

AGENDA SHEET FOR COUNCIL MEETING OF: November 1, 2004



Submitting Dept.
Hearing Examiner

Contact Person
Greg Smith

Phone No.
ext. 6010

ADMINISTRATIVE SESSION

- o Contract
- o Report
- o Claims

LEGISLATIVE SESSION

- o Emergency Ord
- o Resolution
- o Final Reading Ord
- o First Reading Ord
- o Special Consideration
- o Hearing

CITY PRIORITY

- o Communications
- o Economic Development
- o Growth Management
- o Human Services
- o Neighborhoods
- o Public Safety
- o Quality Service Delivery
- o Racial Equity/Cultural Diversity
- o Rebuild/Maintain Infrastructure

CLERK'S FILE
RENEWS
CROSS REF
ENG
BID
REQUISITION

OPR 2004-0974
OPR 96.755

Standing Committees Notified (and date):
o Finance _____
o Neighborhoods _____
o Public Safety _____
o Public Works _____

Neighborhood/Commission/Committee Notified: _____
Action Taken: _____

AGENDA WORDING:

Interlocal Cooperation Agreement between the City of Spokane and the City of Cheney for Hearing Examiner services - \$75.00 per hour, plus travel (Hearing Examiner); \$20.00 per hour (Assistant, if used) revenue to the City of Spokane.

BACKGROUND:
(Attach additional sheet if necessary)

The City of Cheney at this time does not have a Hearing Examiner and has requested Greg Smith, the City of Spokane's Hearing Examiner, to conduct quasi-judicial hearings on land use and nuisance matters. Mr. Smith believes that he can hold hearings for the City of Cheney without interfering with his Spokane work load. Therefore, he is requesting approval by the Spokane City Council of this Interlocal Agreement.

RECOMMENDATION: Approve Contract

Fiscal Impact:

- o Expenditure: \$
- o Revenue: \$75/hr
- o Budget Neutral

Budget Account:

- #
- #

ATTACHMENTS: Include in Packets: Interlocal Agreement

SIGNATURES:

Greg Smith
Hearing Examiner

Division Director
Jack Johnson
Deputy Mayor

Finance
James P. Hession
Council President

DISTRIBUTION:

Hearing Examiner
City of Cheney, Attn: Paul Schmidt, City Administrator, 609 - 2nd St., Cheney, WA 99004
Spokane City Clerk (Original to be recorded with County Auditor)

COUNCIL ACTION:

APPROVED BY
SPOKANE CITY COUNCIL:

November 4, 2004
Leri J. Gates
CITY CLERK

Contract Section
Department of Finance
City of Cheney
609 2nd Street
Cheney, WA 99004-1606

(OPR 2004-0974)

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

THIS AGREEMENT is between the CITY OF CHENEY, a Washington State municipal corporation, as "CHENEY," and the CITY OF SPOKANE, a Washington State municipal corporation, as "SPOKANE"; 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, the City of Cheney at this time does not have a hearing examiner to conduct quasi-judicial hearings on land use and nuisance matters involving City of Cheney government; and

WHEREAS, the City of Spokane 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, Greg Smith is a City of Spokane 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 of Spokane's hearing examiner can act as the hearing examiner pro-tem to the City of Cheney to conduct administrative and quasi-judicial hearings.
2. **COMPENSATION.** The City of Cheney agrees to pay the City of Spokane for hearing examiner services at the rate of SEVENTY-FIVE AND NO/100 DOLLARS (\$75.00) 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 as an employee of the City of Cheney when performing services pursuant to this agreement.

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

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

5. AGREEMENT NOT EXCLUSIVE. Greg Smith is hereby appointed as a hearing examiner pro-tem for the City of Cheney. This agreement is not exclusive and the City of Cheney may designate other hearing examiner pro-tems 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. The City of Cheney understands that the City of Spokane cannot guarantee that its hearing examiner will be available at all times as requested by the City of Cheney.

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 the City of Cheney. 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 the City of Cheney.

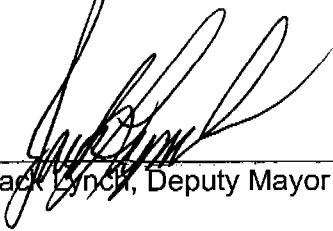
8. ADMINISTRATIVE SUPPORT. The City of Cheney shall supply all necessary administrative support services for the hearing examiner, such as hearing room, recording equipment, clerk, secretarial support, notifications and copies of applicable regulations, policies, and reports. The hearing examiner will receive from the City Manager prior authorization before using his own secretary for secretarial support, her time will be billed to the City of Cheney at a rate of TWENTY AND NO/100 DOLLARS (\$20.00) 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.

10. LEGAL RELATIONS AND INDEMNIFICATION. The City of Cheney 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 the City of Cheney, its officers,


CITY OF SPOKANE, WASHINGTON

Dated this 2nd day of November, 2004.



Jack Lynch, Deputy Mayor

ATTEST:



Teri Pfister, Spokane City Clerk

Approved as to form:



Barbara Burns, Assistant City Attorney



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 the City of Cheney.

11. TERMINATION. If the agreement is terminated, the City of Cheney 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:

CITY OF CHENEY, WASHINGTON

Dated this 12th day of October, 2004.

Amy Jo Sooy
Amy Jo Sooy, Mayor

ATTEST:

Lyndie Murrell
Grant Murie, City Clerk, Deputy

Approved as to form:

By: Frank Cochran
Dan Maggs, City Attorney