

RESOLUTION NO. 673

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH PIERCE COUNTY FOR BUILDING INSPECTION SERVICES FOR POINT RUSTON DEVELOPMENT PROJECTS.

WHEREAS, in accordance with Chapter 39.34 RCW, the “Interlocal Cooperation Act”, the City is authorized to contract with other governmental agencies to provide services that the City is authorized to perform; and

WHEREAS, under Resolution No. 672 the City Council approved and authorized the Mayor to sign an Interlocal Agreement with the City of Tacoma for coordinated permitting of the Point Ruston Project; and

WHEREAS, the City desires to contract with Pierce County for the inspection services for all current permits (applied for prior to the Tacoma-Ruston Interlocal) in the Point Ruston Project; and

WHEREAS, the City Council finds it in the public interest to authorize the Mayor to execute the proposed Agreement for Building Inspection Services for Certain Point Ruston Development Projects with Pierce County which is attached to this Resolution as Exhibit “1”;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Authorization of Agreement. The Mayor is hereby authorized to execute the Agreement for Building Inspection Services for Certain Point Ruston Development Projects between the City of Ruston and Pierce County in substantially the form attached hereto as Exhibit “1”.

Section 2. Posting on Website Required. The Clerk is directed to post a copy of this Agreement, once fully executed, on the City's website.

RESOLVED this 6th day of February, 2018.

APPROVED:

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

FILED WITH THE CITY CLERK: 2-6-2018
PASSED BY THE CITY COUNCIL: 2-6-18
RESOLUTION NO.: 673

Attachment “1”

**Agreement for Building Inspection Services for Certain Point
Ruston Development Projects**

Between

City of Ruston

and

Pierce County

**AGREEMENT BETWEEN THE CITY OF RUSTON AND PIERCE COUNTY
REGARDING BUILDING INSPECTION SERVICES FOR CERTAIN POINT
RUSTON DEVELOPMENT PROJECTS**

THIS AGREEMENT ("Agreement") is entered into by and between the City of Ruston ("City") and Pierce County ("County"), both of which are political subdivisions of the State of Washington.

The parties hereby agree as follows:

1. **Purpose.** The purpose of this Agreement is to establish the terms and conditions under which County will perform certain Building Inspection Services on behalf of the City, as contemplated under that certain Interlocal Agreement Regarding Coordinated Permitting of the Point Ruston Development between the City and the City of Tacoma ("Interlocal Agreement").
2. **Building Inspection Services.** The County shall perform Building Inspection Services on behalf of the City for the 11/9 Parking Garage (Ruston Building Permit No. RST14-1312), Silver Cloud Hotel (Ruston Building Permit No. RST17-1526), Intaglio Salon Tenant Improvements (Ruston Building Permit No. RST 17-1577), Tickled Pink Boutique Tenant Improvements (Ruston Building Permit No. RST 18-1590), Purpose Boutique Tenant Improvements (Ruston Building Permit No. RST 17-1519), and Pink Polish Salon Tenant Improvements (Ruston Building Permit No. RST 17-1576) projects ("Projects") located in the City limits of Ruston in the Point Ruston Development area.
 - 2.1. "Building Inspection Services" shall include building, plumbing, fire, mechanical, and civil site development inspections upon request.
 - 2.1.1. For purposes of subsection 2.1, "civil site development" includes extension of utilities and connection to the building, construction of flatwork, and positive drainage to appropriate structures.
 - 2.2. County shall administer the Ruston Construction Code (Ruston Municipal Code Chapter 12.20), and other applicable laws and codes, in undertaking the Building Inspection Services. Inspections undertaken hereunder shall be based on approved plans related to the current building permits.
 - 2.3. The County shall have the authority to review and approve proposed changes to the current building permits consistent with the City's municipal code.
 - 2.4. A pre-construction meeting will be held between the County building inspector, the City building plan reviewer or designee, the general contractor, and owner's representative prior to commencement of construction.

