

RESOLUTION OF THE
LAW AND ORDER COMMITTEE OF
THE NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Second Year, 2016

AN ACTION RELATING TO LAW AND ORDER; APPROVING THE INTERGOVERNMENTAL
AGREEMENT BETWEEN THE NAVAJO NATION AND CITY OF PAGE, ARIZONA

BE IT ENACTED:

Section One. Authority

- A. Navajo Nation Code defines "intergovernmental agreements" as "agreements between the Navajo Nation and another government that involve the sharing of governmental powers, and includes Indian Self-Determination and Education Assistance Act (P. L. 638) contracts. Intergovernmental agreements do not include agreements between the Navajo Nation and another government where the Nation or the other government acts in a landowner or commercial capacity." 2 N.N.C. § 110 (J) (2012) see also CJA-03-13, 22nd Navajo Nation Council (2013).
- B. Navajo Nation code states that "[s]tatements of policy, enactments of positive law, **intergovernmental agreements**, budget resolutions, and reallocations must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council except as otherwise provided herein." 2 N.N.C. § 164(A) see also CJA-03-13.
- C. The Navajo Nation Council established the Law and Order Committee (LOC) and as such gave the LOC final approval authority of agreements negotiated by public safety programs with state and local governmental agencies, "subject to Naabik'íyáti' approval when required by law." 2 N.N.C. §§ 600 (A) and 601(B) (1) (a) see also CJA-03-13.
- D. The Navajo Nation Council gave the Naabik'íyáti' Committee authority to authorize, review, approve and accept any and all contracts with the United States, however this authority does not extend to state or local governments. 2 N.N.C. § 701(A) (12).
- E. Since Naabik'íyáti' Committee's authority extends only to contracts with the United States, the Law and Order Committee is final approval for this Intergovernmental Agreement between the Navajo Nation and the City of Page, Arizona.

Section Two. Findings

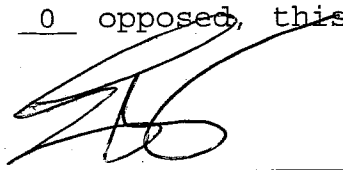
- A. The Intergovernmental Agreement's purpose is "to provide for the orderly, efficient and effective enforcement of the criminal and traffic laws of the Navajo Nation and the State of Arizona, to prevent each jurisdiction from becoming a sanctuary for violators, to foster greater respect to the laws of each jurisdiction by the more certain application hereof, all on a basis of mutual respect for, and recognition of, the inherent sovereignty of the Navajo Nation and the State of Arizona, and the laws enacted by each." MUTUAL AID AGREEMENT BETWEEN THE NAVAJO NATION POLICE DEPARTMENT AND THE PAGE POLICE DEPARTMENT, sect. II. EXHIBIT A.
- B. Approving the Intergovernmental Agreement supports the effective cooperation and coordination between the Navajo Nation law enforcement agencies and that of local law enforcement agencies. 2 N.N.C. § 600 (C) (7) (2012) see also CJA-03-13.

Section Three. Approving the Intergovernmental Agreement

1. The Navajo Nation approves the Intergovernmental Agreement between the Navajo Nation and the City of Page, Arizona, as set forth in the documents attached as EXHIBIT A.
2. The Navajo Nation authorizes the Navajo Nation President to sign the Intergovernmental Agreement.

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

I hereby certify that the foregoing resolution was duly considered by the Law and Order Committee of the Navajo Nation Council at duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor and 0 opposed, this 21st day of March, 2016


 Honorable Edmund Yazzie, Chairperson
 Law and Order Committee

Motioned: Honorable Jonathan Perry
 Seconded: Honorable Raymond Smith Jr

MUTUAL AID AGREEMENT BETWEEN
THE NAVAJO NATION POLICE DEPARTMENT AND
THE PAGE POLICE DEPARTMENT

SECTION I. PARTIES

This Mutual Aid Agreement (hereinafter "AGREEMENT") is entered into by and between the Navajo Police Department, Navajo Division of Public Safety, of the Navajo Nation (hereinafter "NATION") and the CITY OF PAGE/PAGE POLICE DEPARTMENT (hereinafter "CITY").

SECTION II. PURPOSE

This AGREEMENT is entered into to provide for the orderly, efficient, and effective enforcement of the criminal and traffic laws of the Navajo Nation and state of Arizona, to prevent each jurisdiction from becoming a sanctuary for violators, to foster greater respect to the laws of each jurisdiction by the more certain application hereof, all on a basis of mutual respect for, and recognition of, the inherent sovereignty of the Navajo Nation and the State of Arizona, and the laws enacted by each.

