

**MEMORANDUM OF AGREEMENT
BETWEEN
THE EASTERN BAND OF CHEROKEE INDIANS
AND**

**THE NORTH CAROLINA DIVISION OF PUBLIC HEALTH, THE JACKSON
COUNTY DEPARTMENT OF PUBLIC HEALTH, THE SWAIN COUNTY HEALTH
DEPARTMENT, THE GRAHAM COUNTY HEALTH DEPARTMENT, THE
CHEROKEE COUNTY HEALTH DEPARTMENT, AND HAYWOOD COUNTY
HEALTH AND HUMAN SERVICES**

The Eastern Band of Cherokee Indians (hereinafter referred to as "**Tribe**") and the North Carolina Division of Public Health, Department of Health and Human Services (hereinafter referred to as "**Division**"), the Jackson County Department of Public Health, the Swain County Health Department, the Graham County Health Department, the Cherokee County Health Department, and Haywood County Health and Human Services (hereinafter collectively referred to as "**Counties**") each (hereinafter collectively referred to as "**Parties**" or individually as "**Party**") desire to enter into this Memorandum of Agreement (hereinafter referred to as "**Agreement**") to protect the health and safety of members of the **Tribe** and Indian and non-Indian employees, residents, visitors, guests and other people on the land within the boundaries of the Cherokee Indian Reservation and Cherokee Tribal Trust Lands collectively, as those lands may be added to or subtracted from, from time to time (hereinafter referred to as "**Tribal Lands**"), (hereinafter collectively referred to as "**People on Tribal Lands**");

RECOGNIZING that the **Tribe** is a federally-recognized Indian tribe enjoying a government-to-government relationship with the United States of America and the State of North Carolina and retaining certain inherent sovereign powers and authority; and

RECOGNIZING that the **Division** and the **Counties** are agencies and instrumentalities of the State of North Carolina under the laws of the State of North Carolina; and

RECOGNIZING that the State of North Carolina, through the **Division** and the **Counties**, has lawful authority to apply and enforce the health and sanitation laws of the State of North Carolina on **Tribal Lands** with consent of the **Tribe's** governing body, under authority of 25 U.S.C §231; and

RECOGNIZING that the **Tribe** has consented for the State of North Carolina to apply and enforce state health and sanitation laws on **Tribal Lands** under authority of Cherokee Code § 130-1; and

RECOGNIZING that communicable disease, environmental hazard, disease or contamination caused by natural disaster, or chemical, biological, radiological, nuclear, or explosive incident (hereinafter referred to as "Disease or Contamination Incident") occurs across jurisdictional

boundaries, and can affect the health and safety of **People on Tribal Lands** as well as the region; and

WHEREAS, a Disease or Contamination Incident may require epidemiological investigation to determine the cause of health hazards, and may require implementation of control measures to prevent the spread of disease, to maintain healthful sanitation, or to contain chemical, biologic, radiological, nuclear, or explosive incidents or hazards to human health; and

WHEREAS, all North Carolina county and district Health Departments and Public Health Authorities are responsible to undertake such Disease and Contamination Incident epidemiological investigation and implementation of control measures for their respective counties pursuant to North Carolina Administrative Code (NCAC) 130A; and

WHEREAS, the **Tribe** has a comprehensive health system that includes the Public Health and Human Services Division and the Cherokee Indian Hospital Authority, and this health system has limited capacity to assist **Division** and **Counties** with certain public health functions; and

WHEREAS, in order to further collaboration between the **Tribe**, the **Division**, and the **Counties** in order to protect the health and safety of all **People on Tribal Lands**, the **Parties** HAVE AGREED AS FOLLOWS:

ARTICLE 1

The objective of cooperation under this Memorandum of Agreement is to establish, for the mutual benefit of the **Parties** and the general public, an **Agreement** and procedures which will provide for the application and enforcement of certain health laws and inspections within **Tribal Lands** by authorized officials of the State of North Carolina and the **Counties**.

ARTICLE 2

- A. Pursuant to this **Agreement**, and in accordance with Chapter 130A Public Health and Chapter 150B of the North Carolina General Statutes (NCGS), the **Division** and **Counties** shall provide the following Environmental Health services for the **Tribe**:
1. Perform all sanitation inspections of adult day service facilities, bed and breakfast homes, bed and breakfast inns, child care facilities, food service establishments, institutions, local confinement facilities, lodging facilities, primitive experience camps, public swimming pools, residential care facilities, schools, summer camps and tattoo artists on **Tribal Lands** in the same manner and to the same extent as they perform or conduct such inspections on other lands within the State of North Carolina; and

2. Collect the fees, if any authorized by North Carolina statute for performing such inspection services by submitting statements for such inspection services to the **Tribe**, itemizing each business establishment or entry so inspected; and
3. Enforce the standards established by North Carolina statute or regulation in all inspections performed on **Tribal Lands** as authorized above, by reporting all violations or failure to satisfy such standards to the **Tribe** through the Environmental Health and Safety Manager; and
4. Assist officials of the **Tribe** by providing recommended corrective action steps to be taken by environmental health violators; and
5. Reserve the right to post and remove grade cards, with appeals concerning the removal of grade cards to be made in accordance with Chapter 150B of the NCGS; and
6. Assist officials of the **Tribe** in the enforcement of violations determined through the above authorized inspections by appearing and testifying in such administrative or court proceedings as may be required for the **Tribe** to enforce standards; and
7. Administer embargo authority concerning food and drink as described within NCGS §130A-21; and
8. Enforce Mass Gathering requirements established by North Carolina statute and regulation.

