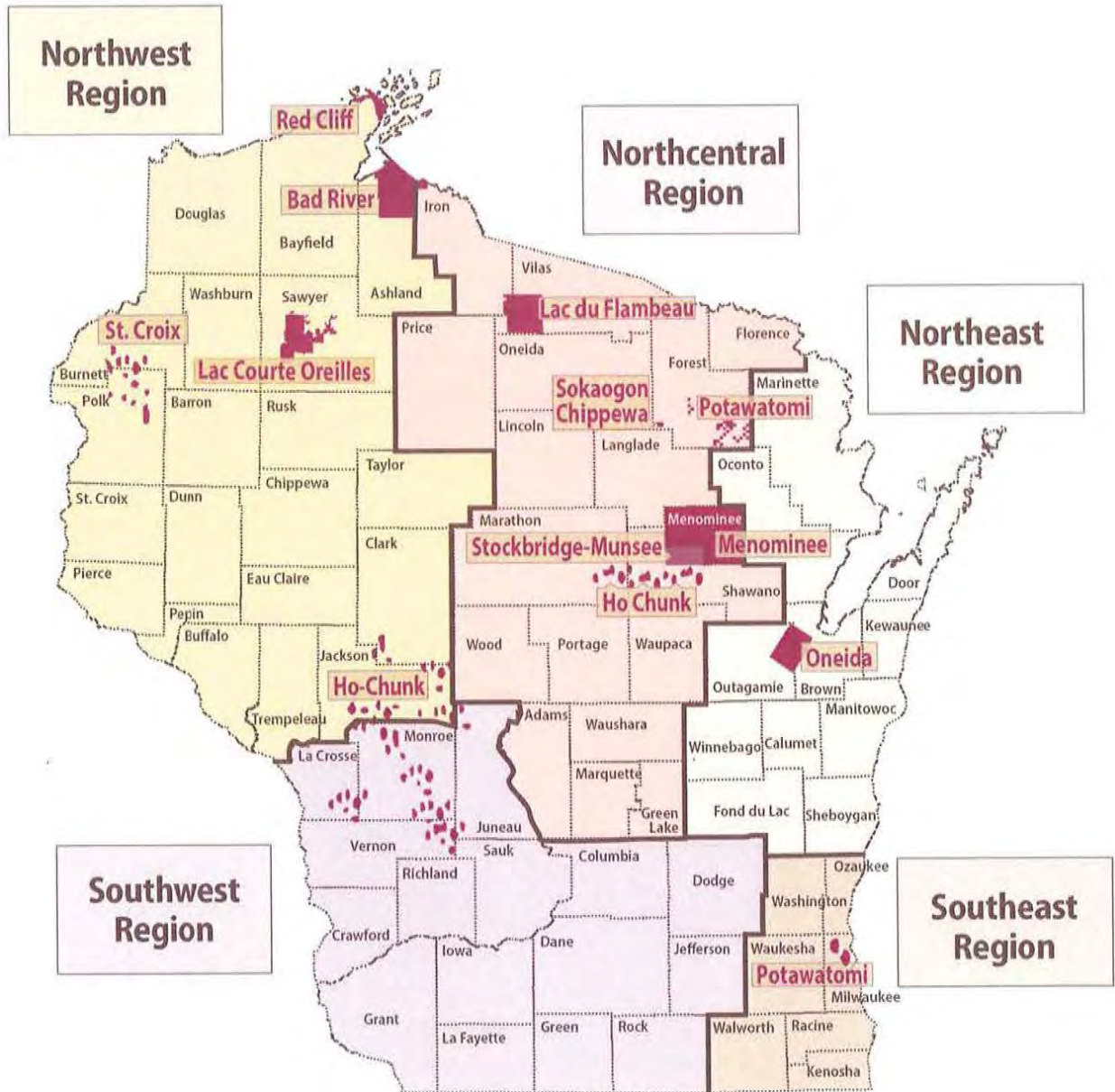


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Craig Thompson, Secretary-Designee

# Addendum 1 – Map of Statewide Regions and Tribal Locations

## Wisconsin DOT Tribal Communities



Source: Tribes of Wisconsin, Wisconsin Department of Administration  
Division of Intergovernmental Relations, July, 2011, page 28

For a detailed list of Statewide and Regional Liaisons, see:  
<http://wisconsindot.gov/Pages/doing-bus/civil-rights/tribalaffairs/contacts.aspx>

