



**MENOMINEE NATION
MENOMINEE TRIBAL LEGISLATURE
ORDINANCE NO. 24-15**

Final Approval:

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

Article I, Section 1, and Menominee Tribal Code Chapter 138, Article I HEARTH Act general leasing provisions, the following commercial lease of Tribal land is hereby authorized:

Commercial Lease

Commercial Lease Request

Please see the attachment

(Please see the attachment)

CERTIFICATION

CERTIFICATION

The undersigned officers of the Menominee Tribal Legislature hereby certify that at a meeting of the Legislature on April 4, 2024, at which a quorum was present, the above Ordinance No. 24-15 was **TABLED** by a vote of **9** for, **0** opposed, **0** abstentions, and **0** absent.

We further certify that this Ordinance has been posted in accordance with the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin.

Gena Kakkak

Handwritten signature of Gena Kakkak in blue ink.

**Gena Kakkak, Tribal Chairwoman
MENOMINEE INDIAN TRIBE OF WISCONSIN**

Spencer Gauthier

Handwritten signature of Spencer Gauthier in blue ink.

**Spencer Gauthier, Tribal Secretary
MENOMINEE INDIAN TRIBE OF WISCONSIN**

DATE: April 4, 2024

MENOMINEE COUNTY
MENOMINEE
ORDI

Commercial Lease Request

Menominee Indian School District

LOT 1 BEING THAT PART OF PARCEL NO.1, VOLUME NO. 2, PAGES 195-196, CERTIFIED SURVEYS, MENOMINEE COUNTY RECORDS; BEING A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, ALL IN TOWNSHIP 28 NORTH, RANGE 15 EAST, IN MENOMINEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 16, OF THE ASSESSORS PLAT NO. 1, OF THE UNINCORPORATED VILLAGE OF KESHENA; THENCE S.06°06'0"W. ALONG THE WEST LINE OF S.T.H. 47-55, 437.42 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUE ON THE SAME LINE 63.83 FEET; THENCE FOLLOWING A HIGHWAY CURVE TO A POINT, THE CHORD OF WHICH BEARS S. 05°29'17"W. 245.52 FEET; THENCE N.72°45'34"W. 310.37 FEET; THENCE N.86°41'48"W. 660.31 FEET TO THE WEST LINE OF SAID CERTIFIED SURVEY MAP; THENCE FOLLOWING THE WEST LINE OF SAID CERTIFIED SURVEY MAP N.11° 47'12"E. 238.73 FEET; THENCE S.89°25'36"E. 75.00 FEET; THENCE S.88°52'11"W. 496.32 FEET; THENCE S. 81°15.0'E. 370.13 FEET TO THE PLACE OF BEGINNING.

EXCEPTING LOT 2, THAT PART OF PARCEL NO.1, VOLUME NO. 2, PAGES 195-196, CERTIFIED SURVEYS, MENOMINEE COUNTY RECORDS; BEING A PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 25, ALL IN TOWNSHIP 28 NORTH, RANGE 15 EAST, IN MENOMINEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 16, OF THE ASSESSORS PLAT NO. 1, OF THE UNINCORPORATED VILLAGE OF KESHENA; THENCE S.06°06'0"W. ALONG THE WEST LINE OF S.T.H. 47-55, 437.42 FEET; THENCE S. 81°15.0'E. 370.13 FEET TO THE PLACE OF BEGINNING; THENCE S.88°52'11"W. 496.32 FEET; THENCE CONTINUE ALONG THE WEST LINE OF SAID CERTIFIED SURVEY MAP, N.06°34'24"E 427.91 FEET TO THE NORTH LINE OF SAID CERTIFIED SURVEY MAP; THENCE FOLLOWING THE NORTH LINE OF SAID CERTIFIED SURVEY MAP S.86°59'06"E. 530.55 FEET; THENCE S.06°06.0"W. 157.99 FEET; THENCE S.23°20'54"W. 134.66 FEET; THENCE S.06°06.0"W. 115.94 FEET TO THE PLACE OF BEGINNING.

COMMERCIAL LEASE

This Commercial Lease (as amended, supplemented, or restated from time to time in accordance herewith, the "Lease") is entered into as of the ____ day of _____, 2024, by and between Menominee Indian Tribe of Wisconsin ("Lessor"), a federally recognized Indian Tribe 25 U.S.C. §§ 903-903f, and Menominee Indian School District ("Lessee").

This Lease is entered into for business and commercial purposes.

