

COUNTY ORIGINAL

WHATCOM COUNTY
CONTRACT NO.

97 12012

2013

INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BELLINGHAM AND WHATCOM COUNTY CONCERNING
ANNEXATION AND DEVELOPMENT WITHIN THE CITY OF BELLINGHAM UGA

This agreement is made by and between the City of Bellingham (herein after referred to as the City) and Whatcom County (herein after referred to as the County), political subdivisions of the State of Washington, pursuant to the Interlocal Cooperation Act, RCW 39.34.

WHEREAS, the Growth Management Act adopted goals to guide the process of developing comprehensive plans and directed counties to adopt urban growth areas; and

WHEREAS, jurisdictions have adopted the *Whatcom County County-wide Planning Policies* which direct each jurisdiction to acknowledge these policies and implement them through Interlocal Agreements; and

WHEREAS, the City of Bellingham Comprehensive Plan has identified an urban growth area (UGA) that includes areas within unincorporated Whatcom County which it may annex in the future, and that is consistent with the UGA for Bellingham adopted by Whatcom County in compliance with the requirements of the Growth Management Act (Exhibit A); and

WHEREAS, the Growth Management Act encourages cities with urban services to annex contiguous unincorporated urban areas within its UGA; and

WHEREAS, annexations proposed by the City of Bellingham are pursued in accordance with RCW 35.13 and intended to be consistent with RCW 36.93.180 and RCW 36.93.157; and

WHEREAS, the City and County recognize that there is a need to facilitate the proper transition of services and capital projects from the County to the City at the time of annexation; and

WHEREAS, the City and County recognize that mutual coordination of land use densities and designations is necessary to reduce urban sprawl, support urban infrastructure and protect rural areas within the County; and

WHEREAS, the City and the County recognize the City's responsibility to annex lands designated for urban levels of residential use as well as lands designated for commercial and industrial use; and

WHEREAS, the City and County recognize that the City's past practices of extending water and sewer services prior to annexation has facilitated commercial and industrial development that has had a positive economic impact on the County; and

WHEREAS, City and County recognize that the County's past practices of road building and County Planning and Development Services prior to annexation has facilitated commercial

and industrial development that has had a positive economic impact; and

WHEREAS, the City and County recognize that as the City tax base grows, the County will share in that growth through such revenue sharing mechanisms as the .15% sales tax and the assessment of the County Current Expense Levy on property inside the City; and

WHEREAS, the City and County recognize that annexation of developed commercial and/or industrial land will reduce County tax revenues used to support County services; and

WHEREAS, the City and County have determined that the revenue impacts on the County of annexing developed commercial and/or industrial land necessitates a mutually agreeable funding formula to mitigate such impacts; and

WHEREAS, the City and County have established a formula to mitigate the impact on the County of revenue losses and to equitably compensate the County for certain capital facility expenditures in the annexed area; and

WHEREAS, the City and County recognize that annexations can have extra-jurisdictional impacts and that intergovernmental cooperation is an effective manner through which to deal with those impacts; and

WHEREAS, the City and County believe it is in the best interest of the citizens of both jurisdictions to establish consistent regulatory conditions and impact mitigation requirements; and

WHEREAS, the City and County desire to develop a general interlocal agreement that will apply to all annexations and for each annexation the interlocal agreement may be amended to address any issues not addressed in the general agreement;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the City and County agree as follows:

Section 1. Applicability and Amendments to this Agreement

The City and the County agree that the contents of this interlocal agreement shall apply to development within the City's UGA and annexations initiated by the City. It is also agreed that for each annexation, this interlocal agreement shall be amended to include a description of the annexation area and other amendments related to the annexation area, which will be included as additional exhibits to the agreement. These annexation amendments shall be executed by the City and County prior to expiration of the County's 45-day annexation review period. However, if the City and County can not come to agreement concerning any annexation related issues not addressed by the general interlocal agreement, the County may request a Boundary Review Board hearing, and the City and County may continue to negotiate annexation amendment

language. The annexation amendments to this interlocal agreement shall become effective at the time an annexation is approved by the Boundary Review Board and the City has passed an ordinance officially approving annexation of the area.