## **Addendum 2 – Historic Overview Problem Identification**

Work toward the initial partnership agreement began in 2000, when the Wisconsin Division-Federal Highways Administration (FHWA) recognized and responded to a shortfall in Native American participation in transportation programs and services in Wisconsin. FHWA then began a process to first understand what was causing the shortfall, and then seek solutions to increase that level of participation. Under the initial leadership of William Fung, FHWA Division Administrator, the agency began visiting each tribe in Wisconsin. When Bruce Matzke replaced Mr. Fung in 2002, he continued on with that initiative. Together with Mary Williams, the FHWA Civil Rights Program Manager, he continued visiting Wisconsin's tribes seeking to understand tribal needs, and identify solutions to meet those needs. Tribes recognized the immense value of agency leader visits to each and every tribal community in Wisconsin.

One of the solutions the agency determined necessary was a higher level of partnership and collaboration between Wisconsin's tribes and transportation agencies. In 2003, WisDOT received funding from FHWA and secured a contract with the College of Menominee Nation (CMN) to develop the framework for government-to-government relationship building between the tribes and the agencies.

### **Methodology**

CMN first sought to clarify information gaps by designing a needs assessment survey. The assessment process had two goals. First, CMN needed to understand the full scope of needs in each individual tribal community. Second, CMN leveraged its successful outreach programs by involving key stakeholders in the needs assessment and solution seeking strategies based upon their self-identified needs, goals, and solutions. The activity is more successful if it has need, relevancy and support of the community through the full participation of key stakeholder and constituent groups.

On May 4, 2004, CMN staff mailed the needs assessment to all Wisconsin tribal leaders. Staff then engaged in follow-up activities until June 23, 2004 to secure the greatest number of responses. Follow-up consisted of additional mailings, telephone calls, and personal visits.

CMN achieved a response rate of 80 percent. Bad River Band of Lake Superior Chippewa, Forest County Potawatomi, Ho-Chunk, Lac Du Flambeau Band of Lake Superior Chippewa, Menominee, Oneida, Red Cliff Band of Lake Superior Chippewa, Sokaogon Band of Lake Superior Chippewa, and Stockbridge-Munsee all provided information. Only St. Croix Band of Lake Superior Chippewa, and Lac Courte Oreilles Band of Lake Superior Chippewa did not respond to the needs assessment or subsequent follow-up.

## Key Findings

CMN was forced to qualify the data rather than quantify it, due to the complex organizational structure and sheer volume of programs and services of the WisDOT. The results of the assessment process showed that overall the tribes were concerned with three issues:

- **Communication** – tribes did not feel there is adequate consultation or inclusion in transportation related activities.
- **Economic Development/Capacity Building** – the majority of tribes were not aware of the full scope of programs and services.
- **Sustainability** – many of the tribal staff doubted that such an agreement would be sustained over the long term.

Based upon these findings, CMN assembled an agreement grounded in the basic core values of quality, opportunity, engagement, and sustainability.

## Key Participants

The Eleven Tribes recognized in Wisconsin are:

- Bad River Band of Lake Superior Chippewa Indians
- Forest County Potawatomi Community
- Ho-Chunk Nation
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians
- Lac Du Flambeau Band of Lake Superior Chippewa Indians
- Menominee Indian Tribe of Wisconsin
- Oneida Nation
- Red Cliff Band of Lake Superior Chippewa Indians
- Sokaogon Chippewa Community
- St. Croix Band of Lake Superior Chippewa Indians
- Stockbridge-Munsee Community

Wisconsin Department of Transportation (WisDOT)

Wisconsin Division-Federal Highway Administration (FHWA)

Bureau of Indian Affairs (BIA) Midwest Region

## Addendum 3 – Key Reference Terms

For convenience and to assist partnership communication, Addendum 3 provides a list of commonly used key reference terms as defined by the Partnership Agreement Revisions Committee of the ITTF.

**Bureau of Indian Affairs (BIA):** The Bureau of Indian Affairs within the U.S. Department of the Interior was created under the authority of Article I, Section 8, of the U.S. Constitution which delegates Congress the power over Indian affairs: "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The BIA, one of the oldest bureaus in the Federal government, was administratively established to oversee and carry out the Federal government's trade and treaty relations with the tribes. Congress gave the BIA statutory authority by the act of July 9, 1832 (4 Stat. 564, chap. 174).

**Consultation:** The timely process of seeking, discussing, and considering the views of others in an informed and meaningful way and, where feasible, seeking agreement.

