

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE SPIRIT LAKE TRIBE AND
THE NORTH DAKOTA HIGHWAY PATROL**

1. PARTIES

The parties to this Memorandum of Understanding (hereinafter “Agreement”) are the North Dakota Highway Patrol (hereinafter “Department”), an agency of the State of North Dakota (hereinafter “State”), and law enforcement operating on behalf of the Spirit Lake Tribe (hereinafter “Tribe”).

2. PURPOSE

This Agreement is to facilitate a cooperative law enforcement effort between the Department/State and the Tribe to provide mutual aid and assistance to each other for the safety and protection of the citizens of North Dakota and those persons who live or travel within the boundaries of the Spirit Lake Nation. This Agreement is intended to facilitate a cooperative law enforcement effort to provide mutual aid and assistance for public safety by the Tribe and the State and does not constitute nor shall this Agreement be construed as a waiver, admission, or concession of jurisdiction or claims by the Department, State or the Tribe, and cannot be used to further or promote litigation or legislation.

3. DEFINITIONS

- A. “Indian” means any person of Indian descent who is a member of a federally recognized Indian Tribe according to the laws of that Tribe, and any other person recognized by federal law as an Indian for any purpose.
- B. “Non-Indian” means anyone who does not fall within this Agreement’s definition of “Indian.”
- C. “Reservation” means all lands lying within the exterior boundaries of the Spirit Lake Tribe’s Reservation as established by the Treaty of 1867 between the United States Government and the Sisseton Wahpeton Sioux Bands of Indians and subsequent agreements, Executive Orders and Congressional actions.
- D. “Indian Land” means land within the exterior boundaries of an Indian Reservation held in trust by the federal government for the benefit of an Indian Tribe or an Indian and land held within the exterior boundaries of an Indian Reservation owned in fee by an Indian Tribe or an Indian.
- E. “Emergency” means incidents that threaten public safety, health, and/or welfare.

4. STATEMENT OF MUTUAL BENEFITS AND INTEREST

Whereas the parties to this Agreement desire to provide the most efficient law enforcement and police protection to the residents of North Dakota and the Spirit Lake Nation. Towards this end, the parties mutually agree as follows:

5. TO THE EXTENT RESOURCES PERMIT, THE PARTIES MAKE THE FOLLOWING COMMITMENTS:

A. Emergency Calls for Service

- 1) Emergency calls for service will result in a response by the closest available peace officer until a party with primary responsibility can and does assume lead.
- 2) Additional resources may be dispatched as necessary by either party to ensure control and mitigation of the emergency event.

B. Requests for Assistance/Mutual Aid

- 1) Any party may request assistance from another party at any time. Assistance may include, but is not limited to, response to criminal activity, search and rescue efforts, emergency management, collaborative enforcement and training.
- 2) The level of assistance provided is subject to the party's available resources at the time of the request.

C. General Law Enforcement Presence Authorization

By entering into this Agreement, the Spirit Lake Tribe hereby authorizes and empowers the Department/State to provide a general law enforcement presence within the boundaries of the Spirit Lake Nation.

D. Temporary Detainment or Arrest

- 1) A peace officer without jurisdiction is authorized under this Agreement to temporarily hold, detain, or arrest an individual until a peace officer with jurisdiction takes custody of the individual.
- 2) A peace officer without jurisdiction who detains or arrests an individual should immediately contact the party that has jurisdiction and follow the directives that party gives for resolution of the arrest or detention.
- 3) A peace officer with jurisdiction may communicate to a peace officer without jurisdiction directives to detain or arrest an individual until such time as a peace officer with jurisdiction can assume custody of the individual. Such communication is a mutual aid request and conveys temporary police powers.
- 4) In the event a peace officer with jurisdiction cannot respond to the scene, an officer without jurisdiction may transport the detained or arrested individual to the party with jurisdiction.

E. Pursuits

- 1) A peace officer may continue onto or off of the Reservation in active pursuit of an individual who fails or refuses to bring the vehicle to a stop, or who otherwise flees or attempts to elude, in any manner, a pursuing police vehicle or peace officer, subject to the pursuing party's pursuit policy.