1. Premises

For the Term hereinafter defined, Lessor hereby leases to Lessee and Lessee leases from Lessor, for the consideration and upon the terms and conditions hereinafter set forth, that certain real property situated on the Menominee Indian Reservation and held in trust by the United States solely for the benefit of Lessors, consisting of (10.5) acres, more or less, and legally described on EXHIBIT A (the "Premises"), subject only to the permitted encumbrances set forth therein.

2. Purpose

This Lease is the product of an exchange of land between Lessee and Lessor in accordance with MITW Constitution and Bylaws Article X, Section 1. This Lease is solely and exclusively for business and commercial purposes, and throughout the term of this Lease, Lessee shall have the sole and exclusive rights to use the Premises for commercial activities subject to the subsections below.

(a) Use. It is mutually agreed by Lessee and Lessor that the express purpose of this lease is for a recreational area for educational purposes and will be used in accordance with all zoning and other land use restrictions, and all other terms of this Lease and applicable law. Lessee is expressly prohibited from expanding the premises, constructive possession, and the construction of any improvements, permanent or temporary beyond the described and recorded Premises.

(b) Restricted Use. Lessee will not use or cause to be used 4.3 acres as identified on Exhibit A as "Restricted Use for Educational Purposes, LOT 2" for any other purpose except educational purposes as this area consists of protected wetlands. The area can be used for environmental/cultural educational purposes only. Violation of this identified restricted use is considered an event of default subject to Section 18 below.

(c) Legal Compliance. Lessee will not use or cause to be used any part of the Premises for any unlawful conduct or purpose; provided that Lessee may contest in good faith any claim of a legal violation as long as (i) Lessee prosecutes its contest diligently and in good faith, (ii) none of the Lessor, Secretary of the Interior ("Secretary") or United States is in imminent jeopardy of liability and (iii) the Premises are not in danger of forfeiture or encumbrance. In the event of any such contest, Lessee shall indemnify, defend and hold Lessor harmless from and against any claim, damage or expense on account thereof. Lessee must comply with all applicable laws, rules, regulations, and policies.

(a) No Obligation by Lessor. Lessor shall not be required to maintain, repair or rebuild, or to make any alterations, replacements or renewals of any nature or description to, the Improvements or any part thereof, whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen.

(b) Nonresponsibility of Lessor. Nothing in this Lease shall be deemed to be, or construed in any way as constituting, the consent or request of Lessor or the Secretary expressed or implied, by inference or otherwise, to any person for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration or repair of or to the Premises or to any improvements thereon or any part thereof.

(c) Existing Improvements. Lessee accepts the Premises "as is", "where is" and "with all faults" as of the date hereof, without any obligation of Lessor to remove existing buildings or the improvements, personal property or debris, if any.

(d) Permits. Prior to the commencement of construction of any Improvements, Lessee, at its sole cost and expense, shall obtain all necessary licenses, permits approvals and authorizations from all Tribal, federal and other agencies having jurisdiction over construction and/or operation of the Premises that can be obtained and are required prior to such commencement. Thereafter Lessee shall be responsible for obtaining all permits required to complete such construction and engage in such operation, and Lessor will cooperate with all reasonable requests for assistance regarding same if/when needed.

(e) Development Plan. Intentionally Omitted

(f) Notice to Tribal Utilities and Environmental Services Department. Subject to the provisions of Sections 8 and 9 below.

(g) Parking Area. Lessee is responsible for maintenance of any parking area in a reasonably safe condition, including, but not limited to snow and ice removal and control.

(h) Covenant of Continuous Operation. Lessee covenants that the Premises shall be used by Lessee, continuously during the term of this Lease, subject to a reasonable period of time to plan, construct and develop the Facility.

6. Responsibility for Costs

(a) Development Costs. All costs and expenses of the planning, construction, operation and maintenance of the Facility, as well as any necessary site reclamation, shall be the responsibility of and paid by Lessee. These costs and expenses shall include, but not be limited to, any and all costs associated with any necessary permitting, environmental studies, appraisal and survey work, labor, equipment and materials structures, utilities, offsite Improvements, insurance and any surety bonds. In addition, Lessee shall be responsible for conducting its own marketing program and providing for the day-to-day operation and maintenance of the Facility.

