



COMMUNITY DEVELOPMENT
200 North Main, Mt. Pleasant, MI 48858

Phone: (989) 772-0911 ext. 283
Fax: (989) 775-6681

Staff Report

TO: Human Resource Committee,
Board of Commissioners

FROM: Timothy A Nieporte,
Community Development Director

DATE: Thursday, June 08, 2017

RE: Intergovernmental Agreements to Provide Plumbing, Mechanical and Electrical
Inspection and Plan Review Services

BACKGROUND

Attached you will find an intergovernmental agreement to provide plumbing, mechanical and electrical (Trade) inspection and plan review services to the Saginaw Chippewa Indian Tribe.

The Tribe has requested assistance for plumbing, mechanical and electrical services, upon receipt of attached Agreement it was forwarded to the Timothy Perrone of Cohl, Stoker and Toskey P.C. for review and comment.

Thus, at this time I am requesting that the Isabella County Board of Commissioners consider the the intergovernmental agreement allowing the Inspections Division of the Community Development Department to provide the necessary plumbing, mechanical and electrical inspection and plan review services to the Saginaw Chippewa Indian Tribe.

ALTERNATIVES

1. Authorize the Chairman of the Board of Commissioners to sign the intergovernmental agreement to provide the necessary plumbing, mechanical and electrical inspection and plan review services.
2. Do not authorize the Chairman of the Board of Commissioners to sign the intergovernmental agreement to provide the necessary plumbing, mechanical and electrical inspection and plan review services.

FINANCIAL IMPACT

There will be no impact on the General Fund.

OTHER CONSIDERATIONS

None.

RECOMMENDATIONS

1. Move to authorize the chairman of the Isabella County Board of Commissioners to sign an intergovernmental agreement allowing the Inspections Division of the Community Development Department to provide the necessary plumbing, mechanical and electrical inspection and plan review services to the Saginaw Chippewa Indian Tribe.

ATTACHMENTS

Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into by and between Isabella County, a political subdivision of the State of Michigan (the "Contractor") with offices at 200 N. Main Street, Mount Pleasant, Michigan 48858 and the Saginaw Chippewa Indian Tribe of Michigan, a federally recognized tribe, ("the Tribe") with offices at 7070 East Broadway, Mt. Pleasant, Michigan 48858.

WHEREAS the Tribe desires to obtain electrical, mechanical and plumbing plan reviews and inspection services in the County of Isabella and the Contractor is capable of providing such services and assistance, for good and valuable consideration; the Tribe and the Contractor hereby agree as follows:

1. **TERM OF AGREEMENT.**

The Agreement shall be effective for a period of three (3) years, which period shall commence upon the execution of this Agreement.

2. **SERVICES.**

The Services to be provided by the Contractor are electrical, mechanical and plumbing plan reviews and inspection services. The Contractor may consult with third parties in the performance of the Agreement but the Tribe shall not be liable for any costs related to the services of any third parties except by separate agreement between the Tribe and the third parties.

The Contractor warrants that he has the required licences and/or certifications to offer the services required by this Contract and that he will maintain all appropriate licenses and/or certifications for the duration of this agreement.

The Tribe and the Contractor understand and agree that the Contractor is an independent contractor and not an employee of the Tribe, that the benefits and rights to which the Contractor is entitled are limited to those expressly set forth in this Agreement and that no other rights or benefits are conferred upon the Contractor by any other contract, tribal law or policy, including any employee Personnel Policies and Procedures.

3. **FEES AND PAYMENTS.**

The Tribe shall pay the Contractor a fee for plan review or inspection performed as provided in Exhibit A. The fee structures for electrical, mechanical and plumbing are attached hereto as Exhibit A and incorporated by reference. Said fees include all costs and expenses and the Tribe shall not be liable for any other expense, fee or cost related to the work to be performed under this Agreement.

The Contractor shall submit detailed monthly invoices to the Code Enforcement Office

for services performed. Invoices shall be paid within 30 days of approval by Tribal Council.

The Contractor shall be responsible for all insurance and worker's compensation coverage and any other applicable state or federal requirements pursuant to any tax, insurance or governmental program that may apply to an independent contractor.

4. TERMINATION OF AGREEMENT.

This Agreement may be terminated without cause by either party upon notification of intention to terminate signed by the terminating party and delivered by personal delivery, commercial courier or by United States registered or certified mail, postage pre-paid, return receipt requested, to the other party no less than 10 days in advance of the date of termination. Notification shall be deemed effective upon receipt by the non-terminating party.

