



City of Bothell™

## **BOTHELL CITY COUNCIL MEETING**

### **AGENDA**

April 7, 2020

BOTHELL CITY HALL

18415 101<sup>st</sup> AVE NE

BOTHELL, WA 98011

**PUBLIC NOTICE:** Pursuant to Governor Inslee's Proclamations 20-05 20-28, and in effort to curtail the spread of the COVID-19 virus, City Council Regular Meetings scheduled for April 7 through April 23 will be conducted remotely and the public will not be allowed to attend in-person. You may watch a live feed of the meeting online or listen to it over the telephone, and the Council is providing opportunities for public comment by submitting written comment. Please see the below links to access these options:

- Live Stream – <https://video.ibm.com/channel/Cud5MUx7Rhq>
- BCTV Cable Access Channels 21/28
- Call-in: +1-510-338-9438 USA Toll / Access code: 623 618 701
- Submit Written Comments before 3:00 PM on 4/7/2020 to: [Cityclerk@bothellwa.gov](mailto:Cityclerk@bothellwa.gov)

### **MEMBERS OF THE CITY COUNCIL**

Mayor Liam Olsen

Deputy Mayor Jeanne Zornes

Councilmember Davina Duerr

Councilmember James McNeal

Councilmember Tom Agnew

Councilmember Rosemary McAuliffe

Councilmember Mason Thompson

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### **REGULAR SESSION**

Call to Order and Roll Call

Pledge of Allegiance

#### **1. Meeting Agenda Approval**

During this item, the City Council may identify agenda items to be continued, withdrawn, or added.

#### **2. Presentations, Reports, & Briefings**

A. Public Engagement Opportunities

- None at this time.

B. Proclamations

- None at this time.

C. Special Presentations

- None at this time.
- D. Staff Briefings
  - None at this time.
- E. City Manager Reports
  - Update on City's COVID-19 Response
- F. Council Committee Reports

**3. Visitor Comment**

In keeping with Governor Jay Inslee's Emergency Proclamation 20-05 and more specifically with Proclamation 20-28 regarding public gatherings and Open Public Meetings, the City will accept visitor comment in writing only. Please submit your comments to [cityclerk@bothellwa.gov](mailto:cityclerk@bothellwa.gov) no later than 3:00 PM the day of this meeting. Your comments will be forwarded to all City Councilmembers and become part of the record.

**4. Consent Agenda**

All items under this section will be passed with a single motion and vote. These items are of a routine nature. Prior to approval, City Council may request items be withdrawn from the consent agenda for separate discussion. Approval of the consent agenda authorizes the City Manager to implement each item in accordance with the staff recommendation.

- Pgs. 5-8      A. Approve the March 3, 2020 City Council Meeting Minutes  
Recommended Action: Approve the March 3, 2020 meeting minutes as presented.
- Pgs. 9-10    B. AB # 20-039 – Approve February 2020 Vouchers  
Recommended Action: Approve vouchers for February 2020 totaling \$2,530,592.98.
- Pgs. 11-12   C. AB # 20-040 – Approve February 2020 Payroll and Benefit Transactions  
Recommended Action: Approve payroll and benefit transactions for February 1 – 29, 2020.
- Pgs. 13-16   D. AB # 20-041 – Approve a Resolution Ratifying a Proclamation of Local Emergency  
Recommended Action: Approve the Resolution Ratifying the Proclamation of Local Emergency.
- Pgs. 17-22   E. AB # 20-042 – Approve an Interlocal Agreement with Cowlitz County to Allow Cooperative Purchasing Between Agencies  
Recommended Action: Authorize the City Manager to execute an Interlocal Agreement between Cowlitz County and the City of Bothell for cooperative purchasing.
- Pgs. 23-50   F. AB # 20-043 – Approve an Ordinance Repealing Ordinance No. 2296: Plastic Bag Restrictions  
Recommended Action: Approve an Ordinance Repealing Ordinance No. 2296 to align with Washington State law.

- Pgs. 51-58 G. AB #20-044 – Approve an Interlocal Agreement with Northshore Utility District (NUD) for Water and Sewer Service to Lots 34 and 35 of the Orchards Plat  
Recommended Action: Authorize the City Manager to enter into the Interlocal Agreement with the Northshore Utility District for Sewer and Water Service to Lots 34 and 35 of the Orchards Plat.
- Pgs. 59-64 H. AB #20-045 – Approve a Construction Contract for the 2019 Storm Repairs Project  
Recommended Action: Authorize the City Manager to enter into a Construction Contract with A & M Contractors for the 2019 Storm Repair Project in the amount of \$219,391.10.
- Pgs. 65-72 I. AB # 20-046 - Approve a Interlocal Agreement for Deputy Fire Chief Services to King County Fire Protection District No. 16 (Northshore Fire Department)  
Recommended Action: Approve the City Manager to execute the Interlocal Agreement for Deputy Fire Chief Services between King County Fire Protection District No. 16 and the City of Bothell in substantially the same form as presented.

#### **5. Public Hearings**

- None at this time.

#### **6. Ordinances & Resolutions**

- None at this time.

#### **7. Contracts and Agreements**

- None at this time.

#### **8. Other Items**

- Pgs. 73-78 A. AB # 20-047 - Consideration of a Resolution Ratifying the City Manager’s COVID-19 Emergency Utility Billing Process for Water/Sewer Utility Billing  
Recommended Action: Approve the Resolution ratifying the City Manager’s emergency actions to temporarily waive utility late fees and postpone water shut-offs for non-payment.
- Pgs. 79-88 B. AB # 20-048 - Consideration of an Interim Ordinance Temporarily Suspending Development Application and Permit Timelines  
Recommended Action: Approve an Interim Ordinance temporarily suspending development and permit timelines.

#### **9. Study Session/Update/Discussion Items**

- None at this time

#### **10. Executive Session/Closed Session**

- None at this time.

Pursuant to the Washington Open Public Meetings Act, Title 42, Chapter 30, Revised Code of Washington, Sec. 42.30.110 (1), Executive Sessions or Closed Sessions may be held, under certain exceptions, at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council meeting.

## 11. Adjourn

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### CERTIFICATE

I hereby certify that the above agenda was posted on this the April 2, 2020 by 6:00 P.M., on the official website and bulletin board at Bothell City Hall, 18415 101<sup>st</sup> Avenue NE, Bothell, WA, 98011, in accordance with RCW 42.30.077, at least 24 hours in advance of the published start time of the meeting.



Laura Hathaway, City Clerk

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**SPECIAL ACCOMODATIONS:** The City of Bothell strives to provide accessible meetings for people with disabilities. If special accommodations are required, please contact the ADA Coordinator at (425) 806-6151 at least one day prior to the meeting.

Copies of agenda bills and attachments listed in this agenda may be obtained from the City Clerk's Office the Friday before the meeting.

Bothell City Council meetings are aired live on Bothell Community Television (BCTV) Channel 21/28 (Comcast/Verizon) (available to Comcast and Verizon Cable customers within Bothell City limits). Meetings are generally replayed according to the following schedule (subject to change): Wednesday following the meeting at 10 a.m.; Friday, Saturday and Sunday following the meeting at 10 a.m. and 7 p.m. City Council and Planning Commission meetings and the BCTV schedule are viewable online at [www.bothellwa.gov](http://www.bothellwa.gov)

## **BOTHELL CITY COUNCIL MEETING MINUTES**

March 3, 2020

### **MEMBERS OF THE CITY COUNCIL**

Mayor Liam Olsen

Deputy Mayor Jeanne Zornes

Councilmember Davina Duerr

Councilmember James McNeal

Councilmember Tom Agnew

Councilmember Rosemary McAuliffe

Councilmember Mason Thompson

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### **REGULAR SESSION**

Call to Order - Mayor Olsen called the meeting to order at 6:00 PM and led the Pledge of Allegiance.

All Councilmembers were present with the exception of Councilmember Duerr who was absent and excused.

#### **1. Meeting Agenda Approval**

Mayor Olsen pulled AB #20-034 – (Public Hearing).

#### **2. Presentations, Reports, & Briefings**

##### **A. Public Engagement Opportunities**

- Mayor Olsen reviewed upcoming public engagement opportunities.

##### **B. Proclamations**

- Derek Smith, Economy Fence – Mayor Olsen presented Mr. Smith with a proclamation thanking him and his company for the generous donation of the fence at the Northshore Senior Center Memory Care facility.

##### **C. Special Presentations**

- Bothell/Kenmore Chamber of Commerce Update – Chamber Representative Andrea Schafer and Brittany Caldwell provided an update on Chamber activities and upcoming events. Both entertained Council questions.

##### **D. Staff Briefings**

- None

##### **E. City Manager Reports**

- None

##### **F. Council Committee Reports**

- Councilmember McNeal provided updates on the Northshore Parks and Recreation Service Area, Puget Sound Regional Council and Community Transit.

- Councilmember Thompson provided a Regional Law Safety and Justice Committee update.

### 3. Visitor Comment

Lucy Toner – spoke regarding the Youth Court and its upcoming open house on March 9<sup>th</sup>.

### 4. Consent Agenda

All items under this section will be passed with a single motion and vote. These items are of a routine nature. Prior to approval, City Council may request items be withdrawn from the consent agenda for separate discussion. Approval of the consent agenda authorizes the City Manager to implement each item in accordance with the staff recommendation.

- A. Approval of Meeting Minutes – February 4, 11, and 18, 2020  
Recommended Action: Approve the City Council Meeting Minutes for February 4, 11 and 18, 2020 as presented.
- B. AB # 20-029 – Approve December 2019 and January 2020 Vouchers  
Recommended Action: Approve vouchers for December 2019 and January 2020 totaling \$7,812,318.94.
- B. AB # 20-030 – Approve January 2020 Payroll and Benefit Transactions  
Recommended Action: Approve payroll and benefit transactions for January 1 – 31, 2020.
- C. AB # 20-032 – Approve an Ordinance Regarding a Wireline and Small Wireless Facility Franchise Agreement with Crown Castle Fiber LLC, c/o Crown Castle  
Recommended Action: Adopt the proposed Ordinance granting a Small Wireless Facility Franchise to Crown Castle, LLC.
- D. AB # 20-033 – Consideration of Pledge to Support Earth Day 2020  
Recommended Action: Approve supporting and signing the Elected Officials Pledge as written by Earth Day Northwest.