Annexation related amendments to this interlocal agreement shall include the following:

1. The annexation's name and boundary review board number;
2. A map and legal description of the annexation area;
3. The annexation method, resolution number and date of City acceptance of a petition or determination to pursue elections for the annexation area;
4. The extent to which the interlocal agreement is applicable to the annexation area (including whether or not the annexation area is within the Lake Whatcom watershed);
5. Other annexation related amendments to the interlocal agreement, including, but not limited to, the following:
 - compensation or reimbursement formulas for major capital improvements;
 - capital facilities and parks maintenance and ownership agreements;
 - adoption of equivalent or consistent ordinances to protect resource lands and the natural environment;
 - agreements regarding impact mitigation;
 - agreements regarding balance between residential and commercial/industrial land;
6. Identification of the existing and intended service providers for the area (water, sewer, fire/ems), including any interlocal agreements between the City and Special Purpose Districts;
7. Signatures by the City's mayor and County Executive and effective date of the annexation amendment.

The City and County recognize that other amendments to this interlocal agreement may be necessary to clarify the requirements of particular sections or update the agreement. These amendments may be pursued as necessary by both parties.

Section 2. Annexations.

A. Role of Boundary Review Board. When annexations are initiated on properties within Bellingham's adopted UGA, the process should be as expeditious as possible. The role of the Boundary Review Board will be retained when necessary. However, hearings will be limited to those cases where affected citizens have concerns which cannot be adequately addressed without

a hearing, or where the City, the County and/or Special Purpose District cannot agree on specifics related to the criteria outlined below in item C of this section.

B. Information Requirements. In addition to information required by state law, a complete legal description of the proposed annexation will be submitted to the County for review and any needed correction prior to adoption of the resolution of intent by the City proposing the annexation. In addition to the legal description, the area proposed for annexation should be identified using common landmarks such as street rights-of-way or other natural or man-made features.

C. Annexation Planning. Annexations shall be based on policies adopted in the City's Comprehensive Plan, be consistent with adopted County-wide Planning Policies and Comprehensive Plan Goals 2N, and Policies 2M-5, 2M-6, 2N-1, 2N-2, 2N-3 and 2N-4, and shall include logical boundaries and be timed in a way which allows for transition of services between the City and County (and Special Purpose District, if applicable). Criteria in defining logical physical boundaries shall include one or more of the following:

- a) Size and shape of the area to be annexed;
- b) Preservation of neighborhoods and communities;
- c) Use of physical boundaries, including but not limited to, bodies of water, roads, and land contours;
- d) Creation and preservation of logical service areas;
- e) Prevention of abnormally irregular boundaries;
- f) Dissolution of inactive Special Purpose Districts;
- g) Adjustment of impractical boundaries;
- h) Annexation of unincorporated areas which are urban in character.

D. Balanced Annexations. The City shall employ its annexation authority in a manner that maintains a balance of commercial, industrial and residential properties inside the City and within successive annexation plans and proposals. The City further agrees to annex residential properties to ensure a sufficient land supply to accommodate a balance of existing housing units in relation to employees resulting from commercial and/or industrial land to be annexed.

E. Zoning. The City agrees to identify appropriate city zoning at the time it accepts the initial annexation proposal submitted by residents and/or owners of the proposed annexation area. Following BRB review, the City will confirm the zoning to be applied to the area as part of the adopting ordinance. Zoning changes adopted within annexation areas shall be considered in evaluating the balance of residential, commercial and industrial properties.

F. Minimum Urban Densities. The City agrees to adopt and maintain land use designations for annexation areas consistent with the State GMA, City Comprehensive Plan, and policies of the County Comprehensive Plan.

G. Comparable Densities. The City's land use designations are generally more dense than the County's. However, in the future, if the City proposes changes that reduce density or intensity of land use, the City agrees to accommodate any losses in County population allocations which have been assumed for the annexation area within the City or in other portions of the UGA areas which the City intends to annex. The area in which, and methods by which, the City intends to accommodate these losses will be specified by the City as part of the annexation amendment to this interlocal agreement. Within the Lake Whatcom watershed, densities will not exceed those allowed under existing County zoning.

H. Administration of Special Assessments. When annexations occur which encompass any part of an LID, ULID, LUD, RID or LRID, the assessments for those parcels within the annexation area will continue to be administered by the County Treasurer.

Section 3. Transfer of Building Permit Applications, Development Applications and Development Permits in Process by the County upon Annexation.

The County shall refer applications to the City for processing any building and development permit applications in an annexation area on or after the effective date of the annexation. The County also agrees to continue processing permit applications filed before the effective date of an annexation as provided below.

