

**INTERLOCAL AGREEMENT BETWEEN KITTITAS COUNTY AND THE CITY OF CLE ELUM
FOR THE UPPER KITTITAS COUNTY LAW AND JUSTICE FACILITY**

THIS INTERLOCAL AGREEMENT is entered into pursuant to the provisions of Chapter 39.34 RCW, by and between Kittitas County, a political subdivision of the State of Washington organized under Title 36 of the Revised Code of Washington (hereinafter referred to as "County") and the City of Cle Elum, a second class municipal corporation organized under the laws of the State of Washington (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, the Interlocal Cooperation Act, as amended and codified in Chapter 39.34 of the Revised Code of Washington, provides for interlocal cooperation between governmental agencies;

WHEREAS' the County and the City are public agencies within the meaning of Chapter 39.34 RCW;

WHEREAS, on July 30, 2002 the County had previously leased from owner Jerry Hein – presently known as Hein and Hein Enterprises, LLC ("Landlord") – an Eight Thousand Six Hundred (8,600) square foot commercial property located at 700 East First Street, Cle Elum, Kittitas County, Washington, commonly known as the "Coast to Coast Building," to operate and maintain the Upper Kittitas County District Court.

WHEREAS, on September 3, 2002, the County entered into an Interlocal Agreement with the City, whereby the County and City formalized their commitment to a shared facility and lease arrangement at the Coast to Coast Building for the creation of an Upper Kittitas County Law and Justice Facility.

WHEREAS, in the Upper Kittitas County Law and Justice Facility, the County was to operate and maintain the Upper Kittitas County District Court and the City was to operate and maintain the Cle Elum Police Department.

WHEREAS, as a result of this Agreement, the City sublet from the County, Two Thousand Eight Hundred and Ninety-Nine (2,899) square feet in the Coast to Coast Building for an initial term of sixty (60) months with the County occupying the remaining Five Thousand Seven Hundred and One (5,701) square feet.

WHEREAS, the legal description of said property is as follows:

Commencing at the Northeast corner of Lot Ten (10), Block Eleven (11), HAZELWOOD ADDITION, thence South along the East boundary line of Lots Five (5), Six (6), Seven (7), Eight (8), Nine (9) and Ten (10), 136 feet; Westerly at right angles on a line parallel with and 136 feet distant from the North boundary line of Lot Ten (10), 166 feet; thence Northerly on a line 166 feet distant from and parallel with the East boundary line of Lots Five (5), Six (6), Seven (7), Eight (8), Nine (9) and Ten (10) a distance of 136 feet to a point on an extension of the North boundary line of said Lot Ten (10); then Easterly 166 feet along the North boundary line of Lot Ten (10) EXTENDED TO THE TRUE POINT OF BEGINNING.

WHEREAS, the City's rent under the 2002 Interlocal Agreement was calculated at a base rate of 67 cents (\$0.67) per square foot, equating to One Thousand Nine Hundred and Forty-Two Dollars per month.

WHEREAS, instead of receiving from the City the entire rent owed, the County agreed to accept the following from the City: The City's payment of Four Hundred Dollars (\$400.00) per month inclusive of utilities, payable on the 15th day of each month for part of the City's share of its monthly rent obligation;

- (1) The City's accrued credit in favor of the County for the remaining monthly amount of One Thousand Five Hundred and Forty-Two Dollars (\$1,542.00) – or Ninety Two Thousand Five Hundred Twenty Dollars (\$92,520.00) over a sixty (60) month term.
- (2) Subtracting a credit back from the County in favor of the City for the value of in-kind services which the City donated for necessary tenant improvements prior to the City's occupation of the space; and
- (3) At the end of the sixty (60) month period, the City's satisfaction of its remaining debt to the County by the City's transfer to the County of fractional ownership interest in a property known as "the Reed Hill Property."

WHEREAS, the Reed Hill Property was formerly known as the Reed Hill Convalescent Center, which the City contemplated purchasing, renovating and preparing for opening as a Law and Justice Facility, which was not anticipated to be completed until at least sixty (60) months from September 3, 2002 date of execution of the 2002 Interlocal Agreement between the County and City.

