

RESOLUTION NO. 1015

RESOLUTION APPROVING A GENERAL AGREEMENT BETWEEN THE
UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK
SERVICE AND THE CITY OF WEST BRANCH IOWA REGARDING LAW
ENFORCEMENT ASSISTANCE

WHEREAS, it is in the best interest of the City of West Branch and the National Park Service to have an agreement for the purpose of coordinating law enforcement assistance between the two agencies; and

WHEREAS, the current agreement has an effective date of June 11, 2008 and a five-year term; and

WHEREAS, the City Council finds it in the best interest of the residents of West Branch to have an updated agreement in place to provide for the public safety of the West Branch community; and

WHEREAS, it is now necessary to approve said agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the aforementioned agreement is hereby approved. Further, the Mayor is directed to execute the agreement on behalf of the City.

Passed and approved this 16th day of July, 2012.


Don Kessler, Mayor

ATTEST:


Matt Muckler, City Administrator/Clerk

**General Agreement
between
The United States Department of the Interior
National Park Service
and
The City of West Branch
Iowa**

Regarding Law Enforcement Assistance

This Agreement is entered into by and between the National Park Service (hereinafter NPS), United States Department of the Interior, acting through the Superintendent of Herbert Hoover National Historic Site (hereinafter Herbert Hoover NHS), and West Branch, Iowa, acting through the West Branch Chief of Police pursuant to 16 U.S.C. § 1b(1), and Chapter 804, Section 7B and Chapter 28E of the Code of Iowa.

ARTICLE I – BACKGROUND AND OBJECTIVES

The objective of the Agreement is to coordinate emergency law enforcement assistance between the two agencies. Herbert Hoover NHS is under concurrent legislative jurisdiction, and the NPS and the West Branch Police Department (hereinafter WBPD) therefore share a common interest in law enforcement at Herbert Hoover NHS.

Both agencies recognize through long experience that violations affecting the safety and welfare of citizens, property, and resources under their protection frequently involve individuals and groups operating across jurisdictional boundaries. Both agencies also recognize that the most effective and sometimes only method to detect, deter, and solve these crimes is through cooperative efforts. Accordingly, the NPS and the WBPD do hereby enter into an agreement to provide emergency cooperative assistance to maintain public safety and welfare on lands and roadways in West Branch, Iowa, within and surrounding Herbert Hoover NHS, as both parties can mutually benefit from the expertise and resources of their respective agencies.

Under Iowa law, federal law enforcement officers are recognized as out-of-state peace officers and may make arrests and conduct other law enforcement activities within the State pursuant to an agreement between the Federal officer's agency and a political subdivision of the State of Iowa. Type I commissioned NPS Rangers are recognized as out-of-state peace officers through this Agreement.

Through this Agreement, therefore, the West Branch Chief of Police, may appoint certain federally commissioned Type I NPS law enforcement rangers employed at Herbert Hoover NHS as out-of-state peace officers for the purposes of enforcing State law and City Ordinances within Herbert Hoover NHS, or in response to emergency situations outside of Herbert Hoover NHS, and within a reasonable distance of the City of West

Branch, Iowa.

The NPS is willing to have designated as out-of-state peace officers certain federally commissioned Type I NPS law enforcement rangers when such appointment will benefit the administration of the park area. The NPS also agrees to accept out-of-state peace officer designation for Type I commissioned law enforcement rangers for the purpose of providing emergency law enforcement assistance, when requested, to the WBPd.

ARTICLE II – AUTHORITY

This agreement is entered into under the authority of 16 United States Code (16 U.S.C.) §§ 1-3.

The Secretary of the Interior, acting through the NPS, administers and manages Herbert Hoover NHS pursuant to Public Law 89-119 of August 12, 1965 (79 Stat. 510), and conducts law enforcement activities there and at other NPS areas within the State of Iowa pursuant to Title 16 U.S.C. § 1a-6.

Title 16 U.S.C. § 1a-6(b) authorizes the Secretary of the Interior “to designate...certain officers or employees of the Department of the Interior who shall maintain law and order and protect persons and property within areas of the National Park System”.