(b) Lessor Not Responsible. Lessor shall not assume any liability or responsibility with respect to either repayment of any financing, or planning, permitting construction or

violation of any applicable law or regulation. Lessee agrees that it will not use, generate, store or dispose of any such materials on, under, about or within the Premises in violation of any applicable law or regulation. Lessee shall not be liable for any such hazardous substances which exist upon the Premises prior to the Commencement Date of this Lease.

(d) Mitigation and reclamation of any adverse impacts to trust resources shall be made to the reasonable satisfaction of the Lessor and Secretary. In the event that any archaeological, historic or cultural heritage resources are uncovered during any of Lessee's operations on the Premises, Lessee shall immediately notify Lessor of such uncovering and shall provide Lessor an opportunity to determine an appropriate disposition for such resources. Lessor's determination shall be made as quickly as reasonably practical so as not to unduly delay Lessee's activities on the Premises. The cost of any required monitoring, evaluation or mitigation arising hereunder shall be borne by the Lessee.

(e) The Lessee shall indemnify the Lessor and the United States Government against all liabilities and costs relating to the use, handling, treatment, removal, storage, transportation or disposal of hazardous materials or the release or discharge of any hazardous materials that occurs during the term of this Lease, regardless of fault (other than due to the fault of Lessor or parties under Lessor's control or direction, in which case no indemnification shall be due from Lessee), unless the liability or costs arise from the gross negligence or willful misconduct of the Lessor.

10. Compliance with Building Codes

Lessee agrees that construction of all buildings and Improvements on the Premises shall be completed in accordance with all applicable laws of the federal, tribal, State and local governments, to the extent applicable to Lessee's construction on the Premises and, at a minimum, shall comply with the Uniform Building Code or other applicable construction codes or regulations adopted by Lessor and then in effect.

11. Utility Agreements.

Lessee is responsible for payment of all utilities, including costs of connection, and shall continuously maintain electric service, heat, water, and wastewater.

12. (Intentionally Blank)

13. Sublease, Assignment, Transfer

(a) Subleases. Subject to the approval of the Menominee Tribal Legislature by motion, Lessee shall have the right to sublease any space in any building constructed on the premises. No sublease shall relieve the Lessee or sublessee of any liability under the lease. All subleases and amendments there to shall be recorded with Lessor.

(b) Assignment or Transfer. Neither Lessee nor Lessor shall, unless otherwise expressly authorized herein, sell, transfer or assign this Lease or any interest herein without the written consent of the other party hereto. No such sale, transfer or assignment shall be valid or binding without said consent and approval, and then only upon the condition that

16. Holding Over

Holding over by Lessee after the expiration or sooner termination of this Lease shall not constitute a renewal or extension thereof or give Lessee any rights hereunder or in or to the Premises. Lessee has no right to holdover after expiration of the lease term. Any hold over occurring after the expiration of the lease term will be considered unauthorized possession and trespassing on tribal land unless the process for renewal under this lease has been initiated or Lessor has authorized a month-to-month tenancy at an increased rental rate or other form of tenancy.

17. Vesting of Improvements; Site Reclamation; Financial Assurances

(a) Notwithstanding anything herein, all New Improvements on the Premises shall be owned by and shall remain in Lessee.

(b) After proper expiration or termination of this Lease, the Lessee may:

(i) leave any Improvements on the Premises in a condition satisfactory to the Lessor and the Secretary; or

(ii) within three-hundred sixty-five (365) days after lease expiration or termination, or such other reasonable time as the parties may agree in writing, at Lessee's expense, remove all Improvements from the Premises that it has caused to be placed thereon during the Term; provided, however, that if the Improvements on the Premises are not so removed within such time, the Lessor may thereafter retake possession of the Premises; provided however that, in such instance, Lessor and Lessee shall agree on a subsequent time within which Lessee shall remove all such Improvements from the Premises.

(c) In the event Lessee removes Improvements from the Premises pursuant to Section 17(b)(ii), or if Lessee's activities or operations have caused, or threaten to cause, damage to the environment or trust resources, as described in Section 8 or 9, Lessee shall, at its sole cost and expense, reclaim the site of the Premises to a condition comparable to that in which it was received, as reasonably determined by Lessor and the Secretary. In addition to any assurances required by Section 4(c) above, Lessee may also be required to post financial assurances of performance related to site reclamation/ mitigation in accordance with the provisions of 25 C.F.R. 162.604(c), in an amount reasonably determined by Lessor and the Secretary.

