

RESOLUTION NO. 4170
(ICE - Homeland Security Investigations)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HENDERSON,
NEVADA RATIFYING THE MEMORANDUM OF UNDERSTANDING
BETWEEN U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,
HOMELAND SECURITY INVESTIGATIONS AND CITY OF HENDERSON
POLICE DEPARTMENT REGARDING THE DESIGNATION OF
HENDERSON POLICE DEPARTMENT EMPLOYEES AS CUSTOMS
OFFICERS (EXCEPTED).

WHEREAS, the City of Henderson, Nevada (the "City"), is charged with providing police services to the citizens of Henderson; and

WHEREAS, criminal investigations, to include but not limited to: strategic, financial, narcotics, child exploitation, cyber crimes, gangs and fraud in Southern Nevada area must be deterred, defeated, and responded to vigorously and apprehension of individuals and/or organizations who may commit or plan to commit such acts is essential to maintaining our community well being; and

WHEREAS, it is in the public's best interest that any suspected activities be investigated and managed by a coordinated task force effort made up of federal, state and local law enforcement; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Henderson, Nevada, that:

SECTION 1. The City hereby approves and ratifies the Memorandum of Understanding between the U.S. Immigration and Customs Enforcement, Homeland Security Investigations (HSI) and the Henderson Police Department authorizing Henderson Police Department officers to be designated as customs officers, as set forth in Exhibit A, consisting of four (4) pages, attached hereto and incorporated herein by this reference.

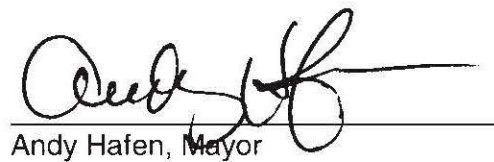
SECTION 2. The authority to execute the Memorandum of Understanding by the Chief of Police is hereby confirmed and ratified.

BE IT FURTHER RESOLVED that this resolution is effective upon adoption unless stated otherwise.

PASSED, ADOPTED, AND APPROVED THIS 16TH DAY OF DECEMBER, 2014, BY THE
FOLLOWING ROLL-CALL VOTE OF COUNCIL.

Those voting aye: Andy Hafen, Mayor
 Councilmembers:
 Sam Bateman
 Debra March
 John F. Marz
 Gerri Schroder

Those voting nay: None
Those abstaining: None
Those absent: None



Andy Hafen, Mayor

ATTEST:



Sabrina Mercadante, MMC, City Clerk

Exhibit A

MEMORANDUM OF UNDERSTANDING

between

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
HOMELAND SECURITY INVESTIGATIONS

and

Henderson Police Department, Henderson, Nevada

regarding

THE DESIGNATION OF Henderson Police Department EMPLOYEES
AS CUSTOMS OFFICERS (EXCEPTED)

1. **PARTIES.** The Parties to this Memorandum of Understanding (MOU) are U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and Henderson Police Department.
2. **AUTHORITY.** Title 19, United States Code (U.S.C.), Section 1401(i); 19 U.S.C. § 1589a. This MOU is also authorized under the provisions of Nevada Revised Statute (NRS 289.150).
3. **PURPOSE.** The Parties agree that effective enforcement of the laws relating to HSI jurisdiction requires close cooperation and coordination between the two Parties. The Parties have therefore entered into this MOU to govern the use of HSI designations by certain employees of Henderson Police Department.

Pursuant to section 401(i), Tariff Act of 1930, as amended (19 U.S.C. § 1401(i)), the Secretary of Homeland Security is authorized to designate persons as Customs Officers (Excepted) to perform the duties of a Customs Officer. Within ICE, this authority has been delegated to the HSI Special Agents in Charge. Pursuant to 19 U.S.C. § 1589a, customs officers are authorized to enforce the full range of federal offenses. However, in designating Customs Officers (Excepted), HSI is not conveying the authority to enforce administrative violations of immigration law.

There may be instances when HSI determines that it is desirable for certain sworn law enforcement employees of Henderson Police Department to perform certain HSI duties. This MOU sets forth the agreement and relationship between the Parties with respect to this determination.

