

TAX COLLECTION AGREEMENT BETWEEN THE SPIRIT LAKE TRIBE AND THE STATE OF NORTH DAKOTA

This Agreement is between the State of North Dakota, by and through its Office of State Tax Commissioner (the “State”) and the Spirit Lake Tribe (formerly Devils Lake Sioux Tribe), (the “Tribe”). The State and Tribe, through the Spirit Lake Tribal Council (the “Tribal Council”), the duly formed governing body of the Tribe, hereby agree to the following:

1. Statement of Intent

The intent of this Agreement is to:

- A. Provide for the mutual recognition and respect by the State and Tribe of one another’s sovereignty;
- B. Give recognition to the respective tax jurisdiction of the State and Tribe in a mutually satisfactory way that does not compromise either party’s right to assert a position upon termination of the Agreement;
- C. Provide for an efficient method of imposing and collecting taxes on motor vehicle fuels and special fuels sold to consumers on the Spirit Lake Reservation;
- D. Distribute the revenue from those taxes in a manner that reflects the proportion of tribal members to non-tribal members residing on the Reservation;
- E. Avoid litigation; and
- F. Provide for the application of uniform motor vehicle fuels and special fuels taxes for tribal members and non-tribal members on the Spirit Lake Reservation.

2. Sovereign Immunity

Nothing contained in this Agreement is or shall be construed to be a waiver of the sovereign immunity of the Tribe, its Tribal Council, officials, or entities. The Tribe expressly retains its sovereign immunity. In the event of a conflict with any other provision of this Agreement, the terms of Paragraph 2 shall prevail and control.

3. Acknowledgements of Authority

The parties acknowledge the following as a basis for this Agreement:

- A. **Tribal Authority**
 - 1. The Spirit Lake Tribe has jurisdiction to tax certain transactions on the Spirit Lake Reservation.
 - 2. The Tribal Council may, under Title 14, Chapter 1 of the Spirit Lake Tribe, Law and Order Code, enter into tax collection agreements with the State.

3. Specific to this Agreement, the parties acknowledge that the Tribe has jurisdiction to impose its Motor Vehicle Fuel Tax and Special Fuel Tax on fuel purchases made on the Spirit Lake Reservation.

B. State Authority

1. The State has concurrent jurisdiction to tax certain transactions involving non-members of the Spirit Lake Tribe on the Spirit Lake Reservation.

2. The State may, under North Dakota Century Code Chapter 54-40.2, enter into agreements with Native American Tribes.

3. Specific to this Agreement, the parties agree that the State has concurrent jurisdiction with the Tribe to impose its Motor Vehicle Fuel Tax and Special Fuel Tax on fuel purchases made by non-members of the Spirit Lake Tribe on the Spirit Lake Reservation.

4. Taxes Included in This Agreement

A. Motor Vehicle Fuel and Special Fuel

1. The parties agree that for purposes of this Agreement, the State will collect one motor vehicle fuel tax and special fuel tax per transaction made by both members of the Spirit Lake Tribe and non-members of the Spirit Lake Tribe and distribute the revenue collected from those taxes as provided below.

2. The State agrees that it will collect and administer as a contractor the following tribal taxes provided they remain substantially similar to the corresponding state taxes:

Spirit Lake Tribe, Law and Order Code
Title 7, Chapters 14 and 15
Motor Vehicle Fuels Tax and Special Fuels Tax

(a) The State is responsible only for the administration and collection of these taxes. The Tribe retains exclusive jurisdiction and tax authority to file and prosecute civil and criminal enforcement actions as needed with respect to the tribal taxes, according to Tribal and Federal laws, and engage in any collection or enforcement action necessary to implement the requirements of this Agreement.

(b) The amount of the tax will be the amount imposed generally in North Dakota for such products, as amended from time to time.

(c) Upon request of the State, the Tribe will assist the State in the assessment and collection of any tax subject to this Agreement.

B. Other Taxes

1. Nothing in this Agreement is meant to preclude the Tribe from imposing other taxes within the Tribe's jurisdiction.

2. Nothing in this Agreement is meant to preclude the State from imposing other taxes within the State's jurisdiction.

5. Remittance of Tax Proceeds and Retention of Administrative Fee

A. Tax Proceeds

1. The State agrees to remit to the Tribe, as a tribal share of revenues collected, an amount equal to seventy-six percent (76%) of the total proceeds collected from the tribal taxes subject to this Agreement and the corresponding state taxes.

2. The amount to be distributed to the Tribe shall be based upon the population demographics of the 2000 United States Census. The revenue share shall be changed at the request of either party to reflect any change in the proportion of tribal members to non-tribal members residing on the Reservation, as reported in any subsequent United States Census.

3. The payment specified in Paragraph 5(A)(1), less the administrative fee specified in Paragraph 5(B), below, shall be remitted by the State to the Tribe on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurs. Unless otherwise requested in writing by the Tribe, the remittance shall be by state warrant issued by the State Treasurer, payable to the order of the Spirit Lake Tribe Tax Department.

4. The State shall furnish the Tribe with an itemized list of the source of the revenue payment specified in Paragraph 5(A)(1) on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurred.

B. Administrative Fee

The State shall retain, as a service fee for the collection and administration of the tribal taxes subject to this Agreement, one percent (1%) of the payment specified in Paragraph 5(A)(1) of this Agreement.

6. Implementation and Administration of the Agreement

A. Tribal Implementation and Administration

1. The Tribe will cause to be adopted and enforce such tribal laws as are necessary to implement the requirements of this Agreement which shall include, without limitation, assessment, collection, enforcement, and administration provisions.

