


**Agenda Sheet for City Council Meeting of:**

05/03/2021

**Date Rec'd**

4/21/2021

**Clerk's File #**

OPR 2021-0287

**Renews #****Submitting Dept**

HEARING EXAMINER

**Cross Ref #****Contact Name/Phone**

BRIAN MCGINN 6012

**Project #****Contact E-Mail**

BMCGINN@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

Contract Item

**Requisition #****Agenda Item Name**

0570 CITY OF NEWPORT INTERLOCAL AGREEMENT

**Agenda Wording**

Interlocal Cooperation Agreement between the City of Newport and the City of Spokane for Hearing Examiner Services.

**Summary (Background)**

This is a new revenue generating Interlocal Agreement to provide Hearing Examiner Services to the City of Newport when their Hearing Examiner has a conflict. For this reason, this agreement is much more limited in scope than our other agreements with other jurisdictions. We currently have active agreements/contracts with: Airway Heights, Cheney, Chewelah, Liberty Lake, Medical Lake, Millwood, Sound Transit, Spokane County, and Spokane Valley.

Lease? NO

Grant related? NO

Public Works? NO

**Fiscal Impact****Budget Account**

Revenue \$ 3,000

# 0570-51500-99999-34149

Select \$

#

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

MCGINN, BRIAN

**Study Session\Other**

04/19/21 Finance Committee

**Division Director****Council Sponsor**

CM Wilkerson

**Finance**

BUSTOS, KIM

**Distribution List****Legal**

PICCOLO, MIKE

krthompson@spokanecity.org

**For the Mayor**

ORMSBY, MICHAEL

ywang@spokanecity.org

**Additional Approvals**

DS - Shirley Sands Mayor-cityofnewport@newport-wa.org

**Purchasing****Approved by Spokane City****Council on: 05/03/2021**

DocuSigned by:

CC56CBA4DCC84D6...  
City Clerk



**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN  
THE CITY OF NEWPORT  
AND THE CITY OF SPOKANE  
FOR HEARING EXAMINER SERVICES**

This Agreement is between the CITY OF NEWPORT, a Washington State municipal corporation, as "Newport," and the CITY OF SPOKANE, a Washington State municipal corporation, as "City", jointly referred to hereinafter as the "Parties".

WHEREAS, pursuant to RCW 39.34.080, governmental entities may contract with each other to perform any governmental service which each may legally perform; and

WHEREAS, Newport has a hearing examiner to conduct hearings on various administrative appeals or quasi-judicial hearings on land use matters involving Newport government, but on occasion its hearing examiner is absent, has a conflict of interest, or is unavailable for some other reason, necessitating the services of a hearing examiner pro tem; and

WHEREAS, the City has adopted an ordinance that authorizes its Hearing Examiner to act as a hearing examiner pro-tem for another government entity to perform the duties of the hearing examiner when such hearing examiner is absent, has a conflict of interest, or is unavailable for some other reason; and

WHEREAS, the Hearing Examiner is a City employee and serves the City of Spokane in that capacity; and is a duly admitted member of the Washington State Bar Association and is knowledgeable on land use and other local government matters;

- - Now, Therefore,

The Parties agree as follows:

1. **PURPOSE.** This Agreement is to provide a mechanism whereby the City's Hearing Examiner can act as the hearing examiner pro-tem to Newport to conduct administrative and quasi-judicial hearings. As authorized by Section 2.19.020 of the Newport Municipal Code, the Hearing Examiner will conduct public hearings and render decisions on the following land use matters: conditional use permits; preliminary binding site plan approval; preliminary plat approval (5 or more lots); preliminary planned development approval; reasonable use exception; RV Parks; shoreline conditional use permit; shoreline substantial development permit; shoreline variance; variance applications; and appeals of Type 1 applications.

2. COMPENSATION. Newport agrees to pay the City for hearing examiner services at the rate of ONE HUNDRED TWENTY FIVE AND NO/100 DOLLARS (\$125.00) per hour, plus reimbursement for travel, in accordance with the City's current mileage rate. The Hearing Examiner shall keep a log of the number of hours worked and nature of work performed for each hearing item. The Parties understand and acknowledge that the Hearing Examiner shall not be considered an employee of Newport when performing services pursuant to this Agreement.

3. PAYMENT. Newport shall submit payment, within thirty (30) days of receipt of invoice for services rendered, payable to the City of Spokane, Office of the Hearing Examiner, Sixth Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201.

