

RESOLUTION 2012-CC

**A RESOLUTION OF THE EATONVILLE TOWN COUNCIL TO AUTHORIZE THE
EXECUTION OF AN INTERLOCAL AGREEMENT WITH PIERCE COUNTY TO
PROVIDE COURT AND PROSECUTION SERVICES**

WHEREAS, the Town of Eatonville is required to prosecute criminal violations of the Eatonville Municipal Code that occur within the Town;

WHEREAS, the Council believes it is in the Town's best interests, both financially and practically, to contract with Pierce County under chapter 39.34 RCW to provide all prosecution and court services in lieu of municipal court; and

WHEREAS, Pierce County has provided the Town with an acceptable interlocal agreement to provide these services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Eatonville that the Mayor is authorized to execute on behalf of the Town the attached Interlocal Agreement with Pierce County for court and prosecution services.

Passed by the Council of the Town of Eatonville at a regular meeting this _____ day of April, 2012.

Raymond Harper, Mayor

ATTEST:

Chrystal McGlone, Town Clerk

APPROVED AS TO FORM:

Town Attorney

**AGREEMENT BETWEEN PIERCE COUNTY AND THE
TOWN OF EATONVILLE FOR PROSECUTION, DEFENSE, PROBATION
AND COURT SERVICES**

THIS AGREEMENT is entered into this day by and between PIERCE COUNTY, a political subdivision of the State of Washington (hereinafter referred to as "COUNTY") and the TOWN OF EATONVILLE, a municipal corporation of the State of Washington (hereinafter referred to as "TOWN") and is applicable to all properties located within the geographic area that constitutes the incorporated limits of the TOWN.

Whereas, in the year 1909, the Town of Eatonville became incorporated as a town and assumed authority and jurisdiction with respect to traffic infractions, non-traffic infractions, criminal traffic and criminal non-traffic misdemeanors and gross misdemeanor cases occurring within the Town's municipal boundaries; and

Whereas, the parties have determined that at this time it is in the best interest of the Town and the County for the County to continue to provide district court, prosecution and assigned counsel services to the Town; and

Whereas, RCW 39.34 allows for Agreements between Towns and Counties; and

Whereas, the County and the Town wish to cooperate with each other and enter into an agreement which will ensure the orderly disposition in Pierce County District Court of traffic infractions, criminal traffic cases and criminal non-traffic misdemeanors and gross misdemeanors which arise within the Town and are filed in District Court for the term of this Agreement; and

Whereas, the County and the Town desire to enter into such an agreement to, among other things, describe the district court, prosecution, assigned counsel and other services to be provided by the County, provide a mechanism for the Town involvement and review of County efforts undertaken pursuant to this Agreement and for other purposes as set forth herein.

Now, therefore, the County and the Town mutually agree as follows:

I. General

A. Purposes. The purposes of this Agreement are; to establish procedures for Town cases filed in Pierce County District Court for the term of this Agreement; to define the court, prosecution, probation and other services to be provided by the County to the Town for such cases; to establish a payment method for Town cases handled by the County; and to provide for an indemnity agreement.

B. Town Cases, Court, Prosecution and Other Services. The County shall provide court services for all Town cases filed during the term of this Agreement. All Town cases shall be filed in Pierce County District Court. The County shall provide court services for Town cases of the same type and level as the County provides for cases originating in unincorporated Pierce County.

1. Town Cases. Town cases shall include infractions, criminal traffic and criminal non-traffic misdemeanors and gross misdemeanors occurring within Town limits.
2. Municipal Court Services. Municipal court services include all court services imposed by state statute, court rule, Town ordinances, or other regulation as now existing or hereafter amended. The financial provisions set forth in Section D below, shall constitute full compensation for the municipal court services provided by the County to the Town.

Municipal court services the County shall provide to the Town are: The filing, processing, adjudication and penalty enforcement of all Town cases filed during the term of this Agreement in District Court, regardless of the year a final judgment is entered, including but not limited to issuance of search and arrest warrants; procedures for establishing bail; arraignments and plea hearings; pretrial motions and evidentiary hearings; discovery matters; notification and subpoenaing of witnesses and parties, where relevant; bench and jury trials; pre-sentence investigations; sentencing; post trial motions; the duties of courts of limited jurisdiction regarding appeals; and all other court functions as they relate to Town cases filed in District Court. The County shall provide all necessary judicial and clerical personnel to perform such services in a timely manner as required by law and court rule.

3. Town Prosecution Services. All Town cases covered by this Agreement shall be reviewed, filed and prosecuted by the Office of the Pierce County Prosecutor. The Prosecutor's Office shall have

final case disposition authority of all cases except that, at the Town's sole discretion, the Town Attorney shall be authorized to directly prosecute any infraction or criminal matter which arises within the Town. If the Town Attorney notifies the Office of the Prosecuting Attorney within 15 days of the filing of a particular case that the Town Attorney is assuming responsibility for that case, the Prosecutor's Office shall be relieved of any further responsibility for the case. For cases prosecuted by the Office of the Prosecuting Attorney, the Town Attorney may indicate an interest in a particular case or express an opinion about a proposed disposition. The Office of the Prosecuting Attorney shall consider such interest or opinion but shall retain sole discretion as to whether and how to prosecute the case.

