

Item # 4

**City of Carson City
Agenda Report**

Date Submitted: August 26, 2008

Agenda Date Requested: September 4, 2008

Time Requested: 5 Minutes

To: Mayor and Supervisors

From: Carson City Sheriff's Office

Subject Title: Action to approve Resolution # _____, an intergovernmental agreement between Carson City and the Washoe Tribe of Nevada and California.

Staff Summary: The purpose of the intergovernmental agreement is to improve the cooperation, efficiency and effectiveness of law enforcement, to maintain the law and order and public safety and to increase the safety of all City and Tribal law enforcement officers who, in the line duty, require support and backup in the investigation of and enforcement against controlled substance sales, manufacturing activities, and crimes of maintaining a premises where controlled substances are used. The agreement defines the procedures each party will use when requesting assistance in prosecution, judicial proceedings, or post-judicial activities related to law enforcement activities authorized by the agreement.

Type of Action Requested: (check one)

☒ Resolution ☐ Ordinance
☐ Formal Action/Motion ☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to approve Resolution # _____, an intergovernmental agreement between Carson City and the Washoe Tribe of Nevada and California.

Explanation for Recommended Board Action: Pursuant to NRS 277.180, any one or more public agencies may enter into interlocal contracts with any one or more other public agencies for the performance of any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform. The contract must be ratified by the appropriate action of the governing body, and such contract must fully explain the purposes, powers, rights, objectives and responsibilities of the parties.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 277.180

Fiscal Impact: No fiscal impact.

Explanation of Impact: See Above

Funding Source: N/A

Alternatives: Deny request to adopt agreement.

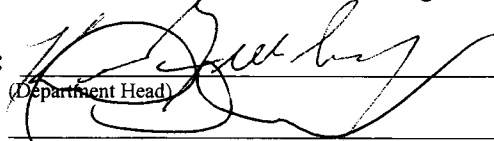
Supporting Material:

Proposed intergovernmental agreement between Carson City and the Washoe Tribe of Nevada and California.

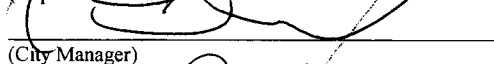
Resolution adopting the proposed intergovernmental agreement.

Prepared By: Kathie Heath, Business Manager

Reviewed By:


(Department Head)

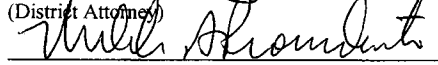
Date: 8/26/08


(City Manager)

Date: 8/26/08


(District Attorney)

Date: 8-26-08


(Finance Director)

Date: 8-26-08

Board Action Taken:

Motion: _____

1) _____
2) _____

Aye/Nay

(Vote Recorded By)

RESOLUTION NO. _____

A RESOLUTION ADOPTING AND APPROVING AN INTERLOCAL AGREEMENT BETWEEN CARSON CITY AND THE WASHOE TRIBE OF NEVADA AND CALIFORNIA TO PROVIDE FOR THE COOPERATION OF LAW ENFORCEMENT FOR THE PURPOSE OF MAINTAINING THE LAW AND ORDER AND PUBLIC SAFETY AND INCREASING THE SAFETY OF ALL CITY AND TRIBAL LAW ENFORCEMENT OFFICERS WHO, IN THE LINE OF DUTY, REQUIRE SUPPORT AND BACKUP IN THE INVESTIGATION OF AND ENFORCEMENT AGAINST CONTROLLED SUBSTANCE SALES, MANUFACTURING ACTIVITIES, AND CRIMES OF MAINTAINING A PREMISES WHERE CONTROLLED SUBSTANCES ARE USED.

WHEREAS, pursuant to NRS 277.180, any one or more public agencies may enter into interlocal contracts with any one or more other public agencies for the performance of any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, Carson City is a political subdivision of the State of Nevada, and the Washoe Tribe of Nevada and California is a federally recognized Indian tribe organized under Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 476); and

WHEREAS, NRS 277.180, provides that every such contract must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force; and

WHEREAS, NRS 277.180 also provides that every such contract must set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties; and

WHEREAS, the parties to the interlocal agreement between Carson City and the Washoe Tribe of Nevada and California to provide for the cooperation of law enforcement for the purpose of maintaining the law and order and public safety and increasing the safety of all City and Tribal law enforcement officers who, in the line of duty, require support and backup in the investigation of and enforcement against controlled substance sales, manufacturing activities, and crimes of maintaining a premises where controlled substances are used as required by NRS 277.180. A copy of the interlocal contract is attached to this Resolution as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED that the terms and conditions of the interlocal agreement between Carson City and the Washoe Tribe of Nevada and California to provide for the cooperation of law enforcement for the purpose of maintaining the law and order and public safety and increasing the safety of all City and

Tribal law enforcement officers who, in the line of duty, require support and backup in the investigation of and enforcement against controlled substance sales, manufacturing activities, and crimes of maintaining a premises where controlled substances are used are hereby adopted and approved; and

BE IT FURTHER RESOLVED that the interlocal agreement between Carson City and the Washoe Tribe of Nevada and California to provide for the cooperation of law enforcement for the purpose of maintaining the law and order and public safety and increasing the safety of all City and Tribal law enforcement officers who, in the line of duty, require support and backup in the investigation of and enforcement against controlled substance sales, manufacturing activities, and crimes of maintaining a premises where controlled substances are used shall be spread at large upon the minutes or attached in full thereto as an exhibit, and that a copy of this Resolution shall be sent to the Carson City Sheriff's Office and the Washoe Tribe of Nevada and California.

