


**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Philip Morley, County Administrator

FROM: Carl Smith, Community Development Director 

DATE: Sept 23, 2013

SUBJECT: Interlocal Agreement for Fire Code Official Services

ATTACHMENT: Draft Interlocal Agreement.

STATEMENT OF ISSUE:

The Jefferson County government has a need for fire code official services, to advise the County on various inspections, building reviews, code interpretations, and lead the performance of commercial fire safety inspections and fire investigations. This interlocal agreement proposes that East Jefferson Fire Rescue District #1 (District) provide such services to Jefferson County.

ANALYSIS:

The County has adopted the 2012 International Fire Code (IFC), but does not have its own trained staff to implement the IFC on a day-to-day basis. While fire protection services in the County are provided by local fire districts, the County government still has a need for expertise for implementing the IFC and a statutory responsibility to enforce the IFC pursuant to RCW 48.44.050.

Examples of situations where expertise is needed include interpretations of the IFC, review of building plans for fire code requirements, inspections of building construction for meeting fire safety codes, voluntary inspections of commercial buildings for fire safety, noting code violations and follow-up on corrective actions, and overseeing the investigations of fires.

Several RCW's authorize a local government to enter into interlocal agreements for the provision of services. RCW 19.27.031 specifically authorizes fire protection districts to enter into interlocal agreements for the purpose of assuming all or a portion of the responsibility of administering and enforcing fire codes and regulations.

East Jefferson Fire and Rescue District #1 has the resources, expertise and wiliness to provide Fire Code Official services to the County. Discussions between representatives of the County and the District have resulted in the draft interlocal agreement attached with this report. The interlocal agreement is intended to provide mutual benefits for County residents, County government and the District.

A proposed Interlocal Agreement (ILA) for these services is included with this report. The interlocal agreement has been reviewed and approved as to form by the County's Chief Deputy Prosecuting Attorney.

Key provisions of the ILA include:

- The services will cover all of unincorporated Jefferson County.
- The services will not have a financial cost to the County.
- The County will retain ultimate authority over implementation of the IFC.

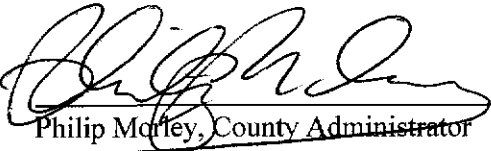
FISCAL IMPACT/COST-BENEFIT ANALYSIS:

The ILA is expected to benefit County citizens through improved implementation of the International Fire Code. The ILA will also augment County staff with the expertise and services provided by the District and at no direct cost to the County.

RECOMMENDATION:

Discuss the proposed ILA, and give direction to schedule the ILA for an upcoming regular BOCC agenda.

REVIEWED BY:


Philip Morley, County Administrator

9/18/13
Date

**INTERLOCAL AGREEMENT BETWEEN JEFFERSON COUNTY AND EAST JEFFERSON
FIRE RESCUE DISTRICT #1 FOR FIRE CODE OFFICIAL SERVICES**

This Agreement is entered into between Jefferson County, a municipal corporation, and East Jefferson Fire District #1, doing business as East Jefferson Fire Rescue, a municipal special purpose district, for the purpose of providing fire code official services to unincorporated areas of Jefferson County.

RECITALS

WHEREAS, Chapter 39.34 RCW authorizes local governmental units to enter interlocal agreements with other governmental units for their mutual advantage; and

WHEREAS, the Legislature, through the adoption of RCW 19.27.031, has put the International Fire Code (IFC) into effect in Jefferson County ("County"); and

WHEREAS, RCW 19.27.110 gives the fire protection districts the ability to enter into an interlocal agreement under RCW 39.34 for the purpose of assuming all or a portion of the responsibility of administering and enforcing fire codes and regulations; and

WHEREAS, the County and the District agree it is in the best interests of the citizens of the County to enter this interlocal to achieve certain benefits and efficiencies, including increased level of service delivery for fire code official services without increasing costs to the County and without increasing the workload for County staff; and

WHEREAS, the Department of Community Development ("Department") is the administrative department assigned the responsibility of issuing and finalizing building permits and collecting fees associated therewith, and