WHEREAS, the fractional ownership interest to be transferred from the City to the County bears the same ownership ratio as the Ninety Two Thousand Five Hundred Twenty Dollars (\$92,520.00) less the City's in-kind credit, to the then assessed value (2002) of the Reed Hill Property.

WHEREAS, the City subsequently purchased the Reed Hill Property but found it unsuitable for the purpose of developing into the contemplated Upper Kittitas County Law and Justice Facility.

WHEREAS, under the 2002 Agreement, the City contemplated repaying the County if the City's proposed Law and Justice Facility did not materialize; the repayment amount was to be the City's obligation of Ninety Two Thousand Five Hundred Twenty Dollars (\$92,520.00 less the in-kind credit) which the City owed the County at the expiration of the sixty (60) month period;

WHEREAS, the 2002 Agreement expired on July 31, 2007 and on August 1, 2007, the County entered into a three (3) year lease amendment /renewal with the Landlord for the same Coast to Coast Building in Cle Elum, Washington, for the Upper Kittitas County Law and Justice Facility which again housed the Upper Kittitas County District Court and the Cle Elum/Roslyn/South Cle Elum Police Department; and

WHEREAS, the City again occupied Two Thousand Eight Hundred and Ninety-Nine (2,899) square feet and the County again occupied Five Thousand Seven Hundred and One (5,701) square feet in the Coast to Coast Building;

WHEREAS, the County and the City had limited monthly funds to apply toward rent on the facility; and

WHEREAS, the County and the City re-formalized their commitment to a shared facility and lease extension to continue operating the Upper Kittitas County Law and Justice Facility;

FOR THE THREE (3) YEAR LEASE AMENDMENT/RENEWAL, the parties agreed to the following:

1. Duration: The Three (3) Year lease amendment/renewal between Kittitas County and Hein & Hein Enterprises, LLC was for the term of August 1, 2007 and July 31, 2010.
2. Purpose: The purpose of the extension of the Agreement was to continue providing for the cooperative financing, administrating and use of the Upper Kittitas County Law and Justice Facility for the benefit of the County and City residents of Upper Kittitas County.
3. Lease of Property: The County agreed to continue to lease the Coast to Coast property from the Landlord for the extended term of Three (3) Years.
4. Lease Payments: The County continues to pay for the use of said property for the Upper Kittitas County Law and Justice Facility.
5. Sublease to City: The County agreed to continue to sublet approximately 2,899 square feet of the Upper Kittitas County Law and Justice Facility to the City for an extended term of Three (3) Years that was subject to the following:
 - a. Year One: The parties agreed that the City's rent for Two Thousand Eight Hundred and Ninety-Nine (2,899) square feet of said facility calculated at a rate of Sixty-Seven (\$0.67) Cents per square foot per month equated to One Thousand Nine Hundred and Forty-Two Dollars (\$1,942.00) per month. The County agreed to accept payment of Four Hundred Dollars (\$400.00) per month inclusive of utilities for part of the City's share of monthly rent obligation. The remaining unpaid One Thousand Five Hundred Forty-Two Dollars (\$1,542.00) accrued monthly. The Year One accrual equaled Eighteen Thousand Five Hundred and Four Dollars (\$18,504.00).
 - b. Year Two: The parties agreed that the City's rent for the aforementioned square footage was calculated at a rate of Ninety (\$0.90) Cents per square foot per month which equaled Two Thousand Six Hundred and Nine Dollars (\$2,609.00) per month. The County agreed to accept payment of Six Hundred Dollars (\$600.00) per month inclusive of utilities for part of the City's share of monthly rent obligation. The remaining unpaid Two Thousand and Ninety-Nine Dollars (\$2,099.00) accrued monthly. The Year Two total accrual equaled Twenty-Four Thousand One Hundred and Eight Dollars (\$24,108.00).

- c. Year Three: The parties agreed that the City's rent for the aforementioned square footage was calculated at a rate of One Dollar (\$1.00) per square foot per month which equaled Two Thousand Eight Hundred and Ninety-Nine Dollars (\$2,899.00) per month. The County agreed to accept payment of Eight Hundred Dollars (\$800.00) per month inclusive of utilities for part of the City's rent obligation. The remaining unpaid Two Thousand and Ninety-Nine Dollars (\$2,099.00) accrued monthly. The Year Three total accrual equaled Twenty-Five Thousand One Hundred and Eighty-Eight Dollars (\$25,188.00).