Title 16 U.S.C. § 1b(1) authorizes the Secretary of the Interior to render “emergency rescue, fire fighting, and cooperative assistance to nearby law enforcement and fire prevention agencies and for related purposes outside of the National Park System”.

The City of West Branch is authorized to enter into intergovernmental understandings with public agencies pursuant to Chapter 28E of the Code of Iowa. Chapter 331, Sections 652 & 653, and Chapter 804 of the Code of Iowa authorize the West Branch Chief of Police to enforce the Laws of the State of Iowa and ordinances duly enacted by the City of West Branch. The WBPd is recognized for the purposes of 16 U.S.C. § 1a-6 as a nearby law enforcement agency.

Chapter 804, Section 7B, authorizes persons employed full time by the United States government, who are empowered to effect arrests with or without a warrant for violation of the United States Code and who are authorized to carry a firearm in performance of their duties as federal law enforcement officer, to make arrests and conduct other law enforcement activities in Iowa pursuant to an agreement entered into under Chapter 28 E of the Code of Iowa.

The scope of this Agreement is defined by the authority of Title 16 U.S.C. § 1b (1), and Chapter 804, Section 7B, and Chapter 28E of the Code of Iowa.

ARTICLE III – STATEMENT OF WORK

A. The NPS agrees as follows:

- 1. Within NPS Jurisdiction – Law Enforcement Assistance Pursuant to 16 U.S.C. § 1a-6:**
 - a. In accordance with 16 U.S.C. § 1a-6, the NPS shall enforce all applicable Federal laws within Herbert Hoover NHS.
 - b. Whenever practical, NPS commissioned employees will use law enforcement authority vested by the NPS before the authority vested by the WBPD.
 - c. The WBPD may supplement NPS law enforcement efforts, initiate law enforcement action, and independently patrol within Herbert Hoover NHS. The WBPD maintains primary responsibility for enforcing state laws and city ordinances within Herbert Hoover NHS.
 - d. The NPS will provide the WBPD a list of responsible persons, with telephone numbers, to be contacted in an emergency. This list will be updated as needed to reflect personnel changes.
 - e. The NPS will assume primary control of incidents occurring within Herbert Hoover NHS. Incidents of a magnitude larger than NPS resources can manage effectively may require a cooperative effort with other Federal and local agencies.
 - f. The NPS may request resources of the WBPD for incidents occurring within Herbert Hoover NHS. The NPS will provide a liaison to the WBPD in cases when WBPD resources have been requested. The NPS liaison will participate and work cooperatively with the WBPD resources until the incident is concluded and, when possible, a successful prosecution of the case has been attained.

2. **Outside NPS Jurisdiction – Law Enforcement Assistance Pursuant to 16 U.S.C. § 1b(1):**
- a. The NPS agrees to provide emergency law enforcement assistance as defined in this document and in accordance with Iowa law to WBPD outside the National Park System.
 - b. NPS emergency law enforcement assistance outside the boundaries of Herbert Hoover NHS generally stems from an unexpected occurrence that requires immediate action and may include one or more of the following:
 - Emergency responses such as life or death incidents, serious injury/fatality accident/incident scenes, crime scenes involving the protection of human life, officer needs assistance, threat(s) to health or safety of the public.
 - Emergency or law enforcement incidents directly affecting visitor safety or resource protection.
 - Probable cause felonies and felonies committed in the presence of and observed by NPS commissioned rangers.
 - Indictable offenses (re: Iowa Code 804.7A2a) committed in the presence of National Park Service commissioned rangers that present an immediate threat to the health and safety of the public.
 - c. Upon receiving an official request from the WBPD, the NPS shall render emergency law enforcement assistance (as defined in provision A.2.b above) to the WBPD whenever possible. A request for such emergency assistance will be placed with Herbert Hoover NHS's Senior Law Enforcement Officer or his/her representative.
 - d. The NPS may render emergency law enforcement assistance in those situations where a NPS law enforcement ranger, while in the course of his/her official duties, observes an emergency situation (as defined in provision A.2.b above), at which time the NPS law enforcement ranger shall secure and manage the scene. The NPS shall immediately notify the WBPD of the emergency. Upon arrival of the first WBPD officer on the scene, the NPS law enforcement ranger shall relinquish control; however, upon request, the NPS law enforcement ranger may assist the WBPD officer for the duration of the emergency.