**Disadvantaged Business Enterprise (DBE):** A business owned and operated by one or more socially and economically disadvantaged individuals. Socially and economically disadvantaged individuals include African Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or Asian Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act.

**Federally-Recognized Tribes:** Means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior recognizes as an Indian tribe pursuant to the Federally Recognized Indian List Act of 1994, 25 U.S.C. 479a. Tribes have the immunities and privileges available to federally recognized Indian Tribes by virtue of their inherent sovereignty and their government-to-government relationship with the United States as well as the responsibilities, powers, limitations, and obligations of such Tribes. This list is updated annually in the Federal Register.

**Federal Highway Administration (FHWA):** The Federal Highway Administration (FHWA) is a division of the U.S. Department of Transportation. The FHWA is a cabinet-level organization of the Executive Branch of the U.S. Government. The FHWA specializes in highway transportation.

**ITTF or ITTF Representative:** Formerly named the WisDOT Tribal Task Force, the WisDOT Inter Tribal Task Force (ITTF) was established pursuant to the original 2005 Partnership Agreement. This group consists of representatives designated by individual tribal governments and WisDOT, including WisDOT designees, and governed by ITTF Bylaws.

**Native American Disadvantaged Business Enterprise (NADBE):** A business owned and operated by one or more Native Americans that are socially and economically disadvantaged individuals pursuant to the Small Business Administration under Section 8(a) of the Small Business Act.

**Sovereignty:** The inherent right, with respect to tribes, to self-govern. The possession of sovereign power; supreme political authority; paramount control of the constitution and frame of government and its administration; the self-sufficient source of political power, from which all specific political powers are derived.

**Tribal Labor Advisory Committee (TLAC):** The TLAC was established in December 2011 and charged with developing strategies to enhance Native American Labor opportunities on state and federal projects.

**Tribal Historic Preservation Officer (THPO):** In 1992, the U.S. Congress adopted amendments to the National Historic Preservation Act (P.L. 102-575) that allow federally recognized Indian tribes to take on more formal responsibility for the preservation of significant historic properties on tribal lands. Tribes that have designated THPO's formally assume the role of the state historic preservation officer (SHPO) on their tribal lands.

**Tribal Historic Preservation Project:** A tribally-administered project pursuant to the National Historic Preservation Act (P.L. 102-575) and WisDOT's Facility Development Manual, Chapter 26.

**Transportation Alliance for New Solutions (TrANS):** A WisDOT driven training program that provides 120 to 160 hours of training focused on entry level positions in road construction. The program encourages women and minorities to seek long term careers in road construction. TrANS is a cost-effective program that helps to fulfill entry-level laborer positions for construction contractors. It is a collaborative effort combining the strengths of industry and labor, community-based organizations, government and the contractors of Wisconsin.

**Tribal member:** refers to a member of a federally recognized tribe as determined by tribal membership rules.

**United States Department of Transportation (U.S. DOT):** The federal cabinet-level agency with responsibility for highways, mass transit, railroads, aviation and ports; headed by the secretary of transportation. The U. S. DOT includes the Federal Highway Administration and the Federal Transit Administration, Federal Aviation Administration and Federal Railroad Administration, among others. There are also state DOTs (known as WisDOT in Wisconsin).

**Wisconsin Department of Transportation (WisDOT):** The state cabinet-level agency with responsibility for highways, mass transit, aviation, railroad development and ports, headed by the Secretary of Transportation.

## Addendum 4 – Dispute Resolution Form

Background: The 2019 Tribal Partnership Agreement establishes a formal dispute resolution process that is initiated when a representative of a tribal government(s) or WisDOT outline the issue in writing to the designated representative of the other party, with a copy to the Statewide Tribal liaison who will monitor the entire process thru completion/resolution.

CHECK THIS BOX IF EXPEDITED REVIEW IS REQUESTED:

<b>TRIBE</b>	
<b>REPRESENTATIVE</b>	
<b>COMPLAINANT CONTACT INFORMATION</b>	Name/Tribe/Agency _____ Telephone _____ Email _____ Address _____ _____
<b>INVOLVED PARTNERS</b>	Name/Tribe/Agency _____ Telephone _____ Email _____ Address _____ _____
<b>AGENCIES OR INDIVIDUALS CONTACTED</b>	
<b>STATEMENT DESCRIBING ISSUE</b>	
<b>DESIRED SOLUTION</b>	
<b>TIMELINE</b>	