

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (Agreement) is entered into by the U.S. Department of Justice (Justice), including the United States Attorney's Office for the Eastern District of North Carolina (USAO-EDNC), the Criminal Division's Money Laundering and Asset Recovery Section (MLARS), the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Department of the Treasury's Executive Office for Asset Forfeiture (TEOAF); the Department of Homeland Security, Homeland Security Investigations; and the County of Robeson, North Carolina, including the Robeson County Sheriff's Office (Sheriff's Office), the Robeson County Board of Commissioners (Board of Commissioners), and the Robeson County Finance Office (Finance Office) (collectively, the Parties) concerning the re-admission of the Robeson County Sheriff's Office in the Department of Justice and the Department of the Treasury's Equitable Sharing Program (Program), and participation with federal authorities in investigations and cases involving the seizure and forfeiture of assets.

I. BACKGROUND

The Robeson County Sheriff's Office was deemed ineligible for participation in the Program following the federal criminal prosecutions of several members of the Sheriff's Office as part of the Organized Crime and Drug Enforcement Task Force Operation "Tarnished Badge," and its failure to comply with Program policies and regulations. Recently, the Sheriff's Office has made a request for readmission into the Program after several years of Program ineligibility. Justice and Treasury believe that renewed collaboration and cooperation between the Sheriff's Office and federal law enforcement will strengthen law enforcement efforts to deter and punish criminal activity in Robeson County and the surrounding communities. Accordingly, the Parties agree to the following special conditions to allow the Sheriff's Office probationary re-admission into the Program.

II. PURPOSE

This purpose of this Agreement is to (1) set forth the requirements and responsibilities of the Sheriff's Office, the Board of Commissioners, and the Finance Office for the probationary re-admission of the Sheriff's Office in the Program, (2) set forth the requirements and responsibilities of the Sheriff's Office for participation with federal authorities in federal investigations that may lead to the seizure and forfeiture of assets, (3) provide effective management for the Sheriff's Office's probationary re-admission and participation in the Program, (4) promote public confidence in the integrity of law enforcement, and (5) protect the Program against fraud, waste, and abuse.

III. AUTHORITY

Federal law authorizes the Attorney General and the Secretary of the Treasury to share federally forfeited property with state and local law enforcement agencies participating in the

Program.¹ Any decision to share federally forfeited property is at the exclusive discretion of Justice or Treasury. Justice and Treasury set requirements for tribal, state, and local agencies to establish their eligibility to request and receive equitable sharing, as well as for Department of Justice and the Department of the Treasury officials to determine equitable sharing amounts. *See The Attorney General's Guidelines on the Asset Forfeiture Program*, § V.G. Equitable Sharing (2018); *Id.* § III.D. The *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies* (July 2018) (*Guide*) governs the Justice and the Treasury Equitable Sharing Programs. State, local, and tribal law enforcement agencies must comply with the policies and requirements detailed in the *Guide* to participate in the Program and be eligible to receive equitable sharing funds. Justice and Treasury may update policies, including those in the *Guide*, at any time and any policy updates apply by their terms.

IV. PROHIBITED CONDUCT AND PRACTICES

The Sheriff's Office must abide by federal law and is prohibited from engaging in a pattern or practice of conduct that deprives any person of rights protected by the United States Constitution or laws of the United States. The types of prohibited conduct include, but are not limited to, excessive force, discriminatory harassment, false arrests, coercive sexual conduct, and unlawful stops, searches, seizures or arrests. Further, the Sheriff's Office is prohibited from the improper use of personal characteristics such as race, color, national origin, gender, or religion to target individuals for any law enforcement action. *See Guide*, Section I.B.

The Sheriff's Office must comply with the nondiscrimination requirements of the following laws and their Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Sheriff's Office agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

V. PROBATIONARY TERM

The Sheriff's Office's participation with federal authorities and with the Program will be for a probationary period of five years from the effective date of this Agreement. The USAO-EDNC, MLARS, and TEOAF may extend or terminate this probationary term in their sole discretion. At any time, MLARS and TEOAF may conduct compliance reviews of the Sheriff's Office Program activity, such as request for supporting documentation for purchases and on-site visits.