**MOTION:** Councilmember Agnew moved approval of the Consent Agenda as presented. Councilmember Thompson second. The motion carried 6-0; Councilmember Duerr absent and excused.

### 5. Public Hearings

- A. ~~**PULLED** AB # 20-034 – Public Hearing and Consideration of an Ordinance Amending Sections of the Downtown Subarea Regulations Providing for Historic Preservation~~  
~~Recommended Action: Approve the attached Ordinance, as recommended by the Planning Commission, amending sections of the Downtown Subarea Regulations providing for historic preservation.~~

### 6. Ordinances & Resolutions

- None

## 7. Contracts and Agreements

- A. AB # 20-035 – Consideration of Adopting the 2020 Visitor Development Spending Plan and Contract with Streetsense Consulting, LLC  
Recommended Action: Approve the 2020 Visitor Development Spending Plan of \$499,636 and a Streetsense Contract of \$245,000 to continue driving economic development to Bothell through tourism channels.

Tourism Manager DeNae McGee presented and entertained Council questions.

**MOTION:** Councilmember Thompson moved approval of the recommended action. Councilmember McAuliffe second. The motion carried 6-0; Councilmember Duerr absent and excused.

## 8. Other Items

- A. AB # 20-038 – 2020 Board and Commission Appointments  
Recommended Action: After voting to fill Board and Commission vacancies, move to ratify the results.

City Clerk Laura Hathaway presented. Council was asked to vote to fill vacancies on the Arts Commission, Landmark Preservation Board, Library Board, Lodging Tax Advisory Committee, Parks & Recreation Board and Planning Commission. She stated Council would vote using written ballots (provided) and each applicant needed at least four votes to be appointed.

Council recessed from 7:10 PM to 7:20 PM, to allow the City Clerk to tally the round one (1) votes.

Mayor Olsen announced that the recess would be extended another 5 minutes.

Council resumed at the dais at 7:30 PM.

Voting went for three (3) rounds (all ballots are on file with the City Clerk's Office).

The following people were appointed:

**Arts Commission:** Kylie Chang, Sophie Stobie, Katrina Sather (incumbent), Kimberly Foley, Hilary Long and Kaylee Ditlefsen

**Landmark Preservation Board:** Ray Thomas (incumbent), Judy Gratton and Matthew Keuhn

**Library Board:** Stephanie Adam

**Lodging Tax Advisory Committee:** Nancy Pipinich (incumbent), Shawna Pitts (incumbent) and Joellen Kurtz

**Parks and Recreation Board:** Vladimir Bejdo, Jace Branca, Manny Ocampo (incumbent), Matt Yette, Richard Molitor and Whitney Neugebauer

**Planning Commission:** Amanda Olsen, Jenne Alderks, and Sarah Gustafson

**MOTION:** Councilmember McNeal moved to ratify the appointments to the Boards and Commissions. Councilmember Agnew second. The motion carried 6-0; Councilmember Duerr absent and excused.

**8. Council Conversations**

Councilmembers thanked all applicants who applied for the Board and Commission openings, stating that they were all great candidates, and encouraged those who did not get appointed to apply again next year.

**9. Executive Session/Closed Session**

- None

**10. Adjourn**

The meeting was adjourned at 7:47 PM.

Submitted for Approval on 4/07/2020.



# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Chris Bothwell, Finance Director  
Maureen Scholes, Deputy Finance Director (Presenter)

**DATE:** April 7, 2020

**SUBJECT:** Approve February 2020 Vouchers

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**POLICY CONSIDERATION:** This item asks the City Council to consider approval of vouchers for the period of February 1 – 29, 2020 totaling \$2,530,592.98 that were approved and paid for by the City Auditor.

- ✓ Check transactions #211878 - 212285
- ✓ Wire transactions #460, 462, 465, and 674

HISTORY:	DATE	ACTION
	JUNE 5, 2000	Ordinance 1810 appointed Finance Director/City Treasurer as City Auditor

In accordance with state statues, vouchers approved by the City Auditor are required to be ratified by the City Council and notated in the minutes.

**DISCUSSION:** None.

**FISCAL IMPACTS:** Expenditure funding included in the Adopted 2019-2020 Budget.

**ATTACHMENTS:** Att-1. February 2020 Voucher Listing.  
(For Council distribution only. Voucher listings are available for review in the Finance Department.)

**RECOMMENDED ACTION:** Approve vouchers for February 2020 totaling \$2,530,592.98.

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# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Chris Bothwell, Finance Director  
Maureen Scholes, Deputy Finance Director (Presenter)

**DATE:** April 7, 2020

**SUBJECT:** Approve February 2020 Payroll and Benefit Transactions

**POLICY CONSIDERATION:** This item asks the City Council to consider approval of payroll and benefit transactions for the period of February 1 – 29, 2020 totaling \$4,182,995.05 that were approved and paid for by the City Auditor.

- ✓ Direct deposit transactions #2000130308 - #2000131048 totaling \$2,048,054.65.
- ✓ Payroll and benefit checks #39041 - #39080, plus wire benefit payments #683 - #691 totaling \$2,134,940.40.

HISTORY:	DATE	ACTION
	<b>JUNE 5, 2000</b>	Ordinance 1810 appointed Finance Director/City Treasurer as City Auditor
In accordance with state statues, vouchers approved by the City Auditor are required to be ratified by City Council and notated in the minutes.		

**DISCUSSION:** None.

**FISCAL IMPACTS:** Funding for salaries and benefits are included in the Adopted 2019-2020 Budget.

**ATTACHMENTS:** Att-1. February 2020 Payroll and Benefit Transactions.  
(For Council distribution only. Check listings are available for review in the Finance Department.)

**RECOMMENDED ACTION:** Approve payroll and benefit transactions for February 1 – 29, 2020.

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# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Paul Byrne, Legal (Presenter)

**DATE:** April 7, 2020

**SUBJECT:** Approve a Resolution Ratifying a Proclamation of Local Emergency

**POLICY CONSIDERATION:** This item asks the City Council to consider ratification of a proclamation of local emergency signed and dated by Mayor Olsen on March 5, 2020. If approved, it has the potential to impact the residents of Bothell and neighboring jurisdictions by allowing the City to continue its emergency efforts to mitigate the impact of the COVID-19 endemic.

HISTORY:	DATE	ACTION
	<b>MARCH 5, 2020</b>	Mayor Olsen signs proclamation of local emergency

**DISCUSSION:** In late 2019, a new coronavirus, now known as COVID-19, was detected in China. COVID-19 has now been detected in close to two hundred (200) locations internationally, including Western Washington, and has been the cause of several local deaths. Residents from both Kirkland and Bothell have tested positive for COVID-19.

In order to allow the City to help mitigate the spread of this highly contagious virus, Mayor Olsen signed a proclamation of local emergency. The proclamation authorizes the City to respond to this deadly endemic by allowing the City to enter into contracts and incur obligations necessary to protect the health and safety of persons and property, and provide appropriate emergency assistance without regard to time consuming procedures and formalities prescribed by law.

**FISCAL IMPACTS:** There are no budgetary impacts regarding the confirmation of the proclamation. Any unbudgeted impacts arising as a result of emergency purchasing will be brought to Council as a Budget Amendment.

**ATTACHMENTS:** Att-1. Resolution Confirming Proclamation of Local Emergency  
Att-2. Proclamation of Local Emergency

**RECOMMENDED** Approve the Resolution Ratifying the Proclamation of Local Emergency.

RESOLUTION NO. \_\_\_\_\_ (2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOTHELL, WASHINGTON RATIFYING A PROCLAMATION OF LOCAL EMERGENCY

WHEREAS, a new coronavirus, now known as COVID-19, was first detected in China and has now been detected in close to two hundred (200) locations internationally; and

WHEREAS, on March 5, 2020, the Mayor issued an emergency proclamation to allow the city to provide appropriate emergency assistance to the COVID-19 endemic,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BOTHELL, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The Proclamation of Local Emergency issued by the Mayor is hereby ratified. Said Proclamation is attached hereto and adopted by the City Council as its own by reference thereto.

Section 2. The City Clerk is authorized to make necessary corrections to this resolution including, but not limited to, the correction of scrivener's/clerk errors, references, resolution numbering, section/subsection numbers and any references thereto.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

\_\_\_\_\_  
LIAM OLSEN  
MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
LAURA HATHAWAY  
CITY CLERK

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
RESOLUTION NO.: \_\_\_\_\_ (2020)



City of Bothell™

## Proclamation of Local Emergency for the City of Bothell

WHEREAS, a new coronavirus, now known as COVID-19, was detected in China; and

WHEREAS, COVID-19 has now been detected in seventy (70) locations internationally;  
and

WHEREAS, the City of Kirkland Fire Department was notified of potential exposure to the COVID-19 virus through patient contact after responding to multiple calls for service over a week-long period to a Kirkland nursing care facility that has since been identified as a COVID-19 outbreak location; and

WHEREAS, the City of Kirkland borders the City of Bothell; and

WHEREAS, the King County Health District has confirmed a case COVID-19 within the Bothell City Limits; and

WHEREAS, both King and Snohomish Counties have identified persons testing positive for and dying from COVID-19; and

WHEREAS, the Center for Disease Control (CDC) has classified COVID-19 as endemic within this region;

NOW, THEREFORE, IT IS PROCLAIMED BY THE MAYOR OF THE CITY OF BOTHELL that an emergency exists in the City of Bothell as a result of the aforementioned conditions and, therefore:

Section 1. City of Bothell departments are authorized to do the following:

- (A) to exercise the powers vested under this proclamation in light of the exigencies and demands of this dangerous situation without regard to time-consuming procedures and formalities otherwise normally prescribed by law (excepting mandatory constitutional requirements);
- (B) enter into contracts and incur obligations necessary to combat such emergency situations to protect the health and safety and persons and property; and
- (C) other actions, as appropriate.

Section 2. In order to prepare for, prevent, and respond to this emergency, pursuant to Chapter 2.27 BMC, RCW 35A.34.140, RCW 38.52.070(2), RCW 39.04.280, the requirements of competitive bidding and public notice are hereby waived with reference to any contract relating

to the City's lease or purchase of supplies, equipment, personal services, or public works as defined in 39.04.010, or to any contract for the selection and award of professional and/or technical consultant contracts. I hereby direct City departments under this proclamation and the Comprehensive Emergency Management Plan to take actions deemed necessary to otherwise mitigate and prevent potential threats to public health and safety and impacts upon publicly-owned infrastructure, including any necessary actions needed to obtain emergency permitting through municipal, county, state, or federal agencies.