A. Building Permits. As the agent of the City, the County shall continue to process under County codes and building permit requirements to completion any building permits for which it received a fully complete permit application and accompanying fee prior to the effective date of the annexation. Associated permits shall be defined as clearing, grading, mechanical, plumbing, fire sprinkler, and occupancy permits related to those projects being processed by the County. Completion shall mean final administrative approvals.

Except as provided below for permit renewals, in the case of building permits issued prior to the date of an annexation, the applications and permits shall be processed through final inspection and/or issuance of an occupancy permit by the County. Performance and maintenance bonds and insurance releases received by the County prior to the effective date of the annexation shall be assigned to the City on a case by case basis. The final inspection for building permits shall be a joint City/County inspection with the City in attendance for information purposes only.

B. Discretionary Permits. As the agent of the City, the County shall continue to process to completion any development permits for which it received a fully complete permit application and accompanying fee prior to the effective date of an annexation. Completion shall mean final administrative or quasi-judicial approvals except in the case of action required by the legislative body, except for appeals, in which case the City legislative body shall take final legislative action. Subdivision plats and PUD[s] Applications shall be transferred to the City for processing, along with the unexpended portion of the fees collected for such subdivisions.

C. Permit Renewal. Any request for renewal of a permit issued by the County prior to the effective date of an annexation which is received after the annexation date shall be made to and administered by the City.

D. Enforcement of Conditions Imposed by the County on Land Use and Development

Permits. To the extent authorized by law, the City agrees to enforce any conditions imposed by the County. The County will make its employees available to provide assistance in enforcement action on cases originally prepared by County personnel. The County will provide the City with the opportunity to review and comment on all development permit applications within the City's UGA which are subject to a public notice provision. The City will respond to County development permit review requests in a timely manner.

E. Year-end review. Prior to December 1st of any year in which an annexation has become effective, the City and County shall discuss the status of all the permits in an annexation area remaining under review by the County and determine whether or not responsibility for continued processing should be transferred to the City. Any change in permit processing responsibility shall be provided by written agreement, acceptable to both parties, amending the annexation amendment section.

Section 4. Records Transfer

The City staff will copy County records pertaining to annexation areas prior to annexation as necessary, including but not limited to: all original permit records and files, inspection reports and approved plans, approved zoning files, code enforcement files, fire inspection records, bonds, easements, plats, utility databases for land use, drainage, street lights and streets, and other items identified during the transfer process. The City will reimburse the County for the costs of any County materials necessary for duplication or transfer, including microfilming, or at the City's option, the City may arrange for off-site duplication of records under appropriate safeguards for the protection of records as approved by the County.

Section 5. Roads

A. Maintenance and Ownership Responsibilities. Unless the County agrees to retain a specific road in County jurisdiction, the City will annex the entire right-of-way of County roads adjacent to an annexation boundary and will assume full maintenance responsibility for those roads upon the effective date of the annexation. It may also be desirable to include in an annexation adjacent road sections to avoid dead-end segments or portions of roads that meander in and out of jurisdictions. Such situations may be negotiated on a case by case basis.

B. Unexpended Mitigation Payments. Funds for road related SEPA mitigation payments or impact fees received by the County for projects within an annexation area which remain unexpended as of the effective date of the annexation will be transferred to the City within one year of the effective date of the annexation.

C. Compensation for Capital Road Construction Projects. The City will reimburse the County for certain expenditures on capital road construction projects, including overlays, at the time the roads are annexed into the City. If the City annexes territory encompassing all or a portion of a County capital road construction project, the City agrees to reimburse the County for County road fund costs incurred by the County in implementing the projects listed in Exhibit C, including assumption of debt incurred by the County for the road construction project.

The City agrees to reimburse the County for the depreciated value of major capital construction projects and expenditures the County has made within the annexation area during the 10 years prior to the effective date of the annexation. This reimbursement will be for the value of the County's share of funds spent for the construction of major public facilities, excluding grant funding, including but not limited to new roads and sidewalks or those roads which have undergone a major reconstruction. It shall not include routine maintenance expenditures for such facilities. The depreciation shall be 10 year, straight line depreciation.

Actual reimbursement amounts and timing of payments shall be negotiated between the City and County at the time of annexation. The agreement shall be included as part of the annexation related amendment. Exhibit C lists the County capital road construction projects, which have been completed within 10 years prior to the effective date of this agreement. Exhibit C will be updated as necessary as part of the annexation related amendment. These projects are to be included within the reimbursement mentioned in this section. Reimbursement shall not include routine maintenance expenditures. A project listed on Exhibit C shall be automatically removed from the list at the end of the tenth budget year following final acceptance of the project.