- 2.5. The dispute resolution mechanism specified in Section 2.3 of the Interlocal Agreement shall apply to disputes arising from the County's performance of Building Inspection Services pursuant to this Agreement.
3. **Inspection Procedures.** Inspection requests will be handled consistent with the County's standard inspection protocol.
4. **Information Sharing.** City and County agree to cooperate and share information as is helpful to the other party to perform its duties under this Agreement.
- 4.1. The County shall maintain electronic records of inspections in a system accessible to both the City and applicable third party developers. The County will provide the City with copies of all documentation related to the County's undertaking of the Building Inspection Services, including documents indicating the results of all inspections performed, within one (1) business day of the date of the inspection.
- 4.2. The City will provide to County approved plans related to the current building permits a minimum of seven (7) days prior to construction commencing, unless impracticable.
5. **Additional Services.** If requested by City and agreed to by County, County may provide related services to City, including those services customarily performed by a building official, at mutually agreeable rates.
6. **Fees and Billing Procedures.** The City shall pay the County for Building Inspection Services at the standard rate for inspections specified in the City's Master Fee Resolution, which is currently \$90 per hour for inspections conducted during normal business hours and \$125 per hour (2-hour minimum) for inspections conducted outside of normal business hours. The County will keep the City informed as to which inspections are routine and which inspections, if any, are "re-inspections" under the Ruston Construction Code that would typically result in an additional, non-inclusive, fee to the developer. The City may amend the standard rates in the Master Fee Resolution from time to time, but the City must provide the County written notice prior to the effective date of such amendments.
- 6.1. Total fees incurred by the City pursuant to this Agreement shall not exceed \$15,000 without authorization by the City legislative authority.
7. **Term and Termination of Agreement.** This Agreement shall become effective on the last date this Agreement is executed by the authorized representatives of the City and the County. It shall continue in full force and effect until final Certificate of Occupancy is issued for the projects constructed under the current building permits, at which time it shall terminate of its own accord. Notwithstanding the above, either the City or the County may terminate this Agreement, with or without cause, by giving

the other seven (7) days' written notice, and this Agreement will then terminate upon the passing of the notice period.

8. **Independent Contractor.** The City and County understand and agree that County is acting as an independent contractor and shall maintain control of all County employees, including but not limited to hiring, firing, discipline, evaluation, and establishment of standards of performance. All County personnel rendering service under this Agreement shall be, for all purposes, employees of County.
9. **Indemnification.** The County shall defend, indemnify and save harmless the City, its officers, employees and agents from any and all costs, claims, judgments, or awards of damages, resulting from the acts or omissions of the County, its officers, employees, or agents associated with this Agreement.

The City shall defend, indemnify and save harmless the County, its officers, employees and agents from any and all costs, claims, judgments or awards of damages, resulting from the acts or omissions of the City, its officers, employees or agents associated with this Agreement.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the County and the City, its officers, officials, employees, agents and volunteers, the City's liability hereunder shall be only to the extent of the City's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE COUNTY'S AND CITY'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE PARTIES' WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY THE COUNTY'S OR CITY'S EMPLOYEES DIRECTLY AGAINST THEIR EMPLOYER.

The provisions of this section shall survive the expiration or termination of this Agreement.

10. **Miscellaneous.**

- 10.1. **Assignment.** Neither City nor County may delegate or assign any or all of its obligations and rights under this Agreement without the prior written consent of the other party.

- 10.2. **Non-Waiver of Breach.** Failure by any party to this Agreement to enforce any provision of this Agreement or to declare a breach shall not constitute waiver thereof, nor shall it impair any party's right to demand strict performance.
- 10.3. **Severability.** If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder of the Agreement shall not be affected and shall remain in full force and effect.
- 10.4. **Entire Agreement.** The written terms and provisions of this Agreement, together with any exhibits attached hereto, shall supersede all prior communications, negotiations, representations or agreements, either verbal or written of any officer or other representative of each party, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement. All of the exhibits are hereby made part of this Agreement. Should any of the language of any exhibits to this Agreement conflict with any language contained in this Agreement, the language of this document shall prevail.
- 10.5. **Governing Law.** This Agreement shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for Pierce County, unless the parties agree in writing to an alternative dispute resolution process. The prevailing party in any lawsuit brought to enforce this Agreement shall be entitled to an award of reasonable attorneys' fees and costs.
- 10.6. **Notice.** All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice hereunder shall become effective upon personal service or three (3) business days after the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

IN WITNESS, the parties below execute this Agreement, which shall become effective on the last date entered below.

For CITY:

For COUNTY:

 D. Bruce Hopkins, Mayor [date]
 5117 N. Winnifred Street
 Ruston WA 98407

 Bruce Dammeier, Executive [date]
 930 Tacoma Ave S
 Room 737
 Tacoma, WA 98402

Attest:

Judy Grams, Ruston City Clerk

Approved as to form:

Jennifer S. Robertson
Ruston City Attorney

Approved as to form:

Pierce County Deputy Prosecuting Attorney