Section 3. A copy of this proclamation, to the extent practicable, shall be posted at the City's regular locations for official notices and shall be made available to members of the local news media and general public.

Dated this 5<sup>th</sup> day of March, 2020.

Signed: Liam Olsen  
LIAM OLSEN, MAYOR OF THE CITY OF BOTHELL



# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Erin Leonhart, Public Works Director  
Jeff Sperry, Fleet & Facilities Manager (Presenter)

**DATE:** April 7, 2020

**SUBJECT:** Approve an Interlocal Agreement with Cowlitz County to Allow Cooperative Purchasing Between Agencies

**POLICY CONSIDERATION:** This item asks the City Council to consider if the City should enter into an interlocal cooperative purchasing agreement with Cowlitz County. Approving this item will allow Cowlitz County to utilize the City’s emergency vehicle outfitting contract with Systems for Public Safety.

<b>HISTORY:</b>	<b>DATE</b>	<b>ACTION</b>
	<b>OCTOBER 15, 2019</b>	City Council approved emergency vehicle outfitting contract with Systems for Public Safety

On October 15, 2019, the City Council approved a contract with Systems for Public Safety for emergency vehicle outfitting. A provision in that agreement was included to extend contract prices to other governmental agencies. On December 11, 2019, the Cowlitz County Public Works department contacted the City to request an interlocal cooperative purchasing agreement to utilize the City’s contract for emergency vehicle outfitting with Systems for Public Safety.

**DISCUSSION:** The purpose of this item is to allow the City and Cowlitz County to enter into an agreement that allows for cooperative governmental purchasing of supplies, goods and services to the mutual benefit of both agencies. The City would be able to utilize agreements that Cowlitz County enters into for supplies, goods, and services, as long as the procurement process used by Cowlitz County to reach that agreement meets the City’s current procurement policies. Entering into such an agreement with Cowlitz County could help save the City time and resources on lengthy procurement processes. The agreement may be terminated by either agency at any time by giving 10 days written notice to the other agency.

**FISCAL IMPACTS:** The item does not impact the Adopted 2019-2020 Budget because the City does not assume any financial responsibility for purchases made by Cowlitz County.

**ATTACHMENTS:** | Att-1. Interlocal Cooperative Agreement Between Cowlitz County and City of Bothell

**RECOMMENDED ACTION:** | Authorize the City Manager to execute an Interlocal Agreement between Cowlitz County and the City of Bothell for cooperative purchasing.

After recording, return to: City of Bothell  
Name: Jennifer Phillips, City Manager  
Address: 18415 101<sup>st</sup> Ave  
Bothell, WA 98011

**INTERLOCAL COOPERATIVE AGREEMENT  
BETWEEN COWLITZ COUNTY AND CITY OF BOTHELL**

This Agreement, made and entered into by and between Cowlitz County, State of Washington, a Washington municipal corporation (hereinafter referred to as "Cowlitz County") and City of Bothell, State of Washington, a Washington municipal corporation (hereinafter referred to as "City of Bothell"), (collectively "Parties"), and whereby the Parties agree to cooperative governmental purchasing upon the following terms and conditions:

1. Purpose: Cooperative Purchases. The Parties hereto, pursuant to Titles 36 and 39 and Chapter 39.34 of the Revised Code of Washington do hereby agree to cooperatively purchase supplies, goods, services and equipment as a result of competitive bidding and within the qualifications or specifications established by and for Cowlitz County and City of Bothell.

Parties will finalize their own arrangements, including option selection, selections, trade-in and delivery arrangements for goods, services and equipment directly with the applicable contractor or vendor. Cowlitz County and City of Bothell agree that each Party has no liability as far as the durability, serviceability, performance and warranty of the goods, services, and equipment selected. It is also agreed that the goods, services, and equipment selected shall be agreed upon by each individual Party and will not be perceived as selected by the other Party. Cowlitz County and the City of Bothell accept no responsibility of the performance of any contracts by the contractor, and Cowlitz County and City of Bothell accept no responsibility for payment of the purchase price for any contract entered into by the other Party.

2. Administration. No new or separate legal or administrative entity is created to administer the provisions of this Agreement. Each Party reserves the right to contract independently for the purchase of any particular class of goods or services with or without notice to the other Party. The Parties reserve the right to exclude the other Party from any particular purchasing or services contract, with or without notice to the other Party.

3. Term. This Agreement shall take effect immediately upon completion of the requirements of Section 6, "Recording" below and shall continue in effect until terminated. It may be terminated by either Party by giving ten (10) days written notice to the other; provided, however, that termination shall not affect or impair joint purchases of the Parties that are agreed to on or before the date of termination.

4. Compliance with Laws. Each Party accepts responsibility for compliance with federal, state, or local laws and regulations including, in particular, that Party's bidding

requirements applicable to the acquisition of any goods, services, or equipment obtained through the cooperative process agreed to herein.

5. Indemnification. Each Party shall be liable and responsible for the consequence of any negligent or wrongful act or failure to act on the part of itself and its employees. Neither Party assumes responsibility to the other Party for the consequences of any act or omission of any person, firm or corporation not a party to this Agreement.

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

7. General Provisions. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement. No provision of this agreement may be amended or modified except by written agreement signed by the Parties. This Agreement shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns.

Any provision of this Agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses.

The venue for any dispute related to this Agreement shall be in King County if the bid is issued by City of Bothell or in Cowlitz County if the bid is issued by Cowlitz County. Failure of either Party to declare any breach or default by the other Party immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

IN WITNESS WHERE OF, the parties have caused duplicate originals of this Agreement to be executed on the day and year the last signature hereto is affixed.

**BOARD OF COMMISSIONERS  
COWLITZ COUNTY, WASHINGTON**

\_\_\_\_\_  
Joe Gardner, Board of County  
Commissioners, Chairman

\_\_\_\_\_  
Dennis Weber, Commissioner

\_\_\_\_\_  
Arne Mortensen, Commissioner

Dated: \_\_\_\_\_

ATTEST: Clerk of the Board

\_\_\_\_\_

APPROVED AS TO FORM, ONLY:  
Doug Jensen, Chief Civil Deputy

By: \_\_\_\_\_  
Civil Deputy

\_\_\_\_\_  
Jennifer Phillips, City Manager

Dated: \_\_\_\_\_

APPROVED AS TO FORM, ONLY:

\_\_\_\_\_  
Paul Byrne, City Attorney

**CITY OF BOTHELL, WASHINGTON  
AUTHORIZED SIGNATURE(S):**

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# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Erin Leonhart, Public Works Director  
Anita DeMahy Green, Public Works Administrative Manager  
Emily Warnock, Public Works Sustainability Assistant (Presenter)

**DATE:** April 7, 2020

**SUBJECT:** Approve a Ordinance Repealing Ordinance No. 2296: Plastic Bag Restrictions

**POLICY CONSIDERATION:** This item asks that City Council consider repealing Ordinance No. 2296, restricting the use and sale of single-use plastic bags, in light of Washington State Engrossed Substitute Senate Bill (ESSB) 5323, reducing pollution from plastic bags by establishing minimum State standards for the use of bags at retail establishments. ESSB 5323 was signed into law on March 25, 2020.

If approved, the repeal of Ordinance 2296 will impact businesses, community members, and visitors by bringing the requirements into conformity with state law and avoiding confusion of the conflicting provisions of Bothell’s ordinance.

<b>HISTORY:</b>	<b>DATE</b>	<b>ACTION</b>
	<b>NOVEMBER 19, 2019</b>	City Council adopted Ordinance No. 2296
		On October 16, 2018, the City Council adopted 2019-2020 Council Goals, including Environmental Stewardship and Sustainability. On February 5, 2019, Council adopted the 2019-2020 Council Goals Scorecard, including a proposed performance measure of exploring an ordinance to reduce use of single-use plastics and Styrofoam in Bothell.
		Concurrently, ESSB 5323 and companion bill House Bill (HB) 1205 were introduced by Washington State legislators to reduce pollution from plastic bags by establishing minimum State standards for the use of bags at retail establishments. Neither measure was passed during the 2019 legislative session.
		Sustainability staff introduced the concepts behind Ordinance No. 2296 at a Sustainability Update to Council on May 14, 2019. On November, 19, 2019, City Council adopted Ordinance No. 2296 to restrict the use and sale of single-use plastic carryout bags in Bothell.

On January 13, 2020, ESSB 5323 was reintroduced and passed by the Washington State Legislature on March 11, 2020. Governor Inslee signed the bill into law on March 25.

**DISCUSSION:** Building on the 38 local plastic bag ordinances in Washington, ESSB 5323 restricts single-use plastic carryout bags at all retail establishments throughout the state. The bill aims to streamline inconsistent local requirements across Washington State to reduce the burden on retailers and widen the scope of single-use plastic carryout bag restrictions.

Per Section 6 of ESSB 5323, local government carryout bag ordinances enacted as of April 1, 2020 are preempted as of January 1, 2021. If a local ordinance has established a pass-through charge of \$0.10, the pass-through charge would not be preempted until January 1, 2026 when the pass-through charge would increase to \$0.12. All other aspects of Ordinance 2296 would be preempted.

If Council does not approve the repeal of Ordinance 2296, the City of Bothell will have different restrictions in place from April 22, 2020 to December 31, 2020 before aligning to ESSB 5323 on January 1, 2021. This includes restrictions on all carryout bags made of plastic film regardless of thickness. ESSB 5323 allows reusable carryout bags made of plastic film that are at least 2.25 mils thick until December 31, 2025 and at least 4 mils thick as of January 2, 2026. Repealing Ordinance 2296 would allow Bothell to align with the state bill and would allow for streamlined communications to Bothell businesses and the community, resulting in less confusion as Bothell transitions to single-use plastic carryout bag restrictions.

**FISCAL IMPACTS:** Funding included in approved budget revenue from King County Waste Reduction and Recycling Grant and Department of Ecology Local Solid Waste Funding Assistance Grant will be used to provide education and outreach required under ESSB 5323.