4. Town Responsible for Code Enforcement. The Town shall be responsible for providing a prosecutor to handle Town code enforcement cases. The Office of the Prosecuting Attorney shall not be responsible for prosecuting such offenses. The Court shall make an effort to reasonably accommodate the schedule of the Town Attorney in setting such contested hearings on code enforcement cases. For the purposes of this section, "code enforcement" shall mean violations other than Titles 9 and 10 of the Eatonville Municipal Code.
5. Other Services. The County shall provide assigned counsel and interpreter, and all other services necessary for the defense, handling and disposition of Town cases filed in the District Court during the term of this Agreement. Probation services will be provided for Town cases and shall be paid by Town defendants receiving said services.
6. Prisoner Transport. This agreement does not cover costs for prisoner transport.

C. Property. This Agreement does not provide for the acquisition, holding or disposal of real or personal property.

D. Financial Provisions. In consideration for the County providing all the services to the Town set forth in this Agreement, the Town shall make the following annual payments to the County:

Beginning May 1, 2012, the Town shall pay the County the pro-rated total annual sum of \$45,950.

Beginning January 1, 2013, the Town shall pay the County the total annual sum of \$68,925, plus an increase equal to the percent change in the County benefits costs to include Cost of Living, Medical, Dental and Retirement.

Beginning in 2014, the Town shall pay the County the total annual sum of \$68,925, plus the cumulative increase equal to the percent change in the County benefits costs to include Cost of Living, Medical, Dental and Retirement.

Beginning in 2015, the City shall pay the County the total annual sum of \$68,925, plus the cumulative increase equal to the percent change in the County benefits costs to include Cost of Living, Medical, Dental and Retirement.

The County shall invoice the Town in January, April, July and October for each of the above years. The Town shall pay the County prior to the end of the following months: February, May, August and November. Payments that are not paid within the allotted time period shall be considered delinquent. Delinquent charges shall accrue interest on the unpaid balance, from the date of delinquency until paid, at an interest rate of one-half of one percent (.5%) per month, PROVIDED that the accrual of interest on unpaid balances shall not apply to the first three quarters of 2012.

In addition to the quarterly payments set forth above, the County shall be able to retain all fees, costs, penalties and fines, except court-ordered restitution, imposed on all Town cases filed in the District Court during the term of the Agreement. Provided, that the Town shall be entitled to retain all fees, costs, penalties and fines with respect to any Town case for which the Town Attorney has assumed responsibility pursuant to Section I(B)(3).

E. Limitation of Financial Obligations. It is the parties' intent to provide compensation to the County solely as set forth in Section D above. Except as provided in Section D, the Town shall not be billed for any other fee or cost associated with the filing, adjudication, administration, prosecution, or defense of Town cases. Costs for jail and work release are specifically excluded from this Agreement. The Town and the County shall enter a separate agreement whereby the Town shall compensate the County for the costs associated with the detention of prisoners held on Town charges.

F. Agreement Administration and Dispute Resolution. The County shall designate an employee representative for the various departments that will be providing the services contemplated herein to act as a liaison with the Town to handle daily administration of this Agreement. The Town shall also designate one or more liaisons for the various services described herein. Each party shall notify the other in writing of its designated representatives for the various services. County liaisons shall meet with the Town liaisons on a regular or on an

"as needed" basis, whichever the liaisons deem appropriate, to discuss questions and resolve problems regarding the delivery of services and activities to be performed under this Agreement. Any operational conflict that is not resolved by the liaison committee shall be referred to the Town Manager and the County Executive.

Any controversy or claim arising out of or relating to this Agreement or the alleged breach thereof that cannot be resolved, shall be submitted to binding arbitration in accordance with the rules and procedures set forth in Chapter 7.04 RCW, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

II. Additional Terms

A. Monthly Reports. Each month the County shall provide the Town with a report which summarizes court activity during the preceding month. The monthly report will contain all information about Town cases which the County compiles for the Office of the Administrator of Courts. In addition, the monthly reports shall contain data about the amount of fines and forfeitures collected by the County for infractions and complaints.

B. Town's Responsibility to Adopt Certain Pierce County Criminal Ordinances. Upon notice to the Town from the County, the Town shall promptly consider whether to adopt by reference any criminal offense which is created by County Ordinance.

C. Town May Create Its Own Court. Nothing in this Agreement shall be construed as precluding the Town from creating its own municipal court pursuant to state law.

D. Authorization to Act. Pierce County, its employees, agents and third parties with whom the County may contract are authorized to prosecute and defend Town cases as set forth in this Agreement.

