

RESOLUTION NO. 93-37-JJR

A RESOLUTION ENTITLED "A RESOLUTION ENTERING INTO A CROSS-DEPUTIZATION AGREEMENT WITH THE CITY OF NEW TOWN AND THE UNITED STATES OF AMERICA AND FOR OTHER PURPOSES".

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act;

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof;

WHEREAS, Article VI, Section 5(1) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to adopt resolutions regulating the procedure of Tribal agencies;

WHEREAS, Representatives from the City of New Town and Bureau of Indian Affairs met with the Tribal Business Council in the summer of 1992;

WHEREAS, The Attorney of the City of New Town drafted a cross-deputization agreement and submitted this purposed agreement to the Three Affiliated Tribes and the Superintendent of the Bureau of Indian Affairs;

WHEREAS, The Bureau of Indian Affairs has reviewed this agreement and has made minor changes;

WHEREAS, The Legal Department has reviewed the document and although there needs to be some corrections finds this agreement to be legally acceptable.

NOW, THEREFORE BE IT RESOLVED, That the Tribal Business Council in a duly called and held meeting agrees to enter into the attached cross-deputization agreement as amended by the Council with the City of New Town and the United States of America.

FURTHER, BE IT RESOLVED, That the procedure set forth in Chapter 54-40.2 et seq. of the North Dakota Century Code be strictly followed.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a

Regular Council Meeting
March 11, 1993
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RESO/CROSS DEPUTIZATION (CON'T):
Mr. Bear Don't Walk then reviewed the agreement with the Tribal Business Council.

Chairman Wilkinson entertained a motion to approve, contingent upon alterations or rewording of the agreement.

Councilman Gillette motioned to approve, and that the representatives in Parshall and New Town consult with the Chairman and Mr. Bear Don't Walk and 'fine tune' this agreement. Motion seconded by Councilman Fast Dog.

Vote: 6 for, 1 opposed. Motion carried.

ITEM 15: SOURIS RIVER TELEPHONE REPRESENTATIVE:
Angela Eckels, SRT Representative, was present to introduce a proposal for a telephone system in the Tribal Building. Ms. Eckels plans on meeting with other employees to make a proposal for the Casino, and Diana Lewis of LCM to deal on computers. She is our area representative and would like the opportunity to do business here.

Marcus Wells, Jr. was questioned if Ms. Eckels knew about the TERO license fee. Mr. Wells replied that SRT is already approved.

Discussion followed on a franchise with Reservation Telephone. Councilman Mossett will follow up on this.

Ms. Eckels stated she did a bid on February 17 for the telephone system.

Secretary Rabbithead requested that Ms. Eckels be present at the next regular council meeting in April for further discussion on this issue.

ITEM 16: RESOLUTION/AGING SERVICES: #93-38-JJR
Resolution read by Secretary Rabbithead.
This resolution pertains to the approval of the eligibility age of 55 for the Senior Meals Program.

Chairman Wilkinson questioned about an issue about age a year ago, and if it was resolved. Mrs. Dixon Aging Services Director, replied that for Title VI, 55 was approved several years ago, and for Title III, it was approved for 60 and over last year.

COOPERATIVE LAW ENFORCEMENT AGREEMENT

between and among

UNITED STATES BUREAU OF INDIAN AFFAIRS
and
THREE AFFILIATED TRIBES
and
CITY OF NEW TOWN

This agreement is made and entered into this 6th day of May, 1993, by and between and among the United States Bureau of Indian Affairs, the Three Affiliated Tribes, and the City of New Town, North Dakota.

IT IS HEREBY AGREED THAT:

SECTION 1. PARTIES AND AUTHORITY FOR AGREEMENT

The parties to this agreement are:

- (a) The Bureau of Indian Affairs, acting on behalf of the United States of America, pursuant to the Indian Law Enforcement Reform Act, 25 U.S.C. §§ 2801-2809;
- (b) The Tribal Business Council, acting on behalf of the Three Affiliated Tribes of the Fort Berthold Indian Reservation, pursuant to Article VI Section 3 of the Constitution and Bylaws of the Three Affiliated Tribes; and
- (c) The City Council of the City of New Town acting on behalf of the City of New Town, North Dakota pursuant to Chapter 40-05-01 of the North Dakota Century Code.

