



MONROE CITY COUNCIL

Agenda Bill No. 19-074

SUBJECT:	<i>Authorize the Mayor to Sign Interlocal Cooperative Agreement with the City of Sultan for Municipal Resources.</i>
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DATE:	DEPT:	CONTACT:	PRESENTER:	ITEM:
04/09/2019	Public Works	Brad Feilberg	Brad Feilberg	Consent Agenda #7

Discussion: 04/09/2019
Attachments: 1. Proposed Interlocal Agreement

REQUESTED ACTION: Move to authorize the Mayor to Sign Interlocal Cooperative Agreement for Municipal Resources between City of Monroe and City of Sultan; and expressly authorize further minor revisions to the extent deemed necessary or appropriate.

POLICY CONSIDERATIONS

Under RCW 39.34, the City Council has the ability cooperate with other government agencies to provide services in an efficient manner according to geographic, economic, population, and other factors of the local community. The policy question for the City Council is whether to sign a new Interlocal Agreement with the City of Sultan for Shared Services.

DESCRIPTION/BACKGROUND

The City Administrators of Monroe and Sultan have determined that an Interlocal agreement between the two cities will be advantageous. The proposed agreement allows for the sharing of municipal resources between the cities when the need arises. The true and full value of the resources use will be reimbursed to the providing City as described in Section 3 Invoicing; Reimbursement.

For example, if the City of Monroe needs help with building inspections, and the City of Sultan building inspector is available, this agreement will allow the City of Sultan to “loan” their building inspector to the City of Monroe and be reimbursed for the cost.

The ILA has a five year term with termination upon thirty days’ notice of either party.

The agreement has been reviewed by the City Attorney and WCIA and their suggestions have been incorporated.

FISCAL IMPACTS

Fiscal impacts will occur at time of use of resources. Costs for use should be offset by internal savings. If costs will exceed appropriated budget, per the City’s Procurement Policies, the services over budget would be presented to Council for consideration of a budget amendment prior to use of the services.

TIME CONSTRAINTS

The City of Monroe currently has the ability to use this agreement to assist with building inspections during the hiring process for the Deputy Building Official.

ALTERNATIVES TO REQUESTED ACTION

Do not sign. This will limit the City’s ability to conduct business in cases such as illness or retirement of employees without the time consuming process of hiring a contractor.

**INTERLOCAL COOPERATIVE AGREEMENT FOR MUNICIPAL RESOURCES
BETWEEN CITY OF MONROE AND CITY OF SULTAN**

This Interlocal Cooperation Agreement for Municipal Resources (hereinafter, "Agreement") dated this _____ day of _____, 2019 is entered into between the City of Monroe, a Washington municipal corporation (hereinafter "Monroe"), and the City of Sultan, a Washington municipal corporation (hereinafter "Sultan"), pursuant to RCW Chapter 39.34, the Interlocal Cooperation Act. Monroe and Sultan are sometimes collectively referred to herein as the "Cities" or "Parties", and individually but interchangeably as a "City".

RECITALS

WHEREAS, Monroe and Sultan currently provide a broad range of municipal services to their respective communities; and

WHEREAS, each City may from time to time temporarily lack sufficient personnel, equipment, and/or materials to meet the demands of its community; and

WHEREAS, Monroe and Sultan mutually desire to cooperate when feasible, appropriate and lawful to provide reciprocal municipal services to their communities and to utilize the personnel, equipment, and materials (collectively "Shared Resources") of the other City in the performance of services to their communities; and

WHEREAS, the City asking for Shared Resources from the other city will herein be referred to as the "Requesting City;" and

WHEREAS, the City agreeing to assist the City asking for Shared Resources will herein be referred to as the "Responding City;" and

WHEREAS, it is necessary and desirable that this Agreement be executed for the exchange of mutual assistance where feasible, appropriate and lawful, with the intent to supplement, and not supplant the agency personnel of each City.

NOW, THEREFORE, it is hereby agreed by the Cities as follows:

TERMS

1. Authority and Purpose. This Agreement is executed pursuant to Chapter 39.34 RCW as a cooperative endeavor of the Parties. The purpose of this Agreement is to establish a contractual relationship providing for each City's use of the other City's Shared Resources, including personnel, equipment, and materials, on a periodic, as-needed and as-available basis, and to set forth the Parties' respective rights, obligations, costs and liabilities regarding this undertaking. This Agreement shall be reasonably construed in furtherance of said purpose.

2. Operational Control. Shared Resources, including without limitation personnel resources, of the Responding City that are made available to the Requesting City shall remain under the operational control and direction of the Requesting City while in service for the Requesting City, unless the Parties mutually indicate a contrary intent in writing.

**INTERLOCAL COOPERATIVE AGREEMENT FOR MUNICIPAL RESOURCES
BETWEEN CITY OF MONROE AND CITY OF SULTAN**

The Requesting City shall be responsible for coordinating the use and deployment of the Shared Resources of the Responding City.

