

**RESOLUTION NO. 2016-15**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAPATO, WASHINGTON, APPROVING THE COOPERATIVE AGREEMENT PROVIDING FOR SPECIAL LAW ENFORCEMENT COMMISSIONS OF LAW ENFORCEMENT OFFICERS OF THE WAPATO POLICE DEPARTMENT, BETWEEN THE CITY OF WAPATO AND THE SECRETARY OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES AND THE UNITED STATES**

**WHEREAS**, the Washington State Governor issued Proclamation 14 01 granting The Confederated Tribes and Bands of the Yakama Nation (the "Tribes") partial retrocession with regard to Public Law 280 jurisdiction within the boundaries the Yakama Reservation; and

**WHEREAS**, the United States Department of the Interior accepted the Governor's offer of partial retrocession, and the partial retrocession of civil and criminal jurisdiction for the Tribes was then accomplished; and

**WHEREAS**, the Secretary of the Department of the Interior of the United States, the United States, and the City of Wapato intend to establish a mechanism whereby citation and arrest authority of the Bureau of Indian Affairs over Indians on the reservation is extended to commissioned law enforcement officials of the Wapato Police Department by way of Special Law Enforcement Commissions issued by the Bureau of Indian Affairs; and

**WHEREAS**, the City Council of the City of Wapato finds it is in the best interests of the residents of the City of Wapato to enter into the Cooperative Agreement Providing for Special Law Enforcement Commissions of Law Enforcement Officers of the Wapato Police Department.

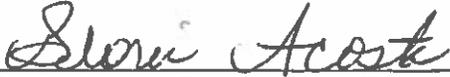
**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WAPATO, WASHINGTON, AS FOLLOWS:**

1. The City Council authorizes the City of Wapato Chief of Police to sign the Cooperative Agreement Providing for Special Law Enforcement Commissions of Law Enforcement Officers of the Wapato Police Department. A copy of the Agreement is attached hereto for reference as Exhibit "1".
2. That this resolution shall be in full force and effect upon passage and signature, and after the Agreement between the City of Wapato, and Secretary of the Department of the Interior of the United States and the United States becomes effective.

**PASSED AND APPROVED** this 18<sup>th</sup> day of April 2016.

  
Tony Guzman, Mayor Pro tempore

ATTEST:

  
\_\_\_\_\_  
Gloria Acosta, Deputy Clerk-Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kellen Holgate, City Attorney

1<sup>st</sup> Touch Date: 4/18/16

2<sup>nd</sup> Touch Date: 4/18/16

**COOPERATIVE AGREEMENT PROVIDING FOR SPECIAL LAW  
ENFORCEMENT COMMISSIONS OF LAW ENFORCEMENT  
OFFICERS OF THE WAPATO POLICE DEPARTMENT**

This Agreement is made by and between the City of Wapato by and through the Wapato Police Department, and the Secretary of the Department of the Interior of the United States and the United States.

**WHEREAS**, the Washington State Legislature enacted legislation that provided an opportunity for The Confederated Tribes and Bands of the Yakama Nation (the "Tribes") to seek partial retrocession with regard to Public Law 280 jurisdiction within the Yakama Reservation; and

**WHEREAS**, the Tribes submitted Tribal Council Resolution T 117 12 to the Washington State Governor requesting partial retrocession of Public Law 280 jurisdiction; and

**WHEREAS**, the Washington State Governor issued Proclamation 14 01 granting the Tribes' request in part; and

**WHEREAS**, the United States Department of the Interior accepted the Governor's offer of partial retrocession, and the partial retrocession of civil and criminal jurisdiction for the Tribes was then accomplished; and

**WHEREAS**, the overriding purpose of this Cooperative Agreement is to continue to provide comprehensive law enforcement services for criminal offenses; and

**WHEREAS**, the Wapato Chief of Police is authorized by resolution of the Wapato City Council, chapter 39.34 RCW, and chapter 10.93 RCW to enter into cooperative agreements with the United States Government for cooperative law enforcement agreements, and each has authorized the signatories below to commit their respective jurisdictions to this agreement, and

**WHEREAS**, the Indian Law Enforcement Reform Act, 25 U.S.C., §§ 2801 to 2804, provides the Secretary of the Interior with authority to enter into and approve such cooperative law enforcement agreements, and

**WHEREAS**, the parties to this Agreement desire to provide the most efficient law enforcement and police protection to the residents of State of Washington, including the residents of the Yakama Reservation, cities, and counties involved, and

**WHEREAS**, the parties wish to establish a mechanism whereby citation and arrest authority of the Bureau of Indian Affairs over Indians on the reservation is extended to commissioned law enforcement officials of the Wapato Police Department.

