

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE HOPLAND BAND OF POMO INDIANS AND THE
MENDOCINO COUNTY DISTRICT ATTORNEY'S OFFICE**

This Agreement ("Agreement") is entered into on this ____ day of _____, 2008, by and between the Hopland Band of Pomo Indians ("Tribe"), a federally recognized Indian tribe, whose principal place of business is located at 3000 Shanel Road, Hopland, California, 95449, and the Mendocino County District Attorney's Office ("District Attorney"), with its principal place of business located at 100 North State Street, Ukiah, California, 95482. The Tribe and the District Attorney shall be collectively referred to in this Agreement as the "Parties."

RECITALS

The Parties have entered into this Agreement in light of the following facts:

1. The Tribe is a federally recognized Indian tribe organized under a written Constitution, with the Hopland Tribal Council ("Council") as the governing body of the Tribe.
2. The Tribe is the beneficial owner of the Hopland Indian Reservation ("Reservation"), which comprises approximately 2,070 acres of land located approximately ten miles east of the unincorporated area of the town of Hopland in Mendocino County, California. Title to the Tribe's Reservation trust lands is owned by the United States of America in trust for the Tribe.
3. Pursuant to the Indian Law Enforcement Reform Act, 25 U.S.C. §2801, et seq., the Tribe has entered into a Deputation Agreement, dated January 26, 2005, with the United States Department of the Interior, to provide law enforcement services to all persons who reside, work, or visit the Reservation ("Deputation Agreement").
4. Pursuant to the Deputation Agreement, the Secretary of the Interior has issued Special Law Enforcement Commissions to officers of the Hopland Tribal Police Department ("Department") authorizing the Special Law Enforcement Commissioned officers ("SLEC Officers") to enforce federal laws on the Reservation and, under certain circumstances, off of the Reservation.
5. As federal law enforcement officers, Hopland's SLEC Officers have the authority, pursuant to California Penal Code §830.8, to make arrests, under certain circumstances, for violations of California's criminal laws.
6. The Parties agree that the most effective method of evaluating whether: (1) a person arrested by the Department should be prosecuted under State law and (2) the prosecution of those arrested by the Department pursuant to State law, would be for the District Attorney to accept the SLEC Officers's arrest reports directly from the Department and for the Department to make the SLEC Officers available for testimony without the necessity for the issuance of subpoenas.

AGREEMENT

In consideration of the above recited facts, and the mutual promises contained herein, the Parties hereby agree as follows:

1. **Acceptance of Police Reports.** The District Attorney agrees to accept arrest reports prepared by the Department's SLEC Officers directly from the Department, to be used by the District Attorney in determining whether to prosecute a person, and as evidence in the prosecution of the persons arrested by the SLEC Officers if the District Attorney determines that prosecution is warranted.

2. **Format of Reports; Training.** The Department shall prepare the reports in the same format as those of the Mendocino County Sheriff's Department or in any other format requested by the District Attorney. If requested to do so by the District Attorney's Office, all SLEC Officers shall participate in and receive training on the preparation of arrest reports in the format requested by the District Attorney from an employee of the District Attorney's office or the Mendocino County Sheriff's Department, appointed by the District Attorney for that purpose. Such training shall be provided to the SLEC Officers at a day and time that is mutually convenient to the Parties.

3. **Availability of SLEC Officers for Testimony.** The Department shall make SLEC Officers available to the District Attorney for testimony when required by the District Attorney. All SLEC Officers shall be eligible under the provisions of Proposition 115, the "Crimes Victims Justice Reform Act," codified in Penal Code § 872(b), to testify at any hearing that a SLEC officer has been requested by the District Attorney to attend. The Department shall not require the District Attorney to issue subpoenas for the testimony, but shall make SLEC officers available upon request of the District Attorney. The District Attorney shall make its best efforts to schedule such testimony at a time that is convenient to the Department and the SLEC Officers. In the alternative, the District Attorney may subpoena any SLEC officer to testify at any hearing, which in the discretion of the District Attorney, requires the Officer subpoenaed to testify. The District Attorney shall cause the subpoena to be served on the Officer by faxing the subpoena to the Chief of the Department, or any person designed by the Chief in writing. The Chief, or the Chief's designee, shall cause the subpoena to be personally served upon the Officer and shall complete a proof of service on a form provided to the Department by the District Attorney for that purpose, and within no less than twenty-four (24) hours, cause the completed proof of service to be faxed and the original to be mailed to the District Attorney. Upon execution of this Agreement by the Parties, the Chief of the Department shall provide in writing to the District Attorney the fax number that the District Attorney shall use to fax subpoenas to the Chief under this Paragraph. The Department shall notify the District Attorney in writing, within twenty-four (24) hours, of any change of the fax number designed under this Paragraph.

4. **Pitchess Motions.** The District Attorney shall not defend or otherwise respond to any *Pitchess* Motions filed by any defense attorney to obtain copies of any records from any SLEC Officers personnel files. All *Pitchess* Motions shall be defended or responded to by the Tribe's Tribal Attorney.