3. Invoicing; Reimbursement.

a. True and Full Value. Pursuant to RCW 43.09.210, the Responding City shall be reimbursed for the true and full value of the Shared Resources provided to the Requesting City under this Agreement, including loss or damage to equipment as applicable, and such Shared Resources shall be valued accordingly.

b. Request. The Requesting City shall convey its request for Shared Resources to the Responding City in writing. Each request shall identify the type of Shared Resources requested, the purpose of the request, and the anticipated duration of need.

c. Response and Estimate. Upon receiving a written request for Shared Resources from the Requesting City, the Responding City shall provide a written response either accepting or declining the request. The Responding City shall determine, in its sole discretion and without recourse by the Requesting City, whether to accept or decline the request. Where the Responding City agrees to accept the request, the written response shall include a valuation estimate of the requested Shared Resources. The valuation estimate shall be formatted on an hourly, daily or monthly basis, as appropriate.

d. Invoice and Payment. The Responding City shall submit an itemized invoice to the Requesting City each month detailing the Shared Resources furnished to the Requesting City during the preceding month. The Requesting City shall submit reimbursement payment to the Responding City within thirty days of receiving an invoice.

4. No Obligation; Withdrawal of Shared Resources. The Responding City shall have no responsibilities or incur any liabilities because it declines a request for Shared Resources from the Requesting City. The Responding City shall retain the right to withdraw some or all of its Shared Resources from use by the Requesting City at any time. Notice of such intention to withdraw shall be communicated in writing to the Requesting City.

5. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed as creating an employment relationship between Monroe and any employee, agent, representative or contractor of Sultan, or between Sultan and any employee, agent, representative or contractor of Monroe. Without limitation of the forgoing, any personnel of the Responding City shall at all times relevant to this Agreement be and remain an employee of the Responding City, and the Responding City shall be exclusively responsible for providing all compensation, benefits, discipline and supervision with respect to such personnel except as expressly set forth in this Agreement. All privileges, immunities, rights, duties and benefits of officers and employees of the Responding City shall apply while those officers and employees are performing functions and duties on behalf of the Requesting City, unless otherwise provided herein or by law.

**INTERLOCAL COOPERATIVE AGREEMENT FOR MUNICIPAL RESOURCES
BETWEEN CITY OF MONROE AND CITY OF SULTAN**

6. Indemnification. Each City shall defend, indemnify and hold the other City, its officers, officials, employees and volunteers harmless from and against any and all claims, injuries, damages, losses or suits, including attorney fees (collectively "Claims"), arising out of or resulting from the acts, errors or omissions of the first City in its performance of this Agreement, specifically including without limitation: (i) Claims arising out of or resulting from the first City's direction, use, custody and/or control of Shared Resources, including without limitation personnel resources, of the Responding City in performing services under this Agreement, and (ii) Claims arising out of or resulting from the performance of services for and under the direction of the first City, except for injuries and damages caused by the negligence of the other City.

PROVIDED, that each City's obligations under this section shall apply only to the extent that a particular Claim arises out of that City's negligent or wrongful act or omission. To the extent that a particular Claim arises out of the concurrent or joint negligence wrongdoing of both Parties, the Parties' respective liabilities shall be as determined by the laws of the State of Washington.

PROVIDED FURTHER, it is expressly understood that each City's obligations under this section shall include exclusive responsibility for any Claims arising out of or otherwise relating to the content and validity of that City's codes, ordinances and regulations, and that the other City, its officers, officials, employees and volunteers shall have no liability or responsibility whatsoever therefore.

It is further specially and expressly understood that the indemnification provided herein constitutes each City's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties.

Notwithstanding the other provisions of this Section 6, it is further specifically and expressly understood that the Requesting Party's obligations hereunder shall specifically include responsibility for damage, loss or injury to any equipment or materials availed for use and operation while in the physical custody of the Requesting City.

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

7. Insurance; Risk of Loss.

a. Types of Insurance for Services. The Requesting City shall provide insurance or risk pool coverage, including Commercial General Liability, Auto Liability, and Workers Compensation and/or risk pool coverage providing same, encompassing the performance of services by the Responding City's personnel for the Requesting City in the same manner as provided for the Requesting City's employees. Additionally, for architectural and/or engineering services as defined by Chapter 39.80 RCW, the Requesting City shall provide insurance or risk pool coverage for Professional Liability (errors and omissions) appropriate to the type of services being performed.

