



## **Staff Report**

For City Council Meeting of 7/6/2022

### ***Subject - New Business - IGA - Building Official Intergovernmental Agreement with Cannon Beach***

**Synopsis:** The importance of inspection coverage has come up a few times here in Gearhart. With our temporary building official unavailable later this month, staff is taking a proactive approach with putting measures in place to keep business running smoothly in his absence, and during any future instances. After talking with the City of Cannon Beach, they proposed entering into a mutual agreement where their building official could cover Gearhart's inspections when our official is unavailable, and in turn, Gearhart would do the same. Attached is the proposed IGA (Intergovernmental Agreement) specifying the terms and definitions of services.

#### ***Council Options:***

1. Motion to approve the attached IGA;
2. Motion to approve the attached IGA with changes;
3. Motion to deny the attached IGA.

**Recommendation:** Staff recommends the Council motion to approve the proposed IGA agreement with Cannon Beach to provide the City of Gearhart with inspection services as needed.

**Legal Analysis:** The IGA specifies terms for services on a back-up basis. No official employment is being made.

**Financial Analysis:** Inspections noted in Exhibit A as \$90/hour.

Respectfully Submitted,

Chad



CITY OF  
GEARHART

## Intergovernmental Agreement



### Building Official and Inspection Services

This agreement is made and entered into this day of \_\_\_\_\_, 2022 between the City of Gearhart, a municipal corporation of the State of Oregon, and the City of Cannon Beach, a municipal corporation of the State of Oregon, hereinafter referred to as "Cannon Beach," and the City of Gearhart hereinafter referred to as "Gearhart" or referred to as "Party" or "Parties."

#### Recitals

WHEREAS, local governments are required to have a building official and building inspectors for the enforcement of the State Building Code as defined in ORS 445.010 and various local ordinances related to the construction of buildings and local development codes; and

WHEREAS, Cannon Beach and Gearhart desire to provide mutual building inspection services when a Party's building official and inspector is unavailable or when either Party is in need of additional support. Cannon Beach and Gearhart are in agreement to providing these services and the terms and conditions stated below; and

WHEREAS, by the authority granted in ORS 190.010, units of local government may enter into agreements with other units of local government for the purpose of any or all functions and activities that a Party to the agreement, its officers, or agents have the authority to perform.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

#### **1. GEARHART OBLIGATIONS**

- a. Employ adequate staff to perform all building inspections.
- b. Authorize the Cannon Beach official and inspectors as Gearhart inspectors as needed.
- c. Allow its officials and inspectors to serve in the capacity as the City officials/ inspectors.
- d. Provide worker's compensation insurance and all the usual payroll taxes and deductions on behalf of its employees performing the services agreed herein.
- e. Submit an invoice to Cannon Beach for hours worked on a monthly basis, as per the cost per hour attached as Exhibit A.
- f. Pay to Cannon Beach the cost of inspections as specified in Exhibit A attached hereto. Exhibit A will be adjusted periodically by mutual agreement of the Parties.
- g. Administer the building official and building inspection program including the collection of fees and acceptance of applications, issuance of permits, and notification

to Cannon Beach of the need for inspection or review. Notice shall be in writing and include a copy of the application and permit.

## **2. CANNON BEACH OBLIGATIONS**

- a. Employ adequate staff to perform all building inspections.
- b. Authorize Gearhart officials and inspectors as the Cannon Beach inspectors as needed.
- c. Allow its officials and inspectors to serve in the capacity as Gearhart building officials and inspectors. Provide worker's compensation insurance and all the usual payroll taxes and deductions on behalf of its employees performing the services agreed herein.
- d. Submit an invoice to Gearhart for hours worked on a monthly basis, as per the cost per hour attached as Exhibit A.
- e. Pay to Gearhart the cost of inspections as specified in Exhibit A attached hereto. Exhibit A will be adjusted periodically by mutual agreement of the Parties.
- f. Administer the building inspection program including the collection of fees and acceptance of applications, issuance of permits, and notification to Gearhart of the need for inspection or review. Notice shall be in writing and include a copy of the application and permit.