5. **Judgment Of Conviction Imposition Of Fees.** The District Attorney shall file with the Superior Court, a “Booking Fee Reimbursement” request, submitted by the Department in the form attached hereto as **Exhibit A**, for an order, as part of the judgment of conviction of any person arrested by SLEC Officers, that the convicted defendant pay the amount of all booking and detention fees incurred by the Tribe.

6. **Assignment Of Right Of Collection.** By executing this Agreement, the District Attorney hereby assigns to the Tribe the right to sue any person for whom booking or detention fees were paid by the Tribe, as part of any arrest of the person by SLEC Officers, to Mendocino County to recover the payment of any booking and detention fees incurred by the Tribe.

7. **Booking And Detention Fees Defined.** As used in this Agreement, the term “booking and detention fees” shall have the same meaning as the phrase “actual administrative costs” as defined in California Government Code §29550 in effect as of December 31, 2006.

8. **Future, Additional Agreements.** The Parties acknowledge that additional agreements with respect to issues that may arise between the Parties in the implementation of this Agreement may become necessary. When such issues arise, the Parties agree to meet and confer in good faith in an effort to resolve those issues by reaching such agreements, although the remedies set forth in Paragraphs 8 and 9 of this Agreement shall not be applicable to any breach of this Paragraph.

9. **Dispute Resolution.** Whenever, during the term of this Agreement, any disagreement or dispute arises between the Parties as to the interpretation of this Agreement, or any rights or obligations arising hereunder, all such matters shall be resolved, whenever possible, by meeting and conferring. Either Party may request such a meeting by giving notice to the other, in which case such other Party shall make itself available within seven (7) days thereafter. If such matters cannot be so resolved within ten (10) days after the longer of the giving of such notice to confer or of the Parties conferring that commenced within seven (7) days of giving such notice, either Party may seek declaration and/or injunctive relief in any court of competent jurisdiction to enforce the provisions of this Agreement. The Parties expressly agree to waive any right that either party may have for any cause of action for money damages against the other arising from a breach of any provision of this Agreement.

10. **Notices.** Any notices, requests, demands, or other communications required or permitted hereunder shall be sufficient if made in writing and: (1) delivered personally or (2) sent by certified mail, postage prepaid, return receipt requested, and addressed to the appropriate party at its address set forth above, or such other addresses as a Party may specify to the other in a notice given pursuant to this Paragraph.

11. **Construction.** To the extent state law applies, this Agreement shall be governed in accordance with the laws of the State of California. The descriptive headings of the paragraphs of this Agreement are for convenience only and are not to be used in the construction of the contents of this Agreement. This Agreement may be executed in multiple counterparts, each of which will be an original instrument, but all of which will constitute one agreement.

12. **Term.** This Agreement shall become effective on the date that it is executed by the both Parties and shall remain in effect until: (a) it is rescinded or superseded pursuant to a written agreement between the Parties or (b) either Party gives the other party Ninety (90) days advance written notice of its intent to terminate this Agreement. Subject to the provisions of this paragraph 11, each party shall have the right to terminate this Agreement without cause. In the event that either Party serves the other with notice of its intent to terminate this Agreement under provisions of subsection (b) of this Paragraph, the other Party may then initiate meet-and-confer proceedings under Paragraph 9 of this Agreement to address any issue or disagreement it may have regarding the termination of this Agreement.

13. **Federal Approvals.** The Parties agree that the Tribe shall, within one week of its execution by the Parties, submit this Agreement to the Bureau of Indian Affairs (“BIA”) for a determination as to whether this Agreement needs the approval of the BIA, pursuant to 25 U.S.C. Section 81. If the BIA determines that its approval is necessary, the Parties shall do all things reasonably necessary, in an expeditious and continuously diligent manner, to obtain BIA approval of this Agreement. If the BIA determines that its approval is necessary, but that it will not approve this Agreement unless modifications are made to this Agreement, the Parties shall immediately commence negotiations for a reasonable period of time, not to exceed sixty (60) days, for the purpose of negotiating language that is mutually agreeable to the Parties that can be substituted for the objectionable language in this Agreement and that would result in the Parties obtaining the BIA approval necessary to make this Agreement a binding and legally enforceable contract.

14. **Authorization.** Chairman, Roman Carrillo, has been authorized by an appropriate resolution of the Hopland Tribal Council to execute this Agreement pursuant to the Tribe’s Constitution, which authorizes the Tribal Council to enter into agreements with local governments to promote the health and general welfare of the Tribe. The District Attorney warrants that Meredith J. Lintott, District Attorney of Mendocino County and Kendall Smith, Chairman for the Board of Supervisors for the County of Mendocino, by appropriate resolution of the Board of Supervisors of the County of Mendocino, has been authorized to execute this Agreement on behalf of the District Attorney and the County of Mendocino.

Executed and delivered as of the date first written above in Ukiah, California.

HOPLAND BAND OF POMO INDIANS

By: _____
Roman Carrillo, Chairman

**MENDOCINO COUNTY DISTRICT
ATTORNEY**

By: _____
Meredith J. Lintott, District Attorney

**MENDOCINO COUNTY
BOARD OF SUPERVISORS**

By: _____
Jim R. Wattenburger, Chair

APPROVED AS TO FORM:

Lester J. Marston, Tribal Attorney

Jeanine B. Nadel, County Counsel