2. The Tribe agrees that, subject to the provisions of this Agreement, the taxes provided for by Tribal law under this Agreement shall be imposed and collected in connection with all affected transactions occurring on the Spirit Lake Reservation. The tribal taxes covered by this Agreement shall be the same as the corresponding state taxes, and all subsequent amendments thereto, and shall be collected and remitted in the same manner as required under the North Dakota Century Code.

3. The Tribe will notify the State in writing of any enacted changes to the tribal taxes covered by this Agreement. If requested to do so by the Tribe, the State will review any

proposed change to a tribal tax covered by this Agreement in advance and advise the Tribe whether the change, if enacted, would, in the view of the State, result in the tribal tax ceasing to be substantially similar to the corresponding state tax.

B. State Implementation and Administration

1. The State agrees to provide the Tribe written notice of any pending changes to the state taxes corresponding to the tribal taxes covered by this Agreement which may result in the tribal taxes ceasing to be substantially similar to the corresponding state tax.

2. The State will give written notice to the Tribe of any enacted changes to state taxes and in the notice will specify which changes would, in the view of the State, result in the affected tribal tax ceasing to be substantially similar to the corresponding state tax if the tribal tax is not amended.

C. Administration and Maintenance of Records

1. The Tribe agrees to keep accurate records setting forth information in sufficient detail to allow for verification that the Tribe and Tribally-owned entities are collecting and remitting the correct amount of tax due under to this Agreement.

2. Upon reasonable request of the Tribe, the State shall make available to the Tribe all records of tax filings that relate to the taxes covered by this Agreement.

3. If the State receives a request for information pertaining to this Agreement that it is required to furnish under the State's Open Records laws, the State will inform the Tribe of the request and information released.

7. Effective Date, Duration, and Termination of the Agreement

A. Effective Date

The parties agree that the effective date for collection and administration of motor vehicle fuel taxes and special fuel taxes in the manner provided by this Agreement shall be September 1, 2006.

B. Duration

Upon the effective date, this Agreement shall remain in effect indefinitely, unless terminated under the provisions of Paragraph 7(C).

C. Termination

1. Either party may terminate this Agreement without cause and without liability, except as to any amounts collected and due to either party, upon thirty (30) days written notice to the other party.

2. Before the Agreement is terminated under this provision, the parties will meet and make a good faith effort to resolve the differences leading to the notice of termination. A Notice

of Intent to terminate on behalf of the Tribe must be executed by the Tribal Council. A Notice of Intent to terminate on behalf of the State must be executed by the State Tax Commissioner.

3. This Agreement shall terminate immediately as to any tribal tax upon the repeal of that tax by the Tribe.

4. In the event of termination of this Agreement, the State shall notify each known taxpayer affected by the termination, by first class mail, sent on or before the date the next payment is due, that it will no longer collect the taxes covered by this Agreement, and that the taxpayer should no longer remit to it the affected tribal tax or taxes.

8. Amendments and Waiver

This Agreement may not be modified or amended, nor may compliance with any provision of it be waived except by an instrument or instruments in writing signed by the party against whom enforcement of any modification, amendment, or waiver is sought.

9. Exemption from Tax and Refunds

Motor vehicle fuel and special fuel used in a vehicle owned or leased by the Tribe and used for governmental purposes shall be exempt from motor vehicle fuel taxes and special fuel taxes. Any tax paid on motor vehicle fuel or special fuel for such vehicle shall be refunded to the Tribe by the State.

10. Notices and Payment

A. Notice

Notice required to be sent to the Tribe under this Agreement shall be sent to:

Chairperson	Office of Tribal Tax Director
Spirit Lake Tribe	Spirit Lake Tribal Tax Department
P.O. Box 359	P0 Box 192
Fort Totten, ND 58335-0359	Fort Totten, ND 58335-0192

Notice required to be sent to the State under this Agreement shall be sent to:

North Dakota Office of State Tax Commissioner
Motor Vehicle and Special Fuels Section
600 East Boulevard Avenue
Bismarck, ND 58505-0599

B. Payment

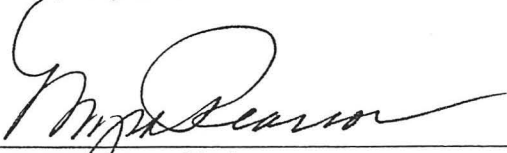
Payment required to be sent to the Tribe under this Agreement shall be sent to:

Office of Tribal Tax Director
Spirit Lake Tribal Tax Department
P.O. Box 192
Fort Totten, ND 58335-0192

Either party may change its Notice address by giving written notice of the change to the other party.

IN WITNESS WHEREOF, the Tribe and State have caused this Agreement to be executed and delivered by their respective officers, duly authorized.

8/2/06
Date

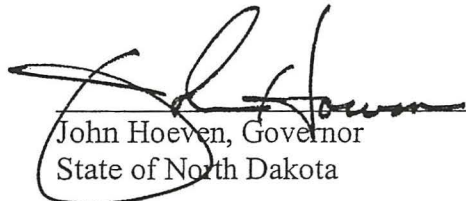

Myra Pearson, Chairperson
Spirit Lake Tribe

8/2/06
Date


Cory Fong, Tax Commissioner
State of North Dakota

This Agreement is approved under N.D.C.C. § 54-40.2-04.

10/25/06
Date


John Hoeven, Governor
State of North Dakota