

Adopted: 4/07/2017

Effective: 4/17/2017

1 SNOHOMISH COUNTY COUNCIL
2 SNOHOMISH COUNTY, WASHINGTON

3
4 ORDINANCE NO. 17-011

5
6 APPROVING AND AUTHORIZING THE COUNTY EXECUTIVE TO EXECUTE
7 AN INTERLOCAL AGREEMENT BY AND BETWEEN THE CITY OF BOTHELL
8 AND SNOHOMISH COUNTY FOR SURFACE WATER MANAGEMENT
9 BILLING SERVICES

10
11 WHEREAS, Chapter 39.34 RCW, the Interlocal Cooperation Act,
12 authorizes public agencies, including cities and counties, to enter into
13 cooperative agreements to make the most efficient use of their respective
14 resources; and

15
16 WHEREAS, Snohomish County (the "County") and the City of Bothell (the
17 "City") recognize the need for comprehensive surface water management to
18 preserve and protect the environment, public and private property and the health
19 and welfare of its citizens; and

20
21 WHEREAS, the County has systems, staffing, and workflows in place for
22 billing surface water management service charges which can be used for another
23 jurisdiction's billing when an interlocal agreement is entered into for that purpose;
24 and

25
26 WHEREAS, the City represents that it has adopted legislation authorizing
27 the City to enter an agreement whereby the County will provide surface water
28 management billing services to the City; and

29
30 WHEREAS, the City represents that it has adopted legislation that
31 establishes a surface water management program and service charges related to
32 that program; and

33
34 WHEREAS, the City and the County are the parties to that certain
35 Interlocal Agreement between Snohomish County and the City of Bothell, dated
36 May 4, 2015, and published on the Snohomish County Interlocal Agreement
37 website (the "2015 ILA") which governed the provision of surface water
38 management billing services by County;

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40 WHEREAS, the City and the County intend that the agreement that is
41 attached to this ordinance as Exhibit A shall replace and supersede the 2015
42 ILA; and

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44 WHEREAS, the City desires to have the County continue to perform
45 surface water management billing services for the City, and the County agrees to

1 perform said services, as described in the agreement attached as Exhibit A to
2 this ordinance; and

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4 WHEREAS, the County Council held a public hearing on April 5,
5 2017, to consider approving and authorizing the County Executive to sign the
6 agreement attached as Exhibit A to this ordinance on the County's behalf;

7
8 NOW, THEREFORE, BE IT ORDAINED:

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10 Section 1. The County Council hereby adopts the foregoing recitals as
11 findings of fact and conclusions as if set forth in full herein.

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13 Section 2. The County Council hereby approves and authorizes the
14 County Executive to execute the Interlocal Agreement for Surface Water
15 Management Billing Services in the form attached hereto as Exhibit A.

16
17
18 PASSED this 5th day of April, 2017.

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21
22 ATTEST:

23
24 M. Elene

25
26 Clerk of the Council, Asst.

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28
29 SNOHOMISH COUNTY COUNCIL
30 Snohomish County, Washington

31
32 [Signature]

33
34 Chairperson

35
36
37 (X) APPROVED
38 () EMERGENCY
39 () VETOED

40
41
42 DATE: 4/2/17

43
44 [Signature]

45
County Executive

ATTEST:

Core E. Palmer

Approved as to form only:

[Signature] 2/1/17
Deputy Prosecuting Attorney

D-20

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EXHIBIT A
to
ORDINANCE NO. 17-011

INTERLOCAL AGREEMENT FOR SURFACE WATER MANAGEMENT
BILLING SERVICES

EXHIBIT A

INTERLOCAL AGREEMENT FOR SURFACE WATER MANAGEMENT BILLING
SERVICES

This INTERLOCAL AGREEMENT FOR SURFACE WATER MANAGEMENT BILLING SERVICES (this "Agreement") is made and entered into as of this 7th day of April, 2017, by and between the **CITY OF BOTHELL**, a Washington municipal corporation (the "City"), and **SNOHOMISH COUNTY**, a political subdivision of the State of Washington (the "County").