5. GENERAL PROVISIONS.

- (a) Agency. The Contractor is not an agent of the Tribe and, except as expressly provided in this Agreement, the Contractor shall not represent himself as having any authority to enter into any contract or obligation on behalf of the Tribe or to settle any claim or interest of the Tribe.
- (b) Confidentiality. Any information of a confidential nature obtained by the Contractor from the Tribe shall be used solely for the purposes of providing the specific services to be provided under this Agreement. Generally, confidential information is any information that has not been made public by the Tribe and is not generally known within the occupational field of the Contractor and includes, but is not limited to, written information, information that is disclosed verbally and any other information which may be made available to the Contractor as a party to this Agreement and pursuant to its purposes. The Contractor shall at all times during and after the term of this Agreement maintain the confidentiality of any such information and shall not disclose such information to third parties without the express written consent of the Tribe, or as otherwise required by applicable law or Court order. The Contractor shall not duplicate any confidential information in a tangible form and shall return such information to the Tribe along with any notes or compilations immediately after the need for such information has expired, but not later than the conclusion of the term of this Agreement.
- (c) Ownership of Work-Product. All tangible work-product produced by the Contractor in the performance of the Agreement shall be the exclusive and unrestricted property of the Tribe. The Contractor relinquishes all common law, statutory and other reserved rights, including the copyright, to the work-product and grants to the Tribe an unrevocable license of unlimited duration for the possession and use of the work-product.

- (d) Assignment and Subcontractors. This Agreement shall not be assigned by the Contractor and such assignment shall be void without the prior written consent of the Tribe. The Contractor shall not sub-contract any part or all of the services to be rendered under this Agreement without the prior written consent of the Tribe after providing the Tribe with a copy of the proposed sub-contract.
- (e) Time is of the Essence. Time is of the essence of this Agreement.
- (f) Force Majeure. The parties to this Agreement shall not be excused from the performance of any of their obligations under this Agreement except when such performance is prevented by causes which are beyond the reasonable control and without the fault of the party affected, such as acts of God, war, civil unrest, labor shortages and acts of a government in its sovereign capacity. The affected party shall promptly notify the other party of any such cause for non-performance. Upon such notification, the affected party's performance shall be excused on a day-to-day basis only for the duration of the cause of non-performance and only to the extent that performance is actually prevented provided, however, that such party uses all reasonable efforts to eliminate the cause of non-performance. Where the performance of one party is excused, the performance of the other party shall likewise be excused and both parties shall promptly resume performance upon the cessation of the cause of non-performance.
- (g) Entire Agreement. This Agreement supersedes all prior written or oral agreements on this subject matter and is not contingent upon or conditioned on the performance of any other agreement which may have been entered into by the parties. This Agreement and any exhibits or attachments incorporated herein by reference constitute the entire agreement of the parties on this subject matter and all other written or oral agreements, representations, or understandings between the parties of any kind on this subject matter shall be invalid. If there is any conflict or inconsistency between the terms of this Agreement and any exhibits or attachments, this Agreement shall take precedence unless the matters set forth in the exhibit or attachment expressly and explicitly provide otherwise.
- (h) Modifications. Any modification of this Agreement must be in writing and signed by duly authorized representatives of the Tribe and Contractor upon the formal approval of the governing body of each party to be enforceable.
- (i) Severability and Headings. The provisions of this Agreement are severable. If any provision of this Agreement is determined to be invalid or unenforceable it shall be considered deleted from this Agreement and the invalidity of such provision shall not affect the validity or enforceability of any other provisions which shall be given effect in the absence of the invalid provision. The parties will, in good faith, attempt to replace any invalid or unenforceable provision with one that is valid and enforceable and which comes as close as possible to expressing the intent of the original provision. The headings of this Agreement are for reference purposes

only and only the text of each provision shall be construed to be the terms and conditions of this Agreement.