**ATTACHMENTS:**

- Att-1. Ordinance repealing Ordinance No. 2296
- Att-2. Ordinance No. 2296
- Att-3. ESSB 5323

**RECOMMENDED ACTION:** Approve an Ordinance Repealing Ordinance No. 2296 to align with Washington State law.

**ORDINANCE NO. (2020)**

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, REPEALING ORDINANCE 2296 CONCERNING USE AND SALE OF SINGLE-USE PLASTIC CARRYOUT BAGS AND FIXING AN EFFECTIVE DATE.

WHEREAS, on November 19, 2019, the Bothell City Council adopted Ordinance 2296, enacting a ban on single-use plastic carryout bags and imposing a \$0.10 pass-through charge for the use of paper bags; and

WHEREAS, a state of emergency has been declared by the federal, state, county, and municipal governments in response to the COVID-19 pandemic; and

WHEREAS, the use of reusable bags for shopping is being discouraged because of the potential for further transmission of the novel coronavirus; and

WHEREAS, the Washington State Legislature recently passed a ban of single-use plastic bags, effective January 1, 2021, which preempts Bothell's Ordinance 2296 in almost every respect, saving only Bothell's imposition of a ten-cent pass-through charge versus the state's imposition of an eight-cent pass-through charge; and

WHEREAS, the City wishes to eliminate any potential confusion its business may endure by being subject to two similar laws; and

WHEREAS, the City further wishes to mitigate and reduce the transmission of COVID-19 and to relieve businesses and customers of the financial burden of complying with Ordinance No. 2296 at this time.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BOTHELL DOES ORDAIN AS FOLLOWS:

Section 1. REPEAL. Ordinance No. 2296 (2019) is hereby repealed in its entirety.

Section 2. EFFECTIVE DATE. This Ordinance, passed by at least a majority plus one of the whole membership of the City Council as a public emergency ordinance necessary for the immediate preservation of the public peace, health, property, or safety and for the immediate support of City government and its existing public institutions, shall be effective immediately upon its adoption as provided in RCW 35A.13.190.

Section 3. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 4. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

APPROVED:

---

LIAM OLSEN  
MAYOR

ATTEST/AUTHENTICATED:

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LAURA HATHAWAY  
CITY CLERK

APPROVED AS TO FORM:

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PAUL BYRNE  
CITY ATTORNEY

FILED WITH THE CITY CLERK: March XX, 2020  
PASSED BY THE CITY COUNCIL: April 7, 2020  
PUBLISHED: April XX, 2020  
EFFECTIVE DATE: April XX, 2020  
ORDINANCE NO.: (2020)

**SUMMARY OF ORDINANCE NO. \_\_\_\_\_ (2020)**

City of Bothell, Washington

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On the XX day of XX, 2020, the City Council of the City of Bothell passed Ordinance No. XX (2020). A summary of the content of said Ordinance, consisting of the title, is provided as follows:

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, REPEALING ORDINANCE 2296 CONCERNING USE AND SALE OF SINGLE-USE PLASTIC CARRYOUT BAGS AND FIXING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

---

LAURA HATHAWAY  
CITY CLERK

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO.: \_\_\_\_\_ (2020)

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**ORDINANCE NO. 2296 (2019)**

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, ADOPTING CHAPTER 8.75, RESTRICTING THE USE AND SALE OF SINGLE-USE PLASTIC CARRYOUT BAGS IN THE CITY OF BOTHELL, PROVIDING PENALTIES FOR VIOLATIONS, FIXING A TIME WHEN THE SAME SHALL BECOME OPERATIVE PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

---

WHEREAS, the Washington State Legislature in RCW 70.95.010(8)(a) established waste reduction as the first priority for the collection, handling, and management of solid waste; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(4) found that it is "necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility"; and

WHEREAS, the Washington State Legislature in RCW 70.95.010(6)(c) found that it is the responsibility of city and county governments "to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies"; and

WHEREAS, the use of single-use plastic carryout bags has been restricted in cities and countries around the world, including 34 jurisdictions in Washington state; and

WHEREAS, the City of Bothell adopted the King County 2019 Comprehensive Solid Waste Management Plan which recommends that cities "reduce consumer use of single-use items"; and

WHEREAS, Washington state residents use an estimated two billion single-use plastic carryout bags per year; and

WHEREAS, costs associated with the use and disposal of single-use plastic carryout bags create a burden on the solid waste disposal system; and

WHEREAS, single-use plastic carryout bags are made of nonrenewable resources which never biodegrade, breaking down into smaller particles that seep into soils or are carried into rivers, lakes, Puget Sound, and the ocean, posing a threat to animal life; and

WHEREAS, human consumption of animals exposed to microplastics and plastic additives can be detrimental to human tissue; and

WHEREAS, studies indicate that exposure to plastics negatively impacts human health as a result of toxic chemical additives; and

WHEREAS, to prevent waste generation in the City, it is in the City's interest to discourage single-use, throw-away items and, to do so, it is necessary to regulate such use; and

WHEREAS, alternatives to single-use plastic carryout bags are readily available; and

WHEREAS, the City has a duty to protect the natural environment, the economy and the health of its citizens; and

WHEREAS, the City of Bothell Council finds a reduction in the use of single-use plastic carryout bags in the best interest of public health, safety, and welfare, for the citizens of Bothell and the environment, and

WHEREAS, April 22, 2020 marks the 50<sup>th</sup> anniversary of Earth Day; and

WHEREAS, the City of Bothell shall work with retailers, retail associations, and other organizations to provide educational resources about the benefits of reusable bags. This may include signage at store locations, informational literature, and employee training and will take place before and after the operative date. All retail establishments are strongly encouraged to educate their staff to promote reusable bags as the best option for carryout bags and to post signs encouraging customers to use reusable bags; and

WHEREAS, the City Council finds and declares that to protect the City's unique environment and the health and welfare of fish, wildlife and people, single-use plastic carryout bags should be regulated;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BOTHELL, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Adoption Chapter 8.75 BMC. Chapter 8.75 of the Bothell Municipal Code, entitled RESTRICTING THE USE AND SALE OF SINGLE-USE PLASTIC CARRYOUT BAGS is hereby adopted to read as follows:

## Chapter 8.75

### RESTRICTING THE USE AND SALE OF SINGLE-USE PLASTIC CARRYOUT BAGS

#### Sections:

- 8.75.010 Definitions.
- 8.75.020 Purpose.
- 8.75.030 Administration.
- 8.75.040 Prohibitions on disposable plastic carryout bags.
- 8.75.050 Types of Bags permitted at Retail establishments.
- 8.75.060 Recycled content paper bag pass-through charge.
- 8.75.070 Exceptions.
- 8.75.110 Extensions.
- 8.75.120 Violation and penalties.
- 8.75.130 Operative date.
- 8.75.140 No conflict with federal or state laws.

#### **8.75.010 Definitions.**

Whenever used in this chapter, unless the context otherwise requires:

A. "ASTM Standard" means the American society for Testing and Materials (ASTM) International Standard.

B. "Carryout bags" means any bag that is provided by a retail establishment at home delivery, the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases. Carryout bags do not include:

1. Newspaper bags, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

2. Bags used by consumers inside stores to:

A. Package bulk items, such as fruits, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;

B. Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:

- 1. Frozen foods;
- 2. Meat;
- 3. Fish;
- 4. Flowers; and
- 5. Potted plants;

C. Contain unwrapped prepared foods or bakery goods;

D. Contain prescription drugs; or

E. Protect a purchased item from damaging or contaminating other purchased items when placed in a recycled content paper carryout bag or reusable carryout bag.

C. "Director" means the director of the department of public works of the city of Bothell or his/her designee.

D. "Pass-through charge" means a charge to be collected by retailers from their customers when providing recycled content paper bags and retained by retailers to offset the cost of bags and other costs related to the pass-through charge.

E. "Recyclable" means the materials designated as being part of residential, multifamily or commercial recycling collection program, as established in the contract with the solid waste hauler. The contract and list of recyclable materials shall be on file for review and available at the city clerk's office and available on the solid waste hauler website for customer review.

F. "Recycled content paper bag" or "Recycled content paper carryout bag" means a paper bag that meets all of the following requirements: (1) contains no old growth fiber; (2) is 100% recyclable overall and contains a minimum of 40% postconsumer recycled content; and (3) displays the word "Recyclable" on the outside of the bag and 4) is clearly labeled with the minimum percentage of postconsumer content.

G. "Retail establishment" means any commercial business facility engaged in the sale of goods to consumers for ultimate consumption.

H. "Reusable bag" means a bag with handles that is specifically designed and manufactured for at least 125 uses and is capable of carrying 22 pounds or more at least 175 feet, and is machine washable or made from a durable material that may be cleaned or disinfected. It does not include plastic film bags.

I. "Single-use plastic carryout bag" means any carryout bag made from plastic film.

#### **8.75.020 Purpose.**

The purpose of this chapter is to promote public health, reduce litter, and limit harmful materials entering the environment by the regulation and limiting of the use of single-use plastic carryout bags; and to encourage the use of environmentally preferred alternatives, such as reusable bags.

#### **8.75.030 Administration.**

A. The Director shall administer this chapter and adopt administrative rules.

#### **8.75.040 Prohibition on single-use plastic carryout bags.**

No retail establishment in the city, or any of its employees, agents, managers or owners, shall provide a single-use plastic carryout bag to any customer.

#### **8.75.050 Types of Bags permitted at Retail Establishments.**

- A. All retail establishments within the city of Bothell shall only provide recycled content paper bags as carryout bags to customers.
- B. Nothing in this chapter shall be read to preclude retail establishments from making reusable bags available for sale to customers or from giving them out free of charge.
- C. Recycled content paper bags must meet the definition of "recyclable" in Section 8.75.010 to be provided by retail establishments and are subject to the pass-through charge in Section 8.75.060.

#### **8.75.060 Recycled content paper bag pass-through charge.**

- A. Retail establishments may provide a customer a recycled-content paper bag upon request but shall charge the customer a reasonable pass-through charge of not less than 10 (ten) cents per bag provided. Pass-through charges are taxable and retail establishments are responsible for managing taxes on pass-through charges.
- B. All retail establishments shall indicate on the customer transaction receipt the number of recycled content paper carryout bags provided and the amount of the pass-through charge.
- C. Prior to the effective date of this ordinance, retail establishments may voluntarily implement the restrictions on single-use plastic carryout bags allowed, as described herein, and may concurrently implement a pass-through charge.
- D. Notwithstanding the requirements in subsection A, nothing in this ordinance shall restrict retail establishments from providing a discount to customers who use reusable bags.