The County also agrees to consult with the City in planning for new capital road construction projects within the City's UGA. At the time of consulting with the City, both parties will discuss the need for shared responsibilities in implementing a project, including the potential for grant funding indebtedness by bonding or loans. Any agreements related to shared responsibilities for road projects within the City's UGA shall be added as amendments to Exhibit C of this interlocal agreement.

Section 6. Processing Development Applications in Urban Growth Areas.

A. Zoning. Existing County zoning will apply within the City's UGA, with the following exception:

Consistent with County-wide Planning Policies, the City and County agree to develop and implement urban zoning, including work on appropriate zoning within the Lake Whatcom watershed recognizing its status as a water resource protection.

B. Rezones within the UGA. The County agrees not to approve rezone requests for property within the UGA without consideration of City input. The County agrees to notify the City of any rezone applications received within the UGA and provide notice of the time, date and location of the public hearing at least ten days prior to the public hearing.

C. Administrative Approval and Conditional Uses. The County agrees to initiate amendments to Title 20 (the Official Whatcom County Zoning Code) to incorporate City comments in the review of rezone applications, administrative approval uses and conditional uses within the City's UGA.

D. Subdivisions and PUDs. Upon the effective date of this agreement, the County shall consult with the City on all platting and PUD applications inside the UGA and invite the City to participate and respond in Technical Review Committee meetings regarding such projects. The County, to the extent practicable, will require new developments to conform to City design standards.

E. Mitigation Fees. The City and County will work toward establishing a process for interjurisdictional application and collection of impact and mitigation fees.

Section 7. Surface Water Management

A. Stormwater Management. Development of and funding for regional stormwater management and drainage plans and standards shall be coordinated and agreed upon by the County and City and, where appropriate, Special Purpose Districts. The City and the County shall also work together to develop and implement the Comprehensive Flood Hazard Management Plan

B. Watershed Planning. The County and the City recognize that watershed management planning is ongoing and that all needed surface water improvements and solutions have not been identified. The County and City shall develop and adopt one or more interlocal agreements for joint watershed management planning, capital construction and other related services.

C. Maintenance and Ownership of Drainage Facilities. If an annexed area includes drainage improvements or facilities the County currently owns or maintains, the City and County shall agree to the disposition of maintenance and ownership responsibilities within one year of the effective date of an annexation. The responsibilities resulting from such discussions shall be included as part of an annexation related amendment to this agreement.

Section 8. Parks, Open Space and Recreational Facilities

A. Open Space Corridors. Open space corridors, parks and greenways will be identified through advanced, joint planning and review of development projects within City UGAs.

B. Maintenance and Ownership Responsibilities. If an annexed area includes park, open space or recreational facilities listed in Exhibit D, the City and County shall agree to the maintenance, operation and ownership responsibilities within 12 months after the effective date of an annexation. The responsibilities resulting from such discussions shall be included as part of an annexation related amendment to this agreement.

Section 9. Provision of Services

A. Police Services. Law enforcement services shall transfer from the Sheriff's Department to the City Police Department upon annexation.

B. Special Purpose Districts. Prior to each annexation, the County and the Cities shall negotiate interlocal agreements with Special Purpose Districts providing services inside and outside urban growth areas to address the issues, such as zoning, financial concerns, and level of service.

C. Fire and Emergency Medical Services.

Upon annexation, the Bellingham Fire Department shall assume responsibility for delivery of fire and emergency medical services or contract with the appropriate fire district in accordance with the fire protection services master plan developed between the Bellingham Fire Department and the rural fire districts.

D. Rural Services. Service providers, the County, and the City shall continue to meet together to resolve the issue of water and fire service to rural areas. In general, cities are the units of local government most appropriate to provide urban governmental services. In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

Section 10. Sales Tax Revenue Sharing

City and County agree to share in the sales tax revenues for annexations of significant developed commercial and/or industrial land. In those cases, sales tax revenues will be computed and shared on the following basis:

To determine Base Value for the local sales tax revenue, Base Value equals total sales tax revenue from the 1% local sales tax collected in the 12 calendar months prior to the effective date of the annexation.