**INTERLOCAL COOPERATIVE AGREEMENT FOR MUNICIPAL RESOURCES
BETWEEN CITY OF MONROE AND CITY OF SULTAN**

b. Amounts of Insurance for Services. Each City shall maintain Commercial General Liability, Auto Liability and Professional Liability insurance and/or risk pool coverage in the minimum amount of \$10,000,000 per occurrence.

c. Applicability of Coverage for Services. The insurance and/or risk pool coverage required by this section shall commence when the personnel of the Responding City physically arrive at the Requesting City's City Hall, shall extend throughout the period of each day during which such personnel are providing services for the Requesting City, and shall terminate when such personnel physically depart the Requesting City's City Hall premises or other premises at which such personnel are providing services for the Requesting City. The Responding City shall provide insurance or risk pool coverage for such personnel encompassing all other times and activities, including without limitation during such personnel's transportation between the Responding City's City Hall and the Requesting City's City Hall.

d. Insurance for Equipment and Materials. The Requesting City shall procure and maintain insurance and/or risk pool coverage for all equipment and materials availed for use and operation under this Agreement while in the physical custody of the Requesting City. The limits of such insurance or coverage shall be equivalent to that provided for the Requesting City's own equipment and materials.

e. Risk of Loss for Equipment and Materials; Maintenance; Disclaimer. All equipment and materials availed for use and operation under this Agreement shall be deemed accepted by the Requesting City in "AS IS" condition, without any warranties whatsoever, specifically including without limitation any warranty of fitness for a particular purpose, which are hereby expressly disclaimed. The Requesting City shall bear all risk of loss with respect to such equipment and materials during the Requesting City's physical custody of the same.

8. Administration; No Separate Entity Created. The Monroe City Administrator and the Sultan City Administrator shall serve as joint administrators of this Agreement. No separate legal entity is formed hereby.

9. Property Acquisition, Retention and Disposition. No joint acquisition of real or personal property is contemplated by this Agreement. Except as provided in this section, any other real or personal property acquired by a City shall remain within the sole and exclusive ownership of that City following the termination or expiration of this Agreement.

10. Term; Termination. This Agreement shall take effect following mutual execution by the Parties and posting or recording as required by Section 17, and shall remain effective for a period of five years unless terminated earlier. This Agreement may be terminated by either City at any time, with or without cause, upon thirty days written notice to the other City. Termination shall not release either City from liability or obligation with respect to any matter arising under this Agreement, including without limitation payment for Shared Resources previously furnished, occurring prior to the effective date of termination.

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BETWEEN CITY OF MONROE AND CITY OF SULTAN**

11. No Third-Party Beneficiaries. This Agreement is for the benefit of the signatory Parties only and no other person or entity shall have any rights whatsoever under this Agreement as a third party beneficiary.

12. Notices; Designated Officials. Required notices under this Agreement, with the exception of legal process, shall be given in writing to the Parties at the following respective addresses:

Monroe:

Designated Official: City Administrator
City of Monroe
806 W Main St
Monroe WA 98272

Sultan:

Designated Official: City Administrator
City of Sultan
319 Main Street
PO Box 1199
Sultan WA 98294

13. Amendment. This Agreement may be altered or amended only by the written agreement of both Parties.

14. Integration. This Agreement constitutes the entire agreement and understanding between the Cities concerning the subject matter herein and shall supersede all prior agreements, oral or otherwise.

15. Governing Law and Venue; Attorneys' Fees. This Agreement shall be governed by the laws of the State of Washington. The venue for any action arising out of this Agreement shall be the Superior Court for Snohomish County, Washington. The substantially prevailing party in any such action shall be entitled to an award of its reasonable attorneys' fees.

16. Severability. The invalidity or partial invalidity of any portion of this Agreement shall not invalidate the remainder of the Agreement, which shall remain in full force and effect and shall be interpreted and enforced as if such portion did not appear.

17. Posting; Recording. This Agreement shall be effective upon posting on the City of Monroe Website or recording with the Snohomish County Auditor's office pursuant to RCW 39.34.040.

18. Signatory Warranty. Each signatory hereto warrants and represents that he/she has been authorized to execute this Agreement by appropriate action of the legislative body of his/her respective City.

19. Execution in Counterparts. This Agreement may be executed in separate counterparts.

20. Regulatory Authority Reserved. Nothing herein shall be construed as waiving, limiting or otherwise abridging in any manner regulatory authority of either City, which Monroe and Sultan each hereby expressly reserve in full.

**INTERLOCAL COOPERATIVE AGREEMENT FOR MUNICIPAL RESOURCES
BETWEEN CITY OF MONROE AND CITY OF SULTAN**

EXECUTED this _____ day of _____, 2018.

CITY OF MONROE

CITY OF SULTAN

Geoffrey Thomas, Mayor

John Seehuus, Mayor

(SEAL)

ATTEST/AUTHENTICATED

ATTEST/AUTHENTICATED

Elizabeth M. Adkisson, MMC, City Clerk

Laura Koenig, City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM

J. Zachary Lell, Monroe City Attorney

Sultan City Attorney