RECITALS

WHEREAS, the City recognizes the need for comprehensive surface water management to preserve and protect the environment, public and private property and the health and welfare of its citizens; and

WHEREAS, the City lies along the King County-Snohomish County line meaning that a portion of the City is located in King County and a portion in Snohomish County; and

WHEREAS, this Agreement only relates to that portion of the City located within Snohomish County; and

WHEREAS, the City represents that it has adopted the necessary legislation authorizing the City to enter into this Agreement and to establish a surface water management program and service charge; and

WHEREAS, the County has systems, staffing and workflows in place for billing surface water management service charges which can be used for another jurisdiction's billing when an interlocal agreement is entered into for that purpose; and

WHEREAS, Chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes public agencies, including cities and counties, to enter into cooperative agreements with one another to make the most efficient use of their respective resources; and

WHEREAS, the City and the County are the parties to that certain Interlocal Agreement between Snohomish County and the City of Bothell, dated May 4, 2015, and published on the Snohomish County Interlocal Agreement website (the "2015 ILA"), which has been renewed on an annual basis through calendar year 2016; and

WHEREAS, the City now desires to have the County continue to perform surface water management billing services for the City, and the County agrees to perform said services, all under the terms and conditions described in this Agreement; and

WHEREAS, the City and the County intend that this Agreement shall replace and supersede the 2015 ILA. Accordingly, if and when this Agreement becomes effective, the 2015 ILA shall immediately terminate and be of no further force or effect;

AGREEMENT

NOW, THEREFORE, in consideration of the agreement set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1. PURPOSE AND ADMINISTRATION

1.1 Purpose of Agreement

This Agreement is authorized by and entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW. The purpose and intent of this Agreement is for the County to perform surface water management billing and collection services for properties located within the incorporated limits of the City and within the County. The Agreement establishes a means whereby the County can act as the City's agent in performing the services. The City shall cooperate with the County to the extent reasonably necessary for accomplishing the services, and shall reimburse the County for the County's costs incurred in performing the services, as more fully described in Section 4 below. The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement. Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either party in connection with the performance of this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

1.2 Administrators

Each party to this Agreement shall designate an individual (an "Administrator"), which may be designated by title or position, to oversee and administer such party's participation in this Agreement. The parties' initial Administrators shall be the following individuals:

City's Initial Administrator:

Kristin Terpstra
City of Bothell
Department of Public Works
18415 101st Ave Ne
Bothell, WA 98011
Telephone: (425) 806-6791
Facsimile: (425) 806-6130
Email: Kristin.Terpstra@bothellwa.gov

County's Initial Administrator:

Kent Barbeau
Snohomish County
Department of Public Works SWM
3000 Rockefeller Avenue M/S 607
Everett, Washington 98201
Telephone: (425) 388-6459
Facsimile: (425) 388-6455
Email: Kent.Barbeau@snoco.org

Either party may change its Administrator at any time by delivering written notice of such party's new Administrator to the other party.

1.3 Condition Precedent to Effectiveness

As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it has been: (i) duly executed by both parties; and (ii) either filed with the County Auditor or posted on the County's Interlocal Agreements website.

2. TERM

This Agreement shall govern services provided from January 1, 2017 (the "Commencement Date") through December 31, 2026 (the "Expiration Date"); PROVIDED, HOWEVER, that the County's obligations after December 31, 2017, are contingent upon local legislative appropriation of the necessary funds for this specific purpose in accordance with the Snohomish County Charter and applicable law. The term of the Agreement shall be the period between the Commencement Date and the Expiration date (the "Term").

3. SERVICE CHARGE BILLING AND COLLECTIONS SERVICES

3.1 Service Charges

Chapter 18.10 of the Bothell Municipal Code ("BMC") imposes on real property located within the City certain service charges (the "Service Charges") to fund the City's storm and surface water management utility. Each calendar year during the Term of this Agreement, the City shall have the option to instruct the County to handle for the City billing and collection of the Service Charges, as more fully described in this Section 3. The City shall at all times remain responsible for establishing rates for the Service Charges.