- (j) Remedies and Waiver of Breach. The remedies provided for in this Agreement are cumulative rather than exclusive and are in addition to all other remedies provided by law or equity. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any right or option conferred by such provisions, in any one or more instances, shall not be construed to be a waiver or relinquishment of any such option or right, or of any other covenants or agreements, but the same shall remain in full force and effect.
- (k) Liability.
- I. All liability to third parties, loss or damage as a result of claims, demands, costs or judgments arising out of activities to be carried out by the Tribe in the performance of this Contract shall be the responsibility of the Tribe, and not the responsibility of the Contractor, if the liability, loss, or damage is caused by, or arises out of, the actions or failure to act on the part of the Tribe, or anyone directly or indirectly employed by the Tribe, provided that nothing herein shall be construed as a waiver of any governmental immunity that has been provided to the Tribe or its employees by statute or court decisions.
 - II. All liability to third parties, loss or damage as a result of claims, demands, costs or judgments arising out of activities to be carried out by the Contractor in the performance of this Contract shall be the responsibility of the Contractor and not the responsibility of the Tribe if the liability, loss, or damage is caused by, or arises out of, the action or failure to act on the part of any Contractor employee or agent, provided that nothing herein shall be construed as a waiver of any governmental immunity that has been provided to the Contractor or its employees as provided by statute or court decisions.
 - III. In the event that liability to third parties, loss, or damage arises as a result of activities conducted jointly by the Contractor and the Tribe in fulfillment of their responsibilities under this Contract, such as liability, loss, or damage shall be borne by the Contractor and the Tribe in relation to each party's responsibilities under these joint activities provided that nothing herein shall be construed as a waiver of any governmental immunity by the Contractor, the Tribe or their employees, respectively, as provided by statute or court decisions.
- (l) Governing Law. The governing law for this Agreement shall be the laws of the Saginaw Chippewa Indian Tribe of Michigan. The Contractor agrees that all disputes, actions and claims arising from this Agreement shall be subject to the exclusive jurisdiction of the Saginaw Chippewa Tribal Court and the Contractor consents to the personal jurisdiction of the Tribal Court.

AGREED

Saginaw Chippewa Indian Tribe of Michigan Isabella County

Frank J. Cloutier, Tribal Chief, or
Brent D. Jackson, Tribal Sub-Chief

By:

Dated: _____

Dated: _____

**EXHIBIT A
CONTRACTOR AGREEMENT
ELECTRICAL PLAN REVIEW AND ELECTRICAL INSPECTION**

Fee Schedule

Electrical Plan Review. The Contractor shall receive 90% of the Electrical Plan Review fees paid by the builder, homeowner or business owner for Electrical Plan Review pursuant to Ordinance 1, Section 4.d.(4) (a).

Electrical Inspection-Residential. The Contractor shall receive 85% of the total Electrical Permit Fees enumerated on the Application for Electrical Permit. Contractor will perform the number of inspections as determined by the Tribal Code Compliance Officer.

Electrical Inspection-Commercial. The Contractor shall receive 75% of the total Electrical Permit Fees enumerated on the Application for Electrical Permit. Contractor will perform the number of inspections as determined by the Tribal Code Compliance Officer.

MECHANICAL PLAN REVIEW AND MECHANICAL INSPECTION

Fee Schedule

Mechanical Plan Review. The Contractor shall receive 90% of the Mechanical Plan Review fees paid by the builder, homeowner or business owner for Mechanical Plan Review pursuant to Ordinance 1, Section 4.d.(2) (a).

Mechanical Inspection-Residential. The Contractor shall receive 85% of the total Mechanical Permit Fees enumerated on the Application for Mechanical Permit. Contractor will perform the number of inspections as determined by the Tribal Code Compliance Officer.

Mechanical Inspection-Commercial. The Contractor shall receive 75% of the total Mechanical Permit Fees enumerated on the Application for Mechanical Permit. Contractor will perform the number of inspections as determined by the Tribal Code Compliance Officer.

PLUMBING PLAN REVIEW AND PLUMBING INSPECTION

Fee Schedule

Plumbing Plan Review. The Contractor shall receive 90% of the Plumbing Plan Review Fees paid by the builder, homeowner or business owner for Plumbing Plan Review pursuant to Ordinance 1, Section 4.d.(3) (a).

Plumbing Inspection-Residential. The Contractor shall receive 85% of the total Plumbing Permit Fees enumerated on the Application for Plumbing Permit. Contractor will perform the number of inspections as determined by the Tribal Code Compliance Officer.

Plumbing Inspection-Commercial. The Contractor shall receive 75% of the total Plumbing Permit Fees enumerated on the Application for Plumbing Permit. Contractor will perform the number of inspections as determined by the Tribal Code Compliance Officer.