



AGENDA MEMO

Needs Legal Review: Yes
Council Meeting Date: December 5, 2018
Agenda Item: Interlocal Agreement for Law Enforcement Services for City of Bingen
Presented By: Mike Hepner, Police Chief and Jan Brending, Clerk Treasurer

ACTION REQUIRED:

Authorization for mayor to sign interlocal agreement for law enforcement services for the City of Bingen.

PROPOSED MOTION:

Motion to authorize the mayor to sign the interlocal agreement for law enforcement services for the City of Bingen for the years 2019 and 2020.

Why is it a legislative issue:

The city council is required to approve all interlocal agreements.

Explanation of issue:

The City of Bingen contracts with the City of White Salmon for law enforcement services. The attached interlocal agreement contains the same language as the previously approved agreement with a change in the dates and the amount. The agreement covers the years 2019 and 2020. The amount for 2019 is \$331,750 (2.9% increase over the current amount which corresponds to the proposed cost of living increase being considered through the union contract). The 2020 prices will be based on the cost of living increase for 2020 based on the union contract procedure for determining that increase.

The City of Bingen approved the interlocal agreement at its November 20 city council meeting.

Staff Recommendation:

Staff recommends the city council authorize the mayor to sign the interlocal agreement for law enforcement services for the City of Bingen for the years 2019 and 2020.

**INTERLOCAL AGREEMENT FOR LAW ENFORCEMENT SERVICES
FOR CITY OF BINGEN**

THIS INTERLOCAL AGREEMENT, made and entered into this ____ day of _____, 2018, by and between **THE CITY OF WHITE SALMON**, a municipal corporation of the State of Washington, hereinafter referred to as "White Salmon," and **THE CITY OF BINGEN**, a municipal corporation of the State of Washington, hereinafter referred to as "Bingen",

WITNESSETH:

WHEREAS, Bingen desires to contract with White Salmon, and its Police Department, hereinafter referred to as Bingen/White Salmon Police Department; to provide comprehensive law enforcement services within Bingen's corporate limits pursuant to terms and conditions below; and

WHEREAS, White Salmon, by and through the Bingen/White Salmon Police Department, wishes to perform law enforcement services for Bingen as set forth below; and

WHEREAS, such interlocal agreements are authorized by the provisions of RCW 39.34.010 et seq.;

NOW, THEREFORE,

1.0 Agreement to Provide Services

White Salmon, by and through its Chief of Police, agrees to provide law enforcement services for Bingen, within Bingen's corporate limits, which shall mean and include the delivery of the same quality and manner of service rendered by the Bingen-White Salmon Police Department ("BWSPD") within the City of White Salmon.

1.1 Customary Services

- a. Scope of Services. Unless otherwise specified and agreed to, the Bingen White Salmon Police Department shall deliver to the City of Bingen the same quality and manner of service rendered by the Bingen-White Salmon Police Department within the City of White Salmon in the areas of criminal law enforcement, and in response to emergency calls, routine patrols, investigation and enforcement of violations of the Washington State Criminal Code, Washington State Traffic Code as adopted by the City of Bingen, Bingen Criminal Codes or as otherwise agreed to within this contract; and as amended by addendum.
- b. Control. For the purpose of administering this contract, the Chief of Police shall have exclusive control of the Bingen-White Salmon Police Department's enforcement operations in the implementation of this contract. To ensure a smooth transition and implementation of this contract, White Salmon's Mayor and appointed administration agree to meet, and confer, with Bingen's selected

personnel on propositions that pertain to the level of service administered as provided for within this contract; and/or to deliberate new propositions as they would pertain to this contract. Upon initiating this agreement the parties agree to meet quarterly for the first year, and biannually every year after until this agreement is null and void. The Bingen Mayor and/or City Administrator may contact the Chief at anytime with concerns.