SECTION III. AUTHORITY

The NATION is duly authorized to enter into cooperative arrangements and agreements with federal, state, regional and local governmental agencies, pursuant to 2 N.N.C. §601 (B)(1), as amended. The CITY is duly authorized to enter into agreements with other tribal law enforcement agencies, pursuant to A.R.S. §§ 11-951 and 11-952 and A.R.S. §13-3872.

SECTION IV. INTENT

The NATION and CITY each wish to ensure better law enforcement services by providing for mutual use of law enforcement personnel and resources in the event of disaster, disorder, law enforcement emergencies or special requests or events arising in their respective jurisdictions. The NATION and the CITY intend to provide trained and experienced law enforcement officers readily available to each jurisdiction and to provide increased protection for the public.

SECTION V. THIRD-PARTY BENEFICIARIES; CREATION OF THIRD-PARTY RIGHTS OR BENEFITS; USE OF AGREEMENT AS EVIDENCE

This AGREEMENT does not create any substantive or procedural right or benefit, civil or criminal, in favor of any person or entity not a party hereto, nor does it create a duty to respond not otherwise imposed by law. No part of this AGREEMENT may be used as evidence in any court proceeding by either party hereto, unless the entire AGREEMENT is also received into evidence. Failure to follow the provisions of this AGREEMENT shall not, of itself, constitute a defense, grounds for suppression of evidence, or basis for dismissal of any criminal action.

SECTION VI. APPLICATION FOR MUTUAL AID CERTIFICATION

The CITY shall complete and submit to the NATION, through the Executive Director of the Navajo Division of Public Safety, the "Peace Officer Commission Card Form" for each CITY officer who is qualified to serve as a tribal law enforcement officer, together with a description of each officer's qualifications. An officer shall be qualified if he or she satisfies the requirements of the "Peace Office Commission Card Form" attached thereto and made a part hereof as Exhibit "1", as well as a statement of qualifications which shall include a departmental certification of a satisfactory background check having occurred within the last five years, a copy of the applicant's valid law enforcement certification card, and valid state driver's license.

SECTION VII. ISSUANCE OF MUTUAL AID CERTIFICATION

A. Each party shall, without undue delay, issue the respective mutual aid law enforcement certification as required upon determining the qualification of each officer.

B. All CITY officers shall complete a 16-hour training course to be provided by the NATION at a location to be determined prior to their being issued a mutual aid certification.

C. It is understood by the parties that the issuance of a mutual aid certification to the NATION officers by the CITY pursuant to this AGREEMENT is intended to confirm the authority such officers independently possess by virtue of A.R.S. § 13-3874.

SECTION VIII. SUSPENSION OR REVOCATION

Either party may, at any time, suspend or revoke any mutual aid law enforcement certification issued under this AGREEMENT for reason solely within its discretion.

SECTION IX. SCOPE AND POWERS

Pursuant to this AGREEMENT, CITY officer who is issued a mutual aid law enforcement certification shall have all powers necessary to enforce the criminal and traffic laws of the Navajo Nation, including the power to make arrests for any violations thereof to the full extent as allowed by law. Both parties to this AGREEMENT recognize that NATION officers are certified through APOST and thereby independently possess such authority by virtue of A.R.S. § 13-3874, and that this AGREEMENT is not intended to restrict, expand or alter such authority. Nothing herein shall limit the application of the laws of fresh pursuit to any action undertaken pursuant to this AGREEMENT and each party acting under the authority of this AGREEMENT may engage in fresh pursuit as allowed by law.

SECTION X. ARREST AND CUSTODY PROCEDURES

A. Indian suspects arrested within Navajo Indian Country (as defined in 18 U.S.C. § 1151) within those areas contiguous to the City of Page and within the Tuba City Police District by a CITY officer shall be taken for booking to the nearest Navajo Department of Corrections facility within the district where the arrest occurs.

B. Non-Indian suspects arrested by a NATION officer within the boundaries of the City of Page shall be taken for booking into the Coconino County Jail.

C. A CITY officer who arrests an Indian within Navajo Indian Country, as described in Subsection A, under any provision of the NATION's traffic and criminal laws shall inform the arrestee of his or her rights relating to criminal law under the Navajo Bill of Rights. A CITY officer who arrests any Indian within Navajo Indian Country for any offense under 18 U.S.C. § 1152 or § 1153 or any federal felony shall inform the arrestee of his or her rights pursuant to Miranda v. Arizona. A NATION officer who arrests any non-Indian shall inform the arrestee of his or her rights pursuant to Miranda v. Arizona.