Now, **THEREFORE**, the parties agree to enter into this Agreement for the purpose of enhancing law enforcement services to all residents of the Reservation, cities, and counties involved, and of making the best use of scarce rural law enforcement services for the benefit of all residents.

## **I. DEFINITIONS**

1. "BIA" means the United States Department of the Interior, Bureau of Indian Affairs.
2. "Commissioned Law Enforcement Officer" means any officer of the Wapato Police Department who has been commissioned as a general authority Washington peace officer.
3. "Reservation" means the Yakama Reservation as established in the Yakama Treaty of June 9, 1855 (12 Stat. 951), and in other federal law.
4. "The Tribes" means the Confederated Tribes and Bands of the Yakama Nation.
5. "Party" or "Parties" means the signatories to this agreement.

## **II. PURPOSE**

1. The parties, having conferred together on a government-to-government basis, agree that pursuant to the terms of this Agreement, certain commissioned law enforcement officers of the Wapato Police Department will be appointed as commissioned federal law enforcement officers of the BIA and, further, that they will establish herein a procedure for continued recurrent commissioning of new officers.
2. It is the parties' intent that this Agreement establish a long term working relationship between the parties to encourage and promote cooperative law enforcement among the jurisdictions and enhance the delivery of effective law enforcement services to the residents of the Yakama Nation Reservation and the city of Wapato. This Agreement is entered into in furtherance of the purposes of the Washington State Interlocal Cooperation Act, chapter 39.34 RCW, the Washington Mutual Aid Peace Officers Powers Act, chapter 10.93 RCW, and the Indian Law Enforcement Reform Act. Nothing herein alters or conveys any judicial jurisdiction, including the authority to issue warrants for arrest or search and seizure, or to issue service of process.

## **III. NEGATIVE DECLARATION**

1. This Agreement does not reflect, in this or any context, any party's position with respect to the jurisdictional authority of another. Nothing in this Agreement, or in any conduct undertaken pursuant to this Agreement, shall be construed as enlarging or diminishing the jurisdictional authority of either party except to the extent necessary to implement and effectuate the terms of this Agreement. Nothing herein affects any extant statutory provisions regarding the sovereign immunity of the parties. Neither this Agreement nor the activities of the parties pursuant to this Agreement shall be used to affect the legal or equitable position of any party in any pending or future litigation.

2. Nothing in this Agreement, or in any future amendments, shall be interpreted either expressly or impliedly, as constituting a waiver of sovereign immunity of the State of Washington.

3. Nothing in this Agreement shall be read as waiving or limiting any defenses to claims of liability otherwise available to law enforcement officers.

#### **IV. COMMISSIONS**

1. General authority Washington peace officers employed by the Wapato Police Department are hereby authorized to apply for a Special Law Enforcement Commission (SLEC) from the BIA, and the BIA is hereby authorized to approve said application for SLEC pursuant to applicable rules and regulations.

#### **V. TERRITORIAL LIMITATION**

1. The authority conferred by this Agreement and the processes outlined herein shall be exercised only within the exterior boundaries of the Yakama Reservation.

#### **VI. STATUS OF COMMISSIONED LAW ENFORCEMENT OFFICERS**

1. Identification.

A. The BIA shall issue identification cards, and may issue insignia to Wapato Police Officers commissioned pursuant to this Agreement. All commissioned law enforcement officers must wear their insignia, if issued, and carry the identification cards with them at all times while acting under the authority of the commissioning agency. The identification cards must bear signatures or other insignia to identify each of the commissioning agencies for which the commissioned law enforcement officer is authorized to act. Commissioned law enforcement officers must immediately display these identification cards to individuals upon request. The identification cards must include the following identification data: name and recent photograph of the holder of the commission; the date of birth; height; weight; and eye and hair color. The holder of the commission and the authorized representative (s) of the commissioning agency must sign all identification cards.

2. Compensation, expenses and employment relationship.

A. The Chief of Police and city of Wapato shall remain solely responsible for the ordinary and extraordinary expenses of its officers while the officers are performing functions as commissioned law enforcement officers on behalf of commissioning agencies. Wapato Police officers granted a SLEC are not employees of the BIA and at all times these Wapato Police officers will be acting as employees of the State of

Washington and city of Wapato, subject solely to Wapato Police Department's personnel regulations, policies, and procedures. All Wapato Police officers acting under the authority granted pursuant to a SLEC will remain subject to the Wapato Police Department's regulations and policies, and will remain subject to the Wapato Chief of Police's control and direction.