WHEREAS, the International Fire Code (IFC) requires various reviews, investigations, code interpretations, approvals and inspections of new and existing buildings; and the District is able to provide these services; and

WHEREAS, RCW 36.43.030 authorizes the Board of County Commissioners to appoint fire inspectors to enforce fire regulations adopted by them; and

WHEREAS, the County Board of Commissioners is the legislative body for the County; and

WHEREAS, Jefferson County Fire District No. #1 ("District") also known as East Jefferson Fire and Rescue has the competence and ability to provide the services included in this interlocal agreement; and

WHEREAS, RCW 48.44.050 gives the Jefferson County Fire Marshal, or other fire official so designated by the county legislative authority, the responsibility to investigate the origin, cause, circumstances and extent of loss of fires in all unincorporated areas of the County;

NOW, THEREFORE, IN CONSIDERATION OF the foregoing recitals and the promises and covenants of the parties hereinafter set forth, they agree as follows:

1. Office of Fire Prevention. The District, in cooperation with the other fire districts serving Jefferson County, is hereby designated as the Office of Fire Prevention for all of unincorporated Jefferson County, pursuant to the International Fire Code. The County, through the Director of the Department, shall delegate its authority as Fire Code Official (FCO) to a specific employee of the District by separate written action. The delegated fire code official (DFCO) may also delegate certain FCO powers to other qualified employees. The County may rescind any delegated authority after consultation with the District. Nevertheless, the County retains complete authority to require the District to appoint as the DFCO someone else employed by the District. The District shall have full discretion to determine which person shall be appointed as the replacement DFCO.

2. Administration of Fire Codes and Regulations.

A. The District shall perform all services necessary to carry-out the duties of the Fire Code Official, pursuant to the International Fire Code (IFC), now in existence or as amended, as adopted by Jefferson County Ordinance No. 12-1203-12, in all unincorporated areas of the County, on behalf of the parties to this Agreement. Appointment by the District of the individual designated as the Delegated Fire Code Official is subject to approval by the County Board of Commissioners. With written agreement from the County, the District may delegate certain responsibilities of this Agreement to other Fire Districts. A copy of such agreements shall be provided to the Department. Removal of any Delegated Fire Code Official may be made by an official action of the District or the County Board of Commissioners.

B. Upon request by the County, through the Department, the District shall provide review of building permit plans that require pre-construction fire safety review under the International Fire Code and the District shall make every effort to comply with these requests within the time frame requested. The Department shall issue applicable permits required under the IFC and adopted County fire codes.

C. Upon request by the County, through the Department, the District will perform field inspections during construction on new or renovated buildings and report fire safety findings and recommendations to the permittee, with a copy to the Department.

D. Upon request by the County, through the Department, or upon its own initiative, the District will perform fire safety inspections of commercial buildings, including tests of automatic fire suppression systems and fire alarm or detection systems that need such a test per the IFC. The County and the District will work cooperatively on enforcement actions under this section. The District will be responsible for follow-up actions for any code violations noted as further described in Section 2G, subject to approval of said follow-up actions by the County. All inspections shall be performed in accordance with the County's "Inspection Guidelines", as attached to this Agreement.

E. Upon request by the County, through the Department, or on its own initiative, the District shall investigate the cause of fires. Pursuant to RCW 43.44.050, if any such investigation indicates the cause of the fire is suspicious or criminal in nature, the District shall immediately report such information to the Jefferson County Sheriff's office, who may assume responsibility for leading the investigation of any fire deemed suspicious or criminal in origin.

F. Upon request by the County, the District shall advise the Department Building Official on the administration of the International Fire Code. Final authority over interpretation of the Building Code and Fire Code in the County lies with the County, through the Department.

G. In the event of any alleged, suspected or real violations of the IFC occur, the following process will be followed, consistent with the provisions of Section 109 of the IFC:

i) the DCFO will investigate the situation, and determine whether a violation has occurred. If no violation is found, a report will be prepared and the case closed.

ii) if a violation is found, then the DCFO will prepare a written report and provide it to the Department. Additionally, the DCFO may serve notice of violation on the property owner ordering remedial action and specifying a time for reinspection of the violation. The DCFO shall endeavor to cure the violation through voluntary measures.

iii) if the notice of violation is not complied with promptly, and the violation is not cured through voluntary measures, the DCFO may request the County's Office of the Prosecuting Attorney to institute legal proceedings to restrain, correct or abate such violations. The County Prosecuting Attorney or his or her designee will determine whether to institute any legal proceedings.

iv) if the DCFO determines the structure is an unsafe building as defined in Section 110 of the IFC, then he may order an immediate abatement of the violation or evacuation.

