

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONSENT AGENDA REQUEST

TO: Board of County Commissioners
Philip Morley, County Administrator

FROM: Al Scalf, Director, Department of Community Development (DCD)
Stacie Hoskins, Planning Manager, DCD *SH*
Zoe Ann Lamp, Associate Planner, DCD *ZAL*

DATE: February 14, 2011

SUBJECT: Development Review Services Agreement with the City of Poulsbo

STATEMENT OF ISSUE:

In 2010, DCD received two permit applications for projects located on property owned by Jefferson County. These proposals are:

- *MLA10-00297 Jefferson County Sportsman's Association:* Building permit and stormwater permit with SEPA for pistol range expansion and improvements. (Parcel # 001083012)
- *MLA10-00304 Jefferson Equestrian Association:* Conditional Use Permit and stormwater permit to develop an equestrian event center and park. (Parcel # 001172002)

Often, projects that are being developed on County owned parcels or projects proposed by County employees are reviewed by outside sources in order to assure objectivity in the review process. Substantive due process requires that permit review and decision making be fair, and they must appear to be fair.

ANALYSIS/STRATEGIC GOALS:

Staff initially contacted and negotiated with a small local planning firm; however, negotiations fell through at the closing stage. Staff started the search over on December 1, 2010 by contacting several jurisdictions for recommendations for consultants with development review experience. Barry A. Berezowsky, Planning Director/Building Official for the City of Poulsbo, offered his staff to handle the reviews. On January 14, 2011, the City of Poulsbo City Council authorized the Mayor, Rebecca Erickson, to sign the agreement. She signed the agreement on January 26, 2011.

Additionally, the agreement provides a reciprocal provision whereby DCD can review cases for the City of Poulsbo. At this time, Poulsbo has not identified any cases for us to review.

FISCAL IMPACT:

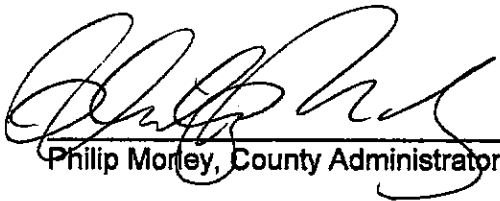
The City of Poulsbo will bill DCD for all hours worked at \$50.00/hr. plus all travel

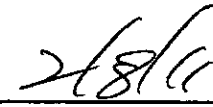
expenses incurred as described on the last page of the agreement. The appropriate applicant in turn will be billed for all review expenses incurred by DCD. Should the City of Poulsbo request Jefferson County to review permits, the same billable rate (\$50.00/hr.) plus all travel expenses apply.

RECOMMENDATION:

DCD staff recommends the Board approve the development review services agreement with the City of Poulsbo.

REVIEWED BY:


Philip Money, County Administrator


Date

DEVELOPMENT REVIEW SERVICE AGREEMENT

THIS AGREEMENT is entered into by and between the City of Poulsbo, a municipal corporation of the State of Washington (hereinafter referred to as the City), and Jefferson County, a municipal corporation of the State of Washington, acting through its Community Development Department (hereinafter referred to as the County), for the purpose of defining terms for mutual backup for development review in conflict situations.

RECITALS

WHEREAS, the City and the County agree that providing services on a cooperative basis will provide more efficient, effective, and less costly services for citizens, thereby better serving the public; and

WHEREAS, it is the goal of the City and County to serve their citizens by providing these services on an equitable cost basis; and

WHEREAS, Chapter 39.34 RCW permits local governmental units to make official use of their powers enabling them to cooperate with other localities on the basis of mutual advantage; and

WHEREAS, each party has available resources and technical expertise to provide the services described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, and pursuant to provisions of Ch. 39.34 RCW, the parties agree as follows:

AGREEMENT

1. **PURPOSE.** It is the purpose of this AGREEMENT to define terms for mutual backup for development review, particularly in conflict situations, and provide a mechanism whereby the County may obtain backup development review services on an as needed basis as determined by the County by contracting for these services from the City, and to set forth the powers, rights, and responsibilities of the parties to this AGREEMENT.

2. **DURATION.** This AGREEMENT is for term ending at midnight on the 31st day of December 2011, and for one-year increments thereafter until both parties execute a new agreement, or this AGREEMENT is terminated. Either party upon thirty (30) days' written notice for any reason may terminate the Agreement.

3. CITY PERFORMANCE. The City agrees as follows:

3.1. The City shall, through its Planning and Building Department, and when requested by the County, perform development review services of projects for compliance with the Jefferson County Comprehensive Plan and Jefferson County Code Titles 15, 17 and 18 on projects in the County, subject to the following:

3.1.1. The City shall only perform the work, as defined above, to the extent such work does not interfere with the ability of City staff to perform and complete its' functions in the incorporated City.