B. Pursuant to this **Agreement**, the **Division** and **Counties** shall provide the following Communicable Disease services for the **Tribe**:

1. With the assistance of the **Tribe's** Public Health and Human Services Division as directed in The Cherokee Code Chapter 130, implement and direct the following:
 - a. Surveillance and case investigation of communicable disease cases and outbreaks
 - b. Training and technical assistance; and
2. Conduct all case investigations and report notifiable diseases in **People on Tribal Lands** in a timely manner to the North Carolina Division of Public Health as required by 10A NCAC 41A.0101-0104 and NCGS §130A-134 through §130A-143 and to the

Parties as applicable in the same manner and to the same extent as they perform or conduct such services on other lands within the State of North Carolina; and

3. Implement and direct control measures, including isolation and quarantine, in accordance with the **Division's** and **Counties'** statutory responsibilities as required by 10A NCAC 41A.0201-.0303 and NCGS §130A-144 through §130A-147, and with the assistance and by invitation of the Deputy Health Officer of the **Tribe's** Public Health and Human Services Division as directed in The Cherokee Code Chapter 130; and
4. Maintain communicable disease records of **People on Tribal Lands** in accordance with legal requirements for confidentiality, including, but not limited to, records containing privileged patient information protected under 45 Code of Federal Regulations (CFR) Parts 160 and 164 (Health Insurance Portability and Accountability Act – HIPAA). Communicable disease records include outbreak investigation records, communicable disease reporting forms, and disease investigation (surveillance) forms.

C. Pursuant to this **Agreement**, the **Tribe** shall provide the following Environmental Health and Communicable Disease services for **People on Tribal Lands**:

1. Adopt and enact ordinances which shall authorize standards and inspection procedures for prepared foods and public swimming pools which are substantially the same as those enacted and enforced by the State of North Carolina; and
2. All businesses that provide prepared food services and public swimming pools shall be subject to required state- or county-imposed fees and shall comply with all requirements therefrom; and
3. Adopt and enact ordinances which shall authorize enforcement procedures by the **Tribe**, both by administration and through the Cherokee Court, for civil violations of such authorized inspections, which enforcement procedures shall include authority to close the operation of business entities which fail to comply with the applicable standards; and
4. Delegate to the **Division** and **Counties** the authority to inspect the facilities named in Article 2, Number 1 of this **Agreement**; and

5. Assist the **Division** and **Counties** in fulfilling their statutory public health responsibilities, including but not limited to:
 - a. Assistance with communicable disease and outbreak investigation and surveillance where they involve **People on Tribal Lands**; and
 - b. Implementation and direction of control measures in **Tribal Lands**, including isolation and quarantine; and
 - c. Reporting of notifiable diseases in **People on Tribal Lands** to the relevant local Public Health Department in a timely manner; and
6. Maintain communicable disease records of **People on Tribal Lands** in accordance with legal requirements for confidentiality, including, but not limited to, records containing privileged patient information protected under 45 Code of Federal Regulations (CFR) Parts 160 and 164 (Health Insurance Portability and Accountability Act – HIPAA). Communicable disease records include outbreak investigation records, communicable disease reporting forms, and disease investigation (surveillance) forms; and
7. The Eastern Band of Cherokee Indians Tribal Animal Control Department shall regulate the ownership, possession, treatment, and disposal of animals, and rabies vaccination and control within the territorial jurisdiction of Tribal Lands as outlined in The Cherokee Code, Chapter 19.
8. Nothing in this **Agreement** shall prohibit the **Tribe** from its obligation to report potential human rabies exposure events immediately to the relevant local Health Department and/or to the **Division** on-call epidemiologist. The **Counties** are assured that all **People on Tribal Lands** will receive the same access to Public Health control measures and post-exposure prophylaxis as any other resident or visitor to North Carolina.