- e. The NPS shall render assistance until such time as released by the WBPB on-scene incident commander or until the emergency no longer exists, whichever comes first.
- f. The on-scene commanding officer of the WBPB shall be in command of all officers, including NPS law enforcement rangers who are rendering emergency assistance; provided that the WBPB on-scene commander shall exercise command of NPS law enforcement rangers only through the highest ranking NPS law enforcement ranger at the scene, which shall be identified by the NPS.
- g. For good cause the NPS Senior Law Enforcement Officer or his/her representative may decide at any time to withdraw emergency law enforcement assistance.
- h. NPS law enforcement rangers rendering emergency assistance to the WBPB pursuant to this Agreement shall wear the official NPS uniform, or, if approved by the NPS Senior Law Enforcement Officer or his/her designee, plain clothes; shall remain under the authority and control of NPS supervisors; shall be subject to the laws, regulations, and policies of the NPS and of the United States; and shall not receive any monetary compensation from any source other than the NPS.

B. The WBPB agrees as follows:

- 1. The following incidents, when occurring within Herbert Hoover NHS, must be reported to the NPS as soon as practical via verbal notification and/or written reports:
 - Incidents involving damage within Herbert Hoover NHS, the buildings or property contained therein;
 - Incidents involving fatalities, serious injury, or injuries to multiple persons;
 - Incidents involving or with the potential to involve media interest;
 - Incidents involving motor vehicle accidents within Herbert Hoover NHS;
 - Incidents involving planned or unplanned demonstrations in or near Herbert Hoover NHS;
 - The NPS should be notified as soon as is practicable (via report copy) of incidents involving the possession and/or use of cannabis or of illegal use of a controlled substance;

2. To provide the Superintendent of Herbert Hoover NHS all applicable state laws and city ordinances and provide training necessary to familiarize designated commissioned ranger(s) with those laws and ordinances.
3. To make available and to provide assistance, when possible, with: evidence storage, fingerprinting and photographing facilities, DUI detection kits, and other law enforcement equipment that may not be routinely used by Herbert Hoover NHS law enforcement rangers.

C. The parties further agree as follows:

1. The NPS agrees to make available for designation only NPS law enforcement ranger(s) who meet National Park Service law enforcement training standards and who possess a current and valid National Park Service Type I Law Enforcement Commission.
2. NPS law enforcement rangers rendering emergency assistance to the WBPB pursuant to this Agreement shall be deemed to be acting within the scope of their Federal employment. Under no circumstances shall NPS law enforcement rangers be deemed to be "borrowed servants" of the WBPB.
3. Arrests made by NPS law enforcement personnel will be controlled in the jurisdiction of the agency under whose authority the arrest was made and in the court having adjudicating responsibility of the cited offense.
4. When acting under state authority, NPS law enforcement personnel, while still subject to the policies and regulations of the Federal government will conform to state and local procedures where there is no contradiction of Federal policy, and the violator will be processed through the state court system as directed by the West Branch City Attorney.
5. As interdepartmental radio communications may be needed to coordinate law enforcement and public safety activities, each party authorizes the other party to utilize its radio frequency(s) as needed to carry out the provisions of this Agreement. The Chief of Police will provide a list of approved radio frequencies to the Superintendent.

6. Each party hereby waives any and all claims, demands, and causes of action against the other party and its employees, and releases the other party and its employees from any and all liability arising out of or resulting from activities under this Agreement. Each party shall be solely responsible for any and all claims, demands, and causes of action filed by third parties arising out of or resulting from the activities of its employees under this Agreement, including, but not limited to, the costs of investigating and defending against such claims, demands, and causes of action and the costs of paying any compromise settlements, judgments, assessed costs, or fees (including attorney's fees).
7. Each party shall bear its own costs for furnishing services under this Agreement, and neither party shall claim reimbursement for those costs from the other party.
8. Nothing in this Agreement shall be construed to bind the NPS to expend in any one fiscal year any sum in excess of funds appropriated by Congress or allocated by the NPS for the purposes of this Agreement.
9. The parties shall coordinate all public information releases about law enforcement incidents, investigations, actions, and other matters involving both parties. No public information release by one party shall refer to the other party or to any employee of the other party (by name or otherwise) without the other party's prior approval. Each party agrees not to comment to the media on incidents that occur in the other party's jurisdiction. All media inquiries will be directed to the respective agency's Public Information Officer or designee.

