

# **2002 Government-to-Government Accord between the State of Michigan and the Federally Recognized Indian Tribes in the State of Michigan**

## **I. PREAMBLE**

This accord, dated October 28, 2002, is executed between the federally recognized Indian tribes of Michigan signatory to this accord and the state of Michigan, through its governor, in order to better achieve mutual goals through an improved relationship between their sovereign governments. This accord provides a framework for a government-to-government relationship that recognizes that the parties to this accord share a responsibility to provide for and protect the health, safety and welfare of their common citizens. This accord builds upon and complements Governor John Engler's Executive Directive 2001-2, "Policy Statement on State-Tribal Affairs," a copy of which is attached and incorporated herein.

## **II. PARTIES**

There are twelve federally recognized Indian tribes in the state of Michigan. Each sovereign tribe has an independent relationship with each other and the state. This accord provides the framework for that relationship between the state of Michigan, through its governor, and the signatory tribes.

## **III. GUIDING PRINCIPLES**

The parties respect the sovereignty of each other party. The respective sovereignty of the state and each federally recognized tribe provide paramount authority for that party to exist and to govern.

The state of Michigan acknowledges that:

- (1) Each federally recognized Indian tribe in the state of Michigan is a unique and independent government, with different management and decision-making structures, which exercises inherent sovereign authority;
- (2) Each tribal government has a responsibility to provide for and protect the health, safety and welfare of all of its tribal members;
- (3) Actions undertaken by the state of Michigan in relation to the tribes must be implemented in an informed and sensitive manner, respectful of tribal sovereignty and the traditional and cultural values, beliefs and principles of tribal members and governments; and

(4) The development of strong, reliable government-to-government relationships between the state of Michigan and the tribes will be beneficial to all of the citizens of Michigan.

The tribes acknowledge that:

(1) The state of Michigan operates under authority granted by the United States Constitution and by the people of Michigan through the Michigan Constitution of 1963, and state laws and regulations;

(2) The state of Michigan is divided into three independent branches of government: executive, judicial, and legislative. Under the Michigan Constitution of 1963, the executive power is vested in the governor;

(3) The state of Michigan has a responsibility to provide for and protect the health, safety and welfare of all of the citizens of Michigan;

(4) Actions undertaken by the tribes that affect or may affect Michigan citizens who are not tribal members must be implemented in an informed and sensitive manner, respectful of individual rights; and

(5) The development of strong, reliable government-to-government relationships between the tribes and the state of Michigan will be beneficial to all of the citizens of Michigan.

#### **IV. PURPOSES AND OBJECTIVES**

This accord illustrates the commitment by the parties to implementation of the government-to-government relationship, a relationship reaffirmed as state policy on May 22, 2001, by Governor John Engler's Executive Directive 2001-2, "Policy Statement on State-Tribal Affairs." This relationship respects the sovereign status of the parties, enhances and improves communications between them, and facilitates the resolution of issues.

This accord commits the parties to the initial tasks that will translate the government-to-government relationship into more efficient, improved and beneficial services to Indian and non-Indian people. This accord encourages and provides the foundation and framework for specific agreements among the parties outlining specific tasks to address or resolve specific issues.

The parties recognize that implementation of this accord will require a comprehensive educational effort to promote understanding of the government-to-government relationship within their own governmental organizations and with the public.

## **V. IMPLEMENTATION PROCESS AND RESPONSIBILITIES**

### **Consultation and Consideration of the Interests of Other Governments**

As set forth below, each tribe and the state shall develop an effective process to permit representatives of the other to provide meaningful and timely input on matters that significantly or uniquely affect the interests of that government.

For purposes of this accord, "consultation" is defined as a process of government-to-government dialogue between the state and the tribes regarding actions or proposed actions that significantly affect or may significantly affect the governmental interests of the other. Consultation includes (1) timely notification of the action or proposed action, (2) informing the other government of the potential impact of the action or proposed action on the interests of that government, (3) the opportunity for the other government to provide input and recommendations on proposed actions to the governmental officials responsible for the final decision, and (4) the right to be advised of the rejections (and basis for any such rejections) of recommendations on proposed actions by the governmental officials responsible for the final decision.

For purposes of this accord, "state action significantly affecting tribal interests" is defined as regulations or legislation proposed by executive departments, and other policy statements or actions of executive departments, that have or may have substantial direct effects on one or more tribes, on the relationship between the state and tribes, or on the distribution of power and responsibilities between the state and tribes. State action includes the development of state policies under which the tribe must take voluntary action to trigger application of the policy.

For purposes of this accord, "tribal action significantly affecting state interests" is defined as regulations or legislation proposed by a tribal government, and other policy statements or actions of tribal governments, that have or may have substantial direct effects on the state, on the relationship between the state and tribes, or on the distribution of power and responsibilities between the state and tribes.

The state, within its executive departments, will develop and engage in an effective process for consultation with the tribes concerning state action significantly affecting tribal interests. The Executive Office of the Governor will also make leadership within the Michigan Legislature aware of this accord and encourage the legislature to consider tribal interests by forming standing committees on Tribal Affairs.

Each tribe will develop and engage in an effective process for consultation with the state concerning tribal action significantly affecting state interests.