18. Events of Default

(a) Violation and Breach of Lease by Lessee. Each of the following shall constitute an "Event of Default", and until an Event of Default so occurs no violation or breach of this Lease on the part of Lessee shall be deemed to have occurred:

(i) Lessee's failure to pay any amounts payable to Lessor within sixty (60) days after the same has become due and owing;

arising hereunder, including but not limited to whether a breach of this Lease has occurred, the parties shall in good faith attempt to resolve the matter(s) by first meeting and discussing the issue(s) in dispute subject to the terms and timelines described in Section 18 above.

(b) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the Menominee Indian Tribe.

20. No Unlawful Use

Lessee agrees not to cause or permit any unlawful conduct, illegal activity, creation of nuisance, on the Premises or negligent use of waste the Premises or any other prohibited actions under Menominee Tribal Code Chapter 138 Article I.

21. Right to Inspect

Lessor and its authorized representatives shall have the right, at any reasonable time during the Term of this Lease, after 24 hours' prior written notice, to enter upon the Premises, or any part thereof, to inspect the same and all buildings and other Improvements erected and placed thereon provided that no prior notice shall be required, in the interest of health and safety, in the event of an emergency, whether real or reasonably suspected. The Lessor and its authorized representatives may treat any failure by the lessee to cooperate with a request to make appropriate records, reports, or information available for inspection and duplications as an event of default under Section 18.

22. Notices

All notices, payments and demands shall be sent to the parties hereto at the addresses herein recited or to such addresses as the parties may hereafter designate in writing:

For Lessor:

Menominee Indian Tribe – Land Management
ATTN: Director
P.O. Box 910
Keshena, WI 54135
(715) 799-5154

For Lessee:

Menominee Indian School District
ATTN: Superintendent
P.O. Box 1330
Keshena WI 54135

Notices and demands shall be delivered in person or sent by certified or registered mail, return receipt requested or by commercial overnight delivery service. Service of any notice or demand shall be deemed complete three (3) days after mailing or on the date actually received, whichever occurs first.

damage, or injury arising from the use of the Premises by Lessee, together with all costs and expenses in connection therewith, except to the extent caused by the willful misconduct of Lessor or the United States Government or any of their representatives, successors, assigns or agents.

26. No Member of Congress to Benefit

No member of, or delegate to, Congress shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this Lease if made with a corporation or company for its general benefit.

27. Condemnation

If, at any time during the Term of this Lease, the Premises or any part thereof is taken or condemned under the laws of eminent domain, then and in every such case the leasehold estate and interest of Lessor in the Premises so taken shall forthwith cease and terminate. All compensation awarded by reason of the taking of the Premises shall be awarded to Lessee and Lessor as their interests shall appear. The rental thereafter payable hereunder for the remainder of the Term of this Lease shall be adjusted by agreement of the parties, subject to the approval of the Secretary. If it is pre-determined that after condemnation continuation of this Lease is no longer feasible, the Lease may be terminated by agreement of the parties, subject to the approval of the Secretary. Lessor and Lessee agree that at a minimum any award or compensation on account of condemnation will be allocated as follows: (i) Lessee receives that portion of the award or compensation allocable to its leasehold estate and all awards for any improvements constructed by Lessee and located on the Premises; and (ii) Lessor shall be entitled to receive that portion of the award or compensation allocable to its interest in the Premises, as encumbered by this Lease and subject to Lessee's right to receive that portion of the award allocable to its leasehold estate. Each of Lessor and Lessee may appear in any such proceeding or action, to negotiate, prosecute and adjust any claim for any award or compensation on account of any condemnation as it relates to their respective interest in and use of the Premises. If a condemnation shall affect all or a material portion of the Premises which shall render the Premises unsuitable for restoration for continued use and occupancy in Lessee's business, then Lessee may, not later than one hundred fifty (150) days after such occurrence, deliver to Lessor notice of Tenant's intention to terminate this Lease on a business day specified in such notice (the "Lease Termination Date"), which occurs not less than thirty (30) days after the delivery of such notice. If a condemnation of the Premises or any part thereof shall occur but Lessee does not give notice of its intention to terminate this Lease as provided in this Section then this Lease shall continue in full force and effect.

28. Severability

If any provision of this Lease is, by final order of a court of competent jurisdiction, or the Secretary or his or her authorized representative, held to be illegal, invalid, or void, the validity of the remaining portions of this Lease shall be enforced as if it did not contain such illegal, invalid or void clauses or provisions.

29. Time

Time is of the essence as to this Lease and every provision within this Lease.

