

RESOLUTION 2018-Q

**A RESOLUTION OF THE EATONVILLE TOWN COUNCIL AUTHORIZING
THE RENEWAL OF A LEASE AGREEMENT WITH PIERCE COUNTY**

WHEREAS, on February 11, 2013, the Town of Eatonville entered into a lease agreement with Pierce County; and

WHEREAS, the Town has proposed a 5% yearly increase to cover costs; and

WHEREAS, both parties are in agreement to renew the lease agreement for a term of five (5) years; now, therefore;

**THE TOWN COUNCIL OF THE TOWN OF EATONVILLE,
WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

Section 1. The Mayor is authorized to execute on behalf of the Town the attached Lease Agreement with Pierce County.

PASSED by the Town Council of Town of Eatonville and attested by the Town Clerk in authentication of such passage this ____ day of July, 2018.

Mike Schaub, Mayor

ATTEST:

Kathy Linnemeyer, Town Clerk

LEASE AGREEMENT

This Lease Agreement (“Lease”) is entered into as of the Effective Date (defined in Section 24 below) by and between the Town of Eatonville, a Washington municipal corporation (hereinafter “Town”), and Pierce County, a municipal corporation and political subdivision of the state of Washington (hereinafter “County”). Together, Town and County shall be collectively referred to as the “Parties.” The Parties hereby agree as follows:

1. **PREMISES.** Town, in consideration of the lease payments provided in this Lease, hereby leases to County approximately 1,200 square feet of office space, along with approximately 491 square feet of common and shared spaces (collectively the “Premises”) as depicted in attached Exhibit A, Floor Plan. Premises are located at 201 Center Street West, Eatonville, Washington 98328. The Parties agree that the Floor Plan depicted in **Exhibit A** represents an adequate layout of ~~how~~ the Premises ~~will be configured after the remodel described in Section 2 below.~~ The portion of the area that will be leased to County is the entire area **except** for the following rooms, also depicted in Exhibit A: Eatonville Police Department Evidence, Police and Archive areas and the two closets (denoted as “CL”) in the southwest corner of the floor.

~~2. **REMODEL.** The Town agrees to remodel the leased premises to a design substantially similar to the layout depicted in Exhibit A. The Town shall have the exclusive right to manage the procurement and construction management of the remodel. The Parties agree that upon substantial completion of the remodel project and acceptance by County, County will remit to the Town a lump sum payment not to exceed Forty Thousand Dollars and No/100 (\$40,000) Dollars. Estimated project costs and time schedules are set forth in attached Exhibit B. Payment shall be due not later than thirty (30) calendar days following final acceptance of the project by the Town Council.~~

~~3.2. **TERM/RENEWAL.** The Lease term will be for five (5) years with a 5% increase each year. and begin only after the remodel described in Paragraph 2 is completed. Specifically, County shall have right to occupancy on the first business day (Monday, Tuesday, Wednesday, Thursday, or Friday that is not a legal holiday defined by RCW 1.16.050) following final acceptance of the project by the Town Council. The first day of the first term shall be the first day of occupancy by the County. This Lease shall automatically renew for an additional period of twelve (12) months per renewal term unless either Party gives written notice of termination not later than ninety (90) days prior to the end of the term or renewal term. The Lease terms during any such renewal term shall be the same as those contained in this Lease, PROVIDED that the Parties shall renegotiate the rent amount at the conclusion of the initial term of this Lease.~~

~~4.3. **LEASE PAYMENTS.** County shall pay to Town the following amounts for annual each year of this Lease:~~

YEAR 1 \$30,000/year; ~~\$2,500~~2,625/month

YEAR 2 \$30,000/year; ~~\$2,500~~2,756/month

YEAR 3 \$30,000/year; \$~~2,500~~2,894/month

YEAR 4 \$30,000/year; \$~~2,500~~3,039/month

YEAR 5 \$30,000/year; \$~~2,500~~3,191/month

Rent shall be paid in monthly installments of not less than One-Twelfth (1/12) of the annual rent amount, and shall be paid and delivered to Town on or before the first day of each month. Lease payments shall be made to the Town at P.O. Box 309, Eatonville, Washington 98328, which address may be changed from time to time by the Town pursuant to the notice provisions in this Lease.