#### **8.75.070 Exemptions**

(1) No retail establishment may collect a pass-through charge from anyone using a voucher or electronic benefits card issued under programs including, but not limited to, Women, Infants, and Children (WIC); Temporary Assistance to Needy Families (TANF); Federal Supplemental Nutrition Assistance Program (SNAP), also known as Basic Food; and the Washington State Food Assistance Program (FAP).

(2) Non-profit organizations are exempt from the requirements for this chapter but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

#### **8.75.110 Extensions.**

The Director may extend the deadline for a retail establishment to comply with the requirements of this chapter for a period of up to one year after the operative date of this chapter, upon sufficient showing by the applicant that the provisions of this chapter

would cause undue hardship. This request must be submitted in writing to the City within 30 days of the operative date in Section 8.75.130. A form is available on the City website. The Public Works Director or designee may approve the exemption request, in whole or in part, with or without conditions.

The Director may exempt a retail establishment from the requirements of this chapter for up to a one-year period, upon a request by the retail establishment showing that the conditions of this chapter would cause undue hardship. An "undue hardship" shall only be found in:

- (a) Circumstances or situations unique to the particular retail establishment, such that there are no reasonable alternatives to single-use plastic carryout bags or a pass-through charge cannot be collected; or
- (b) Circumstances or situations unique to the retail establishment, such that compliance with the requirements of this chapter would deprive a person of a legally protected right.

#### **8.75.120 Violation and penalties.**

- A. Upon a first violation of any part of this chapter, the Code Compliance Officer may issue a notice of violation to the offending person or business. The notice of violation shall contain the date of and alleged type of violation. The notice of violation shall be regarded as a warning and no other sanctions shall be implemented. Notice shall be served upon the premises to the highest ranking employee currently on duty at the time of delivery.
- B. If after the issuance of a notice of violation the Code Compliance Officer becomes aware of subsequent noncompliance, has the authority to issue a civil infraction. Any subsequent violation of this chapter shall be designated as a Class 1 civil infraction. Each day of any such violation is a separate civil infraction; a notice of infraction may be issued for each day of any such violation. Civil infractions shall be heard and determined according to Chapter 7.80 RCW as amended, and any applicable court rules.
- C. It shall be a violation of this chapter for any retail establishment to penalize, discipline, or discriminate against any employee for performing any duty necessary to comply with this chapter.

#### **8.75.130 Operative Date.**

All retail establishments shall comply with the requirements of this chapter by April 22, 2020. The purpose of this implementation period is to: (1) allow time for affected retailers to prepare for and adapt to the provisions of this chapter; (2) allow time for the educational program to take effect and encourage the use of reusable bags; and (3) enable Public Works staff to work with members of the community and affected parties to evaluate alternatives or modifications needed to address issues regarding provisions or implementation of this chapter.

**8.75.140 No conflict with federal or state laws.**

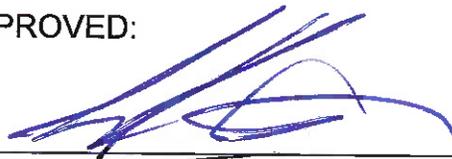
Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 2. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 3. EFFECTIVE DATE. This ordinance shall take effect April 22, 2020.

Section 4. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

APPROVED:



\_\_\_\_\_  
ANDREW J. RHEAUME  
MAYOR

ATTEST/AUTHENTICATED:



\_\_\_\_\_  
LAURA HATHAWAY  
CITY CLERK

APPROVED AS TO FORM:



\_\_\_\_\_  
PAUL BYRNE  
CITY ATTORNEY

FILED WITH THE CITY CLERK: 11/12/2019  
PASSED BY THE CITY COUNCIL: 11/19/2019  
PUBLISHED: 11/22/2019  
EFFECTIVE DATE: 04/22/2020  
ORDINANCE NO.: 2296 (2019)

**SUMMARY OF ORDINANCE NO. 2296 (2019)**

City of Bothell, Washington

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On the 19th day of November, 2019, the City Council of the City of Bothell passed Ordinance No. 2296 (2019). A summary of the content of said Ordinance, consisting of the title, is provided as follows:

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, ADOPTING CHAPTER 8.75, RESTRICTING THE USE AND SALE OF SINGLE-USE PLASTIC BAGS IN THE CITY OF BOTHELL, PROVIDING PENALTIES FOR VIOLATIONS, FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

The full text of this Ordinance will be mailed upon request.

  
LAURA HATHAWAY  
CITY CLERK

FILED WITH THE CITY CLERK: 11/12/2019  
PASSED BY THE CITY COUNCIL: 11/19/2019  
PUBLISHED: 11/22/2019  
EFFECTIVE DATE: 04/22/2020  
ORDINANCE NO.: 2296 (2019)

Att-3

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 5323**

66th Legislature  
2020 Regular Session

Passed by the Senate March 9, 2020  
Yeas 33 Nays 15

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**President of the Senate**

Passed by the House March 7, 2020  
Yeas 67 Nays 29

---

**Speaker of the House of  
Representatives**

Approved

---

**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5323** as passed by the Senate and the House of Representatives on the dates hereon set forth.

---

**Secretary**

FILED

**Secretary of State  
State of Washington**

---

**ENGROSSED SUBSTITUTE SENATE BILL 5323**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2020 Regular Session

**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Das, Carlyle, Kuderer, Palumbo, Hunt, Rolfes, Frockt, Keiser, Pedersen, and Saldaña)

READ FIRST TIME 02/01/19.

1        AN ACT Relating to reducing pollution from plastic bags by  
2 establishing minimum state standards for the use of bags at retail  
3 establishments; reenacting and amending RCW 43.21B.110 and  
4 43.21B.110; adding a new section to chapter 82.04 RCW; adding a new  
5 chapter to Title 70 RCW; creating a new section; prescribing  
6 penalties; providing an effective date; and providing expiration  
7 dates.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9        NEW SECTION.    **Sec. 1.**    (1) State policy has long placed waste  
10 reduction as the highest priority in the collection, handling, and  
11 management of solid waste. Reducing plastic bag waste holds  
12 particular importance among state waste reduction efforts for a  
13 number of reasons:

14        (a) Single-use plastic carryout bags are made of nonrenewable  
15 resources and never biodegrade; instead, over time, they break down  
16 into tiny particles. Single-use plastic carryout bags, and the  
17 particles they break into, are carried into rivers, lakes, Puget  
18 Sound, and the world's oceans, posing a threat to animal life and the  
19 food chain;

20        (b) Plastic bags are one of the most commonly found items that  
21 litter state roads, beaches, and other public spaces; and

1 (c) Even when plastic bags avoid the common fate of becoming  
2 litter, they are a drain on public resources and a burden on  
3 environment and resource conservation goals. For example, if plastic  
4 bags are disposed of in commingled recycling systems rather than as  
5 garbage or in retailer drop-off programs, they clog processing and  
6 sorting machinery, resulting in missorted materials and costly  
7 inefficiencies that are ultimately borne by utility ratepayers.  
8 Likewise, when green or brown-tinted plastic bags confuse consumers  
9 into attempting to dispose of them as compost, the resultant plastic  
10 contamination undercuts the ability to use the compost in gardens,  
11 farms, landscaping, and surface water and transportation projects.

12 (2) Alternatives to single-use plastic carryout bags are  
13 convenient, functional, widely available, and measure as superior  
14 across most environmental performance metrics. Alternatives to  
15 single-use plastic carryout bags feature especially superior  
16 environmental performance with respect to litter and marine debris,  
17 since plastic bags do not biodegrade.

18 (3) As of 2020, many local governments in Washington have shown  
19 leadership in regulating the use of single-use plastic carryout bags.  
20 This local leadership has shown the value of establishing state  
21 standards that will streamline regulatory inconsistency and reduce  
22 burdens on covered retailers caused by a patchwork of inconsistent  
23 local requirements across the state.

24 (4) Data provided from grocery retailers has shown that requests  
25 for paper bags have skyrocketed where plastic bag bans have been  
26 implemented. To accommodate the anticipated consequences of a  
27 statewide plastic bag ban, it is rational to expect additional  
28 capacity will be needed in Washington state for manufacturing paper  
29 bags. The legislature intends to provide that capacity by  
30 prioritizing and expediting siting and permitting of expansions or  
31 reconfiguring for paper manufacturing.

32 (5) Therefore, in order to reduce waste, litter, and marine  
33 pollution, conserve resources, and protect fish and wildlife, it is  
34 the intent of the legislature to:

35 (a) Prohibit the use of single-use plastic carryout bags;

36 (b) Require a pass-through charge on recycled content paper  
37 carryout bags and reusable carryout bags made of film plastic, to  
38 encourage shoppers to bring their own reusable carryout bags;

39 (c) Require that bags provided by a retail establishment contain  
40 recycled content; and

1 (d) Encourage the provision of reusable and recycled content  
2 paper carryout bags by retail establishments.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply  
4 throughout this chapter unless the context clearly requires  
5 otherwise.

6 (1) "Carryout bag" means any bag that is provided by a retail  
7 establishment at home delivery, the check stand, cash register, point  
8 of sale, or other point of departure to a customer for use to  
9 transport or carry away purchases.

10 (2) "Department" means the department of ecology.

11 (3) "Pass-through charge" means a charge to be collected and  
12 retained by retail establishments from their customers when providing  
13 recycled content paper carryout bags and reusable carryout bags made  
14 of film plastic.

15 (4) "Recycled content paper carryout bag" means a paper carryout  
16 bag provided by a retail establishment to a customer that meets the  
17 requirements in section 3(6)(a) of this act.

18 (5) "Retail establishment" means any person, corporation,  
19 partnership, business, facility, vendor, organization, or individual  
20 that sells or provides food, merchandise, goods, or materials  
21 directly to a customer including home delivery, temporary stores, or  
22 vendors at farmers markets, street fairs, and festivals.

23 (6) "Reusable carryout bag" means a carryout bag made of cloth or  
24 other durable material with handles that is specifically designed and  
25 manufactured for long-term multiple reuse and meets the requirements  
26 of section 3(6)(b) of this act.