4. AUTHORIZATION FOR SERVICES. The Mayor of Newport shall be responsible for the administration of this Agreement and the requesting of services from the Hearing Examiner.

5. AGREEMENT NOT EXCLUSIVE. The City of Spokane's Hearing Examiner is hereby appointed as a hearing examiner pro-tem for Newport. This Agreement is not exclusive and Newport may designate other hearing examiners pro-tem to hear similar matters as authorized by local ordinance or resolution.

6. DURATION. This Agreement is effective upon signature by both parties and filing as required by law and shall run until terminated. Either party may terminate this Agreement upon sixty (60) days written notice to the other party. The Parties acknowledge that the availability of the Hearing Examiner is contingent upon the amount of work and the number of hearings that must be held by the Hearing Examiner. Newport understands and acknowledges that the City cannot guarantee that its Hearing Examiner will be available at all times that may be requested.

7. DECISIONS. The hearing examiner pro-tem shall comply with the requirements of federal, state and local law, relating to the matter being considered by the examiner, including the ordinances and resolutions of Newport. If there is no applicable time period under statute or local ordinance or resolution for issuance of the Hearing Examiner's decision, the Hearing Examiner shall exercise his best efforts to render a written decision with findings and conclusions within thirty (30) calendar days of concluding the hearing. If the Hearing Examiner's written decision is appealed, the Hearing Examiner shall review and certify the record from the hearing to the appropriate body after preparation of the record by Newport.

8. ADMINISTRATIVE SUPPORT. Newport shall supply all necessary administrative support services for the Hearing Examiner, such as hearing room, recording equipment, clerk, secretarial support, notifications and copies of applicable regulations, policies, and reports. The Hearing Examiner may use his own administrative assistant at the Hearing Examiner's discretion, for secretarial and administrative support. Administrative and

secretarial support time will be billed to Newport at a rate of FORTY AND NO/100 DOLLARS (\$40.00) per hour.

9. AGREEMENT ADMINISTRATION. No new or separate legal entity or administrative entity is formed by this Agreement. No property will be acquired, held or disposed of pursuant to this Agreement.

10. LEGAL RELATIONS AND INDEMNIFICATION. Newport shall indemnify, defend and hold harmless the City, its officers, employees including the Hearing Examiner, and agents from any action, claim or proceedings instituted by any third party, arising out of the performance, purported performance or failure of performance of professional services rendered in good faith by the City's Hearing Examiner pursuant to this Agreement. Other than as provided above, the City shall indemnify, defend and hold harmless Newport, its officers, employees and agents from any action, claim or proceedings arising from the negligence of the City, its officers, employees including the Hearing Examiner, and agents, except to the extent of the concurrent negligence of Newport.

11. TERMINATION. If the Agreement is terminated, Newport shall reimburse the City for any services performed pursuant to this Agreement that have not at the time of termination been paid for and which the Parties have previously agreed is compensable work.

12. VENUE. This Agreement has and shall be construed as having been made and delivered in the State of Washington and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action at law, suit in equity or judicial proceedings for the enforcement of this Agreement or any provision hereto shall be instituted only in the courts of competent jurisdiction within Spokane County, Washington.

13. ALL WRITING AS CONTAINED HEREIN. This Agreement contains all of the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties.

14. CHAPTER 39.34 RCW REQUIRED CLAUSES.

A. Purpose. See Section 1 above.

B. Duration. See Section 6 above.

C. Organization of Separate Entity and Its Powers. See Section 9 above.

D. Responsibilities of the Parties. See provisions above.

E. Agreement to be filed. This Agreement may be filed with the parties' respective City Clerks and published on the Parties' websites, as available.

F. Financing. See Section 2 above.

G. Termination. See Section 11 above.

H. Property upon Termination. No property acquisitions expected, see Section 9 above.

IN WITNESS WHEREOF, the Parties hereby execute the above Agreement:

Dated this 10th day of May, 2021.

CITY OF NEWPORT, WASHINGTON

DocuSigned by:  
By Shirley Sands  
Mayor

CITY OF SPOKANE, WASHINGTON

DocuSigned by:  
By Yulie Howard  
Mayor

DocuSigned by:  
Attest: Levi Hoffman  
City Clerk

DS



Approved as to form:

DocuSigned by:  
By Mike Piccolo  
Assistant City Attorney