~~5.4.~~ **SECURITY DEPOSIT.** At the time of the signing of this Lease, County shall pay to Town, in trust, a security deposit of \$0.00 to be held and disbursed for County damages to the premises (if any) as provided by law.

~~6.5.~~ **POSSESSION.** County shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Town at the termination of this Lease and/or any renewal thereof. The County shall remove its goods and effects and peaceably yield up the Premises to Town in as good a condition as when delivered to County, ordinary wear and tear accepted.

~~7.6.~~ **EXCLUSIVITY/USE.** Town hereby gives the County the right to use the Premises for purposes of performing the functions of the Office of the Sheriff as delineated in chapter 36.28 RCW, and related and incidental purposes.

~~8.7.~~ **PARKING.** County shall be entitled to use eight (8) parking spaces for the parking of County's employees, which are identified in Exhibit C, Parking, and shall be marked as Reserved for Pierce County Sheriff's Office.

~~9.8.~~ **PROPERTY INSURANCE.** Town and County shall each maintain appropriate insurance for their respective interests in the Premises (which may be satisfied through self insurance) and property located on the Premises. Town shall be named as an additional insured in any such policies. County shall deliver appropriate evidence to Town as proof of its intention to self-insure or that adequate insurance is in force issued by companies reasonably satisfactory to Town. Town shall receive advance written notice from the insurer prior to any termination of such insurance policies. County shall also maintain any other insurance which Town may reasonably require for the protection of Town's interests in the Premises. County is responsible for maintaining casualty insurance on its own property.

~~10.9.~~ **LIABILITY INSURANCE.** County shall maintain liability insurance (which may be satisfied by proof of self-insurance) on the Premises in a total aggregate sum of at least one million dollars. County shall deliver appropriate evidence to Town as proof of its intention to self-insure or that adequate insurance is in force issued by companies reasonably satisfactory

to Town. Town shall receive advance written notice from the insurer prior to any termination of such insurance policies.

~~11.~~10. **MAINTENANCE, UTILITIES AND SERVICES.** Town shall maintain the entire building in which the leased premises are situated, including its roof, walls, foundation and structural components, its public and common areas, such as lobbies, stairs, elevators, corridors and rest rooms, the land on which the building is situated including public and common areas such as the parking lot and landscaped areas, the heating and air conditioning systems, pipes and outside pipe drains and other conduits, and electrical wiring and conduits in good order and condition except for damage occasioned by the act or omission of County, the repair of which damage shall be paid for by the County.

Town shall furnish the leased premises with electrical for lighting and the operation of low power usage office machines, water, sanitary sewers or septic systems, heating and elevator service during the ordinary business hours of the building. Lessor shall also provide light replacement service for the Town-furnished lighting, toilet room supplies, window washing at reasonable intervals, parking lot striping and landscaping maintenance, including resurfacing, painting, restriping, sweeping and snow removal and customary building janitorial service.

~~12.~~11. **TAXES.** Town shall be responsible for all taxes, if any, assessed to the Property.

~~13.~~12. **DESTRUCTION OR CONDEMNATION OF PREMISES.** If the Premises are partially destroyed by fire or other casualty to an extent that prevents the conducting of County's use of the Premises in a normal manner, and if the damage is reasonably repairable within sixty (60) days after the occurrence of the destruction, and if the cost of repair is less than \$50,000.00, Town shall repair the Premises in a just proportion of the Lease payments shall abate during the period of the repair according to the extent to which the Premises have been rendered unusable. However, if the damage is not repairable within sixty (60) days or if the cost of repair is greater than \$50,000.00, or if Town is prevented from repairing the damage by forces beyond Town's control, or if the property is condemned, this Lease shall terminate upon twenty (20) days written notice of such event or condition by either Party and any unearned rent paid in advance by County shall be apportioned and refunded to it. County shall give Town immediate notice of any damage to the Premises.