SECTION 2. PURPOSES

The purposes of this agreement are:

- (a) To foster cooperation in the enforcement of the criminal laws of the United States, the Three Affiliated Tribes, the City of New Town, North Dakota, and North Dakota within the city boundaries of the City of New Town, North Dakota, which is located within the exterior boundaries of the Fort Berthold Indian Reservation; and,
- (b) To provide increased availability of law enforcement assistance which will result in better police protection to all persons who reside or come within the city limits of the City of New Town, North Dakota, which is located within the exterior boundaries of the Fort Berthold Reservation.

SECTION 3. CROSS-DEPUTIZATION

- (1) City of New Town law enforcement officers who respond to requests by Bureau of Indian Affairs or Tribal law enforcement officers shall be acting as "special deputies" on behalf of the United States or the Three Affiliated Tribes. Bureau of Indian Affairs or Tribal law enforcement officers who respond to requests by the City of New Town law enforcement officers shall be acting as "special deputies" for the City of New Town.

(2) The Three Affiliated Tribes, the Bureau of Indian Affairs and the City of New Town shall jointly and on an annual basis make up a list of law enforcement officers who based upon pertinent law enforcement standards, as established by the Cross-Deputization Commission, are entitled to act in the capacity as "special deputies" pursuant to this agreement.

(3) The City of New Town Chief of Police and the Chief's Deputies:

(a) Shall be deputized by the Three Affiliated Tribes as "special deputies" for the enforcement of those acts or omissions defined as misdemeanor crimes contained in Chapter 4, Criminal Offenses, Tribal Code.

(b) Shall respond and assist within the City limits of the City of New Town when requested by a Bureau of Indian Affairs or Tribal law enforcement officer.

(c) Nothing in this section shall authorize the Chief of Police or deputies to patrol or enforce applicable criminal laws against members of the Three Affiliated Tribes or other Indians outside the city limits of the City of New Town.

(d) Tribal members or other Indians apprehended within the city limits by law enforcement

officers of the City of New Town acting in the capacity as "special deputies" are subject to being prosecuted in Tribal and/or Federal Court depending upon the nature of the crime.

(4) Bureau of Indian Affairs Law Enforcement Officers and Tribal Law Enforcement Officers:

- (a) Shall be deputized by the City of New Town as "special deputies" pursuant to the authority under Chapter 12-63 of the North Dakota Century Code for the purposes of enforcement of any crimes committed by non-Indians in violation of the North Dakota Century Code or New Town City ordinances within the city limits of the City of New Town, North Dakota.
- (b) Shall respond and assist when requested by the Chief of Police or a Chief's deputy;
- (c) Non-Indians apprehended by Bureau of Indian Affairs or Tribal law enforcement officers shall be prosecuted in Municipal and/or State Court.

SECTION 4. SEARCH WARRANTS

Law enforcement officers making an arrest pursuant to this agreement and as "special deputies" shall have the right to conduct a search pursuant to this arrest.

SUPERVISION

Notwithstanding the provisions of Section 3, each person cross-deputized or commissioned as a "special deputy" and employed by:

- (a) The United States shall at all times remain under the supervision of the United States.
- (b) The Three Affiliated Tribes shall at all times remain under the supervision of the Three Affiliated Tribes.
- (c) The New Town Chief of Police shall at all times remain under the supervision of the New Town City Council.

In an emergency situation whereby the law enforcement officers employed by the Bureau of Indian Affairs, the Tribe, and the City of New Town cooperate in a joint police action, the officer in charge shall be the ranking federal officer.

SECTION 6. CROSS DEPUTIZATION COMMISSION

Notwithstanding the provisions of Section 3, each person commissioned as a "special deputy" or law enforcement officer pursuant to this agreement shall serve in such capacity at the pleasure of the cross-commissioning authority. The City Council of the City of New Town, the Bureau of Indian Affairs, and the Three Affiliated Tribes Business Council hereby consent to establish a Commission comprised of one representative from each of the three entities who shall meet

at least once every three months. To:

1. Evaluate the effectiveness of this agreement, and the performance of the law enforcement officers pursuant to this Agreement; and make recommendations for improvements that can be made to this cross-deputization Agreement;
2. Establish minimum police standards and qualifications for all law enforcement officers who apply for "special deputy" status, and grant this status to police officers who meet the minimum police standards and meet the qualifications;
3. To suspend, revoke or take other appropriate action regarding the "special deputy" status for any law enforcement officer; and
4. To hear any and all complaints made by parties to this agreement and take appropriate action including recommendations to the parties to this Agreement.