3. Compensation.

A. For construction plan review, construction field inspection, and fire safety inspections of commercial buildings, the District will be entitled to compensation for these services, charged at its hourly rate, currently \$ 150.00 per hour, for actual time spent, and invoiced directly to the applicant for payment to the District, with a copy to the Department. The District shall not bill the Department for mileage or other incidental expenses. Any change to the said hourly rate will require separate agreement by both parties.

B. For all other duties under this Agreement, services rendered by the District shall be considered part of the services provided by the District, funded through monies received by the District's taxing authority or other source, and no charges shall be made to the County for providing said duties and services.

4. Real and Personal Property.

A. To perform the duties and services under this Agreement, the District shall use its own resources and assets, including any real or personal property required for said duties and services; and no County assets shall be used, unless by separate agreement signed by both parties.

B. Any real or personal property acquired by either the County or the District in the course of performing the duties and services under this Agreement shall remain the sole property of the party that acquired the property.

5. Hold Harmless and Indemnification. Each party hereto agrees to be responsible and assumes liability for its own negligent acts or omissions, or those of its officers, employees, volunteers or agents to the fullest extent required by law, and agrees to save, indemnify, defend, and hold the other party harmless from any such liability. The obligation to hold harmless and indemnify requires the indemnifying party to pay for all costs, including attorney's fees and court costs, incurred while defending the indemnified party. In the case of negligence of both parties, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other party in proportion to the percentage of negligence attributable to the other party.

6. Insurance. Each party shall maintain during the duration of this Agreement a policy of insurance for comprehensive general liability in an amount of no less than \$ 2,000,000 for combined single limit bodily injury, including wrongful death, and of no less than \$500,000 for property damage with an commercial insurance carrier protected under the State of Washington Guaranty Fund or with a risk pool approved by the Insurance Commissioner. Additionally, each party shall maintain all necessary insurance for its officers, employees, volunteers or agents to comply with state Labor and Industry requirements or other federal or state laws applicable to maritime operations or employers. Each party shall provide the other with a complete copy of its policy and the name and address of the broker who issued it.

The parties agree that with respect to the negligent acts and/or omissions of its officers, employees, volunteers or agents its insurance or self-insurance (if through a state-approved Risk Pool) shall be primary and the insurance or self-insurance of the other party shall not be contributory. Each policy shall be endorsed to reflect the primacy of their coverage with respect to the alleged negligence of their insured entity or its officers, employees, volunteers or agents.

The parties agree the insurance or self-insurance a party maintains as one of its obligations under this Agreement shall not in any manner limit or qualify the liabilities or obligations under this Agreement of that party.

Each party to this Agreement shall maintain Worker's Compensation coverage as required under the Washington State Industrial Insurance Act, RCW Title 51, for all of that party's officers, employees, agents and volunteers eligible for such coverage under the Industrial Insurance Act.

7. Dispute Resolution.

A. Any controversy or claim arising out of or relating to this Agreement shall first be resolved by a face-to-face meeting between the County representative (Director of DCD) and the DFCO or a representative of Jefferson County Fire District #1. If that fails, then the next step shall be mediation. Mediation shall be accomplished by a three person panel, consisting of one person chosen by each party and those two persons so chosen shall agree upon a third person to participate in the mediation panel. Each party will bear its own costs in mediation.

If a particular dispute is not resolved through mediation, then the dispute shall be resolved by final and binding arbitration pursuant to RCW 7.04. Demand for arbitration shall be made in writing to the other party. The arbitration shall be held in Jefferson County before a single arbitrator selected by agreement of the parties. If the parties cannot agree upon an arbitrator within fifteen (15) days after the demand for arbitration is made, the arbitrator shall be selected

by a judge in the Superior Court of Jefferson County in accordance with the procedures set out in RCW 7.04.050.