Upon motion by Supervisor _____, seconded by Supervisor _____, the foregoing Resolution was passed and adopted this _____ day of _____, 2008 by the following vote:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

Marv Teixeira, Mayor
Carson City, Nevada

ATTEST:

Alan Glover, Clerk
Carson City, Nevada

INTERGOVERNMENTAL AGREEMENT
By and Between
WASHOE TRIBE OF NEVADA AND CALIFORNIA
And
CARSON CITY, NEVADA

WHEREAS, the Washoe Tribe of Nevada and California is a federally recognized Indian tribe organized under Section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. § 476); and

WHEREAS, Carson City is a political subdivision of the State of Nevada; and

WHEREAS, the Washoe Tribe of Nevada and California and Carson City share common borders; and

WHEREAS, it is in the best interest of the Tribe, the City, and the residents of each community to mutually share law enforcement activities in regards to substance abuse related crime on a as-needed basis; and

WHEREAS, Title 1, Article VI, Section 1 of the Washoe Tribe's Law and Order Code and Nevada Revised Statute Section 277.180(1) provide the Tribe and the City respectively with the authority to enter into this Agreement; and

WHEREAS, the Tribe and Carson City each maintain and operate law enforcement agencies in their respective jurisdictions.

NOW THEREFORE, the Tribe and Carson City mutually agree as follows:

1. **Term.** The term of this Agreement shall be from May ____, 2008, to May ____, 2011, and may be renewed for successive three year periods thereafter unless terminated with the giving of notice as required below.
2. **Purpose.** The purpose of this Agreement is to improve the cooperation, efficiency and effectiveness of law enforcement, to maintain the law and order and public safety and to increase the safety of all City and Tribal law enforcement officers who, in the line of duty, require support and backup in the investigation of and enforcement against controlled substance sales, manufacturing activities, and crimes of maintaining a premises where controlled substances are used. For all of these purposes, the parties desire to make available to each other, upon request, law enforcement personnel, resources, and facilities as needed. The parties further agree that the officers, employees and agents of one party may, upon request, assist the other party in prosecution, judicial proceedings, or post-judicial activities related to law enforcement activities authorized by this Agreement.

3. **Request Procedure.** Requests for aid shall be made orally or in writing to the Captain of the Washoe Police Department or to the Sheriff of the City. These officials may appoint designated representatives to act for them when they are not available or as circumstances warrant.
4. **Voluntary Response.** A party's response to any request for mutual aid under this Agreement is completely voluntary and is left solely to the discretion and judgment of the responding party with no obligation to respond favorably to any request.
5. **Federal Crimes.** The City recognizes that the Federal Bureau of Investigation (FBI) along with the Tribal Police have jurisdiction on Tribal lands. In the event the City responds to the Tribe under this Agreement and discovers a federal crime has occurred, the City will inform Tribal Police who will then have the responsibility to notify the FBI. In the case of federal crimes, the City will only take enforcement action pursuant to this Agreement when necessary to protect life or property in immediate jeopardy, to preserve the crime scene and evidence, or to defend themselves or others.
6. **Liability and Indemnification.** It is not the intention of this Agreement to affect the legal liability of either the Washoe Tribe or Carson City by imposing any standard of care other than any standard of care that may be imposed by law. Neither party, its officers, agents or employees, by virtue of this Agreement, assumes any responsibility or liability whatsoever for the actions of the other party, its officers, agents, or employees pursuant to this Agreement. Without the prior written consent of the other party, no party shall have any right or authority to assume or create any obligation binding upon the other party in any respect whatsoever or to represent to any person that the party has any such right or authority. Further:
 - a) The Tribe agrees to hold harmless, indemnify, and defend the City from any and all losses, liabilities, claims or expenses of any nature to the person or property of another caused by the negligent or intentional acts, errors, or omissions of the Tribe's officers, employees, or agents in connection with any activities performed under this Agreement. Nothing in this Agreement interferes with or alters the applicability of the Federal Tort Claims Act.
 - b) The City agrees to hold harmless, indemnify, and defend the Tribe from any and all losses, liabilities, claims or expenses of any nature to the person or property of another caused by the negligent or intentional acts, errors, or omissions of City officers, employees or agents in connection with any activities performed under this Agreement. Nothing in this Agreement interferes with or alters the applicability or requirements of Chapter 41 of the Nevada Revised Statutes.
7. **Workers' Compensation and Liability Insurance.** Each party shall be responsible for ensuring its officers, employees and agents have workers' compensation coverage in accordance with applicable laws while this Agreement is in effect. Each party shall be responsible for ensuring its officers, employees and agents are covered under their general liability insurance policy. Either party may, at any time, request proof of such

workers' compensation and liability insurance coverage, which shall be promptly provided.