3.1.2. In order to perform the County's work, as defined above, the City will utilize the development regulations as specified by the County.

3.1.3. The City will, subject to Section 3.1 above, perform the County's work (as defined above) in a time frame reasonably consistent with the County's normal processing schedule, provided that the County provides timely notification of the work it wants the City to complete pursuant to this Agreement.

3.1.4. The City shall operate and maintain said services in accordance with all applicable state laws, regulations, and codes, however, this Agreement does not transfer any enforcement powers of the County to the City, and does not delegate to any City official any authority vested in any County official except as specifically provided in this Agreement.

3.1.5. The City shall maintain records of the staff time utilized for the purpose of billing the County for the work requested. The hourly rates and other fees that the City will charge for its performance pursuant to this Agreement are made Exhibit "A" to this Agreement. The hourly rates and other fees listed there are subject to revision by the Poulsbo City Council and any revised rates and fees would apply to any work performed after January 1, 2012 or the effective date of such revisions, whichever date is earlier.

3.1.6 In the case of termination arising on thirty (30) days' notice the City shall be entitled to payment for all work performed up to and through the 30th day after it receives notice of the termination.

3.2. For development review services the City requests the County to perform, the following shall apply:

3.2.1. The City shall provide the County with all necessary codes, ordinances, administrative decisions, procedures and City forms that are used by the City for review.

3.2.2. The City staff shall be available to County staff to provide necessary consultation related to specific projects.

3.2.3. The City will provide the County access to all necessary maps and other data needed to adequately perform the County work.

4. COUNTY PERFORMANCE. The County agrees as follows:

4.1. The County shall, through its Department of Community Development, and when requested by the City, perform development review of projects for compliance with the Poulsbo Comprehensive Plan and the Poulsbo Municipal Code Titles 16, 17, 18 and 19 on projects in the City, subject to the following:

4.1.1. The County shall only perform the work, as defined above, to the extent such work does not interfere with the ability of County staff to perform and complete its' functions in the unincorporated County.

4.1.2. In order to perform the City's work, as defined above, the County will utilize the development regulations as specified by the City.

4.1.3. The County will, subject to Section 4.1 above, perform the City's work (as defined above) in a time frame reasonably consistent with the City's normal processing schedule, provided that the City provides timely notification of the work it wants the County to complete pursuant to this Agreement.

4.1.4. The County shall operate and maintain said services in accordance with all applicable state laws, regulations, and codes, however, this Agreement does not transfer any enforcement powers of the City to the County, and does not delegate to any County official any authority vested in any City official except as specifically provided in this Agreement.

4.1.5. The County shall maintain records of the staff time utilized for the purpose of billing the City for the work requested. The hourly rates and other fees that the County will charge for its performance pursuant to this Agreement are made Exhibit "B" to this Agreement. The hourly rates and other fees listed there are subject to revision by the Jefferson County Commission and any revised rates and fees would apply to any work performed after January 1, 2012 or the effective date of such revisions, whichever date is earlier.

4.1.6. In the case of termination arising on thirty (30) days' notice the County shall be entitled to payment for all work performed up to and through the 30th day after it receives notice of the termination.

4.2. For development review services the County requests the City to perform, the following shall apply:

4.2.1. The County shall provide the City with all necessary codes, ordinances, administrative decisions, procedures and County forms that are used by the County for review.

4.2.2. The County staff shall be available to City staff to provide necessary consultation related to specific projects.

4.2.3. The County will provide the City access to all necessary maps and other data needed to adequately perform the County work.

5. LIABILITIES. The parties hereto agree as follows:

5.1. Except for liability that is subject to immunity as provided in Chapter 38.52 RCW, each party agrees to defend, indemnify, and to hold the other party harmless from any claims directly resulting from such party's sole negligence and from actions or omissions that are solely attributable to any employee, official, or agent of such party. In case of negligence of more than one party, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party.

6. DISPUTES BETWEEN THE PARTIES.

6.1. In the event of a dispute between the parties concerning this Agreement, the County Director of Community Development and the City Planning Director shall first attempt to resolve the dispute. In the event they are unable to do so, the County Administrator and City Manager shall attempt to resolve the dispute. If the parties are not able to resolve the dispute, this Agreement shall terminate, and the Parties will be paid for billings to date of termination. If an unresolved dispute over billings remains, then the matter shall be arbitrated according to procedures provided in Ch. 7.04A RCW, as amended (except as modified by this Agreement).

