



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: October 6, 2016

Staff Contact: Kathie Heath, kheath@carson.org

Agenda Title: For possible action: To consider an Intergovernmental Agreement for Law Enforcement Mutual Aid Services between Washoe Tribe of Nevada and California and Carson City. (Sheriff Furlong, kfurlong@carson.org)

Staff Summary: Washoe Tribe of Nevada and California and Carson City desire to improve the cooperation efficiency, and effectiveness of law enforcement by making available to each other, upon request only, law enforcement personnel, resources and facilities as needed.

Agenda Action: Formal Action/Motion

Time Requested: 10 minutes

Proposed Motion

I move to approve an Intergovernmental Agreement for Law Enforcement Mutual Aid Services between Washoe Tribe of Nevada and California and Carson City.

Board's Strategic Goal

Safety

Previous Action

Similar Aid agreements existed between Washoe Tribe, Carson City and Douglas County on June 7, 2006 and on May 1, 2008. The current agreement is only between the two parties.

Background/Issues & Analysis

Ensure a safe community through proactive and responsive protection of life and property.

Applicable Statute, Code, Policy, Rule or Regulation

Title I, Article VI, Section 1 of Washoe Tribe's Law and Order Code

NRS 277.180 (1)

NRS 277.110

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number:

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: There is no financial impact to the city - all match is in-kind.

Alternatives

Not approve entering into the agreement and provide other direction.

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

RESOLUTION NO. _____

A RESOLUTION ADOPTING AND APPROVING AN INTERGOVERNMENTAL AGREEMENT FOR LAW ENFORCEMENT MUTUAL AID SERVICES BETWEEN WASHOE TRIBE OF NEVADA AND CALIFORNIA AND CARSON CITY.

WHEREAS, Title 1, Article VI, Section 1 of the Washoe Tribe's Law and Order Code and Nevada Revised Statutes (NRS) Section 277.180(1) provide the Washoe Tribe and Carson City respectively with the authority to enter into an intergovernmental agreement; and

WHEREAS, NRS 277.110 provides that each such agreement becomes effective only upon ratification by appropriate ordinance, resolution or otherwise pursuant to law on the part of the governing bodies of the participating public agencies; and

WHEREAS, the parties to the Intergovernmental Agreement desire to adopt and approve such agreement as required by NRS 277.110; and

WHEREAS, the parties to the Intergovernmental Agreement are public agencies as defined by NRS 277.100(1)(a) and 277.100(1)(d); and

NOW, THEREFORE, BE IT RESOLVED that the terms and conditions of the Intergovernmental Agreement for Law Enforcement Mutual Aid Services between Washoe Tribe of Nevada and California and Carson City are hereby adopted and approved; and

BE IT FURTHER RESOLVED that the Intergovernmental Agreement for Law Enforcement Mutual Aid Services between Washoe Tribe of Nevada and California and Carson City shall be spread at large upon the minutes and a copy of this Resolution shall be sent to the Washoe Tribe for its records.

Upon motion by Supervisor: _____, seconded by Supervisor _____, the foregoing Resolution was passed and adopted this _____ day 2016 by the following vote:

AYES: _____ NAYS: _____

ABSENT: _____ ABSTAIN: _____

Resolution No. _____

Robert L. Crowell, Mayor
Carson City, Nevada

ATTEST: _____
Susan Merriwether, Clerk-Recorder-Carson City, Nevada

**INTERGOVERNMENTAL AGREEMENT
FOR LAW ENFORCEMENT MUTUAL AID SERVICES
By and Between
WASHOE TRIBE OF NEVADA AND CALIFORNIA
And
CARSON CITY, NEVADA**

WHEREAS, the Washoe Tribe of Nevada and California (Washoe Tribe) 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 (City) is a political subdivision of the State of Nevada; and

WHEREAS, the Washoe Tribe and the City share common borders; and

WHEREAS, it is in the best interest of the Washoe Tribe, the City, and the residents of each community to mutually share law enforcement aid activities on an 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 Washoe Tribe and the City respectively with the authority to enter into this Agreement; and

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

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

1. **Term.** The term of this Agreement shall be from October ____, 2016, to May 31, 2019, and shall automatically renew for successive three year periods thereafter unless and until 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 those who commit crimes. For all of these purposes, the parties desire to make available to each other, upon request only, law enforcement personnel, resources, and facilities as needed.

STANDARD OPERATING PROCEDURES
BETWEEN THE
WASHOE TRIBE POLICE DEPARTMENT
AND THE
CARSON CITY SHERIFF'S OFFICE

This Standard Operating Procedures (SOP) is agreed upon and adopted by the Carson City Sheriff's Office (CCSO) and the Washoe Tribe Police Department (WTP), together as the "parties" regarding activities conducted pursuant to the Intergovernmental Agreement for Law Enforcement Mutual Aid Services (the Agreement).