- c. Coverage. For the purpose of this section coverage shall mean; twenty-four (24) hour days, seven (7) days per week police coverage delivered in a manner as determined by Chief of Police. Law Enforcement services rendered shall be the same quality and manner as specified in section 1.1 (a) of this contract. Customary Law Enforcement coverage performed by the Bingen-White Salmon Police Department is;

- 1. Active duty personnel twenty (20) hours per day, seven (7) days per week.
- 2. On-call basis - four (4) hours per day, seven (7) days per week.

- d. Unforeseen Deficiency. In the event a temporary unforeseen deficiency in manpower, or other circumstances, interferes with the provisions established in section 1.1 (b) of this contract, Bingen's Mayor shall be notified as soon as reasonable possible. In the event a substantial unforeseen circumstance(s) which interfere with the provisions established in section 1.1 (b) of this contract, a prorated discount of the actual financial loss of service will be credited to the next billing cycle(s). In such cases Bingen's Mayor shall be notified immediately. For the purpose of this section, temporary shall mean no more than seven (7) days per month. Anything over 7 days is a substantial circumstance.

1.2 Enforcement of Non-Criminal and Non-Traffic Rules, Laws and Municipal Codes

The services provided for in this section are those services of non-criminal and non-traffic codes. White Salmon recognizes that criminal law enforcement services sometimes overlap with non-criminal and non-traffic services. In recognition of overlapping services the Bingen-White Salmon Police Department agrees to provide the following services as specified.

- a. Animal Control. Non-emergency calls will be referred to Bingen's contracted animal control. In the event animal control is not available the Bingen-White Salmon Police Department will respond based on officer's availability.
- b. Stopping, Standing or Parking Enforcement. The Bingen-White Salmon Police Department will provide enforcement of Bingen Municipal Code 10.14 Stopping, Standing or Parking Enforcement, including providing a minimum of an average of 24 hours per quarter enforcement; provided that the Bingen-White Salmon Police Department shall not be required to provide administrative follow-up, (i.e., beyond issuing a citation, the Bingen-White Salmon Police Department shall perform no administrative follow-up except to provide a copy of the citation to the Bingen City

Administrator) for violations of Bingen Municipal Code subsections 10.14.030 so long as the City of White Salmon has in effect an ordinance stating that the Bingen-White Salmon Police Department shall perform no more than the same administrative follow-up for the City of White Salmon for the same or similar categories of parking violations.

- c. The Bingen-White Salmon Police Department will provide enforcement, including the non-criminal and non-traffic provisions, of the following Bingen Municipal Codes: Chapter 8.16 Fireworks, Title 9 Peace, Morals and Welfare, and Title 10 Vehicles and Traffic, excluding section 10.05.

2.0 Payment

Basic Fee. As consideration for these services, Bingen shall pay White Salmon as follows:

- a. For the calendar year 2019 \$331,750 (three hundred thirty-one thousand seven hundred fifty dollars) and for the calendar year 2020 \$331,750 (three hundred thirty-one thousand seven hundred fifty dollars), plus an increase according to the following formula, as it appears in the Collective Bargaining Agreement for Uniformed Employees between the City of White Salmon for Police Officers and Sergeants for the period January 1, 2018 through December 31, 2020, as amended:

If the CPI is less than one percent (1%) for the year 2019, the contract price for 2020 shall increase one percent (1%);

If the CPI is more than one percent (1%) and less than four percent (4%) for the year 2019, the contract price for 2020 shall increase according to the increase of the CPI;

If the CPI is more than four percent (4%) for the year 2019, the contract price for 2020 shall increase four percent (4%).

- b. Beginning January 1st of each year of service the warrants shall be made payable to the City of White Salmon and be issued at the regularly scheduled Council meeting for the month in which the service is provided.

3.0 Term

- a. The duration of this agreement shall be for two (2) years beginning on January 1, 2019 and ending on December 31, 2020, unless sooner terminated by the written consent of both parties.
- b. Renewal of this contract shall be accomplished by August 31, 2020. Thereafter, the parties shall have no obligation to negotiate a renewal of this contract.