ARTICLE IV – TERMS OF AGREEMENT

This Agreement shall be effective for a period of five years after the date of final signature, unless it is terminated earlier by one of the parties pursuant to Article X that follows. At the conclusion of that five-year term, this Agreement may be extended or renewed by written agreement of the parties.

ARTICLE V – KEY OFFICIALS

- A. Key officials are essential to ensure maximum coordination and communications between the parties and the work being performed. They are:

1. **For the NPS:**

Superintendent
Herbert Hoover National Historic Site
110 Parkside Drive
West Branch, Iowa 52358
(319) 643-7870

2. **For the City of West Branch, Iowa:**

Matt Muckler
City Administrator
City of West Branch
P.O. Box 218, 110 N. Poplar Street
West Branch, IA 52358
(319) 643-5888

Michael Horihan, Chief of Police
105 S. Second St.
West Branch, Iowa 52358
(319) 643-2222

- B. **Communications** – The West Branch Chief of Police will address any communication regarding this Agreement to the Superintendent.
- C. **Changes in Key Officials** – Neither the NPS nor the City may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. The notice will include justification with sufficient detail to permit evaluation of the impact of such a change on the scope of work specified within this Agreement. Any permanent change in key officials will be made only by modification of this Agreement.

ARTICLE VI – FUNDING

Funds will not be exchanged under this Agreement. In-kind services will be exchanged as set forth in Article III.

ARTICLE VII – PRIOR APPROVAL

Not applicable.

ARTICLE VIII – REPORTS AND/OR OTHER DELIVERABLES

Upon request and to the full extent permitted by applicable law, the parties will share with each other final reports of incidents involving both parties. Any documents or data exchanged between the parties to this Agreement will not be released to a third party unless the designated key official of the party that generated the document or data, or his/her representative, approves the release, or unless release is required by statute or rules of state or federal court.

ARTICLE IX – PROPERTY UTILIZATION

Unless otherwise agreed to in writing by both parties, any property furnished by one party to the other will remain the property of the furnishing party. Any property furnished by the NPS to WBPD during the performance of this Agreement will be used and disposed of as set forth in NPS Property Management Regulations.

ARTICLE X – MODIFICATION AND TERMINATION

- A. This Agreement may be modified only by a written instrument executed by the parties.
- B. Either party may terminate the Agreement by providing the other party with thirty (30) days advance written notice. In the event that one party provides the other with notice of its intentions to terminate, the parties will meet promptly to discuss the reasons for the notice and to try to resolve their differences.

ARTICLE XI – STANDARD CLAUSES

- A. **Civil Rights**
During the performance of this Agreement, the participants agree to abide by the terms of the U.S. Department of the Interior – Civil Rights Assurance Certification, non-discrimination, and will not discriminate against any person because of race color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, age, or sex.

B. Promotions

The West Branch Chief of Police's Office will not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still or motion pictures, articles, manuscripts, or other publications) which states or implies Governmental, Departmental, bureau, or Government employee endorsement of a product, service, or position which the WBPD represents. No release of information relating to the Agreement may state or imply that the Government approves of the WBPD work product, or considers the WBPD work product superior to other products or services.

C. Public Information Release

Publications of Results of Studies

No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publication of previously published technical matter. Publications pursuant to the Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties contributing to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscript to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

ARTICLE XII – SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

FOR THE NATIONAL PARK SERVICE

Signature: Pete Swisher

Name: Peter S. Swisher

Title: Superintendent

Herbert Hoover National Historic Site

Date: 7-20-12

FOR THE WEST BRANCH CHIEF OF POLICE'S OFFICE

Signature: Don Kessler

Name: Don Kessler

Title: Mayor, City of West Branch

Date: 7-20-12

See attached:

- memorandum “List of Responsible Persons”
- Appendix: Radio Frequency Use Agreement between the City of West Branch and Herbert Hoover National Historic Site