27 (7) "Single-use plastic carryout bag" means any carryout bag that  
28 is made from plastic that is designed and suitable only to be used  
29 once and disposed.

30 NEW SECTION. **Sec. 3.** (1) Beginning January 1, 2021, except as  
31 provided in this section and section 4 of this act, a retail  
32 establishment may not provide to a customer or a person at an event:

33 (a) A single-use plastic carryout bag;

34 (b) A paper carryout bag or reusable carryout bag made of film  
35 plastic that does not meet recycled content requirements; or

36 (c) Beginning January 1, 2026, a reusable carryout bag made of  
37 film plastic with a thickness of less than four mils, in the event  
38 that the 2025 legislature does not amend this section to reflect the

1 recommendations to the legislature made consistent with section 7 of  
2 this act.

3 (2) (a) A retail establishment may provide a reusable carryout bag  
4 or a recycled content paper carryout bag of any size to a customer at  
5 the point of sale. A retail establishment may make reusable carryout  
6 bags available to customers through sale.

7 (b) (i) Until December 31, 2025, a retail establishment must  
8 collect a pass-through charge of eight cents for every recycled  
9 content paper carryout bag with a manufacturer's stated capacity of  
10 one-eighth barrel (eight hundred eighty-two cubic inches) or greater  
11 or reusable carryout bag made of film plastic it provides, except as  
12 provided in subsection (5) of this section and section 4 of this act.

13 (ii) Beginning January 1, 2026, a retail establishment must  
14 collect a pass-through charge of twelve cents for reusable carryout  
15 bags made of film plastic and eight cents for recycled content paper  
16 carryout bags, in the event that the 2025 legislature does not amend  
17 this section to reflect the recommendations to the legislature made  
18 consistent with section 7 of this act. It is the intent of the  
19 legislature for the 2025 legislature to reassess the amount of the  
20 pass-through charge authorized under this subsection (2) (b), taking  
21 into consideration the content of the report to the legislature under  
22 section 7 of this act.

23 (c) A retail establishment must keep all revenue from pass-  
24 through charges. The pass-through charge is a taxable retail sale. A  
25 retail establishment must show all pass-through charges on a receipt  
26 provided to the customer.

27 (3) Carryout bags provided by a retail establishment do not  
28 include:

29 (a) Bags used by consumers inside stores to:

30 (i) Package bulk items, such as fruit, vegetables, nuts, grains,  
31 candy, greeting cards, or small hardware items such as nails, bolts,  
32 or screws;

33 (ii) Contain or wrap items where dampness or sanitation might be  
34 a problem including, but not limited to:

35 (A) Frozen foods;

36 (B) Meat;

37 (C) Fish;

38 (D) Flowers; and

39 (E) Potted plants;

40 (iii) Contain unwrapped prepared foods or bakery goods;

1 (iv) Contain prescription drugs; or  
2 (v) Protect a purchased item from damaging or contaminating other  
3 purchased items when placed in a recycled content paper carryout bag  
4 or reusable carryout bag; or  
5 (b) Newspaper bags, mailing pouches, sealed envelopes, door  
6 hanger bags, laundry/dry cleaning bags, or bags sold in packages  
7 containing multiple bags for uses such as food storage, garbage, or  
8 pet waste.  
9 (4)(a) Any compostable film bag that a retail establishment  
10 provides to customers for products, including for products bagged in  
11 stores prior to checkout, must meet the requirements for compostable  
12 products and film bags in chapter 70.360 RCW.  
13 (b) A retail establishment may not use or provide polyethylene or  
14 other noncompostable plastic bags for bagging of customer products in  
15 stores, as carryout bags, or for home delivery that do not meet the  
16 requirements for noncompostable products and film bags in chapter  
17 70.360 RCW.  
18 (5) Except as provided by local regulations enacted as of April  
19 1, 2020, a retail establishment may provide a bag restricted under  
20 subsection (1) of this section from existing inventory until one year  
21 after the effective date of this section. The retail establishment,  
22 upon request by the department, must provide purchase invoices,  
23 distribution receipts, or other information documenting that the bag  
24 was acquired prior to the effective date of this section.  
25 (6) For the purposes of this section:  
26 (a) A recycled content paper carryout bag must:  
27 (i) Contain a minimum of forty percent postconsumer recycled  
28 materials;  
29 (ii) Be capable of composting, consistent with the timeline and  
30 specifications of the entire American society of testing materials  
31 D6868 and associated test methods that must be met, as it existed as  
32 of January 1, 2020; and  
33 (iii) Display in print on the exterior of the paper bag the  
34 minimum percentage of postconsumer content.  
35 (b) A reusable carryout bag must:  
36 (i) Have a minimum lifetime of one hundred twenty-five uses,  
37 which for purposes of this subsection means the capacity to carry a  
38 minimum of twenty-two pounds one hundred twenty-five times over a  
39 distance of at least one hundred seventy-five feet;

1 (ii) Be machine washable or made from a durable material that may  
2 be cleaned or disinfected; and

3 (iii) If made of film plastic:

4 (A) Be made from a minimum of twenty percent postconsumer  
5 recycled content until July 1, 2022, and thereafter must be made from  
6 a minimum of forty percent postconsumer recycled content;

7 (B) Display in print on the exterior of the plastic bag the  
8 minimum percentage of postconsumer recycled content, the mil  
9 thickness, and that the bag is reusable; and

10 (C) Have a minimum thickness of no less than 2.25 mils until  
11 December 31, 2025, and beginning January 1, 2026, must have a minimum  
12 thickness of four mils.

13 (c) Except for the purposes of subsection (4) of this section,  
14 food banks and other food assistance programs are not retail  
15 establishments, but are encouraged to take actions to reduce the use  
16 of single-use plastic carryout bags.

17 NEW SECTION. **Sec. 4.** It is a violation of section 3 of this act  
18 for any retail establishment to pay or otherwise reimburse a customer  
19 for any portion of the pass-through charge; provided that retail  
20 establishments may not collect a pass-through charge from anyone  
21 using a voucher or electronic benefits card issued under the women,  
22 infants, and children (WIC) or temporary assistance for needy  
23 families (TANF) support programs, or the federal supplemental  
24 nutrition assistance program (SNAP, also known as basic food), or the  
25 Washington state food assistance program (FAP).

26 NEW SECTION. **Sec. 5.** (1) Until June 1, 2025, the department  
27 shall prioritize the expedited processing of applications for permits  
28 related to the expansion or reconfiguration of an existing pulp and  
29 paper mill for the purpose of manufacturing paper bags or raw  
30 materials used to manufacture paper bags.

31 (2) The department may adopt rules as necessary for the purpose  
32 of implementing, administering, and enforcing this chapter.

33 (3) The enforcement of this chapter must be based primarily on  
34 complaints filed with the department and local governments. The  
35 department must establish a forum for the filing of complaints. Local  
36 governments and any person may file complaints with the department  
37 using the forum and local governments may review complaints filed  
38 with the department via the forum for purposes of the local

1 government carrying out education and outreach to retail  
2 establishments. The forum established by the department may include a  
3 complaint form on the department's web site, a telephone hotline, or  
4 a public outreach strategy relying upon electronic social media to  
5 receive complaints that allege violations. The department, in  
6 collaboration with the local governments, must provide education and  
7 outreach activities to inform retail establishments, consumers, and  
8 other interested individuals about the requirements of this chapter.

9 (4) The department or local government shall work with retail  
10 establishments, retail associations, unions, and other organizations  
11 to create educational elements regarding the ban and the benefits of  
12 reusable carryout bags. Educational elements may include signage at  
13 store locations, informational literature, and employee training by  
14 October 1, 2020.

15 (5) Retail establishments are encouraged to educate their staff  
16 to promote reusable bags as the best option for carryout bags and to  
17 post signs encouraging customers to use reusable carryout bags.

18 (6) A violation of this chapter is subject to a civil penalty of  
19 up to two hundred fifty dollars. Each calendar day of operation or  
20 activity in violation of this chapter comprises a new violation.  
21 Penalties issued under this section are appealable to the pollution  
22 control hearings board established in chapter 43.21B RCW.

23 (7) If specific funding for the purposes of this act, referencing  
24 this act by bill or chapter number, is not provided by July 1, 2020,  
25 from the waste reduction, recycling, and litter control account for  
26 purposes of implementing the education and outreach activities  
27 required under this section, then this act is null and void.

28 NEW SECTION. **Sec. 6.** (1) Except as provided in subsection (2)  
29 of this section, a city, town, county, or municipal corporation may  
30 not implement a local carryout bag ordinance. Except as provided in  
31 subsection (2) of this section, any carryout bag ordinance that was  
32 enacted as of April 1, 2020, is preempted by this chapter.

33 (2)(a) A city, town, county, or municipal corporation carryout  
34 bag ordinance enacted as of April 1, 2020, that has established a  
35 pass-through charge of ten cents is not preempted with respect to the  
36 amount of the pass-through charge until January 1, 2026.

37 (b) A city, town, county, or municipal corporation ordinance not  
38 specified in (a) of this subsection and enacted as of April 1 2020,  
39 is not preempted until January 1, 2021.

1        NEW SECTION.    **Sec. 7.**    (1) By December 1, 2024, the department of  
2 commerce, in consultation with the department, must submit a report  
3 to the appropriate committees of the legislature in order to allow an  
4 opportunity for the legislature to amend the mil thickness  
5 requirements for reusable carryout bags made of film plastic, the  
6 amount of the pass-through charges for bags, or to make other needed  
7 revisions to this chapter during the 2025 legislative session. The  
8 report required under this section must include:

9        (a) An assessment of the effectiveness of the pass-through charge  
10 for reducing the total volume of bags purchased and encouraging the  
11 use of reusable carryout bags;

12        (b) An assessment of the sufficiency of the amount of the pass-  
13 through charge allowed under chapter 70.--- RCW (the new chapter  
14 created in section 13 of this act) relative to the cost of the  
15 authorized bags to retail establishments and an assessment of the  
16 pricing and availability of various types of carryout bags. For  
17 purposes of conducting this assessment, the department and the  
18 department of commerce may request, but not require, retail  
19 establishments and bag distributors to furnish information regarding  
20 the cost of various types of paper and plastic carryout bags provided  
21 to retail establishments; and

22        (c) Recommendations for revisions to chapter 70.--- RCW (the new  
23 chapter created in section 13 of this act), if needed.