3.2 County Responsibilities

- (i) The County will maintain customer information systems as necessary to provide for Service Charges billing and collection.
- (ii) The County shall collect Service Charges from real property owners within the incorporated limits of the City and lying within Snohomish County using a combined property tax and surface water billing statement in accordance with rate categories provided by the City based upon the assigned category and property characteristics adopted in the BMC, PROVIDED, HOWEVER, if approved by the County Assessor, real property owned by low income senior citizens or disabled persons, shall be exempt from Service Charges as long as the County provides such exemptions. The County shall not bill or collect Service Charges for public rights-of-way, federal real property, and real property without a Snohomish County tax parcel number.
- (iii) The County shall deposit the Service Charges into a separate account and will disburse the Service Charges to the City, less any accrued interest, in accordance with Section 3.4 of this Agreement.

- (iv) The County, through its Surface Water Management Division, shall provide the City with information about accounts three full years delinquent (the “Delinquent Accounts”) by the end of each year.
- (v) The County shall respond to ratepayer inquiries regarding processes within the County’s control and refer to the City all other customer service inquiries related to billing and revenue collection for City property owners.
- (vi) The County may provide other incidental services that are reasonably related to the billing and collection of the Service Charges as requested by the City and determined appropriate by the County.

3.3 City Responsibilities

- (i) For each calendar year during the Term of this Agreement, the City shall ensure it has provided legal authority for this Agreement by enacting legislation which:
 - (a) Authorizes the County to collect Service Charges from owners of real property located in the City; and
 - (b) Permits the County to act as the City’s agent for collecting the Service Charges and providing related services.
- (ii) On or before December 1 of each calendar year during the Term of this Agreement, the City shall provide to the County the rate structure for the Service Charges as adopted in the BMC for the following calendar year. The City’s rate categories shall be based upon the assigned category and property characteristics as adopted in the BMC and be compatible with County computer systems. The City shall exempt properties owned by low income senior citizens or disabled persons from Service Charges, if approved by the County Assessor for a property tax exemption, as long as the County provides such exemptions. The City further agrees that if a senior citizen/disabled person exemption is cancelled after the date of mailing of the combined property tax and surface water billing statement, the change in exemption status will not go into effect until the following year.
- (iii) The City shall respond to ratepayer inquiries regarding service charges and processes within the City’s control.
- (iv) Upon receiving information from the County about the Delinquent Accounts as provided in section 3.2(iv) above, the City shall, within sixty (60) days, furnish the County with a written authorization to remove the Delinquent Accounts from the tax rolls and to cease collection efforts. Thereafter, the City shall be responsible for all actions against Delinquent Accounts. The County shall retain any interest or penalties collected by the County prior to removing the Delinquent Accounts from the tax rolls.

- (v) The City shall be responsible for billing and collecting Service Charges for public rights-of-way, federal real property, and real property without a Snohomish County tax parcel number.
- (vi) For each calendar year during the Term of this Agreement, the City shall pay to the County an Annual Service Fee as defined in Section 4 below.

3.4 Delivery of Service Charges

In any calendar year for which the County collects Service Charges for the City, the County shall deliver to the City the Service Charges it collects, without any accrued interest, according to the following schedule, or such other schedule as the parties may agree upon:

- (i) By May 31, the County shall deliver to the City all Service Charges collected for the months of January, February, March and April.
- (ii) By August 31, the County shall deliver to the City all Service Charges collected for the months of May, June and July.
- (iii) By November 30, the County shall deliver to the City all Service Charges collected for the months of August, September and October.
- (iv) By January 31 of the following calendar year, the County shall deliver to the City all Service Charges collected for the months of November and December.

4. COMPENSATION

4.1 County Estimate of Annual Service Fee

The City shall reimburse the County for all reasonable costs and expenses incurred by the County related to the billing and collection of Service Charges (the “Annual Service Fee”) under this Agreement. On or before June 30 of each calendar year during the Term of this Agreement, the County shall deliver to the City a written non-binding estimate (the “Estimate”) of the Annual Service Fee for the following calendar year. The Estimate shall describe in reasonable detail the amount of time anticipated to be spent by the County on services and the cost of any material or equipment expected to be used by the County in performing its obligations under this Agreement.