4.0 Indemnification

- a. White Salmon Indemnification. White Salmon acknowledges that, pursuant to the terms of this contract, White Salmon is totally responsible for the acts and omissions of its officers, officials and employees, and is responsible as an independent contractor for the safety of all persons and property in performing pursuant to this contract. White Salmon assumes the risk of all damages, loss, costs, penalties and expense and agrees to indemnify, defend and hold harmless Bingen, its officers, officials and employees, from and against any and all liability which may accrue to or be sustained by Bingen, or its officers, officials and employees, on account of any claim, suit or legal action made or brought against Bingen for the death or injury to persons (including White Salmon's employees) or damage to property involving White Salmon, arising out of any act or omission of White Salmon or any White Salmon employee in the performance of services performed hereunder. This indemnification extends to the officials, officers and employees of Bingen and also includes attorney's fees and the cost of establishing the right to indemnification herein in favor of Bingen. This indemnification does not extend to injuries or damages caused by the sole negligence of Bingen.
- b. Bingen Indemnification. Bingen acknowledges that pursuant to the terms of this contract, Bingen is totally responsible for the acts or omissions of its own officials, officers and employees. Bingen assumes the risk of all damages, loss, costs and penalties, and agrees to indemnify, defend and hold harmless White Salmon, its officers, officials and employees from and against any and all liability which may accrue to or be sustained by White Salmon on account of any claim, suit or legal action made or brought against White Salmon or its officers, officials and employees, for the death or injury to persons (including Bingen's employees) or damage to property involving Bingen, arising out of any act or omission of Bingen or any Bingen employee in the performance of law enforcement services. This indemnification extends to the officials, officers and employees of White Salmon and also includes attorney's fees and the cost of establishing the right to indemnification hereunder in favor of White Salmon. This indemnification does not extend to injuries or damages caused by the sole negligence of White Salmon.

5.0 Authority.

The parties agree that for all intents and purposes except for Section 4.0 Indemnification above, the Chief of Police for White Salmon is also the Chief of Police for Bingen, and with respect to law enforcement, is bound to the inter-local agreements signed by White Salmon. While performing said services under this contract, the Bingen-White Salmon Police Department personnel shall have all authority granted to police personnel of a non-charter code city under the laws of the State of Washington.

6.0 Materials.

All material needed to perform law enforcement services as specified in section 1.0 and 1.1 of this contract, and the expense of performing said services, shall be provided and paid by White Salmon. Such material includes, but is not limited to, vehicles, weapons, communication facilities and such other supplies needed by a law enforcement agency to carry out its normal functions.

7.0 Bingen to Cooperate.

Bingen and White Salmon agree to fully cooperate with each other in the performance of this contract and to furnish each other with any information each city may require in the course of the performance of this contract.

8.0 Prosecution.

All citations or complaints for violations of municipal ordinances, including state statutes involving infractions, misdemeanors and gross misdemeanors shall be filed in the Bingen Municipal Court and shall be prosecuted by Bingen.

9.0 Insurance.

White Salmon shall provide and maintain police professional liability insurance coverage with limits adequate to cover all foreseeable errors and omissions, and shall provide a copy of said policy to Bingen for its review and approval.

10.0 Reports.

White Salmon will provide Bingen with activity reports on a monthly basis. Such reports shall include the number and types of reported complaints, the type and quantity of arrests made within Bingen and any other information relevant to reporting criminal activity within Bingen. The Bingen-White Salmon Police Department Chief shall notify the Bingen Mayor and/or Bingen City Administrator as soon as possible when any officer's action would jeopardize the public safety or integrity of the City of Bingen.

11.0 Equal Opportunity Employer.

White Salmon covenants that it is an equal opportunity employer and shall comply with all relevant laws regarding law enforcement personnel.