~~14.~~13. **DEFENSE/INDEMNIFICATION.** The County shall defend, indemnify and save harmless the Town, its officers, employees and agents from any and all costs, claims, judgments, or awards or damages, arising out of the use of the Premises by the County or County's agents, employees, or invitees. Separately, County agrees to indemnify Town for any property damage to the Premises except when such damage is caused by the negligent acts or omissions by any employee, official, or volunteer of the Town operating in the course of scope of employment.

~~15.~~14. **DEFAULTS.** County shall be in default of this Lease if County fails to fulfill any Lease obligation or term by which County is bound. Subject to any governing provision of law to the contrary, if County fails to secure any financial obligation within five (5) days, (or any other obligation within ten (10) days) after written notice of such default is provided by Town to

County, Town may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Town's right to damages. In the alternative, Town may elect to cure any default and the cost of such action shall be added to County's financial obligations under this Lease. County shall pay all costs, damages and expenses, including reasonable attorney fees and expenses) suffered by Town by reason of County's defaults. All sums of money or charges required to be paid by County under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent." The rights provided by this Paragraph are accumulative in nature and are in addition to any other rights afforded by law.

~~16.15.~~ **Nonappropriation of Funds.** County intends to seek the appropriation of funds in the annual Pierce County Budget Appropriations Ordinance for amounts to be paid in each subsequent fiscal period covered by this Lease. If for any reason funds are not appropriated for County to pay amounts to be paid under the terms of this Lease in any future fiscal period, this Lease shall automatically terminate, County shall not be obligated to pay any amount falling due hereunder after the fiscal period for which funds have been appropriated, and neither party shall have any further rights or obligations hereunder. Any such nonpayment of amounts due under this Lease as a result of any failure of the Pierce County Council to appropriate funds for any subsequent fiscal period shall not give rise to or constitute a default hereunder or constitute the basis of any claim by Town against County. County agrees to notify Landlord in writing within ten (10) business days of any failure of the Pierce County Council to appropriate funds for a future fiscal period covered by this Lease.

~~17.16.~~ **LATE PAYMENTS.** For any payment that is not paid within ten (10) days after its due date, County shall pay a late fee of \$500.00.

~~18.17.~~ **CUMULATIVE RIGHTS.** The rights of the Parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

~~19.18.~~ **NOTICE.** Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by U.S. mail, postage prepaid, addressed as follows:

TOWN

Town of Eatonville
Attention: Mayor or Town Administrator
P.O. Box 309
Eatonville, Washington 98328

COUNTY

Pierce County Sheriff
Sheriff Headquarters
County-City Building, First Floor
930 Tacoma Avenue South
Tacoma, Washington 98402

Such addresses maybe changed from time to time by any Party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after being postmarked. Either Party may consent to electronic notice, by first providing written notice under the provisions of this section.

20.19. **GOVERNING LAW.** This Lease shall be construed in accordance with the laws of the State of Washington. Any civil action to enforce the provisions of this Lease shall be litigated in the Pierce County Superior Court.

21.20. **ENTIRE AGREEMENT.** This Lease Agreement contains the entire agreement of the Parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the Party obligated under the amendment, pursuant to authority vested by the appropriate governing body.

22.21. **SEVERABILITY.** If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

23.22. **WAIVER.** The failure of either Party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

24.23. **EFFECTIVE DATE.** The Effective of this Lease shall be the date the County's Executive has signed this Lease as indicated opposite her signature below.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have executed this Agreement this _____ day
of _____, 2018.

PIERCE COUNTY:

Approved As to Legal Form Only:

Prosecuting Attorney Date

Recommended:

Budget and Finance Date

Approved:

Department Director Date
(less than \$250,000)

Or

By _____
Pierce County Executive Date

TOWN OF EATONVILLE

Mayor Mike Schaub Date

Mailing PO Box 309
Address: Eatonville, WA 98328

Phone: (360) 832-3361
Fax: (360) 832-3977

Approved As to Legal Form Only:

Town Attorney Date