4.2 City Response to the County Estimate

The City may respond to the Estimate within thirty (30) days by delivering written notice to the County identifying any errors or omissions contained in, or other corrections needed to, the Estimate.

4.3 Invoicing and Payment

On or before June 30 of each calendar year during the Term of this Agreement, the County shall submit an invoice for the Annual Service Fee to the City. The invoice shall describe in reasonable detail the amount of time spent by the County on services and the cost of any material or equipment used by the County in performing said services for the preceding calendar year. The City shall pay the invoice within thirty (30) days of receiving same. The invoice shall be sent to the following address:

City of Bothell
Department of Public Works
18415 101st Ave. NE
Bothell, WA 98011
Attn: Kristin Terpstra, PE

4.4 Invoice Dispute and Remedy

The City shall respond in writing to the County within ten (10) days of receiving the County invoice advising the County of any errors or omissions contained in, or other corrections needed to, the invoice. The County shall respond to each City concern with sufficient documentation to support the charge or adjust the invoice if it is in error. The County shall provide explanation where charges deviate from the estimate. When the City and County have agreed that charges listed in the invoice or adjusted charges accurately represent the true cost of reimbursement, the City shall have thirty (30) days to pay the revised invoice.

4.5 Combined Property Tax and Surface Water Billing Statement

The County's combined property tax and surface water billing statements (the "Tax Statement") contains all taxes and charges levied or otherwise imposed on a subject parcel by all taxing jurisdictions within a tax code area. The form of Tax Statement has a line item limit to the number of taxes and charges that can appear on a single page Tax Statement. At present, the County Treasurer is able to print on a single page all taxes and charges, including the Service Charges, for the tax code areas affected under this Agreement. However, should additional voted levies be added to the Tax Statement so as to necessitate an additional Tax Statement, the County reserves the right to charge the City a proportionate share (as calculated by reference to the total number of other non-voted levies on the Tax Statement) of the cost of producing and mailing the additional Tax Statement. The cost per each additional thousand Tax Statements shall include, but not limited to, the following expenses: (a) mailing and remittance envelopes; (b) statement printing; (c) statement paper; (d) postage; (e) mailing processing, including processing for any informational inserts printed by the City and delivered to the processor, all at the City's sole expense; (f) overhead costs, including software investment costs, as calculated by the County Treasurer; and (g) proportional share of salary and benefits for three staff persons as calculated by the County Treasurer.

5. INDEPENDENT CONTRACTOR

All work performed by the County pursuant to this Agreement shall be performed by the County as an independent contractor and not as an agent or employee of the City. The County shall furnish, employ, and have exclusive control of all persons to be engaged in performing the County's obligations under this Agreement (collectively, the "County Personnel") and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. The County Personnel shall for all purposes be solely the employees or agents of the County and shall not be deemed to be employees or agents of the City for any purpose whatsoever. With respect to the County Personnel, the County shall be solely responsible for compliance with all rules, laws, and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, such as employment, Social Security, and other payroll taxes including applicable contributions from the County Personnel when required by law.

6. TERMINATION FOR CONVENIENCE

This Agreement may be terminated by either party for any reason or for no reason, by giving ninety (90) days advance written notice of termination to the other party. Any termination notice delivered pursuant to this Section 6 shall specify the date on which the Agreement will terminate. If this Agreement is terminated pursuant to this Section 6, the County shall continue performing services through the date of termination. The City shall compensate the County for all services performed by the County through the date of termination. The City's obligation to make such final payment to the County shall survive the termination of this Agreement.

7. COMPLIANCE WITH LAWS

The City and the County shall at all times exercise their rights and perform their respective obligations under this Agreement in full compliance with all applicable laws, ordinances, rules and regulations of any public authority having jurisdiction.

