ORDINANCE 42
Saginaw Chippewa Indian Tribe
Tribal Employment Rights Ordinance

Section 1. Short Title.

This Ordinance shall be known as the Saginaw Chippewa Indian Tribe Tribal Employment Rights Ordinance (TERO).

Section 2. Statement of Purpose, Findings, and Authority.

a. Purpose. The Saginaw Chippewa Indian Tribe Tribal Employment Rights Ordinance is enacted to 1) provide for the economic security of the Saginaw Chippewa Indian Tribe of Michigan, 2) to promote the important interests of Tribal self-governance and 3) to promulgate Tribal rules for governing contracting preference within the Tribe's jurisdiction.

b. Findings. Jobs, contracts and subcontracts for the employment and the provision of goods and services to the Saginaw Chippewa Indian Tribe are a vital resource for Tribal Members and Native American people. The Saginaw Chippewa Indian Tribe Tribal Council has the inherent sovereign power to pass laws to protect, preserve and enforce the employment rights of Tribal Members and other Native Americans. The Saginaw Chippewa Indian Tribe of Michigan finds it is critical to establish a tribal employment rights law to increase employment of Tribal Members and Native American workers and businesses.

c. Authority. The Saginaw Chippewa Indian Tribe of Michigan has the Constitutional power to manage the economic affairs and enterprises of the Tribe; protect the health, security and general welfare of Tribe; and to safeguard the peace, safety, morals and general welfare of the Tribe by regulating the conduct of trade within the territorial jurisdiction of the Tribe.

Section 3 Tribal Employment Rights Department

There is hereby created a TERO Department vested with the authority to implement the policy of Indian Preference for Covered Employers and in contracting as established and approved by this Ordinance.

Section 4 Tribal Employment Rights Office Director

a. The TERO Director shall be appointed by the Tribal Council and shall have the authority to prescribe, promulgate and enforce written rules and regulations, with consultation of the Tribe's Legal Department, not inconsistent with this Ordinance.

b. The TERO Director shall have the following authority, duties, and responsibilities:

(1) To develop and maintain a register setting forth the names of Indian-owned firms certified for Indian Preference by the TERO Office together with an identification of the respective areas of work in which such firms are considered qualified.

(2) To ensure compliance by Covered Employers with any and all requirements prescribed by this Ordinance and by any and all rules, regulations, and/or guidelines promulgated by the TERO Office.

(3) To enter into formal negotiations, upon consultation with the Tribal General Counsel or his or her delegate, with representatives of any Covered Employer in an effort to resolve, on an informal, voluntary basis, any claim of noncompliance with the requirements set forth in this Ordinance and in any and all rules, regulations, and/or guidelines.

(4) To monitor and ensure the collection from Covered Employers of the appropriate TERO Fees.

(5) To implement and maintain a "Skills Bank" from which Covered Employers shall select and employ qualified Native Americans to fill employment positions.

(6) To assist Covered Employers to establish and maintain job training or apprenticeship programs for the purpose of assisting Indians to become qualified in the various crafts skill areas, or job classifications used by such employers and increasing the pool if Indians qualified to engage in the various employment positions available on or near the Isabella Indian Reservation.

(7) To supervise the staff of the TERO Department and oversee the expenditures of funds there from in compliance with Tribal policies and procedures.

(8) To provide for the TERO Department's internal operational procedures.

(9) To interpret, apply and enforce any of this Ordinance's provisions.

(10) To prosecute before the Tribal Court, any and all claims of noncompliance with this Ordinance or with any and all rules,

regulations and/or guidelines upon review of the General Counsel, or his or her delegate, and approval of the Tribal Council.

Section 5. **Definitions.** The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

a. "Business" means any business, enterprise, partnership, joint venture, corporation or any other Entity or operation that is not defined as a 501(c)(3) nonprofit or not-for-profit organization by the Internal Revenue Service.

b. “Construction Related” means projects that involve building, constructing, renovating or repair services on real property. This definition does not include (1) planning and design – architecture, engineering, surveying, construction administration services (2) excavation or clearing land services, (3) equipment (repair/installation/maintenance or removal) services where cost of the equipment is 60% or greater of the total cost of the service.

c. "Contract" means an agreement or promise, written or unwritten, between two or more persons entered into by the parties which creates an obligation enforceable by law to perform or provide construction related work, services, labor, or material(s) on Tribal Lands or that provides for the leasing of Tribal Lands.