- 2) The pursuing officer will notify their respective dispatch. The respective dispatch will then notify the other party's dispatch of the pursuit.
- 3) If apprehended as a result of a pursuit, the peace officer who initiated or completed the apprehension may detain or arrest the individual, secure any evidence and transport the individual off or onto the Reservation depending upon where the pursuit originated.
- 4) If available, the party having jurisdiction at the location of the pursuit will take the lead.
- 5) The party having jurisdiction may terminate the pursuit at any time based on the pursuing party's policy or officer discretion.

F. Use of Force

- 1) If a situation arises where force is necessary, each officer is governed by their policies.
- 2) Each party is responsible for any liability incurred by its own officer(s) acting within the scope of their employment, whether acting on behalf of the requesting entity or the responding entity. Accordingly, each party will provide insurance coverage for its own employees.

6. IT IS FURTHER MUTUALLY UNDERSTOOD BY AND BETWEEN PARTIES THAT:

- A. This Agreement will be executed and performed in accordance with Section 54-40.2 of the NDCC, except that the parties expressly agree that this document need not be submitted to the United States Secretary of Interior for approval before its execution and implementation.
- B. Where there is enforcement action required concerning Indian and non-Indian citizens, the enforcement action will be coordinated between the parties in good faith discussions on a government-to-government basis.
- C. This Agreement shall be effective from the date of the last signature affixed below and shall continue for five (5) years unless otherwise terminated or modified in writing. At regular intervals, this Agreement will be subjected to a thorough review by the Department/State and the Tribe to determine if changes are appropriate. These reviews can be requested by any participating party and/or the North Dakota Indian Affairs Commission (hereinafter "NDIAC").
- D. Upon request, a party will promptly provide the requesting party with information related to traffic and criminal violations.
- E. Upon request, the parties further agree to cooperate in the prosecution of violations by meeting with prosecuting attorneys, sharing evidence, providing testimony at trial, etc.

- F. The parties agree to share crime statistics with each other if requested and if available. No party is required to develop any separate crime statistics in furtherance of this Agreement. Available crime statistics that can be cumulated to assist all parties in resource allocation, public understanding or investigative targeting should be shared with any other party to this Agreement.
- G. The principal contacts for this instrument are:
- 1) Tribe
Chairman Douglas Yankton
Spirit Lake Tribe
PO Box 359
Fort Totten, ND 58335
Telephone: (701) 766-4221
Facsimile: (701) 766-4126
E-mail: douglasy@spiritlakenation.com
 - 2) Department
Colonel Brandon Solberg
North Dakota Highway Patrol
600 E Boulevard Avenue
Bismarck, ND 58505
Telephone: (701) 328-2447
Facsimile: (701) 328-1717
Email: bjsolberg@nd.gov
- H. The term of this Agreement commences upon approval by the Governor of North Dakota and the Chairperson of the Spirit Lake Tribe and shall remain in force until the parties mutually agree that the Agreement is no longer in force. After giving the other party timely notice in writing, either party may withdraw from the Agreement.
- I. Before withdrawing from this Agreement, both parties agree that written notice of the intent to withdraw will be sent to the NDIAC and that notice shall include the reasons for withdrawing from this Agreement. The parties further agree that they will allow the NDIAC a reasonable time to mediate any conflicts before a party withdraws from this Agreement. If a party files a request with the NDIAC for mediation, the adverse party agrees to respond to that request and participate in the NDIAC mediation process. If the mediation process fails to resolve conflict, a party may withdraw from the Agreement at that time.
- J. Nothing in this Agreement shall be interpreted as diminishing or enhancing the sovereign rights of the respective parties, including sovereign immunity of the parties, except as may be specifically stated herein.

- K. This Agreement shall not be permitted to be used in any way by either party in any litigation brought by any person, including the parties to this Agreement, that may arise within the Tribe or State regarding the substance of any issue covered by this Agreement other than with respect to enforcement of this Agreement.
- L. This Agreement may not be amended in any manner except by written agreement signed by both parties in accordance with N.D.C.C. Ch. 54-40.2 and the relevant laws of the Spirit Lake Tribe.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last written date below.

Dated this ____ day of _____, 2022.

Douglas Yankton, Chairman
Spirit Lake Tribe

Dated this ____ day of _____, 2022.

Doug Burgum, Governor
State of North Dakota

Dated this ____ day of _____, 2022.

Brandon Solberg, Colonel
North Dakota Highway Patrol