## **3. REQUESTING SERVICES**

- a. The Party needing inspection services (Requesting Party) shall notify the other Party (Providing Party) of the need as soon as practicable.
- b. If the Providing Party, in its sole discretion, has building official and inspector services available, it shall provide the Requesting Party with the building official and inspector(s) services requested.
- c. At any time the Providing Party may suspend providing the services with reasonable notice to the Requesting Party.
- d. The Providing Party shall invoice only for services specifically requested by the Requesting Party.
- e. Participating in this Agreement is voluntary, and no Party is obligated under this Agreement to act as either the Requesting Party or Providing Party. Each Party shall decide on a case-by-case basis, in its sole discretion, whether it can, under the circumstances, provide or receive building inspector services from the other party.
- f. No Party shall be liable to the other Party or be considered to be in breach or default of this Agreement on account of any refusal to provide or request services.

## **4. NO EMPLOYMENT RELATIONSHIP**

- a. The Building officials and inspectors of the Providing Party shall, at all times while performing or acting under the authority of this Agreement, continue to be



employees/contractors of the Providing Party and shall not be deemed to enter into any employment relationship with the Requesting Party for any purpose. Wages, hours, and other terms and conditions of employment of the Providing Party shall remain applicable to its building inspectors who perform for the Requesting Party under this Agreement. No business partnership or joint venture is established or contemplated between the Requesting and Providing Parties. The Parties are merely sharing authority and responsibilities pursuant to ORS 190.

b. In no event shall a Requesting or Providing agency, or their officers, employees, agent or representatives, be authorized (or represent that they are authorized) to make any representation, enter into any agreement, waive any right, or incur any obligation in the name of, on behalf of or as agent for their respective employing agencies solely by virtue of this Agreement.

## **5. INDEMNITY**

a. If Gearhart is providing the service to Cannon Beach, then in providing the building official and inspection services stipulated herein, the building official/inspector(s) are acting as agents of Cannon Beach and shall abide by all ordinances and regulations of Cannon Beach. Cannon Beach shall indemnify, protect and hold harmless Gearhart and the building official/inspectors from all claims, actions, or damages of every kind and description which may accrue to or be suffered by any person or persons, corporation, or property by reason of the performance of any such works, the character of materials used or manner of installation, maintenance and operation or by the improper occupancy of rights of way or public place or public structure, and in case any such suit or action is brought against Gearhart building official/inspector(s) for damages arising out of or by reason of any of the above causes, Cannon Beach will, upon notice or commencement of such action, defend the same at its cost and expense.

b. If Cannon Beach is providing the service to Gearhart, then in providing the building official and building inspection services stipulated herein, the building official/inspector(s) are acting as agents of Gearhart and shall abide by all ordinances and regulations of Gearhart. Gearhart shall indemnify, protect and hold harmless Cannon Beach and the building officials and inspectors from all claims, actions, or damages of every kind and description which may accrue to or be suffered by any person or persons, corporation, or property by reason of the performance of any such works, the character of materials used or manner of installation, maintenance and operation or by the improper occupancy of rights of way or public place or public structure, and in case any such suit or action is brought against Cannon Beach building official/inspector(s) for damages arising out of or by reason of any of the above causes, Gearhart will, upon notice or commencement of such action, defend the same at its cost and expense.

c. Gearhart will hold Cannon Beach harmless for all workers' compensation claims, or employment related claims, of Gearhart employees. Cannon Beach will hold Gearhart harmless for all workers' compensation claims, or employment related claims, of Cannon Beach employees.

d. Cannon Beach is solely responsible for the financial management of the Cannon

Beach Building Official and Inspection program and will hold Gearhart harmless for any penalty imposed as a result of any financial or program audit. Gearhart is solely responsible for the financial management of the Gearhart Building Official and Inspection program and will hold Cannon Beach harmless for any penalty imposed as a result of any financial or program audit.

**6. GENERAL PROVISIONS**

- a. Both Parties shall maintain comprehensive general liability and property damage insurance in amounts up to the limits of the Oregon Tort Claims Act.
- b. This Agreement shall be effective on the date last signed, below, and shall remain in effect for a period of 12 months. It shall thereafter automatically renew for successive 12 month terms unless sooner terminated as provided herein.
- c. Any Party may terminate this Agreement at any time by giving written notice of intent to terminate the other Party at least 30 days prior to the termination date. The notice shall automatically terminate this Agreement on the date set out in the notice.
- d. However, any obligations under this Agreement shall survive termination of the Agreement. This Agreement constitutes the entire agreement between the Parties. No waiver, consent, modification or change of terms of this Agreement shall bind any Party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

**City of Gearhart**

**City of Cannon Beach**

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City Administrator

Date

City Manager

Date

**Exhibit A**

Payment for Building Division inspection services shall be calculated at an amount of \$90.00 per hour.