1 st year County receives of Base Value	.80
2 nd year County receives of Base Value	.50
3 rd year County receives of Base Value	.20

The County shall receive .15 directly from the State. The City will reimburse the difference (.65 Base Value 1st year, .35 Base Value 2nd year, and .05 Base Value 3rd year).

The first payment from the City to the County shall be due and payable within thirty days of the first anniversary date of the effective date of the annexation with subsequent payments due and payable within thirty days of the second and third anniversary dates of the effective date of the annexation. It is agreed that upon completion of payments as scheduled, each party will have been fairly, fully and adequately compensated for their respective annexation impacts.

Section 11. Other Provisions

A. GIS Data Sharing. The City and the County shall cooperate in data sharing, development of compatible systems to enhance data sharing and development of a county-wide database with the goal of developing a compatible county-wide geographic information system.

B. Land Supply Analysis. The City and County shall review land supply needs for the respective jurisdictions within five years of County approval of the final UGAs. The methodology for this review shall be established prior to undertaking the review process.

C. Transfer of Densities. The City and County will continue working to develop a mechanism and procedure to transfer densities from rural areas or resource lands to urban areas. The City should designate areas within the existing city limits or UGAs which can absorb additional density for the purpose of transferring densities from rural areas, resource lands or the Lake Whatcom Watershed to urban areas outside the watershed.

Section 12. Honoring Existing Agreements, Standards and Studies

The City and County mutually agree to identify and evaluate all existing mitigation agreements, interlocal agreements, appropriate interjurisdictional studies and agreed upon standards affecting an annexation area to which the City or County is a party.

Section 13. Relationship to Existing Laws and Studies

This agreement in no way modifies or supersedes existing State laws and statutes. In meeting the commitments encompassed in this agreement, all parties will comply with the requirements of the Open Meeting Act, State Environmental Policy Act, Annexation Statutes and other applicable State or local law. The ultimate authority for land use and development decisions is retained by the County and City within their respective jurisdictions. By executing this agreement, the County and City do not purport to abrogate the decision-making responsibility vested in them by law.

Section 14. Hold Harmless

The City shall protect, save harmless and indemnify at its own expense, the County, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever arising out of the City's performance of this agreement. The County shall protect, save harmless and indemnify at its own expense, the City, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever arising out of the County's performance of this agreement.

Section 15. Dispute Resolution

The City and County mutually agree to use binding arbitration if agreement cannot be reached on any provision of this agreement.

Section 16. Effective Date, Duration and Termination

This agreement shall be effective five (5) days after passage by the Whatcom County Council and the City Council of the City of Bellingham and shall remain in full force and effect for 10 years unless terminated sooner by both the County and City. Any amendments and termination shall be in writing and executed in the same manner as provided by law for the execution of this agreement.

Section 17. Severability

If any provision of this agreement or its application to any person or circumstance is held invalid, the remainder of the provisions and/or the application of the provisions to other persons or circumstances shall not be affected.

IN WITNESS WHEREOF, the parties have signed this agreement, effective on the date indicated below.

CITY OF BELLINGHAM

By Mark Asmundson
Mark Asmundson, Mayor

Date 12-19-97

Approved as to form:

Office of the City Attorney
[Signature]
Attest Lynn Carpenter
Lynn Carpenter, City Finance Director

WHATCOM COUNTY

By Pete Kremen
Pete Kremen, County Executive

Date 12-19-97

Approved as to form:

Whatcom County Prosecutor
[Signature]

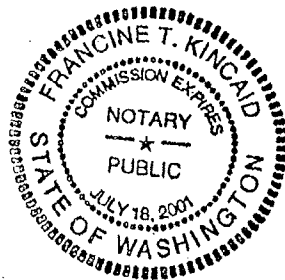
STATE OF WASHINGTON)
) ss.
County of Whatcom)

On this 19th day of December, 1997, before me personally appeared MARK ASMUNDSON, to me known to be the Mayor of the CITY OF BELLINGHAM, and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

A. M. Barkers
NOTARY PUBLIC in and for the State of Washington residing at Bellingham.
My appointment expires: 7/19/98

STATE OF WASHINGTON)
) ss.
County of Whatcom)

On this 19 day of December, 1997, before me personally appeared PETE KREMEN, to me known to be the County Executive of WHATCOM COUNTY, and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Francine T. Kincaid
NOTARY PUBLIC in and for the State of Washington residing at Bellingham.
My appointment expires: July 18, 2001

Interlocal Agreement
City of Bellingham & Whatcom County

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