WHEREAS, each of the parties provide law enforcement services within their respective jurisdictions; and

WHEREAS, the Washoe Tribe of Nevada and California and the Carson City Board of Supervisors have entered into the Agreement in order to provide for coordination and assistance in the provision of law enforcement services between the jurisdictions; and

WHEREAS, the parties desire to enter into these SOP to establish operational guidelines between the parties for implementation of the Agreement and as an exhibit thereto.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Communications.** All requests for mutual aid assistance will be channeled through CCSO Dispatch or the Douglas County Sheriff Dispatch which currently dispatches for WTP. Any changes to personnel as set forth in the Agreement should be communicated to both CCSO and the Douglas County Sheriff Dispatch.
2. **First Response.** Neither WTP nor CCSO will be the first to respond on-scene to a request for assistance unless it is an in-progress high risk incident. Such in-progress high risk incidents include, but are not limited to: situations where a person is being

Exhibit 1

severely injured by another (not accidents); hostage situation or barricaded suspect; ongoing domestic violence where a person is being injured; and an active shooter. If the responding agency is first on scene, their directive is to secure to protect life and property until the requesting agency arrives.

3. **SWAT Team.** If CCSO deploys a Special Weapon and Tactic (SWAT) team and/or Crisis Negotiation Team (CNT) to WTP at their request, tactical control of the situation, including CNT, will be turned over to the SWAT team commander, while overall supervision will remain with WTP.

4. **Duration and Amendments.** These SOP shall remain in full force and effect from the date hereof unless amended in writing by agreement by both parties hereto or the Agreement is terminated or not renewed. Any revisions to this SOP shall be in the form of Amendments attached to the original Agreement.

5. **Severability.** It is believed that nothing in these SOP is in conflict or contrary to the provisions of the Agreement. If a provision is found to be in conflict, it will not affect the remaining provisions. Any changes must be resolved by amending these SOP.

IN WITNESS WHEREOF, the parties hereto have caused these Standard Operating Procedures between the Washoe Tribal Police and the Carson City Sheriff's Office to be executed.

On behalf of the Washoe Tribe Police Department:

Dated this _____ day of _____, 2016.

By: _____
Chief, Washoe Tribe Police Department

Approved as to form: _____
General Counsel, Washoe Tribe Police Department

Exhibit 1

On Behalf of Carson City Sheriff's Office:

Dated this _____ day of _____, 2016.

By: _____
Ken Furlong, Sheriff
Carson City, Nevada

Approved as to form: _____
Jason D. Woodbury, District Attorney
Carson City, Nevada

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. **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 Chief of Police of the Washoe Tribe or to the Sheriff of the City respectively with no obligation to respond favorably to any request.
4. **Federal Crimes.** The City recognizes that the Federal Bureau of Investigation (FBI) along with the Washoe Tribe have jurisdiction on Tribal lands. In the event the City responds to the Washoe Tribe under this Agreement and discovers a federal crime has occurred, the City will inform the Washoe Tribe 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.
5. **Liability and Indemnification.** It is not the intention of this Agreement to affect the legal liability of either the Washoe Tribe or the 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 Washoe 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 Washoe Tribe 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 Washoe 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.

6. **Governing Law.** For any matter that arises out of this Agreement, the following provisions shall apply:
 - a) In the event that the Washoe Tribe amends, adds, deletes, or in any way changes subsection 1-20-020(c) of the Washoe Tribal Court Law and Order Code, which excludes Tribal Court jurisdiction for the City's officers acting under this Agreement, or adds or changes any section of the Tribal Code that would affect the terms or intent of this Agreement, then the Washoe Tribe must notify the City within twenty-four (24) hours of that change, and the City may immediately withdraw from this Agreement.
 - b) In the event that City or the State of Nevada amends, deletes, or any way changes any ordinance or statute that affects the Washoe Tribe in carrying out the provisions of this Agreement, then the City must notify the Washoe Tribe within twenty-four (24) hours of that change, and the Washoe Tribe may immediately withdraw from this Agreement.
 - c) If any party fails to notify the other party of changes as referenced above and an issue or action arises, then it is in the intent of the parties that the Tribal Code, Carson City Municipal Code, and/or the Nevada Revised Statutes that were in place when this Agreement was executed shall control.
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 promptly be 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 Motor Vehicle 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 law enforcement officer involved in a shooting, use of force incident, and/or motor vehicle accident while performing mutual aid 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 a party hereto and 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 the 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 Agreements entered into by the Washoe Tribe, Carson City, and Douglas County on June 1, 2006, and on May 1, 2008.
- 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
Gardnerville, Nevada 89410 | Mayor
Carson City
Board of Supervisors
201 North Carson Street
Suite 1
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 to be nor shall it be construed as a waiver, in whole or in part, of the sovereign immunity of the Washoe Tribe.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Law Enforcement Mutual Aid Services to be executed.

On Behalf of the Washoe Tribe of Nevada and California:

Dated this _____ day of _____, 2016.

By: _____
Chairman, Washoe Tribe of Nevada and California

By: _____
Chief, Washoe Tribe Police Department

Approved as to form : _____
General Counsel, Washoe Tribe of Nevada and California

On Behalf of Carson City:

Dated this _____ day of _____, 2016.

By: _____
Robert Crowell, Mayor
Carson City Board of Supervisors

By: _____
Ken Furlong, Sheriff
Carson City, Nevada

ATTEST: _____
Sue Merriwether, Clerk-Recorder
Carson City, Nevada

Approved as to form: _____
Jason D. Woodbury, District Attorney
Carson City, Nevada