¹ 21 U.S.C. § 881(e)(1)(A), 18 U.S.C. § 981(e)(2), and 19 U.S.C. § 1616a; 31 U.S.C. §§ 9705(b)(4)(A) and (b)(4)(B)

VI. TRAINING

Within three months of the effective date of this Agreement and as often as deemed necessary thereafter by the USAO-EDNC, MLARS and TEOAF, personnel involved in the seizure of assets and equitable sharing from the Sheriff's Office, Board of Commissioners, and Finance Office must participate in mandatory training on asset forfeiture and equitable sharing provided by MLARS and the USAO-EDNC. Participation in law enforcement activities where seizures for federal forfeiture are expected is prohibited until completion of the initial training. Justice and Treasury will not process or approve any sharing requests submitted by the Sheriff's Office (or on behalf of the Sheriff's Office) before the initial training is completed. Training will cover a wide range of topics, such as search and seizure, probable cause, ethics, and equitable sharing policies, procedures, expenditures, reporting, and financial management. Additionally, the USAO-EDNC, in coordination with MLARS, will conduct annual training for the Sheriff's Office on similar topics, which will be mandatory for personnel from the Sheriff's Office involved in the seizure and forfeiture of assets and equitable sharing.

VII. STANDARD OPERATING PROCEDURES

The Sheriff's Office must establish standard operating procedures addressing the policies and procedures of each requirement outlined in this Agreement and the *Guide*. The Sheriff's Office must submit the policies and procedures to MLARS, TEOAF, and the USAO-EDNC prior to the initial mandatory training set forth in Section VI, above for review and approval. Any updates to the policies and procedures must be provided to the parties above.

The Sheriff's Office must inform all of its sworn officers and administrative staff of the standard operating procedures. The Sheriff shall strictly enforce the standard operating procedures and all other Program policies. In the event the Sheriff's Office determines a breach of the SOPs has occurred, it must take prompt corrective action in accordance with Section XI of this MOA, and shall immediately report the breach and remedy to MLARS, TEOAF and the USAO-EDNC.

VIII. PARTICIPATION WITH FEDERAL AUTHORITIES

A. Seizure Activities

1. Prohibition of Adoptive Forfeitures. The Sheriff's Office is prohibited from seeking adoptions of seizures for federal forfeiture, and federal seizing agencies are prohibited from adopting a seizure by the Sheriff's Office for federal forfeiture except for property that directly relates to public safety concerns, including firearms, ammunition, explosives, and child pornography. A federal adoption of property occurs when a state or local law enforcement agency seizes property under state law, without federal oversight or involvement, and requests that a federal agency take the seized asset into its custody and forfeit the asset under federal law. The prohibition specifically includes, but is not limited to, seizures of vehicles, valuables, and cash, which is defined as currency and currency equivalents, such as postal money orders, personal and cashier's checks, stored value cards, certificates of deposit, travelers checks, and U.S. savings bonds. An adoption does not include: (1) seizures by state and local

authorities working together with federal authorities in a joint task force (task force seizures) (2) seizures by state and local authorities that are the result of a joint federal-state investigation, described more fully below in Section VII.A.2 (joint investigation seizures); or (3) seizures pursuant to federal seizure warrants approved by and in coordination with the USAO-EDNC, obtained from federal courts to take custody of assets originally seized under state law.

2. Allowance of Task Force and Joint Investigation Seizures. This category of seizure occurs when an asset is seized under the following circumstances:

a. A task force seizure occurs when an asset is seized by a sworn law enforcement officer employed by a state or local law enforcement agency but who is assigned either part-time or full-time to a federal law enforcement agency as a federal Task Force Officer (TFO). That said, no circumstance warrants a blanket “federalization” of every seizure made by a state or local law enforcement agency simply because the state or local agency has an officer assigned to a federal task force or initiative.