d. "Contractor" means any person, employer, or Entity that enters a Contract to be performed on Tribal Lands.

e. "Covered Employer" means any employer, operating a Business employing four or more employees who:

(1) enters into a Contract, Subcontract, or other agreement with the Tribe or any enterprise, department or agency of the Tribe; or

(2) enters into, comes to hold or occupy, or operates under a lease, sublease, or similar agreement for the use of Tribal land.

f. "Department Director" means the head of any department, agency or enterprise or subdivision of the Saginaw Chippewa Indian Tribe of Michigan.

g. "TERO Director" means the head of the TERO Department.

h. "Entity" means any person, partnership, corporation, joint venture, vendor, government, governmental enterprise, or any other natural or artificial

person or organization. The term "Entity" is intended to be broadly interpreted to further the purposes of this Ordinance.

i. "Employee" means any person employed for remuneration, compensation, or other value.

j. "Indian Tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians or is a tribe in Canada recognized by the government of Canada.

k. "Native American" means any person that is an enrolled member of any Indian Tribe as defined under this Ordinance.

l. "Native American Contractor" means a Business Entity, Contractor, or Subcontractor that is 51 percent or more owned, controlled, and managed by a Tribal Member, Native American, or an Indian Tribe.

m. "Native American Preference" means the requirement that, all factors being equal, the Covered Employer or Entity will give preference to Tribal Members or Native Americans in employment and contracting.

n. "Ordinance" or "TERO" means this Tribal Employment Rights Ordinance.

o. "Qualified Native American" means a Native American who meets minimum qualifications for a specific job or other employment position.

p. "Reservation" means all lands and waters within the exterior boundaries of the Isabella Indian Reservation.

q. "Subcontractor" means any Entity, usually a third party, hired or retained by a Contractor, to perform work, supply services, or provide materials under a Contract.

r. "Tribal Council" means the elected governing body of the Saginaw Chippewa Indian Tribe of Michigan as established and defined by the Tribe’s Constitution.

s. "Tribal Lands" means any land located within the Isabella Indian Reservation owned in fee by the Tribe and any lands, on or off the Isabella Indian Reservation, held in trust by the United States on behalf of the Tribe.

t. "Tribal Member" means an enrolled member of the Saginaw Chippewa Indian Tribe of Michigan.

u. "Tribe" means the Saginaw Chippewa Indian Tribe of Michigan.

Section 6. **General Applicability**.

All Covered Employers shall comply with this Ordinance.

Section 7. Satisfaction of Requirements by Tribe.

The Tribal government, including Tribal agencies, departments, and enterprises, satisfy the requirements of this Ordinance through a preference policy duly approved by the Tribal Council.

Section 8. Notice; Bid Requirements.

Department Directors shall make good faith efforts, through direct contact and general public information, to inform all Businesses making bids or proposals for construction services or entering into leases governed by this Ordinance of the requirements of the TERO. All bid announcements issued by the Tribe for work or leases governed by this Ordinance shall contain a statement that the successful bidder will be obligated to comply with this Ordinance and that a bidder shall contact the Department Director of the Entity letting the contract to obtain information regarding their obligation to comply with this Ordinance unless otherwise prohibited by federal or state funding authorities. It shall not be a defense in any enforcement action for a Covered Employer to allege that the Department Director failed to notify the Covered Employer of the requirements of this Ordinance.

Section 9. Native American Preference in Employment Actions.

a. All Covered Employers shall give preference in hiring, training, advancements, promotions, and layoffs to Qualified Native Americans with preferences in the following order:

(1) First preference to Tribal Members in all hiring, promotion, training, layoffs, and all other aspects of employment who is also a Qualified Native American under this Ordinance;

(2) Second preference to all other Qualified Native Americans under this Ordinance.

b. Preference in layoffs mean preference for retention when layoffs occur shall be given in the following order: first preference to Tribal Members and second preference to other Native Americans.

c. All persons applying for positions who claim preference must show proof of membership/citizenship in an Indian Tribe at the time of application.

d. Proof of membership/citizenship in an Indian Tribe shall be made by a membership/citizenship identification from an Indian Tribe or other identification from the Indian Tribe's enrollment office that proves membership/citizenship with and Indian Tribe.