24        (2) This section expires July 1, 2027.

25        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 82.04  
26 RCW to read as follows:

27        In computing the tax due under this chapter, there may be  
28 deducted any amounts derived from the pass-through charge collected  
29 by a taxpayer pursuant to chapter 70.--- RCW (the new chapter created  
30 in section 13 of this act).

31        NEW SECTION.    **Sec. 9.**    RCW 82.32.805 and 82.32.808 do not apply  
32 to this act.

33        **Sec. 10.**    RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10,  
34 and 2019 c 290 s 12 are each reenacted and amended to read as  
35 follows:

36        (1) The hearings board shall only have jurisdiction to hear and  
37 decide appeals from the following decisions of the department, the

1 director, local conservation districts, the air pollution control  
2 boards or authorities as established pursuant to chapter 70.94 RCW,  
3 local health departments, the department of natural resources, the  
4 department of fish and wildlife, the parks and recreation commission,  
5 and authorized public entities described in chapter 79.100 RCW:

6 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
7 70.94.431, 70.105.080, 70.107.050, section 5 of this act, 70.365.070,  
8 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600,  
9 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

10 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
11 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 86.16.020,  
12 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

13 (c) A final decision by the department or director made under  
14 chapter 183, Laws of 2009.

15 (d) Except as provided in RCW 90.03.210(2), the issuance,  
16 modification, or termination of any permit, certificate, or license  
17 by the department or any air authority in the exercise of its  
18 jurisdiction, including the issuance or termination of a waste  
19 disposal permit, the denial of an application for a waste disposal  
20 permit, the modification of the conditions or the terms of a waste  
21 disposal permit, or a decision to approve or deny an application for  
22 a solid waste permit exemption under RCW 70.95.300.

23 (e) Decisions of local health departments regarding the grant or  
24 denial of solid waste permits pursuant to chapter 70.95 RCW.

25 (f) Decisions of local health departments regarding the issuance  
26 and enforcement of permits to use or dispose of biosolids under RCW  
27 70.95J.080.

28 (g) Decisions of the department regarding waste-derived  
29 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
30 decisions of the department regarding waste-derived soil amendments  
31 under RCW 70.95.205.

32 (h) Decisions of local conservation districts related to the  
33 denial of approval or denial of certification of a dairy nutrient  
34 management plan; conditions contained in a plan; application of any  
35 dairy nutrient management practices, standards, methods, and  
36 technologies to a particular dairy farm; and failure to adhere to the  
37 plan review and approval timelines in RCW 90.64.026.

38 (i) Any other decision by the department or an air authority  
39 which pursuant to law must be decided as an adjudicative proceeding  
40 under chapter 34.05 RCW.

1 (j) Decisions of the department of natural resources, the  
2 department of fish and wildlife, and the department that are  
3 reviewable under chapter 76.09 RCW, and the department of natural  
4 resources' appeals of county, city, or town objections under RCW  
5 76.09.050(7).

6 (k) Forest health hazard orders issued by the commissioner of  
7 public lands under RCW 76.06.180.

8 (l) Decisions of the department of fish and wildlife to issue,  
9 deny, condition, or modify a hydraulic project approval permit under  
10 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
11 comply, to issue a civil penalty, or to issue a notice of intent to  
12 disapprove applications.

13 (m) Decisions of the department of natural resources that are  
14 reviewable under RCW 78.44.270.

15 (n) Decisions of an authorized public entity under RCW 79.100.010  
16 to take temporary possession or custody of a vessel or to contest the  
17 amount of reimbursement owed that are reviewable by the hearings  
18 board under RCW 79.100.120.

19 (2) The following hearings shall not be conducted by the hearings  
20 board:

21 (a) Hearings required by law to be conducted by the shorelines  
22 hearings board pursuant to chapter 90.58 RCW.

23 (b) Hearings conducted by the department pursuant to RCW  
24 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
25 90.44.180.

26 (c) Appeals of decisions by the department under RCW 90.03.110  
27 and 90.44.220.

28 (d) Hearings conducted by the department to adopt, modify, or  
29 repeal rules.

30 (3) Review of rules and regulations adopted by the hearings board  
31 shall be subject to review in accordance with the provisions of the  
32 administrative procedure act, chapter 34.05 RCW.

33 **Sec. 11.** RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10,  
34 and 2019 c 290 s 12 are each reenacted and amended to read as  
35 follows:

36 (1) The hearings board shall only have jurisdiction to hear and  
37 decide appeals from the following decisions of the department, the  
38 director, local conservation districts, the air pollution control  
39 boards or authorities as established pursuant to chapter 70.94 RCW,

1 local health departments, the department of natural resources, the  
2 department of fish and wildlife, the parks and recreation commission,  
3 and authorized public entities described in chapter 79.100 RCW:

4 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
5 70.94.431, 70.105.080, 70.107.050, section 5 of this act, 70.365.070,  
6 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600,  
7 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

8 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
9 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 86.16.020,  
10 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

11 (c) Except as provided in RCW 90.03.210(2), the issuance,  
12 modification, or termination of any permit, certificate, or license  
13 by the department or any air authority in the exercise of its  
14 jurisdiction, including the issuance or termination of a waste  
15 disposal permit, the denial of an application for a waste disposal  
16 permit, the modification of the conditions or the terms of a waste  
17 disposal permit, or a decision to approve or deny an application for  
18 a solid waste permit exemption under RCW 70.95.300.

19 (d) Decisions of local health departments regarding the grant or  
20 denial of solid waste permits pursuant to chapter 70.95 RCW.

21 (e) Decisions of local health departments regarding the issuance  
22 and enforcement of permits to use or dispose of biosolids under RCW  
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25 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
26 decisions of the department regarding waste-derived soil amendments  
27 under RCW 70.95.205.

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29 denial of approval or denial of certification of a dairy nutrient  
30 management plan; conditions contained in a plan; application of any  
31 dairy nutrient management practices, standards, methods, and  
32 technologies to a particular dairy farm; and failure to adhere to the  
33 plan review and approval timelines in RCW 90.64.026.

34 (h) Any other decision by the department or an air authority  
35 which pursuant to law must be decided as an adjudicative proceeding  
36 under chapter 34.05 RCW.

37 (i) Decisions of the department of natural resources, the  
38 department of fish and wildlife, and the department that are  
39 reviewable under chapter 76.09 RCW, and the department of natural

1 resources' appeals of county, city, or town objections under RCW  
2 76.09.050(7).

3 (j) Forest health hazard orders issued by the commissioner of  
4 public lands under RCW 76.06.180.

5 (k) Decisions of the department of fish and wildlife to issue,  
6 deny, condition, or modify a hydraulic project approval permit under  
7 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
8 comply, to issue a civil penalty, or to issue a notice of intent to  
9 disapprove applications.

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11 reviewable under RCW 78.44.270.

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13 to take temporary possession or custody of a vessel or to contest the  
14 amount of reimbursement owed that are reviewable by the hearings  
15 board under RCW 79.100.120.

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21 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and  
22 90.44.180.

23 (c) Appeals of decisions by the department under RCW 90.03.110  
24 and 90.44.220.

25 (d) Hearings conducted by the department to adopt, modify, or  
26 repeal rules.

27 (3) Review of rules and regulations adopted by the hearings board  
28 shall be subject to review in accordance with the provisions of the  
29 administrative procedure act, chapter 34.05 RCW.

30 NEW SECTION. **Sec. 12.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 13.** Sections 1 through 7 of this act  
35 constitute a new chapter in Title 70 RCW.

36 NEW SECTION. **Sec. 14.** Section 10 of this act expires June 30,  
37 2021.

1        NEW SECTION.    **Sec. 15.**    Section 11 of this act takes effect June  
2    30, 2021.

--- END ---



# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Erin Leonhart, Director of Public Works  
Boyd E. Benson, P.E., Utility and Development Manager, Public Works  
Department (Presenter)

**DATE:** April 7, 2020

**SUBJECT:** Approve an Interlocal Agreement with Northshore Utility District (NUD)  
for Water and Sewer Service to Lots 34 and 35 of the Orchards Plat

**POLICY CONSIDERATION:** This item asks the City Council to consider if the City should enter into an Interlocal Agreement with NUD to provide sewer and water service to two lots within the City of Bothell Sewer and Water service areas.

If approved, this action will result in a minor reduction in future Sewer and Water Utility revenue (see Fiscal Impacts section). If not approved, two parcels within the Orchards Subdivision cannot be developed until/unless City water service is extended to serve them.

<b>HISTORY:</b>	<b>DATE</b>	<b>ACTION</b>
	<b>MAY 18, 2018</b>	Hearing Examiner Decision approving Orchards Subdivision Preliminary Plat

A subdivision application for the Orchards plat was submitted on December 20, 2016, and the preliminary plat for the development was approved on May 18, 2018. Site construction is currently occurring, with completion of site work and subsequent approval of the Final Plat expected in Spring or Summer 2020.

**DISCUSSION:** The Orchards Development is a 19-lot plat located immediately east of 88th Avenue NE and south of NE 202nd Place (see Site Map included as an exhibit to Attachment 1).

The Orchards Development is primarily located within the Northshore Utility District Service Area with the exception of two lots labeled Lots 34 and 35, which are located within the City of Bothell Sewer and Water Service Areas. City of Bothell sewer and water mains are not currently within or adjacent to the two lots and new City mains are not planned, or required by the City, to provide

future service in this area. Extending new City mains to these lots is not feasible with respect to existing system improvements, topography, installation cost, and long-term operations and maintenance.

The proposed interlocal agreement included as Attachment 1 will authorize NUD to serve these two lots just as NUD serves all its customers, including the other lots in the Orchards Development.

**FISCAL IMPACTS:** This item is associated with a reduction of future, unbudgeted, Sewer and Water Utility revenue in the amount of approximately \$500 to \$720 per year (total net revenue, 2020 rates). The loss of future revenue is far less than the expense of construction, operation, and maintenance of new sewer and water mains to serve these two lots.