In order for a seizure to qualify as a task force seizure, the following criteria must be met:

- i. the TFO must be a credentialed, deputized federal law enforcement officer at the time of the seizure;
 - ii. the TFO must be assigned to a task force operated by a federal law enforcement agency at the time of seizure; and
 - iii. the TFO’s actions and authorizations for those actions at the time of seizure must be related to task force duties and must not be conducted solely pursuant to duties and authorizations as a state or local law enforcement agent.
- b. A joint investigation seizure is made at the direction of, or in coordination with, a sworn federal law enforcement officer in conjunction with a pre-existing federal criminal investigation; or the seizure is made as part of a pre-existing joint federal, state or local criminal investigation in which a federal law enforcement agency is actively participating for the purpose of pursuing federal criminal charges against one or more specific persons or entities; or the seizure is made as part of a pre-existing joint federal, state or local criminal investigation in which a federal law enforcement agency is actively participating and the seizure arose from the joint investigation.

In order for a seizure to qualify as a joint task force or joint-investigation seizure, the following criteria must be met:

- i. there must be an open federal criminal investigation in which federal agencies were participating at the time of seizure.

- ii. the participating federal law enforcement agency must have had advance notice that the seizure would be made;
 - iii. the participating federal law enforcement agency must have concurred with the seizing state or local law enforcement agency that the seizure was appropriate and in furtherance of the goals of the relevant federal criminal investigation.
3. Prohibited Persons. At the time of the execution of this Agreement, the USAO-EDNC shall provide to the Sheriff's Office a list of individuals who are prohibited from participating in any seizure or forfeiture of property for which an equitable sharing request may be submitted. The USAO-EDNC may revise the list at any time during the probationary period. The Sheriff agrees to ensure the identified individuals do not participate in any seizure or forfeiture of property for which an equitable sharing request is submitted.

B. Annual Meetings

In the first quarter of each year of the probationary period (more often if deemed necessary by the USAO-EDNC), the Sheriff's Office and the USAO-EDNC shall meet to discuss: (1) compliance with this Agreement; (2) the Sheriff's Office's participation in the Program, including compliance with all policies and procedures; (3) the Sheriff's Office's participation with federal authorities in investigations and cases involving the seizure and forfeiture of assets; (4) the Sheriff's Office's expenditure of equitable sharing funds; and (5) any other topics deemed necessary to ensure compliance with the Agreement and the Sheriff's Office's successful participation in the Program. To the extent possible, the following personnel should participate in the meeting from Robeson County: the Sheriff, the Chief Deputy, the heads of the Sheriff's Office's Narcotics Unit and the Interdiction Unit, and the County Finance Officer. To the extent possible, the following personnel should participate in the meeting from the USAO-EDNC: the First Assistant U.S. Attorney, the Chief of the Criminal Division, the Chief of the Civil Division, the Deputy Chief of the OCDETF Unit, and the Deputy Chief of the Civil Division. The Chief of the Civil Division for the USAO-EDNC shall be responsible for scheduling and conducting the meeting. To the extent possible, a representative from MLARS and TEOAF should participate in the meeting, and can do so by telephone.

C. Reporting Requirements

By the fifth business day of each month, the Sheriff's Office shall provide to the Chief of the Civil Division in the USAO-EDNC with the following information from the prior month:

1. A list of all formal and informal written or verbal complaints against sworn officers of the Sheriff's Office and any claims pending, threatened, or filed in state or federal court with the Sheriff's Office or an officer or official as a

defendant; and any other information MLARS, TEAOF, and the USAO-EDNC request regarding complaints.

2. A list of all law enforcement activity which resulted in a seizure for which the Sheriff's Office intends to apply for equitable sharing, including the report of investigation for the seizure, the federal law enforcement agency and agent (or TFO) involved in the seizure, and the contact information for the agent (or TFO).

IX. EQUITABLE SHARING

A. Financial Management

1. The Finance Office must maintain equitable sharing funds awarded to the Sheriff's Office and all equitable sharing funds must be expended in accordance with all Robeson County appropriations and procurement policies. The Finance Office must provide written confirmation to MLARS that it has properly established accounts within the Robeson County's financial management system. Justice and Treasury will not approve any sharing requests before the Sheriff's Office provides this confirmation.
2. Subject to the limitations set forth below in Section IX.B, the Sheriff's Office must use equitable sharing funds in accordance with the *Guide* and all Program policies and subsequent updates.