Section 10. Native American Preference in Contracts Awarded by the Tribe.

a. All Covered Employers awarded Contracts in an amount of $250,000.00 or more shall give first preference in contracting and subcontracting to Native American Contractors in the preference order required in this Ordinance.

b. The Preference requirements contained in this Ordinance shall be binding on all Contractors and Subcontractors of Covered Employers and will be deemed to be part of and incorporated into any Contract or subcontract covered by this Ordinance. The Covered Employer shall have the initial and primary responsibility for ensuring that all Contractors and Subcontractors comply with these requirements.

c. Contract Language Imposing Contract Preference Requirements. All departments, agencies, Entities or enterprise of the Tribe shall include provisions that impose the requirements of this Ordinance, such that the legal document will fully bind the Covered Employers to comply with the requirements of this Ordinance.

Section 11. Equal Employment Rights.

The preference requirements established by this Ordinance are solely based on a person's citizenship to an Indian Tribe and are not based on a person's race. This Ordinance does not allow Covered Employers to consider any person's race, color, religion, gender, age, or national origin in any personnel, management, or contracting decisions.

Section 12. TERO Fees

a. <u>Imposition of TERO Fee</u>

(1) The Tribe hereby imposes a TERO Fee on Covered Employers, as a source of revenue for the administration and operation of the TERO Department.

(2) Covered Employers must pay a TERO Fee of 2.0% of the total gross amount of the contract. TERO Fees shall be paid no later

than the completion date of the Contract.

b. Method of Payment

(1) The TERO Director shall be responsible for collecting all TERO Fees from Covered Employers.

(2) The TERO Fee may be paid in incremental payments, subject to the prior written approval of the TERO Director.

(3) Any Covered Employer that fails to pay the TERO Fee as required by this Ordinance shall be subject to sanctions set forth herein. All TERO Fees shall be made payable to the Tribe and forwarded to the following address:

Saginaw Chippewa Indian Tribe of Michigan
Attn: TERO Director
7500 Soaring Eagle Blvd.
Mt. Pleasant, Michigan 48858

Section 13. Compliance; Enforcement.

a. Compliance. Failure to comply with the provisions of this Ordinance shall constitute a civil violation.

b. Enforcement. The TERO Director may bring a civil cause of action in the Tribal Court against any Covered Employer that is in violation of this Ordinance and may seek monetary and equitable remedies.

c. Private Cause of Action. Any Qualified Native American who is denied employment preference rights or any Native American Contractor that is denied preference rights provided by this Ordinance may bring a civil action in the Tribal Court against any Covered Employer that is in violation of this Ordinance, and may seek monetary and equitable remedies; provided that no such cause of action may be brought against the Tribe, its departments, agencies, enterprises, officers, or employees.

Section 14. Miscellaneous Provisions.

a. Severability. If any provision of this Ordinance shall ever be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of this Ordinance, but such other provisions shall continue in full force and effect.

b. Amendments. The Tribal Council has the sole authority to approve and

amend provisions of this Ordinance.

c. Sovereign Immunity Provision. Nothing herein shall be interpreted as a waiver of the Tribe's immunity from suit.

d. This Ordinance shall apply to Covered Employers on the effective date of this Ordinance. All Contracts entered into prior to the effective date of this Ordinance shall continue to be governed in accordance with the terms of the applicable Contract(s) and laws until such time as the Contract may be renewed, at which time the contract shall be governed under this Ordinance.

e. Effective Date. This Ordinance shall take effect on January 1, 2027.

LEGISLATIVE HISTORY

Ordinance 42 Tribal Employment Rights Ordinance. Enacted by Resolution 26-030 approved on November 19, 2025. Sections 2.a.-2.c., 4.a., 4.b.(2)-4.b.(9), 5.a.-5.e.,5.g., 5.k. 5.l., 5.p., 7., 8., 9.a., 9.d., 10.a.-10.c., 11., 14.d., and 14.e. amended; Sections 5.d.(1), and 5.d.(2), added; Sections 10.d., and 12., deleted; Former Sections 13., 14., and 15. re-numbered by Resolution 26-062 approved March 6, 2026. Sections 14.d. and 14.e. amended by Resolution 26-115 approved September 2, 2026. Sections 4.a., 5.b., and 10.a. amended by Resolution 27-016 approved November 18, 2026.