D. A CITY officer who arrests any Indian within the NATION's jurisdiction shall notify the NATION's dispatcher, via mobile police radio, of the arrest; obtain a report number; prepare and submit a complete and accurate report of the arrest; submit the report to the proper Navajo police district immediately for processing; and forward said information and documents to the Navajo Office of the Prosecutor to be filed with the courts of the Navajo Nation; a CITY officer shall honor any Navajo subpoena and summons relating to the arrest.

E. In the event an arrest is made, or could be made, by either party under 18 U.S. C. § 1153 or for any federal felony in Navajo Indian Country, a Navajo Department of Criminal Investigations Investigator or FBI Agent shall be notified as soon as possible.

SECTION XI. CITATIONS FOR TRAFFIC OFFENSES

A. A CITY officer who effects stops on Indians for traffic offenses in Navajo Indian Country may issue a verbal or written warning or issue a Navajo Nation traffic citation or effect an arrest where permitted by the laws of the Navajo Nation.

B. A NATION officer who effects stops on non-Indians for traffic offenses in City of Page may issue a verbal or written warning or issue a City of Page or State of Arizona traffic citation or effect an arrest where permitted by City of Page or Arizona law.

SECTION XII. INVESTIGATIONS

All investigations, including searches and seizures, conducted within the territorial jurisdiction of the Navajo Nation by either party to this AGREEMENT shall be conducted pursuant to applicable Navajo, State, and Federal law.

SECTION XIII. EXTRADITIONS

Any Indian located within the territorial jurisdiction of the Navajo Nation who has violated Arizona criminal law and who seeks asylum from prosecution by the State of Arizona shall be extradited pursuant to 17 N.N.C. § 1951, et seq., as may be amended, except if the arrest is as a result of fresh pursuit pursuant to Section IX of this AGREEMENT.

SECTION XIV. FOREITURES

If, as result of any investigation within the territorial jurisdiction of the Navajo Nation in which the NATION and CITY participate together, any tangible items of contraband are seized from an Indian or a non-Indian, including money, pursuant to the criminal laws of the State of Arizona and/or the Navajo Nation, the CITY and NATION shall share with the other in the distribution of any and all items, not otherwise legally destroyed, or money forfeited to the Agencies as a result of said investigation. Shares, proceeds to the sale of any and all items, or money will be distributed based on relative contributions of participating Agencies. Relative contributions will be evaluated and determined by participating heads or their delegates with authority.

SECTION XV. SUPERVISION AND CONTROL

In the event that the CITY provides law enforcement officers to the NATION, the officers shall remain under the ultimate control of the CITY but shall take supervision and direction from the NATION while in the NATION's jurisdiction. In the event that the NATION provides law enforcement officers to the CITY, the officers shall remain under the ultimate control of the NATION, but shall take supervision and direction from the CITY while in the CITY's jurisdiction.

SECTION XVI. COMPENSATION AND BENEFITS

All NATION officers and CITY officers responding to and providing mutual aid assistance pursuant to this AGREEMENT remain the employees of their respective law enforcement agency. Both the NATION and the CITY shall remain liable for their employees' salaries, workers' compensation protection and civil liabilities. Each CITY and NATION officer shall be deemed to be performing regular duties for his or her respective law enforcement agency while performing services pursuant to this AGREEMENT.

SECTION XVII. INDEMNIFICATION

The CITY shall be liable for any and all acts or failures to act of its officers acting within the scope of the CITY and the State of Arizona's employment. The NATION shall be liable for any and all acts or failures to act of its officers acting within the scope of the NATION's employment.

SECTION XVIII. SAVINGS CLAUSE

If any provision of this AGREEMENT is held invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the full extent as permitted by law and equity.

SECTION XIX. TERMINATION

Either party may terminate this AGREEMENT upon thirty (30) days notice to the other party. Upon the effective date of termination as set forth in such notice, each party's obligations and authority hereunder shall terminate.

SECTION XX. NOTICES

All notices and communications required or permitted under this AGREEMENT shall be in writing and shall either be delivered personally or sent by certified mail, postage prepaid, return receipt requested, to the intended recipient at the address set forth below (or such other address as either party may hereafter specify):

CITY: FRANK BALKCOM SR.
PAGE POLICE DEPARTMENT
808 COPPERMINE ROAD
P.O. BOX 3005
PAGE, AZ 86040

NATION: CHIEF OF POLICE
NAVAJO POLICE DEPARTMENT
P.O. BOX 3360
WINDOW ROCK, AZ 86515-3360

SECTION XXI. SOVEREIGN IMMUNITY

Nothing in this AGREEMENT or future amendments shall be interpreted, either expressly or impliedly, as constituting a waiver of the sovereign immunity of the Navajo Nation or of the City of Page.