B. Limitations on Expenditures of Equitable Sharing Funds

1. Permissible Expenditures. During the probationary period, the Sheriff's Office may only expend equitable sharing funds for overtime, law enforcement equipment, training, drug and gang education and awareness items, and travel and per diem in conjunction with training or performing official law enforcement duties. No other expenditures are authorized.
2. Impermissible Expenditures. The Sheriff's Office may not use equitable sharing funds for any purpose other than those permitted in section IX.B.1, above. For example, the Sheriff's Office may not reimburse Robeson County for funds expended for buy or flash money, make donations to community-based organizations, or use funds for any construction-related projects.

C. Reporting Requirements

1. The Sheriff's Office must complete an annual Equitable Sharing Agreement and Certification (ESAC) report to MLARS through the eShare Portal within 60 days of the conclusion of Robeson County's fiscal year.
2. The ESAC shall include receipts, expenditures, and interest earned on its Justice or Treasury equitable sharing funds. When the Sheriff's Office begins

receiving shared funds, MLARS will implement additional quarterly reporting requirements.

3. The Finance Office must ensure that all expenditures of equitable sharing funds are included on the Schedule of Expenditures for Federal Awards for Robeson County's Single Audit.
4. Robeson County and the Sheriff's Office will maintain, expend, and report all equitable sharing funds consistent with this Agreement and the applicable subparts of the *OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* and any subsequent updates to this guidance.
5. The Sheriff's Office, Board of Commissioners, and Finance Office must immediately notify MLARS of any Single Audit or any other internal or independent findings involving equitable sharing funds.

X. INTERNAL REPORTS OF MISCONDUCT

The Standard Operating Procedures established by the Sheriff's Office pursuant to Section IX above shall include protocols for the disclosure and reporting by its officers and employees of illegal or unethical conduct affecting compliance with the terms of this Agreement, including the prohibited conduct and practices set forth in Section IV above. The Sheriff's Office is committed to protecting officers and employees from unlawful retaliation and discrimination for properly disclosing or reporting suspected illegal or unethical conduct affecting compliance with the terms of this Agreement. Any reports of a breach of this agreement shall be promptly reported to MLARS, TEOAF and USAO-EDNC.

XI. COMPLIANCE AND DISSOLUTION

The Sheriff's Office shall take prompt corrective action to resolve any failure to comply with the terms of this Agreement or other Program policies and requirements. At any time and without prior notice, MLARS, TEOAF, or USAO-EDNC may update or terminate this Agreement and the Sheriff's Office's participation in the Program if the Sheriff's Office fails to comply with any part of this Agreement, including any of the referenced Program policies and requirements. The terminating party shall notify in writing the Sheriff of Robeson County, the Board of Commissioners, the Finance Office, and the Chief of the Civil Division in the USAO-EDNC. If such termination occurs, (1) MLARS and TEOAF will extinguish all Sheriff's Office sharing requests; and (2) the Finance Office must return to MLARS and TEOAF within thirty (30) days any equitable sharing funds held at the time of issuance of the written termination notice.

XII. DISCLOSURE

Within seven (7) days after the effective date of this agreement, the Sheriff shall post a copy of this document in a prominent and conspicuous location used for posting notices in the Sheriff's Office. The copy shall remain posted while this Agreement remains in place. The Sheriff shall provide a copy of this document, at no cost, to any employee who requests one.

All parties consent to the disclosure of this Agreement to the public.

XIII. AUTHORIZED SIGNATORIES

By signing this Agreement, each party represents it is fully authorized to enter into this Agreement; accepts the terms, responsibilities, obligations, and limitations of this Agreement; and agrees to be bound thereto to the fullest extent of the law.

XIV. EFFECTIVE DATE OF AGREEMENT

This Agreement is effective on the date of signature of the last signatory to the Agreement. Facsimiles and electronic transmission signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

XV. AMENDMENTS

This Agreement may not be amended except by written consent of all of the Parties.

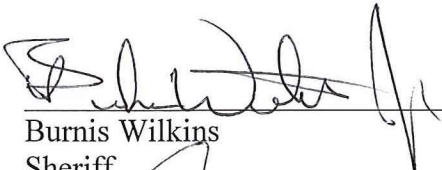
XVI. LIMITATION

This Memorandum of Agreement is not intended to, does not, and may not be relied upon to create or confer any rights, substantive or procedural, or any privileges or benefits that may be enforced in any way against Justice or Treasury by any party in any manner, civil or criminal. No limitations are hereby intended or placed on otherwise lawful prerogatives of Justice or Treasury.