(a) For the purposes of the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, law enforcement personnel commissioned by the United States, and law enforcement personnel commissioned and employed under the terms of a self-determination contract entered into by the Three Affiliated Tribes pursuant to Public Law 101-512, shall be deemed to be employees

of the Department of Interior and claims arising from their acts or omissions when carrying out the provisions of this agreement shall be handled in accordance with the Federal Tort Claims Act. The Chief of Police and Chief's deputies when carrying out the provisions of this agreement shall be handled in accordance with the Federal Tort Claims Act.

- (b) For the purposes of the North Dakota Torts Claims Act, the Chief of Police and Chief's deputies and officers designated as "special deputies" (commissioned BIA and Tribal Police) shall be deemed to be employees of the City of New Town acting within the scope of their employment when carrying out the provisions of this agreement.
- (c) The Three Affiliated Tribes shall obtain adequate liability insurance against the actions of its law enforcement personnel, to the extent such law enforcement personnel are not considered employees of the United States pursuant Subsection (a), when carrying out the provisions of this agreement provided however, that any insurance policy

obtained to fulfill the purposes of this Subsection shall waive any right it may have to raise as a defense the Tribe's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the Tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

- (d) The City of New Town shall obtain adequate liability insurance against the actions of its law enforcement personnel to the extent such law enforcement personnel are not considered employees of the City of New Town, North Dakota pursuant to Subsection (b), when carrying out the provisions of this agreement provided however, that any insurance policy obtained to fulfill the purposes of this Subsection shall waive any right it may have to raise as a defense the City's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and

nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the City's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

SECTION 8. SAVINGS PROVISIONS

Nothing in this Agreement shall be construed to affect or modify

- (a) The treaty and other rights of the Three Affiliated Tribes or its members.
- (b) The rights and responsibilities of the United States and the Three Affiliated Tribes Business Council under Federal and Tribal law.
- (c) The jurisdiction of the United States and the Three Affiliated Tribes over the Fort Berthold Reservation, over members of the Three Affiliated Tribes, and over land held in trust by the United States for the benefit of the Three Affiliated Tribes or its members.
- (d) The rights of citizens of the United States, the State of North Dakota, and the City of New Town under the United States Constitution, the North Dakota State Constitution and other Federal and state laws.
- (e) The rights and responsibilities of the New Town

City Council, the New Town Chief of Police, and the New Town City Attorney under state law.

- (f) The jurisdiction of the State of North Dakota or the City of New Town over persons and lands not subject to the jurisdiction of the United States or the Three Affiliated Tribes.
- (g) Nothing within this Agreement shall be deemed an implied nor expressed waiver of tribal sovereign immunity against suit enjoyed by the Three Affiliated Tribes.
- (h) Nothing in this agreement shall be construed to cede any jurisdiction of either of the parties, to waive any immunities, to modify the legal requirements for arrest or search and seizure or to otherwise modify the legal rights of any person, to accomplish any act violative of tribal, state or federal law or to subject to parties to any liability to which they would not be subject by law.

SECTION 9. REVOCATION OF AGREEMENT

This agreement may be revoked by any party to the Agreement upon thirty days written notice to the other parties.

IN WITNESS THEREOF, the Bureau of Indian Affairs, the Tribal Business Council of the Three Affiliated Tribes, and the City Council, City of New Town, North Dakota, have executed this Agreement.


FOR THE UNITED STATES OF AMERICA:

Dated this 6th day of May, 1993.

By: 
AGENCY SUPERINTENDENT
U.S. BUREAU OF INDIAN AFFAIRS

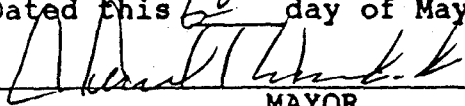
FOR THE THREE AFFILIATED TRIBES:

Dated this 6th day of May, 1993.

By: 
CHAIRMAN
THREE AFFILIATED TRIBES

FOR THE CITY COUNCIL, CITY OF NEW TOWN, NORTH DAKOTA:

Dated this 6th day of May, 1993.

By: 
MAYOR
CITY COUNCIL, NEW TOWN, NORTH DAKOTA

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Regular Meeting thereof duly called, noticed, convened, and held on the 11th day of March, 1993; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 1 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated the 11th day of March, 1993.

John J. Rabbithead Jr.
Secretary, Tribal Business Council

ATTEST:

Walter O. Washburn
Chairman, Tribal Business Council