8. INDEMNIFICATION

Each party shall defend, protect and hold harmless and indemnify the other party from and against all claims, suits or actions arising from any intentional or negligent act or omission of that party's employees, agents and/or authorized subcontractor(s) while performing under the terms of this Agreement.

9. LIABILITY RELATED TO CITY ORDINANCES, POLICIES, RULES AND REGULATIONS

In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, policies, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, policy, rule or regulation is at issue, the City shall

defend the same at its sole expense and, if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and reasonable attorney's fees

10. DEFAULT AND REMEDIES

If either party to this Agreement fails to perform any act or obligation required to be performed by it hereunder, the party to whom such performance was due shall deliver written notice of such failure to the non-performing party. The non-performing party shall have thirty (30) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default ("Default") under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said thirty (30) day period, then the non-performing party shall not be in Default if it commences cure within said thirty (30) day period and thereafter diligently pursues cure to completion. In the event of a party's Default under this Agreement, then after giving notice and an opportunity to cure, the party to whom the performance was due shall have the right to exercise any or all rights and remedies available to it at law or in equity.

11. PUBLIC DISCLOSURE LAWS

The City and the County each acknowledges, agrees and understands that the other party is a public agency subject to certain disclosure laws, including, but not limited to Washington's Public Records Act, chapter 42.56 RCW. Each party understands that records related to this Agreement and the County's performance of services under this Agreement may be subject to disclosure pursuant to the Public Records Act or other similar law. Neither the City nor the County anticipates that the performance of either party's obligations under this Agreement will involve any confidential or proprietary information.

12. NOTICES

Each notice, demand, request, consent, approval, disapproval, designation or other communication that is required to be given by one party to the other party under this Agreement shall be in writing and shall be given or made or communicated by (i) United States registered or certified mail, postage prepaid, return receipt requested, (ii) any nationally recognized overnight carrier or express mail service (such as FedEx or DHL) that provides receipts to indicate delivery, (iii) by personal delivery, or (iv) by facsimile (with proof of successful transmission). All such communications shall be addressed to the appropriate Administrator of this Agreement, as that term is defined in Section 1.2 above. All notices shall be deemed given on the day each such notice is personally delivered, transmitted by facsimile (with evidence of receipt), or delivered by overnight courier service, or on the third business day following the day such notice is mailed if mailed in accordance with this Section.

13. MISCELLANEOUS

13.1 Entire Agreement

This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by written agreement executed by both parties.

13.2 Interpretation

This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

13.3 Severability

If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

13.4 No Waiver

A party's forbearance or delay in exercising any right or remedy with respect to a Default by the other party under this Agreement shall not constitute a waiver of the Default at issue. Nor shall a waiver by a party of any particular Default constitute a waiver of any other Default or any similar future Default.

13.5 Assignment

This Agreement shall not be assigned, either in whole or in part, by either of the parties hereto. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a Default under this Agreement.

13.6 Warranty of Authority

Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign this Agreement.

13.7 No Joint Venture

Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the parties.

13.8 No Third Party Beneficiaries

This Agreement is made and entered into for the sole benefit of the City and the County. No third party shall be deemed to have any rights under this Agreement; there are no third party beneficiaries to this Agreement.

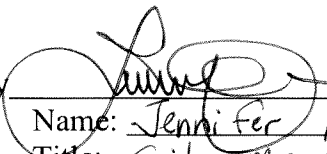
13.9 Execution in Counterparts

This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the City and the County have executed this Agreement as of the date first above written.

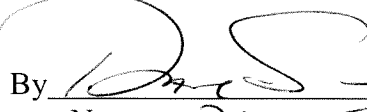
THE CITY:

City of Bothell, a Washington municipal corporation

By 
Name: Jennifer Phillips
Title: City Manager

THE COUNTY:

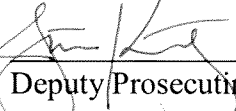
Snohomish County, a political subdivision of the State of Washington

By 
Name: DAVE SOMERS
Title: Executive

Approved as to Form:


City Attorney

Approved as to Form:

 2/1/17
Deputy Prosecuting Attorney