SECTION XXII. AMENDMENTS

This AGREEMENT constitutes the entire terms, conditions and understandings between the parties, and any amendments to this AGREEMENT shall be in writing and signed by all parties, subject

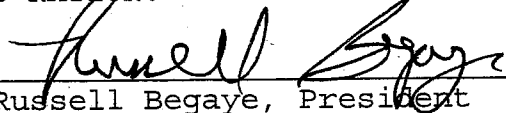
to approval by the appropriate authorities of the Navajo Nation and the Page Police Department.


SECTION XXIII. EFFECTIVE DATE OF AGREEMENT


This AGREEMENT shall become effective on the date signed by all parties and approved by appropriate authorities.

IN WITNESS THEREOF, the parties have executed this AGREEMENT pursuant to applicable Navajo Nation and Arizona law.


NAVAJO NATION:

By:  Date: 2-2-2016
Russell Begaye, President

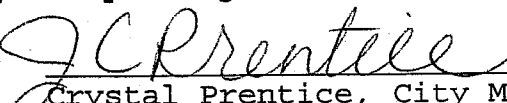
By:  Date: 01/21/16
Jesse Delmar, Executive Director
Navajo Division of Public Safety

By:  Date: 01/21/16
Capt. Bobby Ebsitty,
Delegated Chief of Police
Navajo Police Department

Page Police Department

By:  Date: 1/14/16
Frank Balkcom SR, Chief of Police
Page Police Department


Page City Manager:

By:  Date: 1/14/16
Crystal Prentice, City Manager
City of Page

Attest:

By:  Date: 1/14/16
Kim Larson, City Clerk
City of Page

Approved as to Form:

By:  Date: 1/14/16
Joseph D. Estes, City Attorney
City of Page

COPY

Document No. 005355Date Issued: 01/27/2016

SECTION 164 REVIEW FORM

Title of Document: MOA NPD and Page PD Contact Name: DELMAR, JESSEProgram/Division: DIVISION OF PUBLIC SAFETYEmail: jdelmar@navajo-nsn.gov Phone Number: 928-871-6581

Division Director Approval for 164A: _____

Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days, except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.

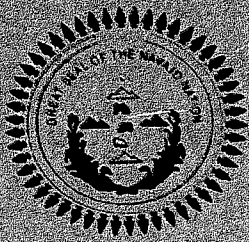
Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council

			Sufficient	Insufficient
<input type="checkbox"/>	Statement of Policy or Positive Law:			
	1. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)			
	1. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

Section 164(B) Final approval rests with the President of the Navajo Nation

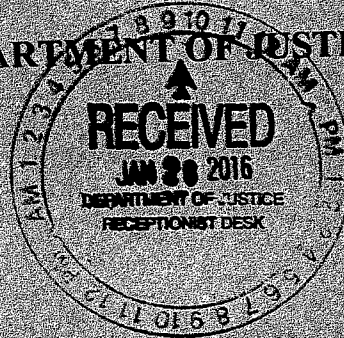
<input type="checkbox"/>	Grant/Funding Agreement or amendment:			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Subcontract/Contract expending or receiving funds or amendment:			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. BRD: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	5. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:			
	1. Division: <u>Jesse Delmar</u>	Date: <u>01/27/16</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	2. OAG: <u>[Signature]</u>	Date: <u>1/29/16</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	M.O.A. or Letter of Assurance expending or receiving funds or amendment:			
	1. Division: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	2. OMB: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	3. OOC: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
	4. OAG: _____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

COPY



NAVAJO NATION DEPARTMENT OF JUSTICE

**DOCUMENT
REVIEW
REQUEST
FORM**



DOJ
01-28-16 934a
DATE / TIME
☒ 7 Day Deadline
DOC # 005355
SAS #
UNIT: H59w

☐ RESUBMITTAL

*** FOR NNDOJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE

DATE OF REQUEST: 1/28/2016 DIVISION: Public Safety
CONTACT NAME: Jesse Delmar DEPARTMENT: Public Safety
PHONE NUMBER: 871-6581 E-MAIL: jdelmar@navajo-nsn.gov

TITLE OF DOCUMENT: MOA Navajo Police Department and Page Police Department

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 1/28 @ 11:28 REVIEWING ATTORNEY/ADVOCATE: RH

DATE TIME OUT OF UNIT: 2-1-16

DOJ ATTORNEY / ADVOCATE COMMENTS

Ready for surname

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
RHokyan	1-28-16 1:12 PM	Kandis Martine	1/29/16 10:55 am

DOJ Secretary Called: for Document Pick Up on 2-1-16 at By: [Signature]

PICKED UP BY: (Print) DATE / TIME: