



AGENDA ITEM NO. _____

C-8

SHERIFF'S OFFICE COUNTY OF HUMBOLDT

826 FOURTH STREET
EUREKA, CALIFORNIA 95501-0516 PHONE (707) 445-7251

DATE: September 29, 2003

For Meeting of: October 14, 2003

TO: Board of Supervisors

FROM: Gary Philp, Sheriff

SUBJECT: APPROVAL OF THE AGREEMENT BETWEEN THE HOOPA VALLEY TRIBE, THE COUNTY OF HUMBOLDT, AND THE SHERIFF OF HUMBOLDT COUNTY FOR THE DEPUTIZATION OF QUALIFIED HOOPA VALLEY TRIBAL POLICE OFFICERS

RECOMMENDATION:

ON FILE WITH THE
CLERK OF THE BOARD

It is recommended that the Board of Supervisors:

1. That the Board of Supervisors approve the agreement between the Hoopa Valley Tribe, the County of Humboldt, and the Sheriff of Humboldt County for the deputization of qualified Hoopa Valley Tribal Police Officers in compliance with California Penal Code Sections 830.6 and 830.8;
2. That the Board of Supervisors direct the Chairman of the Board to sign the agreement on behalf of the Humboldt County Board of Supervisors;
3. Authorize the Sheriff to sign the agreement between the Hoopa Valley Tribe, the County of Humboldt, and the Sheriff of Humboldt County and;
4. Instruct the Clerk of the Board to return two (2) fully executed documents to the Sheriff's Office, Attn: Janet Held for further processing.

DISCUSSION:

The unique culture and history of the Hoopa Valley Tribe, the geographic remoteness of the Hoopa Valley Indian Reservation, and the structure of Tribal and Federal Indian laws within the exterior boundaries of the Hoopa Valley Indian Reservation, at times make it difficult for Humboldt County Deputy Sheriff's to carry out their peace officer duties enforcing the state law pursuant to Public Law 280 on the Hoopa Valley Indian Reservation.

In addition, because of budget constraints the Humboldt County Sheriff's Office has not been able to allocate law enforcement resources on the Hoopa Valley Reservation in a manner which would allow us to provide a twenty-four hour a day, seven day a week, law enforcement presence.

GP:JH:kmw

agnhoopa
Prepared by:

CAO Approval: *K. Secker*

REVIEW:
Auditor _____

County Counsel *[Signature]*

Personnel _____

Risk Manager *[Signature]*

Other _____

TYPE OF ITEM:

- Consent
- Departmental
- Public Hearing
- Other

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon the motion of Supervisor **W. COLLEY**
seconded by Supervisors **GEIST**
and unanimously carried by those members
present, the Board hereby adopts the
recommended action contained in this report.

Dated: *October 14, 2003*

Lora Canzonon, Clerk of the Board

by: *Lora Canzonon*

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of _____

**APPROVAL OF THE AGREEMENT BETWEEN
THE HOOPA VALLEY TRIBE, THE COUNTY OF
HUMBOLDT, AND THE SHERIFF OF HUMBOLDT
COUNTY FOR THE DEPUTIZATION OF QUALIFIED
HOOPA VALLEY TRIBAL POLICE OFFICERS**

-2-

For Meeting of: October 14, 2003

DISCUSSION: (Cont'd)

Since approximately 1990, the County of Humboldt, the Sheriff of Humboldt County and the Hoopa Valley Tribe have utilized cooperative agreements between the County of Humboldt, the elected Sheriff and the Hoopa Valley Tribe for the enhancement of public safety services within the boundaries of the Hoopa Valley Indian Reservation. These cooperative agreements have been desired by all parties in order to increase law enforcement resources on the Hoopa Valley Indian Reservation and to enhance the ability to appropriately enforce state laws pursuant to Public Law 280. The history of these cooperative agreements has shown themselves to be beneficial to all of the participating parties.

FINANCIAL IMPACT:

The agreement allows Tribal Officers to enforce state law on the Hoopa Reservation strengthening law enforcement capabilities without additional cost to the County.

OTHER AGENCY INVOLVEMENT: Hoopa Valley Tribe

DEPUTIZATION AGREEMENT BETWEEN THE HOOPA VALLEY TRIBE AND THE COUNTY OF HUMBOLDT

The Hoopa Valley Tribe, (hereinafter referred to as "Tribe"), a sovereign, federally recognized Indian Tribe and the County of Humboldt, a political subdivision of the State of California, (hereinafter referred to as "County"), and the Humboldt County Sheriff (hereinafter referred to as "Sheriff") enter into this Agreement on the 25th day of September, 2003.

FINDINGS

The Tribe, County, and Sheriff find:

1. That the safety and health of persons residing on the Hoopa Valley Indian Reservation are enhanced by close cooperation and continuous communication between the Hoopa Valley Tribal Police and the Sheriff's Office; and
2. That the unique culture and history of the Tribe, the geographic remoteness of the Hoopa Valley Indian Reservation, and the structure of Tribal and Federal Indian laws within the exterior boundaries of the Hoopa Valley Indian Reservation, at times make it difficult for Humboldt County Deputy Sheriffs to carry out their peace officer duties enforcing state law pursuant to Public Law 280 on the Hoopa Valley Indian Reservation; and
3. That, consistent with important principles of Hoopa Tribal sovereignty and self-governance, it is the desire and the policy of the Tribe and the County, that the Tribe exercise authority over issues of public safety within the exterior boundaries of the Hoopa Valley Indian Reservation; and
4. That, although the frequency of crimes committed within the exterior boundaries of the Hoopa Valley Indian Reservation are increasing at a time when the County is not able to allocate proportional law enforcement resources on the Hoopa Valley Indian Reservation; and
5. Subject to budget constraints, the Sheriff's goal is to allocate law enforcement resources on the Hoopa Valley Indian Reservation in a manner which reflects the likelihood of crimes occurring at the hours and days disclosed by statistics and experiences obtained by the Hoopa Valley Tribal Police Department; and
6. This Agreement is desired by both parties in order to enhance the enforcement of state laws pursuant to Public Law 280.

POLICIES

In light of the Findings herein, the Tribe and the County in concurrence with the Sheriff mutually agree to implement and abide by the following policies:

1. Statistical Analysis And Narrative Report. Subject to budget constraints, the Tribe and the County will acquire data, analyze statistics in order to jointly draft an annual narrative report, to be submitted to the Tribal Council and to the Board of Supervisors, the contents of which will be made public. The statistical analysis and narrative report will focus on identifying primary law enforcement difficulties and will propose common sense solutions readily subject to quantification.
2. Public Service Project. As staffing allows and subject to budget constraints, the Hoopa Valley Tribal Police Department and the Sheriff's Office will jointly plan and carry out a public service project acquainting residents of the Hoopa Valley Indian Reservation, including without limitation children, parents and businesses, with the duties of law enforcement officers, techniques for preventing crime, civil rights and whatever information is useful in helping to make the Hoopa Valley Indian Reservation is a safe and healthy place to reside, attend school or be employed. In designing a public service project, the Hoopa Valley Tribal Police and the Sheriff's Office will seek the assistance of Hoopa Valley reservation residents.
3. Deputization.
 - a. The Sheriff agrees, in compliance with California Penal Code Sections 830.6 and 830.8, to deputize qualified Hoopa Tribal Police officers who have successfully completed a standard background investigation acceptable to the Sheriff, and the training course for deputy sheriffs prescribed by the California Commission on Peace Officer Standards and Training (hereinafter P.O.S.T.) or an equivalent federal training course recognized by P.O.S.T. as equivalent to P.O.S.T. requirements. Said deputization will not be unreasonably delayed.
 - b. The Sheriff may withdraw the deputization of any Hoopa Valley Tribal Police Officer at any time.
 - c. The Tribe agrees to require deputized Hoopa Valley Tribal Police Officers to maintain the same in service P.O.S.T. training requirements as Humboldt County Deputy Sheriffs. Failure of any Hoopa Valley Tribal Police Officers to so comply will result in his/her revocation of his/her deputization. Proof of annual training will be forwarded to the Sheriff in a timely manner.
4. Citizen Complaints. The Tribe agrees they will notify the Sheriff in writing, within 48 hours of any citizen complaint made and/or any administrative personnel investigation initiated by the Tribe or the Hoopa Valley Tribal Police Chief against a deputized officer enforcing State law. The Tribe further agrees that it will apprise the Sheriff of the nature of

the complaint, the names and addresses of all complainants, and what action is being undertaken. At the conclusion of the personnel investigation, the Sheriff will be notified, in writing, within 48 hours of the outcome and final disposition.

5. Cultural and Racial Diversity Training. Whenever practical, based upon budget constraints, Humboldt County Deputy Sheriffs will, before assignment to duties on the Hoopa Valley Indian Reservation, complete a course of training in cultural and racial diversity substantially similar to that required by California Penal Code Section § 13519.4 emphasizing Hoopa Tribal Culture.
6. Training. The Tribe and the Sheriff mutually agree to offer each other, for deputized personnel only, law enforcement training, internal or external, and will make printed and electronic training materials accessible to deputized personnel. The Tribe and the County will bear the cost of training their respective personnel.
7. Equipment. The Tribe and the County will submit to each other an inventory of their current equipment, available in the Hoopa area, that is useful in inquiries, investigations and law enforcement actions undertaken by the Tribe or the County. The Tribe and the County will, on request, endeavor to make this equipment, excepting patrol vehicles, available to each other in a timely manner, equipment damaged or lost during the time it is on loan will be replaced or the owner compensated in as prompt a manner as budget constraints will allow.
8. Reports. The Hoopa Valley Tribal Police and the Sheriff agree to comply with each other's deadlines regarding timely submission of investigation, arrest and other reports so long as deputization remains in effect.
9. Records. The Tribe and the County will, subject to applicable laws regarding confidentiality and privacy, and subject to the Public Records Act and the Freedom of Information Act, allow access to, and disclosure of, law enforcement records in their possession and control to be used in identifying, apprehending, prosecuting or suing in civil court individuals or companies reasonably believed to have violated civil or criminal laws of the Tribe, County, the State of California, or the United States.
10. Lines of Communication
 - a. Direct and timely communication between the Hoopa Tribal Police Chief and the Sheriff of Humboldt County is vital to the success of this Agreement. The Hoopa Valley Tribal Police Chief and the Sheriff of Humboldt County will communicate directly to each other at least once each month in order to avoid communication problems in going through bureaucratic channels. Chief and Sheriff communications will be a high response priority.
 - b. There will be a communication during the first week of each month, between the Chief of the Hoopa Valley Tribal Police and the Sheriff to communicate the schedule for staffing coverage.

11. Insurance. Each of the parties will maintain police professional liability insurance or personal injury insurance or both to cover injuries or death resulting from officers executing their lawful duties. This insurance should extend to reserve officers and mutual aid agreements. Any changes in scope of coverage will be made only with ninety (90) days written notice to the other party. Each party will communicate the proof of insurance documents to each other.
12. Off-Reservation Inquiry. The Hoopa Valley Tribal Police are authorized to conduct inquiries relative to civil or criminal investigations off the Hoopa Valley Indian Reservation, in Humboldt County, after receiving approval from the on-duty supervisor or watch commander of the Sheriff's Office. A request for off-reservation inquiries will be made by contacting the on-duty supervisor or watch commander. Approval for this request will not be unreasonably withheld or delayed by the Sheriff. The Hoopa Valley Tribal Police Officer will document the request, approval and the name of the supervisor/watch commander granting the request in the report.
13. Limitation of Grant of Authority. The Tribe and the County mutually agree that any authority granted under this Agreement is applicable only to law enforcement activity occurring within the geographical boundaries of Humboldt County and the Hoopa Valley Indian Reservation.
14. CLETS
 - a. Upon deputization and appropriate CLETS training, the Hoopa Valley Tribal Police, will be authorized to receive data from criminal information databases, CLETS, and other computerized information systems. Receiving information from the aforementioned databases for activities under this Agreement will not be unreasonably delayed or withheld by the Sheriff's office. Moreover, "receive" will mean the Hoopa Valley Tribal Police are allowed to meaningfully receive the information from these databases under the same or similar circumstances as the Sheriff's Department.
 - b. Upon approval by the California Department of Justice authorizing Tribal Police access to CLETS, the Sheriff, as the CLETS County Control Agent, agrees to assist the Hoopa Valley Tribal Police in obtaining their own criminal information systems access and equipment. The Hoopa Valley Tribal Police will be responsible for infrastructure and access fees.
15. No Third Party Beneficiary. This Agreement is not intended to, and will not be construed to, create any right on the part of any third party to bring action to enforce any of its terms.
16. Sovereign Immunity. This Agreement is not intended nor will it be so interpreted to be a waiver of sovereign immunity of the Tribe, or their employees, officials and agents. Nothing in this Agreement subjects or limits the sovereign rights of the Tribe.

17. Ex Parte Young Doctrine: Both parties agree the doctrine of Ex Parte Young, 209 U.S. 123, is applicable to this Agreement. The doctrine of Ex Parte Young generally allows suits against an official for prospective relief (such as injunctive or declaratory relief), but claims for retrospective relief (such as damages) are not permitted. The government entity may not be named as a defendant and only an individual officer in his/her official capacity may be sued for injunctive or declaratory relief. That individual officer must have a direct connection with the law or action a plaintiff is requesting injunctive or declaratory relief under. Where an obligation of this Agreement is that of the "the Tribe", the Tribal Chairman will generally have the requisite direct connection with the action contemplated.
18. Civil Remedy Title 28 U.S.C.A., more commonly known as the Federal Tort Claims Act (FTCA) allows the district courts to have exclusive jurisdiction of civil actions on claims against the United States. The FTCA provides immunity from common law tort claims against tribal entities and individuals and has been expanded to cover activities such as providing law enforcement services under 25 U.S.C.A. §2802. Any County claims against Tribal employees while acting within the scope of their office or employment must be brought in accordance with the procedures of the FTCA.
19. Disputes. In recognition of the government-to-government relationship of the Tribe and the County, the Parties will make their best efforts to resolve disputes that occur under this Agreement by good faith negotiations whenever possible. In the event that either Party believes that a violation of this Agreement has occurred, or is occurring, that Party will provide written notice to the other Party setting forth with specificity, the issues to be resolved. The Parties hereby establish a threshold requirement that disputes between the Tribe and the County first be subject to a to a process of meeting and conferring in good faith in order to foster a spirit of cooperation. Should the initial meeting and conferring fail to resolve the dispute, any issues of interpretation and enforcement of this Agreement will be attempted to be resolved by mediation. The mediation will consist of a mediator to be mutually agreed upon by the parties hereto, in concert with a representative of Humboldt County and a representative of the Tribe. Any dispute between the Tribe and the County relating to this Agreement not resolved by mediation will be brought in the United States District Court Northern District of California. By agreeing to this venue, the Tribe does not waive its sovereign immunity, or its right to raise sovereign immunity as a defense.
20. Term.
 - a. This Agreement will be in full force and effect for the tenure of the current Sheriff following execution hereof. This Agreement will be automatically renewed if the current Sheriff is re-elected, absent an express, written revocation by either the Tribe, or the County and the Sheriff, delivered via certified mail thirty (30) days before the Agreement is set to expire.
 - b. During the term of this Agreement the Tribe, or the County and the Sheriff will have the authority to revoke this Agreement.. Any notice of intent to revoke under Section 20(b) of this Agreement must be express, in writing, and delivered via certified mail ninety (90) days prior to the date of revocation. During that ninety (90) day time frame

both parties agree to meet and confer to discuss the issues surrounding the revocation in an attempt to resolve the issue.

21. Notices. Any notice provided for or concerning this Agreement will be in writing and be deemed sufficiently given when sent by certified or registered mail to the respective address as set forth in this section:

If to County: Humboldt County Sheriff
826 Fourth Street
Eureka, CA 95501

If to Tribe: Hoopa Valley Tribal Council
P.O. Box 1348
Hoopa, CA 95546

22. Waiver. The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, will not be construed as thereafter waiving any such terms and conditions, but the same will continue and remain in full force and effect as if no such forbearance or waiver has occurred.
23. Severability. If any provision(s), or portion(s) thereof, in this Agreement are is/are found to be invalid, the remaining provisions not invalidated will remain unaffected thereby.
24. Modification of Agreement. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement will be binding only if placed in writing and signed by each party or an authorized representative of each party, and attached hereto as if it was part of the original Agreement.
25. Paragraph Headings. The headings and captions of the various paragraphs to this Agreement are for convenience only, and they will not limit, expand or otherwise affect the construction or interpretation of this Agreement.
26. Good Faith. Throughout the term of this Agreement, the parties agree to exercise good faith and to observe the covenants herein. The County and Tribe also agree to comply with all applicable laws.
27. Integration. This Agreement will constitute the entire Agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement will not be binding upon either party except to the extent incorporated into this Agreement. This Agreement will be construed pursuant to applicable Federal, State, and Hoopa Valley Tribal laws.
28. Nuclear Free Humboldt County Ordinance Compliance. The Tribe certifies by its signature below that the Tribe is not a Nuclear Weapons Contractor, in that the Tribe is not

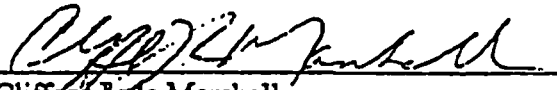
knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. The Tribe agrees to notify Humboldt County immediately if it becomes a nuclear weapons contractor, as defined above. Humboldt County may immediately terminate this Agreement if it determines that the foregoing certification is false or if the Tribe becomes a nuclear weapons contractor.

29. IN WITNESS THEREOF, this Agreement has been executed by, and on behalf of the Hoopa Valley Tribal Council, Hoopa Tribal Police, the Humboldt County Board of Supervisors, and the Sheriff of Humboldt County as of the dates shown below.


Dated: 9, 30, 03


Leonard Masten
Chief of the Hoopa Valley Tribal Police

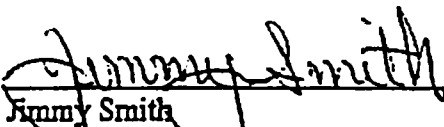
Dated: 9/25/03


Clifford Lyle Marshall
Chairman of the Hoopa Valley Tribal Council

Dated: 10/14/03


Gary Philp
Sheriff of Humboldt County

Dated: _____


Jimmy Smith
Chairman of the Humboldt County Board of Supervisors