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Document Title: INTERLOCAL COOPERATION AGREEMENT BETWEEN THE
CITY OF SPOKANE AND THE CITY OF MILLWOOD FOR
HEARING EXAMINER SERVICES

Parties: CITY OF MILLWOOD
CITY OF SPOKANE

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CITY OF MILLWOOD

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808 West Spokane Falls Blvd.
Spokane, Washington 99201

CLERK FILE NO:
OPR 2009-0940

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

This agreement is between the CITY OF MILLWOOD, a Washington State municipal corporation, as "Millwood," 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, Millwood has limited needs for a hearing examiner to conduct quasi-judicial hearings on land use matters involving Millwood government, 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 other reason; and

WHEREAS, Gregory A. Smith is a City employee and currently serves as the City of Spokane Hearing Examiner; 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 pro tem hearing examiner for Millwood to conduct administrative and quasi-judicial hearings.

2. COMPENSATION. Millwood 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 the work performed for each hearing item. The Parties understand and acknowledge that the hearing examiner shall not be considered an employee of Millwood when performing services pursuant to this agreement.

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

4. AUTHORIZATION FOR SERVICES. The mayor of Millwood shall be responsible for the administration of this agreement and the requesting the services of the hearing examiner.

5. AGREEMENT NOT EXCLUSIVE. Gregory A. Smith is hereby appointed as a hearing examiner pro tem for Millwood. This agreement is not exclusive and Millwood may designate other hearing examiner 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 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. Millwood understands that the City cannot guarantee that its hearing examiner will be available at all times as requested by Millwood.

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 Millwood. 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 Millwood.

8. ADMINISTRATIVE SUPPORT. The City shall supply its own necessary administrative support services for Millwood's hearings. Millwood shall supply the hearing room, recording equipment, notifications, and copies of applicable regulations, policies, and reports. The City shall prepare and certify a transcript and/or copy of the record of any proceedings conducted by its hearing examiner, if required for an appeal; subject to reimbursement for the costs of preparing such documents from the appealing party as provided by law or ordinance. The City may consent to having Millwood prepare such documents, subject to reimbursement from the appealing party for the costs involved.

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.

10. LEGAL RELATIONS AND INDEMNIFICATION. Millwood 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 Millwood, 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 Millwood.

11. TERMINATION. If the agreement is terminated, Millwood 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. RECORDING. This agreement shall be recorded with the Spokane County Auditor after its approval by both Parties.

IN WITNESS WHEREOF, the parties hereby execute the above agreement:

Dated this 20 day of October 2009

CITY OF MILLWOOD, WASHINGTON

David N. Mark - Mayor
(Name)

(Name)

(Name)

Dated this 18th day of November

CITY OF SPOKANE, WASHINGTON

By [Signature]
City Administrator

Attest: [Signature]
City Clerk

Approved as to form:

By [Signature]
Assistant City Attorney