III. Indemnification

A. Liability. In executing this Agreement, the County does not assume liability or responsibility for or in any way release the Town from any liability or responsibility which arises in whole or in part from: (1) The existence or effect of any Town ordinance; or (2) any prosecution by the Town Attorney. To the extent that any cause, claim, suit, action or administrative proceeding involves the enforceability and/or validity of any such ordinance or prosecution, the Town shall defend the same at its sole expense and if judgment is entered or damages

are awarded against the Town, the County, or both, the Town shall satisfy the same, including all chargeable costs and attorney's fees.

B. Indemnification. The County shall indemnify, defend and hold harmless the Town, its officers, agents and employees, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatever, including those involving injuries, sickness or death of persons (including employees of the Town), or damage to property, or the violation of any person's civil rights, and including costs and attorneys fees in defense thereof, which are caused by or arise out of the County's acts, errors or omissions with respect to the subject matter of this Agreement, or any act or omission of any agent retained by or contracted with by the County to provide services covered by this Agreement provided, however, that:

1. The County's obligation to indemnify, defend and hold harmless shall not extend to claims, actions, suits, liability, loss, costs, expenses, and damages that arise from the existence or effect of Town ordinances, rules, regulations or policies; and
2. The County's obligation to indemnify, defend and hold harmless for claims, actions, suits, liability, loss, costs, expenses, and damages caused by or resulting from the concurrent actions or negligence of the County or its agents and the Town or its agents shall apply only to the extent that the County's or its agents actions or negligence caused or contributed thereto.

The Town shall indemnify, defend and hold harmless the County, its officers, agents and employees, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatever, including those involving injuries, sickness or death of persons (including employees of the County), or damage to property, or the violation of any person's civil rights, and including costs and attorneys fees in defense thereof, which are caused by or arise out of the Town's acts, errors or omissions with respect to the subject matter of this Agreement, or any act or omission of any agent retained by or contracted with by the Town to provide services covered by this Agreement provided, however, that:

1. The Town's obligation to indemnify, defend and hold harmless shall not extend to claims, actions, suits, liability, loss, costs, expenses, and that arise from the

existence or effect of County ordinances, rules, regulations or policies; and

2. The Town's obligation to indemnify, defend and hold harmless for claims, actions, suits, liability, loss, costs, expenses, and damages caused by or resulting from the concurrent actions or negligence of the Town or its agents and the County or its agents shall apply only to the extent that the Town's or its agents actions or negligence caused or contributed thereto.

C. No Third-Party Beneficiary. The County does not by this Agreement assume any contractual obligations to anyone other than the Town and the Town does not assume any contractual obligations to anyone other than the County. The County and the Town expressly eliminate any third-party beneficiary to this Agreement.

D. No Employment Relationship. Each party to this Agreement shall be and remain exclusively responsible for its own employees, agents, contractors and subcontractors. Nothing herein shall be construed as creating an employment relationship between the County and any employee of the Town, or between the Town and any employee of the County.

IV. Termination Provisions

A. Term of Agreement. The initial term of this Agreement shall be thirty-two (32) months commencing at 12:00 a.m., May 1, 2012 and terminating at 12:00 a.m., December 31, 2015. Nothing in this section precludes the parties from renegotiating and amending the terms and conditions of this Agreement, including duration and compensation, prior to the termination. However, the parties acknowledge that renegotiation of this Agreement may include a price escalation depending on actual cases processed and the cost of processing those cases.

B. Process for Termination. Any termination of this Agreement shall be in conformance with the provisions of RCW 3.50.810 under which Notice of Intention to Terminate the Agreement must be provided no later than February 1, 2013. In such event, this Agreement would terminate effective December 31, 2014. In the event that the Agreement is to be terminated, then the parties agree that they will work cooperatively to facilitate an orderly and effective transfer of responsibility.

V. Recording or Filing. Pursuant to RCW 39.34.040, a copy of this Agreement shall be filed with the Pierce County Auditor or listed by subject on the website of either or both parties.

VI. Signature and Date

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day of _____, 2012.

TOWN OF EATONVILLE:

PIERCE COUNTY:

Town Mayor Date

Pat McCarthy Date
County Executive

Attest:

Town Clerk Date

District Court Administrator Date

Approved as to Form:

Budget & Finance Date

Town Attorney Date

Approved as to Form:

Deputy Prosecuting Attorney Date

Municipal Court Costs vs Revenues

Budget Year	Revenues	Expenditures	Deficit
2008	\$56,201.13	\$70,657.30	(\$14,456.17)
2009	\$36,857.83	\$74,992.15	(\$38,134.32)
2010	\$28,707.88	\$76,683.81	(\$47,975.93)
2011	\$30,884.08	\$69,235.29	(\$38,351.21)
current 2012	\$10,287.20	\$30,475.99	(\$20,188.79)

**Revenues include court fines, court administrative fees and fees from home monitoring

**Expenditures include court budget, prosecuting attorney services, indigent legal services and jail costs