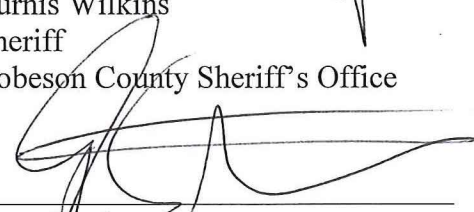
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ROBESON COUNTY SIGNATORIES

DATE


Burnis Wilkins
Sheriff
Robeson County Sheriff's Office

09-11-2019


Jerry Stephens
Chairman
Robeson County Board of Commissioners

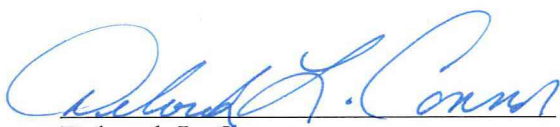
09-11-2019


Carla Kinlaw
Finance Director
Robeson County

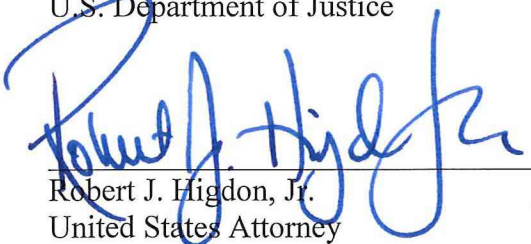
9/11/19

FEDERAL SIGNATORIES

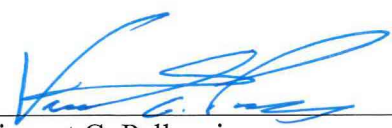
DATE


Deborah L. Connor
Section Chief
Money Laundering and Asset Recovery Section
U.S. Department of Justice

9/12/19


Robert J. Higdon, Jr.
United States Attorney
Eastern District of North Carolina

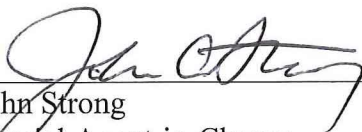
October 24, 2019


Vincent C. Palozzi
Special Agent-in-Charge
Bureau of Alcohol, Tobacco, Firearms and Explosives

10/03/2019

See Additional Page 11

Robert J. Murphy
Special Agent-in-Charge
Atlanta Division
Drug Enforcement Administration



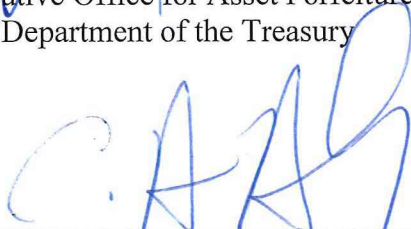
John Strong
Special Agent-in-Charge
Charlotte Division
Federal Bureau of Investigation

10/10/19



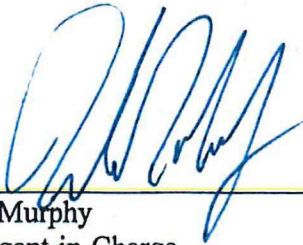
John Farley
Director
Executive Office for Asset Forfeiture
U.S. Department of the Treasury

9/13/19



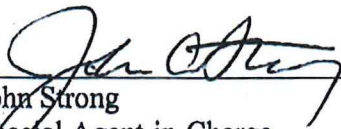
Christopher H. Healy
Acting Special Agent-in-Charge
Homeland Securities Investigations
Department of Homeland Security

10/17/19



10/24/19

Robert J. Murphy
Special Agent-in-Charge
Atlanta Division
Drug Enforcement Administration



10/10/19

John Strong
Special Agent-in-Charge
Charlotte Division
Federal Bureau of Investigation



9/13/19

John Farley
Director
Executive Office for Asset Forfeiture
U.S. Department of the Treasury



10/17/19

Christopher H. Healy
Acting Special Agent-in-Charge
Homeland Securities Investigations
Department of Homeland Security