12.0 Severability.

In the event of invalidity or irresolvable ambiguity of any provision of this contract, the remaining provisions shall nevertheless continue to be valid and enforceable.

13.0 Modifications.

No changes or modifications to this contract shall be valid or binding upon either party unless such changes or modifications be in writing and executed by both parties.

14.0 Attorney Fees.

If any suit or action is filed by any party to enforce or interpret a provision of this contract, or otherwise with respect to the subject matter of this contract, the prevailing party shall be entitled, in addition to other rights and remedies it might have, to reimbursement for its expenses incurred with respect to such suit or action, including court costs and reasonable attorney's fees.

15.0 Extraordinary Services.

The parties recognize that this contract is for the purpose of the Bingen-White Salmon Police Department providing law enforcement services to Bingen. The parties recognize that there may be certain circumstances or incidents in Bingen that require the use by the Bingen-White Salmon Police Department of exceptional and extraordinary resources. In recognition of these situations, Bingen agrees to pay for the actual exceptional and extraordinary resources rendered for such circumstances or incident.

It is contemplated by the parties that such an incident or set of circumstances will likely be quite rare. The situation would require the use of exceptional or extraordinary resources for an extended period of time. Possible circumstances or incidents are too varied to be listed. However, an example used by analogy would be the law enforcement services contract between the City of Stevenson and Skamania County where once, in no more than the last twenty years, the County billed for extraordinary expenses incurred, which expenses were related directly to preparing for and performing services at a protest demonstration at the Skamania Lodge.

16.0 Entity Providing Law Enforcement Services

The City of White Salmon shall notify the City of Bingen as soon as possible if the City of White Salmon contemplates having another entity provide law enforcements for the Bingen-White Salmon Police Department including on a temporary basis.

17.0 Entire Contract.

This contract is the entire agreement between the parties and supersedes all previous agreements or understandings between them. This contract may be modified only in writing, provided both parties have signed the amended document.

18.0 Choice of Venue.

This contract shall be governed by and construed under the laws of the State of Washington, and any action brought to enforce the terms of this contract shall be brought in the Superior Court of Klickitat County.

19.0 Filing Requirements.

Copies of this contract shall be filed with the Bingen City Administrator and per RCW 39.34.040 the Klickitat County Auditor.

20.0 Effective Date of Contract.

This contract shall take effect on the date set forth in paragraph 3, above.

21.0 Interlocal Agreement Representations

This is an interlocal agreement pursuant to RCW Ch 39.34 and the parties make the following representations:

- a. Duration. This AGREEMENT shall terminate on December 31, 2020 or sooner as provided in paragraph 3.0, above.
- b. Organization. No new entity will be created to administer this agreement.
- c. Purpose. The purpose is to enable Bingen to contract with White Salmon for law enforcement services.
- d. Manner of Financing. The parties intend to finance this agreement in cash as part of their general funds budgets.
- e. Termination of Agreement. The parties shall have the right to terminate this agreement as provided in paragraph 3.0, above.
- f. Other. All terms are covered by this Agreement. No additional terms are contemplated.
- g. Selection of Administrator. The White Salmon City Administrator shall be the Administrator for this Interlocal Agreement.
- h. Filing. Prior to its entry into force, this agreement shall be filed with the Klickitat County Auditor.

IN WITNESS WHEREOF, White Salmon has caused this Contract to be duly executed on its behalf, and thereafter Bingen has caused the same to be duly executed on its behalf.

CITY OF BINGEN,
A Municipal Corporation,

CITY OF WHITE SALMON,
A Municipal Corporation,

By: _____
Mayor

By: _____
Mayor

Attest:

Attest:

By: _____
City Clerk

By: _____
City Clerk

Approved as to form only:

Approved:

CHRISTOPHER LANZ
City Attorney
City of Bingen

MICHAEL HEPNER
Chief
Bingen-White Salmon Police Dept.

KENNETH B. WOODRICH
City Attorney
City of White Salmon