- d. Total Accrual for Three Years: The rent accrual based on the agreed terms above totaled an amount of Sixty-Seven Thousand Eight Hundred Dollars (\$67,800.00). Combined with the accrual of the previous five-year lease, the overall obligation owed by the City to the County amounts to a total of One Hundred Sixty Thousand Three Hundred and Twenty Dollars (\$160,320.00), less a credit to the City for the value of in-kind services donated by the City for necessary tenant improvements prior to the City's occupation of the Upper Kittitas County Law and Justice Facility.

WHEREAS, The current Three (3) Year lease amendment/renewal expires on July 31, 2010. A suitable site to relocate the Upper Kittitas County Law and Justice Facility has not yet been secured. Therefore, on August 1, 2010, the County will enter into a One (1) Year lease amendment/renewal with the Landlord for the same Coast to Coast Building in Cle Elum, Washington for the Upper Kittitas County Law and Justice Facility which will, again, house the Upper Kittitas County District Court and the Cle Elum/Roslyn/South Cle Elum Police Department; and

WHEREAS, The City shall, again, occupy Two Thousand, Eight Hundred and Ninety-Nine (2,899) square feet and the County shall, again, occupy Five Thousand, Seven Hundred and One (5,701) square feet in the Coast to Coast Building; and

WHEREAS, The County and the City have limited monthly funds to apply toward the rent on the facility; and

WHEREAS, The County and the City wish to re-formalize their commitment to a shared facility and lease extension to continue operating the Upper Kittitas County Law and Justice Facility;

NOW THEREFORE, the parties agree to the following:

1. Duration: This Agreement shall become effective upon filing of the executed counterparts of this Agreement with the Office of the Kittitas County Auditor or, alternatively, listed by subject on the County's web site or other electronically retrievable public source pursuant to RCW 39.34.040. The extended term of this Agreement shall be from August 1, 2010 to July 31, 2011, unless terminated or extended in accordance with Article 10 herein.

2. Purpose: The purpose of this Agreement is to continue providing for the cooperative financing, administration and use of the Upper Kittitas County Law and Justice Facility for the benefit of the residents of Upper Kittitas County.
3. Lease of Property: The County agrees to continue to lease the Coast to Coast property from the Landlord for an extended term of One (1) year.
4. Lease Payments: the County will continue to pay for the use of said property for the Upper Kittitas County Law and Justice Facility.
5. Sublease to City: The County agrees to continue to sublet approximately 2,899 square feet of the Upper Kittitas County Law and Justice facility to the City for an extended term of One (1) year as follows:
 - a. Year One: The parties agree that the City's rent for Two Thousand, Eight Hundred and Ninety-Nine (2,899) square feet of said facility, calculated and paid in full monthly at the rate of One Dollar (\$1.00) per square foot per month, will be Two Thousand, Eight Hundred and Ninety-Nine Dollars (\$2,899.00) per month.
 - b. Repayment Schedule: Upon expiration or termination of the lease, the City and County shall, within Thirty (30) days, negotiate a repayment schedule of the City's accrued debt to the County.
6. Use of Property: The County and the City shall be responsible for their respective portion of the subject premises including maintenance, upkeep and daily operations.
7. Surrender at Termination of Lease: The City agrees to deliver up its premises without notice at the expiration of its One (1) year lease extension with the County or in advance of early termination, in as good a condition as the premises were at the commencement of the original lease and lease extension, excepting ordinary wear and tear.
8. Relationship of the Parties: The parties agree that they are independent entities organized under the laws of the State of Washington operating pursuant to the terms and conditions of this Agreement. No agent, employee, servant or representative of any party shall be deemed to be an agent, employee, servant or representative of any other party for any purpose. As such, each party is solely and entirely responsible for its acts and the acts of its agents, employees, servants and representatives during the term of this Agreement.