4. **RESPONSIBILITIES.**

The Parties agree as follows:

HSI agrees to:

- a. Designate certain employees of Henderson Police Department as Customs Officers (Excepted), without additional compensation, to perform the duties as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). This form is attached and is hereby made part of this MOU;
- b. Issue a "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) to each qualified and designated employee;
- c. Provide appropriate training in laws, policies, and procedures to each designated employee;

- d. Advise the designated Customs Officers (Excepted) about court proceedings concerning seizures or arrests made by them in accordance with the authorities granted by HSI contemplated under this MOU; and
- e. Process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to the designated Customs Officers (Excepted) while such individuals are acting pursuant to this MOU, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. § 8101, *et seq.*).

Henderson Police Dept. agrees:

- a. That only sworn law enforcement officers of Henderson Police Department who successfully complete the appropriate HSI Task Force Officer cross-designation Training Course and receive an approved "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) will be designated as Customs Officers (Excepted);
- b. That each law enforcement officer will be bound by the Authorities Granted and the Endorsements and Restrictions as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001);
- c. To advise HSI of each court proceeding in which the validity of a Customs Officer (Excepted)'s enforcement authority becomes an issue, and allow HSI to provide legal memoranda or other assistance as deemed necessary by HSI;
- d. That agency employees designated as Customs Officers (Excepted) will follow HSI directives and instructions when utilizing enforcement authority conveyed by HSI;
- e. To provide to HSI, before designation of each officer and on an ongoing basis, any derogatory information, or information that may call into question the officer's truthfulness or ability to testify in court; and
- f. To return all HSI-issued equipment and identification when a cross-designated officer terminates employment or when his or her cross-designation expires.

Both Parties agree:

- a. That any abuse of HSI cross-designation authority may lead to the revocation of such cross-designations by HSI; and
 - b. To schedule periodic meetings to review this MOU, as required.
5. **REPORTING AND DOCUMENTATION.** HSI SAC offices will maintain the original signed "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). Copies of this form will be held by the Contraband Smuggling Unit at HSI Headquarters, the designated Customs Officer (Excepted), and Henderson Police Department.

If applicable, the HSI office will maintain documentation of designated Customs Officers (Excepted) approved to use HSI vehicles and certification that the designated Customs Officers (Excepted) have completed the ICE Fleet Card Training in Virtual University and any other fleet related training.

6. POINTS OF CONTACT.

HSI Office: Los Angeles

Name: David Pike

Title: TFO Coordinator

Address: 501 West Ocean Blvd., Suite 7200

Telephone Number: +1 (562) 624-3800

Fax Number:

E-mail Address: david.s.pike@ice.dhs.gov

Name of the other Party:

Name: Michael Johnston

Title: Captain

Address: 223 Lead St

Henderson, NV 89015

Telephone Number: +1 (702) 267-4542

Fax Number:

E-mail Address: mjj@cityofhenderson.com

7. OTHER PROVISIONS. This MOU is an internal agreement between the Parties and does not confer any rights, privileges, or benefits to any other party or the public.

Nothing in this MOU is intended to conflict with current laws, regulations, or policies of either Party. If a term of this MOU is inconsistent with such authority, that term shall be invalid but the remaining terms and conditions of this MOU shall remain in full force and effect.

Nothing in this MOU is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1519.

The forms and authorities referenced herein may be renamed or replaced by HSI without prejudice to this MOU.

8. EFFECTIVE DATE. The terms of this MOU will become effective on the date the last Party signs the MOU. The Designation Form of each Customs Officer (Excepted) is effective per the date on that document.

9. MODIFICATION. This MOU may be amended by the written concurrence of both Parties.

10. TERMINATION. This MOU may be terminated by either Party upon a 30-day written notification to the other Party.

APPROVED BY:

Claude Arnold

Name of HSI Official

Special Agent in Charge

Title of HSI Official

Homeland Security Investigations

U.S. Immigration and Customs Enforcement

Date: 11/17/2014

See attached signature sheet

Name of other Party's Official

Title of other Party's Official

Name of other Party's Agency

Date: _____

APPROVED, PASSED, and ADOPTED by the Henderson City Council on the _____ day of _____, 2014.

**CITY OF HENDERSON
CLARK COUNTY, NEVADA**

ATTEST:

JACOB L. SNOW
City Manager

SABRINA MERCADANTE MMU
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FISCAL IMPACT:

JOHN M. REED
City Attorney

RICHARD A. DERRICK
Chief Financial Officer

APPROVED AS TO CONTENT:

PATRICK MORRIS
Chief of Police