D. Pursuant to this Agreement, the **Tribe**, **Counties**, and **Division** agree to implement Preparedness and Response strategies, programs, and activities as follows:

1. Jointly and collaboratively create and implement Public Health preparedness plans across all hazards; and
2. Jointly and collaboratively provide training across jurisdictions in Public Health preparedness and response as appropriate; and

3. Jointly and collaboratively organize and share Public Health response resources across jurisdictions as appropriate; and
4. Jointly and collaboratively respond to Public Health related incidents and events, including chemical, biological, radiological, nuclear, and explosive incidents, as they affect the **Counties** and **People on Tribal Lands**; and
5. In the event of a Public Health outbreak or emergency that occurs on **Tribal Lands**, the **Tribe** will cover all documented costs incurred by the county Health Department(s) beyond the usual and customary costs, including but not limited to actual costs of supplies and per hour wages for county employees including salary, overtime and benefits. Documented costs may be evidenced by written time sheets kept by employees, purchase records or receipts for supplies and other written materials provided by the county Health Department(s). These costs shall be reimbursed by the **Tribe** to the county Health Department(s) within ninety (90) days following the conclusion of the county Health Department's(s') additional work provided due to the Public Health outbreak or emergency; and
6. Jointly and collaboratively engage in Public Health related mitigation activities as appropriate.

ARTICLE 3

- A. Cooperation under this **Agreement** shall be in accordance with the laws and regulations under which each **Party** operates.
- B. All questions arising during the term of this **Agreement** shall be settled by the **Parties** by mutual agreement.
- C. It is understood that the ability of the **Parties** to carry out their obligations under this **Agreement** is subject to the availability of appropriated funds.
- D. E VERIFY. To the extent applicable by law, if a **Party** hereto utilizes a subcontractor, such **Party** shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.
- E. IRAN DIVESTMENT ACT CERTIFICATION. To the extent applicable by law, pursuant to Article 6E of Chapter 147 of the North Carolina General Statutes, if the **Division** or **Counties** utilize a subcontractor, the **Division** or **County** shall certify at the time of

subcontracting that, in accordance with the Iran Divestment Act, the subcontractor is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58 and 147-86.60. .

ARTICLE 4


- A. This **Agreement** shall enter into force upon the later date of Signature, and shall continue for a three-year period.
- B. This **Agreement** may be amended or extended at any time by written agreement of the **Parties**, and shall be reviewed by the **Parties** by ninety (90) days prior to its expiration.
- C. This **Agreement** may be terminated at any time at the discretion of any of the **Parties** upon ninety (90) days' notice in writing to the other **Parties**.

Executed in duplicate originals

FOR THE EASTERN BAND OF CHEROKEE INDIANS

Signature: _____
 Name: Richard G. Sneed
 Title: Principal Chief
 Date: _____

**FOR THE NORTH CAROLINA DIVISION OF PUBLIC HEALTH,
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

DocuSigned by:
 Signature: 
65A1EF320AD6419...
 Name: Mark Benton
 Title: Assistant Secretary for Public Health
 Date: 6/4/2020

FOR THE JACKSON COUNTY DEPARTMENT OF PUBLIC HEALTH

Signature: _____

Name: Brian Thomas McMahan

Title: Chairman, Board of Commissioners

Date: _____

FOR THE SWAIN COUNTY HEALTH DEPARTMENT

Signature: _____ See Attachment 1, p. 17 for
Swain County Health

Name: Ben Bushyhead Department signature.

Title: Chairman, Board of Commissioners

Date: _____

FOR THE GRAHAM COUNTY HEALTH DEPARTMENT

Signature: Dale E. Wiggins

Name: DARE E. Wiggins

Title: Chairman, Board of Commissioners

Date: 105-26-2020

FOR THE CHEROKEE COUNTY HEALTH DEPARTMENT

Signature: _____

Name: Ron Dickey

Title: Chairman, Board of Commissioners

Date: _____

Date: June 5, 2020 June 5, 2020

FOR HAYWOOD COUNTY HEALTH AND HUMAN SERVICES

Signature: <u>Pat Johnson</u>	<u>Ina L. Dore</u>
Name: <u>PATRICK JOHNSON</u>	<u>Ina L Dore</u>
Title: <u>PUBLIC HEALTH DIRECTOR</u>	<u>Director</u>
Date: <u>12/1/2018</u>	<u>HC HHSA</u>

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ARTICLE 4

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Executed in duplicate originals

FOR THE EASTERN BAND OF CHEROKEE INDIANS

Signature: _____

Name: _____

Title: _____

Date: _____

**FOR THE NORTH CAROLINA DIVISION OF PUBLIC HEALTH,
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Signature: _____

Name: _____

Title: _____

Date: _____

FOR THE JACKSON COUNTY DEPARTMENT OF PUBLIC HEALTH

Signature: _____

Name: _____

Title: _____

Date: _____

FOR THE SWAIN COUNTY HEALTH DEPARTMENT

Signature:  _____

Name: BEN BUSHNELL

Title: CHAIR, COUNTY COMMISSIONERS

Date: 6/11/20

FOR THE GRAHAM COUNTY HEALTH DEPARTMENT

Signature: _____

Name: _____

Title: _____

Date: _____

FOR THE CHEROKEE COUNTY HEALTH DEPARTMENT

Signature: _____

Name: _____

Title: _____

Date: _____

FOR HAYWOOD COUNTY HEALTH AND HUMAN SERVICES

Signature: _____

Name: _____

Title: _____

Date: _____