### **State-Tribal Forum and Task Forces**

The state and the tribes shall establish a State-Tribal Forum consisting of tribal government political leaders and their designees and the Governor's Policy Advisor on State-Tribal Affairs and appropriate officials from other executive departments of state government. The members of the forum will be charged with monitoring the implementation of this accord and organizing the annual meeting described below.

The parties can also form Tribal Leaders Task Forces on matters that impact tribes across the state on issue-specific matters such as education, natural resources or health care or any other issues of common concern. In each instance, the desirability of a Task Force and the composition of the Task Force shall be determined jointly by the state and the tribes. Each Task Force may develop its own reporting schedule and protocols and procedures.

### **Annual Meeting**

While this accord addresses the relationship between the parties, its ultimate purpose is to improve the services delivered to people by the parties. The parties shall meet on at least an annual basis to establish goals for improved services and identify the obstacles to the achievement of those goals. At the annual meeting, the parties will develop joint strategies and specific agreements to outline tasks, overcome obstacles and achieve specific goals.

As a component of the system of accountability within the state and tribal government, the parties will also review and evaluate at the annual meeting the implementation of the government-to-government relationship. A management report summarizing this evaluation will be drafted by authors selected by both the tribes and the state. The report will include mutually acceptable strategies and agreements to outline tasks, overcome obstacles, and achieve specific goals.

### **Accountability and Identification of Key Contacts**

The parties recognize that a key principle of their relationship is a requirement that individuals working to resolve issues of mutual concern are accountable to act in a manner consistent with this accord.

The Governor's Advisor on State-Tribal Affairs is accountable to the governor for implementation of the accord. Tribal coordinators within the executive departments are accountable to the governor through the director of their

departments and the Governor's Advisor on State-Tribal Affairs for the related activities of their departments. Each department will be responsible for compliance with Executive Directive 2001-2 and this accord and will establish protocols and procedures to implement this accord. As set forth above, these protocols and procedures should ensure effective consultation on matters that significantly affect tribal interests.

The parties recognize that their relationship will successfully address issues of mutual concern when communication is clear, direct and between persons responsible for addressing the concern. The parties recognize that in state government, accountability is best achieved when this responsibility rests solely within each state department. Therefore, it is the objective of the state that each particular agency be directly accountable for implementation of the government-to-government relationship in dealing with issues of concern to the parties. Each department will facilitate this objective by identifying individuals directly responsible for issues of mutual concern.

Each tribe also recognizes that a system of accountability within its organization is critical to successful implementation of the relationship. Therefore, tribal officials will direct their staff to communicate within the spirit of this accord with the particular department which, under the organization of state government, has the authority and responsibility to deal with the particular issue of concern to the tribe.

In order to accomplish these objectives, each tribe will ensure that its current tribal organization, methods of decision-making and relevant tribal personnel are known to the state and each state department with which the tribe is addressing an issue of mutual concern. Further, each tribe may establish a more detailed organizational structure, decision-making process, system of accountability, and other procedures for implementing the government-to-government relationship.

## **VI. SOVEREIGNTY AND DISCLAIMERS**

This accord is intended to build confidence among the parties in the government-to-government relationships by outlining a process for its implementation. It is also intended to solidify such relationships within the respective governmental structures of the parties. As stated above, the parties will strive to reinforce the government-to-government relationships through consultation and agreement on matters of mutual concern. This accord does not, in itself, address substantive issues.

Each of the parties to this accord respects the sovereignty of each other party. In executing this accord, no party waives any rights (including treaty rights), immunities (including sovereign immunities), or jurisdiction. Neither does this accord diminish any rights or protections afforded other Indian persons or entities

under state or federal law. Through this accord, the parties strengthen their collective ability to successfully resolve issues of mutual concern.

While the relationship described by this accord provides increased ability to solve problems, it likely will not result in a resolution of all issues. Therefore, inherent in their relationship is the right of each of the parties to elevate an issue of importance to any decision-making authority of another party, including, where appropriate, that party's executive office.

Representatives of the signatory parties have executed this accord on the date of October 28, 2002, and upon its taking effect agree to be duly bound by its commitments. This accord is effective as between the state of Michigan and each individual signatory tribe at such time as the accord is approved pursuant to the applicable ratification process of that tribe. Upon tribal approval, each tribe shall send notice of approval to the Office of the Governor for filing with the Office of the Secretary of State of Michigan. This accord continues in effect unless modified by mutual agreement or terminated by any party. In the event that one or more tribal signatories, but less than all tribal signatories, terminates their participation in the accord, the accord shall continue in effect between the state and remaining tribal signatories.

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between the State of Michigan and the  
Federally Recognized Indian Tribes in the State of Michigan  
Lansing, Michigan, October 28, 2002**

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Bay Mills Indian Community

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Grand Traverse Band of Ottawa and  
Chippewa Indians

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Hannahville Indian Community

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Keweenaw Bay Indian Community

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Lac Vieux Desert Band of Lake  
Superior Chippewa Indians

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Little River Band of Ottawa Indians

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Little Traverse Bay Bands of  
Odawa Indians

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Match-E-Be-Nash-She-Wish Band of  
Pottawatomi Indians

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Nottawaseppi Huron Band of  
Potawatomi

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Pokagon Band of Potawatomi Indians

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Saginaw Chippewa Indian Tribe of  
Michigan

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Sault Ste. Marie Tribe of Chippewa  
Indians

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State of Michigan