B. Unless the parties agree otherwise in writing, the arbitration hearing shall occur no later than sixty days after the date the arbitrator is appointed.

C. The parties agree that, with the exception of the circumstances set out in RCW 7.04.160, the arbitrator's decision shall be binding, final and not appealable to any court of law.

D. Each party shall pay its own costs of arbitration including attorney's fees. The arbitrator's fee and any administrative expenses imposed by the arbitrator shall be shared equally by the parties.

E. This Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

8. Term/ Termination. This Agreement shall commence upon signature by all the parties and remain in effect unless amended by mutual written consent of the parties, or cancelled by either party. Either party may terminate this agreement with or without cause by giving sixty (60) days written notice to the other party.

9. Spirit of Cooperation. The District's and County's joint goal shall be to work with one another at all times in an open, reasonable, and fair manner, and in a spirit of mutual cooperation, so any disagreements, or potential disagreements, that arise between them regarding any aspect of the subject matter of this Agreement may be settled as quickly and fairly as possible.

10. Administration. The Delegated Fire Code Official and the Director of the Department (or his or her designee) shall jointly be responsible for the administration of this ILA. Their contact points, including business e-mail addresses, business phone numbers and business USPS mailing addresses are as follows:

For the County

Carl Smith, Director of Community Development
621 Sheridan Street
Port Townsend, WA 98368
360 379-4493
csmith@co.jefferson.wa.us

For the District

Gordon Pomeroy, Chief
40 Seton Road, Suite A
Port Townsend, WA 98368
360 381-0359
gpomeroy@ejfr.org

11. Independence: The Delegated Fire Code Official (or his designees) shall at all times relevant to this Agreement be and remain employees of the District. Similarly, the Fire Code Official for the County shall at all times relevant to this Agreement be and remain an employee of Jefferson County.

12. Waiver. The parties agree that on any occasion where they waive one of their rights or waive a duty or obligation imposed on the other party that they have not permanently waived that right, duty or obligation.

IN WITNESS WHEREOF the County and the Consultant have executed this Agreement as of the date and year last written below.

JEFFERSON COUNTY, a Washington Municipal Corporation

By:

John Austin, BoCC Chairperson

Philip Morley, County Administrator

Date: _____

Attest/Authenticated:

Carl Smith, DCD Director

Approved as to legal form:

David Alvarez,

Chief Civil Deputy Prosecuting Attorney

Jefferson County

East Jefferson Fire and Rescue:

By:

Date: _____

Jefferson County Fire and Lifesafety Guidelines (Inspection Guidelines)

The District will perform fire and lifesafety inspections at commercial buildings in unincorporated Jefferson County (County) in a manner consistent with these guidelines.

1. The goal of inspections is to promote fire and lifesafety through a combination of providing information, assistance and voluntary compliance with fire codes.
2. It is the intent of this program to use a common sense approach to achieving a reasonable degree of fire safety when applying fire code requirements.
3. It is the goal of this program to perform fire safety inspections on commercial buildings on an annual basis.
4. Inspection personnel shall be in approved uniform, have appropriate identification, and conduct themselves in a professional, courteous and helpful manner with the public.
5. Inspection personnel shall be properly trained and certified by the District to perform fire safety inspections.
6. Inspection personnel shall attempt to contact the building owner, tenant or representative prior to arriving for the inspections. Inspections shall be conducted during normal business hours unless other arrangements are agreed upon with the building representative.
7. Inspections personnel should encourage the building representative to join the inspector during the inspection. At the conclusion of the inspection, the inspector shall make a written report and go over any recommendations with the building representative.
8. In situations where an apparent fire code violation is present, whenever possible, inspection personnel will seek voluntary compliance measures with the building representative. The priority will be on measures that are common sense, lower cost and as non-disruptive as possible to the on-going operations of the establishment. However, violations of an "extreme hazard" shall be abated immediately. Copies of all inspection reports shall be sent to the County Community Development Department (Department).
9. The District will follow-up on any required fire code violation action deemed necessary, except that the County shall retain final authority on interpretation of the code, appropriate follow-up, timeframe for correction, code waiver and code enforcement.