8. **Third Parties.** Nothing in this Agreement is intended to create nor shall it be interpreted to create or otherwise provide any special duty owed to any particular person or to any third party regardless of where that third party may live or the cause of action of the third party. Further, nothing in this Agreement is intended to create nor shall it be interpreted to create or otherwise provide any interests, rights, or remedies to any third party whatsoever.
9. **Use of Force and Officer-Involved Traffic Accidents.**
 - a) Each party agrees to provide the other party with a copy of its firearm and use of force policies and procedures as well as a copy of its protocol for motor vehicle accidents. Further, each party agrees to provide an orientation on these materials to the other party.
 - b) The investigation of any use of force incident or motor vehicle accident that takes place while providing assistance under this Agreement shall be the primary responsibility of the jurisdiction in which the incident occurred. The investigation shall be conducted according to the policies, procedures and protocols of the jurisdiction in which the incident occurred.
 - c) If an on-duty officer from one jurisdiction is involved in a use of force incident or traffic accident in the other jurisdiction, the following procedures shall apply:
 - i. The agency employing the involved officer shall provide a minimum of one supervisor or investigator to work with the investigating agency.
 - ii. The agency employing the involved officer may interact and assist with the investigating agency, but will not attempt to influence the course or outcome of the investigation.
 - iii. Nothing under the terms of this Agreement prohibits the jurisdiction in which the incident occurred from requesting assistance from other agencies, including agencies associated with the federal government.
10. **On the Scene Direction.** The highest ranking law enforcement official on duty or on the scene with jurisdiction over the lands where the incident occurs shall be in charge of the incident, including the on the scene direction of all personnel and equipment provided by the responding party. Regardless of the foregoing, the employer of an officer, employee or agent, through the employer's supervisory law enforcement officials, shall have the ultimate authority over its officers, employees and agents, including the authority to order such person back to its jurisdiction.
11. **Scope of Employment.** The City's officer(s) or other personnel acting pursuant to the terms of this Agreement shall be considered to be acting under the direction of the City and shall be considered to be acting within the scope of their employment and not as

employees of the Tribe. The Tribe's officer(s) or other personnel acting pursuant to the terms of this Agreement shall be considered to be acting under the direction of the Tribe and shall be considered to be acting within the scope of their employment and not as employees of the City.

12. **Reports.** As soon as practicable after a law enforcement activity occurs under this Agreement, the parties shall exchange available officer reports relating to such activity. Nothing in this Agreement waives, limits, or removes any confidentiality requirements required or authorized by applicable law.
13. **Subpoenas.** The parties agree that all judicial or administrative subpoenas issued at the request of one party required for law enforcement activities under this Agreement shall be honored. Any out of pocket expenses incurred by a party shall be paid by the party responsible for issuance of the subpoena.
14. **No Compensation.** Neither party is required to compensate the other party for mutual aid services rendered under this Agreement. Each party agrees to use their own resources and equipment in responding to requests for mutual aid, and each party shall be responsible for any costs or repairs associated with such resources and equipment.
15. **Termination.** This Agreement may be terminated by either party, without cause, by giving 30 days written notice to the other party.
16. **Entire Contract - Severability.** This Agreement constitutes the entire agreement between the parties and may not be changed except by an instrument in writing signed by the Washoe Tribe and Carson City. In the event any provision shall be determined to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the other or remaining provisions.
17. **Previous Agreements.** This Agreement shall have the effect of terminating any and all previous Agreements between the Parties with respect to the subject matter of this Agreement including, but not limited to, the Tribal Law Enforcement Aid Agreement entered into by the Washoe Tribe, Carson City and Douglas County on June 1, 2006.
18. **Construction of Agreement.** This Agreement shall be construed and interpreted according to the laws of the jurisdiction in which the act or omission occurred. The Agreement will be reasonably construed to effectuate the intent of both parties. As both parties have been represented by counsel, no presumptions shall arise from the identity of the drafter.
19. **Notice.** Any notices required under the terms of this Agreement shall be made by either U.S. mail or by hand delivery to the following:

Chairman
Washoe Tribe of Nevada and California
919 Hwy 395 South

Mayor
Carson City Board of Supervisors
201 North Carson Street, Suite 1

Gardnerville, Nevada 89410

Carson City, Nevada 89701

20. **Reservation of Rights**. Nothing in this Agreement shall be read as waiving or limiting any defenses to claims of liability otherwise available to the parties and/or its respective law enforcement officers. Nothing contained in this Agreement is intended not shall it be construed as a waiver, in whole or in part, of the sovereign immunity of the Tribe.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed.

On Behalf of the Washoe Tribe of Nevada and California:

Dated this _____ day of _____, 200__.

By: _____
Chairman, Washoe Tribe of Nevada and California

By: _____
Captain, Washoe Tribe Police Department

On Behalf of Carson City:

Dated this _____ day of _____, 200__.

By: _____
Mayor, Carson City Board of Supervisors

By: _____
Sheriff, Carson City, Nevada

ATTEST: _____
Carson City Clerk

Approved As to Form: _____
Carson City District Attorney