6.2. It is agreed that the Parties will not take any legal action against one another resulting from unresolved disputes of the Parties (except as provided in 6.1). In no event shall either party to this Agreement be responsible for paying the attorney's fees or legal costs of the other party.

7. MODIFICATIONS, WITHDRAWAL AND TERMINATION.

7.1. This AGREEMENT may be modified or extended in duration only by mutual written agreement of the parties.

7.2. The parties hereto may withdraw from this AGREEMENT for any reason communicated to the other party in writing. Except as provided in part 6 - "Disputes Between the Parties" of this AGREEMENT (where termination is effective immediately after efforts at resolution have failed), each party shall provide at least 30 days' notice of termination to the other party.

8. GENERAL TERMS.

8.1. This AGREEMENT contains terms and conditions agreed upon by the parties. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT.

8.2. Nondiscrimination; Equal Employment Opportunity.

8.2.1. In the performance of this AGREEMENT, the parties and their employees and agents shall at all times comply with any and all federal, state or local laws, ordinances, rules or regulations with respect to nondiscrimination and equal employment opportunity, which may at any time be applicable.

8.2.2. Without limiting the generality of the foregoing, the parties shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, handicap or marital status, and as required by law the parties shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, national origin, handicap or marital status.

8.2.3. Further, the parties and their employees and agents shall not at any time discriminate against any other persons or entity because of race, color, religion, age, sex, national origin, handicap or marital status, nor shall the parties engage in or knowingly permit their agents and employees to engage in sexual harassment.

8.2.4. The parties shall keep and maintain any and all records, which may be required by law in connection with compliance with this section.

9. WAGE AND HOUR LAWS. The parties shall at all times comply with all applicable provisions of the Fair Labor Standards Act (FLSA) and any other federal or state legislation affecting its employees, and the rules and regulations issued there under, insofar as applicable to its employees.

10. DRUG FREE WORK PLACE. The parties shall at all times in the performance of this Agreement, adopt and enforce policies to require and maintain a drug-free work place, prohibiting the use of controlled substances in the work place (unless required by physician prescription.)

11. GOOD FAITH ASSISTANCE. Each party agrees to aid and assist the other in good faith in accomplishing the objectives of this Agreement.

12. ASSIGNMENT. This agreement may not be assigned in whole or in part by either party without the prior written approval of the other party.

13. **NO QUANTITY OF WORK PROMISED.** Execution of this Agreement by the City and County shall not be construed or interpreted to require the City or County to request, receive and pay for any minimum amount of work by the other party to this Agreement during the term of this Agreement.

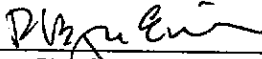
14. **INSURANCE.** The City and the County state that they are members of joint self-insurance "pools" for third-party liability purposes, the City a member of the WCIA and the County a member of the WCRP. Nothing in this Agreement alters or revises the terms and obligations of the policies provided to the parties by the WCIA and WCRP respectively.

15. **SEVERABILITY.** If any section of this Agreement is determined to be unlawful, void or in violation of public policy, then all other terms of this Agreement shall survive such determination and remain in full force and effect.

IN WITNESS WHEREOF, we here unto attach our signatures this 12th day of January 2011.

CITY OF POULSBO

JEFFERSON COUNTY

By 
Rebecca Erickson, Mayor

By _____
Commissioner John Austin, Chair

Date: 1/26/11

Date: _____

Attest:

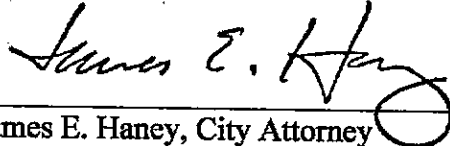
Attest:


Jill A. Boltz, City Clerk

Clerk of the Board

Approved as to Form:

Approved as to Form:


James E. Haney, City Attorney

 2/1/2011
David Alvarez, Deputy Prosecutor

Exhibit A-City charges to the County

Hourly Rate: \$50.00. The City shall charge the County in increments of .10 hr (6 minutes), meaning each .10 of an hr shall cost \$5. Brief phone calls, those whose duration is three (3) minutes or less, shall not give rise to a charge of .10 of an hour.

Travel expenses shall be reimbursed to the City in a manner consistent with the City of Poulsbo personnel rules or regulations and/or the applicable IRS mileage rate.

Exhibit B-County charges to the City

Hourly Rate: \$50.00. The County shall charge the City in increments of .10 hr (6 minutes), meaning each .10 of an hr shall cost \$5. Brief phone calls, those whose duration is three (3) minutes or less, shall not give rise to a charge of .10 of an hour.

Travel expenses shall be reimbursed to the County in a manner consistent with the Jefferson County personnel manual and/or the applicable IRS mileage rate.