B. This agreement does not affect the internal chains of command of the parties. No independent contractor relationship or employment relationship is formed as a result of this Agreement between commissioned law enforcement officers and commissioning agencies. However, all such commissioned law enforcement officers shall be treated as federal employees, solely for the purposes of the Indian Law Enforcement Reform Act, 25 U.S.C. § 2804, and the Federal Tort Claims Act, 28 U.S.C. §§ 2401, 2671-80, when performing duties under their SLEC commissions.

3. Liability and insurance.

A. The BIA agrees that all commissioned law enforcement officers under this Agreement shall be treated as federal employees, solely for the purposes of the Indian Law Enforcement Reform Act, 25 U.S.C. § 2804, the Federal Tort Claims Act, 28 U.S.C. §§ 2401, 2671-80, and other applicable federal laws, when performing duties under their commissions. Each party shall remain solely responsible for the ordinary expenses of its employees and its property, including insurance, throughout the term of this Agreement.

B. Except as provided by the Indian Law Enforcement Reform Act, 25 U.S.C. § 2804, and the Federal Tort Claims Act, 28 U.S.C. §§ 2401, 2671-80, nothing in this Agreement is intended to alter the parties' insurance obligations toward their employees or others.

## VII. TERMINATION OF COMMISSION

1. Automatic termination of commission.

A. Each party to this Agreement shall promptly notify in writing the Wapato Chief of Police and the BIA Special Agent in Charge, in the event that any of its officers serving as a commissioned law enforcement officer is terminated or resigns from official duties. A Wapato Police officer whose SLEC commission is revoked or suspended must immediately return his or her identification card and any other official insignia to the commissioning agency.

B. All terminated or resigned officers shall automatically and immediately be relieved, without further action, of any grant of authority under this agreement.

C. Should any person be subsequently reinstated to the official duties in the jurisdiction from which the person was terminated or had resigned, such person shall not be automatically reinstated as a commissioned law enforcement officer under this Agreement. Instead, such person must seek a new commission under the procedures and standards set forth in this Agreement.

2. Permissive termination of commissions.

A. The BIA has the authority with good cause to revoke, suspend or place conditions on any commission issued under this Agreement. The BIA may temporarily suspend or place conditions on the commission of any officer, provided, however, that 30 days prior to any final revocation of a commission, the BIA shall provide written notice of the revocation, and the specific reasons therefore, to the Wapato Police officer and to the Chief of Police. The Wapato Police officer and the Chief of Police shall have a reasonable opportunity to respond to the notice of revocation or condition within 20 days of receipt of the notice and the BIA shall not render a final decision until the response(s) are given due consideration. However, the decision of the BIA shall be final. A Wapato Police officer whose SLEC commission is revoked or suspended must immediately return his or her identification card to the commissioning agency.

B. All Wapato Police Officers must fully comply with the enforcement policies and regulations of the Wapato Police Department when exercising authority under their SLEC commissions.

## **VIII. AMENDMENT**

1. This Agreement may not be altered, changed, or amended, except by written instrument executed by both parties and attached hereto. Should any party hereto terminate its participation, it shall do so by notice as provided herein.

## **IX. EFFECTIVE DATE AND TERM**

1. This Agreement shall become effective upon execution by the parties and upon resolution approving the Agreement by the Wapato City Council pursuant to 39.34.030(2) RCW. Each officer must be commissioned by compliance with this Agreement and any applicable BIA rules and regulations. Upon approval, each officer may exercise authority granted by this Agreement upon the issuance of the identification card or other insignia by the commissioning agency. The term of each commission shall continue from year to year, unless altered or terminated as outlined in this Agreement.

2. Unless terminated as provided herein, this Agreement shall continue from year to year. Any party shall have the right, however, to terminate this Agreement and all commissions issued hereunder, with or without cause, upon written 30 days' notice to the other parties.

3. Upon execution by all parties and resolution of approval by the City of Wapato, the Wapato's Chief of Police shall file this Agreement with the appropriate officials in accordance with the Washington State Interlocal Cooperation Act, chapter 39.34.040 RCW.

**X. LIAISONS**

1. All parties agree timely to notify the others of the successors to the individuals listed as liaisons herein, and to replace the following names in accordance with such notification:

Notices sent to the Wapato Police Department shall be sent to:

Chief of Police  
205 S. Simcoe Ave.  
Wapato, WA 98951

Communications to the BIA shall be sent to:

Special Agent in Charge  
Richard "G" Melville  
P.O. Box 6147  
Vancouver, WA 98666

The parties evidence their agreement hereto by affixing their signatures below.

DATED 18th day of April, 2016.

DATED this 18 day of April, 2016



Richard Needham, Police Chief  
City of Wapato, Washington



Richard Melville, SAC  
Bureau of Indian Affairs

ATTEST:



Gloria Acosta, Deputy Clerk-Treasurer