9. **Hold Harmless:** Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of its officials, officers, agents, employees, representatives and volunteers to the fullest extent required by law, including liability for attorney fees and costs arising out of or resulting from that party's own acts, errors or omissions in performance of this Agreement. Each party further agrees to save, indemnify, defend and hold the other party harmless from any such liability. Neither party assumes responsibility to the other party for the consequences of any act or omission of any person, firm or corporation not a party to this Agreement and no liability shall attach to the County by reason of entering into this contract except as expressly provided herein.
10. **Renewal and Termination:** If, at the end of this One (1) year Agreement, the County intends to continue to operate in the Coast to Coast facility, it shall offer the City the opportunity to renew this agreement for up to an additional One (1) year term, based upon the terms the County is able to negotiate with the Landlord, at the conclusion of which this Agreement shall terminate. The City and the County may elect to terminate this Agreement earlier than the One (1) year term upon mutual agreement of the parties. Such termination shall be effective upon Thirty (30) days written notice either delivered personally or mailed postage prepaid by certified mail, return receipt requested, to the other party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for the performance rendered or cost incurred in accord with the terms of this Agreement prior to the effective date of termination. Upon such termination, the City shall remove its property from the premises.
11. **Insurance:** Each party is responsible for insuring itself for liability in an amount of a minimum One Million Dollars (\$1,000,000.00) per occurrence under standards of commercial general liability for bodily injury, personal injury and property damage. The general aggregate limit will apply separately to this Agreement and will be no less than Two Million Dollars (\$2,000,000.00). The City will provide evidence of commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Agreement.
- a. Each party will insure its property interest as it deems sufficient under the circumstances.
 - b. The policies shall be endorsed and the parties shall provide each other with properly executed certificates of insurance or other unequivocal proof of coverage within Thirty (30) days of the recording of the extension of this Agreement.

- c. The insurance limits established by this section are not intended to indicate the parties' exposure, nor are they limitations on the parties' indemnification duties.
 - d. The parties will maintain all policies in force from the time the Agreement commences until termination of the Agreement. Certificates, policies and endorsements scheduled to expire before termination of the Agreement will be renewed before expiration. The parties' proof of insurance will provide that the underlying insurance contract may not be canceled, or allowed to expire, for the duration of this Agreement.
 - e. The City's insurance will apply separately to each insured against whom claim is made or suit is brought, subject to the limits of the City's insurance liability.
12. Modification: No changes or modifications of this Agreement shall be valid or binding upon either party to this Agreement unless such changes or modifications are in writing and executed by both parties.
13. Compliance with Law. Each party hereto, in its performance of this Agreement, accepts responsibility for compliance with all applicable local, state and federal laws, regulations, ordinances and policies.
14. Dispute Resolution: In the event a dispute arises between the parties relative to the terms or application of this Agreement, the aggrieved party shall provide the other party with formal notice of its inability to resolve the dispute, by writing to the addresses provided herein. Said notice shall be mailed via certified mail, return receipt requested. Upon receipt of such notice, the receiving party shall contact the aggrieved party and establish a mutually convenient time within Thirty (30) days thereafter to meet and attempt to resolve the issue. In the event the parties are unable to resolve the dispute, the parties may, at their option, agree to mediate the dispute. Such mediation shall occur before One (1) disinterested mediator agreed upon by the parties. If mediation is unsuccessful in resolving the dispute, the parties may invoke other remedies as allowed by law.
15. Severability: If any term or provision in this Agreement is held invalid, the remaining terms and provisions of this Agreement shall continue in full force and effect unless amended or modified by mutual consent of the parties.
16. Notices: Notices or communications shall be given to the parties as follows:
- a. If to the County: Kittitas County Board of County Commissioners
Kittitas County Courthouse

205 W. 5th Ave., Room 108
Ellensburg, WA. 98926

b. If to the City: City of Cle Elum
Attn: City Administrator
119 West First Street
Cle Elum, WA 98922

17. Venue: This Agreement shall be governed by the laws of the State of Washington and venue for any action related to this Agreement shall be in Kittitas County, Washington.

DATED this 20th day of July, 2010


KITTITAS COUNTY BOARD OF COUNTY COMMISSIONERS



Mark McClain, Chairman



Paul Jewell, Vice-Chairman



Alan Crankovich, Commissioner





Clerk of the Board

APPROVED AS TO FORM:

Deputy Prosecuting Attorney


CITY OF CLE ELUM



Charles J. Glondo, Mayor

ATTEST:

APPROVED AS TO FORM:



City Clerk

City Attorney