**ATTACHMENTS:** Att-1. Proposed Interlocal Agreement for Sewer and Water Service between the Northshore Utility District and the City of Bothell

**RECOMMENDED ACTION:** Authorize the City Manager to enter into the Interlocal Agreement with the Northshore Utility District for Sewer and Water Service to Lots 34 and 35 of the Orchards Plat.

## Att-1

### Interlocal Agreement for Sewer and Water Service

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the Northshore Utility District ("District") and the City of Bothell ("City"), both municipal corporations of the State of Washington.

#### **BACKGROUND**

- A. The District is a special purpose district operating as public water and sewer utilities pursuant to Chapter 57 of the Revised Code of Washington.
- B. The District and the City are both owners and operators of public water distribution facilities within their respective service area boundaries.
- C. The District and the City are authorized by Chapter 39.34 of the Revised Code of Washington to enter into an interlocal cooperation agreement that permits governmental agencies to provide services and facilities in the most efficient manner.
- D. The Orchards Plat development is an 19-lot subdivision, as legally described in Exhibit A, located within the city limits of the City of Bothell. The majority of the lots, Orchards Lots 17 through 33, are located within the District's service boundary. However, two of the lots, Orchards Lots 34 and 35, are located within the City's water and sewer service boundary adjacent to the District's service boundary. Lots 1 through 16 are located within the Spring Ridge development located immediately to the south and within the District's service boundary.
- E. The City's water and sewer system cannot, at this time, provide domestic water and sewer service to the Orchards. Future extension of City domestic water and sewer service to Orchards Lots 34 and 35 is not planned at this time.
- F. The District has suitable sanitary sewer collection and water distribution facilities capable of providing domestic water service and sanitary sewer service to the Orchards.

#### **AGREEMENT**

Therefore, the District and the City agree as follows:

1. Purpose. The purpose of this agreement is to allow the District to provide domestic water and sanitary sewer service to Orchards Lots 34 and 35, as depicted on Exhibit B and as otherwise renumbered or readdressed in the future.
2. Permission to Serve. The City hereby grants permission to the District to provide domestic water and sanitary sewer service to Orchards Lots 34 and 35.
3. Manner of Service.
  - a. The District shall provide sanitary sewer and water service to Orchards Lots 34 and 35 on the same terms and conditions as it provides service to similar property within the District's boundaries and according to the District's resolutions, rules, and regulations. In providing such service, the District shall serve, bill, and treat Orchards Lot 34 and 35 customers in the same manner as its other water and sanitary sewer service customers.
  - b. The City shall cooperate fully with the District in all efforts to collect sanitary sewer and water service charges for sanitary sewer and water service provided to Orchards, including joinder in lien foreclosure proceeding, if necessary, provided the District shall bear all cost of collection.
  - c. All fees and charges collected from Orchards Lot 34 and 35 shall be retained by the District, unless and until such future City domestic water and sewer service is extended to the Orchards and service are transferred to the City.
4. Recording. Pursuant to RCW 39.34.040, the District shall record this agreement with the King County Recorder's Office.
5. No Third-Party Beneficiaries. Except as may be expressly set forth in this agreement, none of the provisions of this agreement shall inure to the benefit of or be enforceable by any third party.
6. Notice. Unless provided otherwise in this agreement, notices issued for all communications associated with this agreement shall be delivered to each party as follows:

Northshore Utility District  
Attn: General Manager  
6830 NE 185<sup>th</sup> Street  
Kenmore, WA 98028  
FAX: 425-398-4430

City of Bothell  
Attn: Public Works Director  
18415 – 101<sup>st</sup> Avenue NE  
Bothell, WA 98011

7. Duration. This agreement becomes effective on the date on which the last authorized signatory affixes his/her signature to this agreement.
8. Isolation of Systems. Upon termination of this agreement, District shall retain ownership of all fees and charges previously collected. The party that terminates this agreement shall bear the costs for isolating the District's water and sanitary sewer system from the Orchards Development, if necessary.
9. Administration. The Administrators of this agreement shall be the Public Works Director on behalf of the City and the General Manager on behalf of the District.
10. Counterparts. This agreement may be signed in counterparts and, if so signed, shall be deemed one integrated agreement.

**City:**

**District:**

---

Jennifer Phillips, City Manager  
City of Bothell

---

Alan G. Nelson, General Manager  
Northshore Utility District

STATE OF WASHINGTON )  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Alan G. Nelson is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the General Manager of the Northshore Utility District to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Signature \_\_\_\_\_

(print name) \_\_\_\_\_

Notary Public in and for the State of  
Washington, my commission expires  
\_\_\_\_\_

Residing at \_\_\_\_\_

STATE OF WASHINGTON )  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Jennifer Phillips is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument, and acknowledged it as the City Manager of the City of Bothell to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Signature \_\_\_\_\_

(print name) \_\_\_\_\_

Notary Public in and for the State of  
Washington, my commission expires  
\_\_\_\_\_

Residing at \_\_\_\_\_

**EXHIBIT A**  
**Legal Description of The Orchards Plat**

Per Chicago Title Insurance Company of Washington Alta Commitment No. 0127118-16, dated May 29, 2018, at 08:00 AM:

**LEGAL DESCRIPTION FOR THE ORCHARDS**

PARCELS A & D OF THE REFERENCED TITLE ARE NOT A PART OF THIS SURVEY.

PARCEL B:

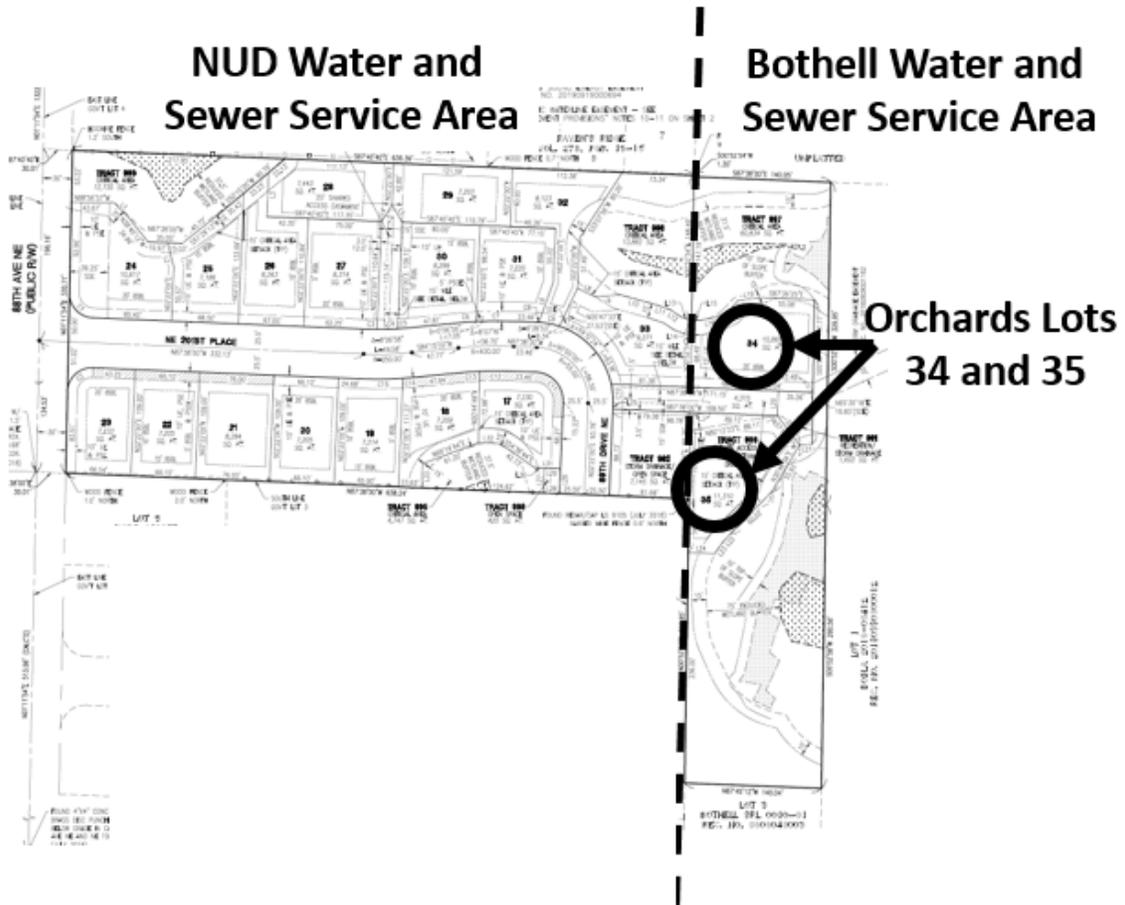
LOT 2, CITY OF BOTHELL BOUNDARY LINE ADJUSTMENT NO. BLA 2016-09412, RECORDED UNDER RECORDING NO. 20180330900012, IN KING COUNTY, WASHINGTON;

PARCEL C:

THAT PORTION OF GOVERNMENT LOT 3, SECTION 6, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 3; THENCE NORTH ALONG THE WEST LINE THEREOF, 330 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF GOVERNMENT LOT 3, 660 FEET, MORE OR LESS, TO THE NORTH AND SOUTH CENTER LINE OF SAID GOVERNMENT LOT 3; THENCE SOUTH PARALLEL WITH SAID WEST LINE 330 FEET TO THE SOUTH LINE OF SAID GOVERNMENT LOT 3; THENCE WEST ALONG SAID SOUTH LINE 660 FEET, MORE OR LESS, TO THE POINT OF BEGINNING; EXCEPTING THE WEST 20 FEET THEREOF, CONVEYED TO KING COUNTY FOR 88<sup>TH</sup> AVENUE N.E.

**EXHIBIT B**  
**Site Plan of The Orchards Plat**





# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Erin Leonhart, Director of Department  
Brenda O’Neill, Public Works Department (Presenter)

**DATE:** April 7, 2020

**SUBJECT:** Approve a Construction Contract for the 2019 Storm Repairs Project

**POLICY CONSIDERATION:** The City Council previously provided policy direction on this matter by adoption of the 2019-2025 Capital Facilities Plan (CFP) and 2019-2020 Biennial Budget. If this item is approved, staff is implementing the direction given by the City Council.

<b>HISTORY:</b>	<b>DATE</b>	<b>ACTION</b>
	<b>FEBRUARY 21, 2017</b>	City Council approved contract with Perteet for Pavement Preservation On-Call Service
	<b>OCTOBER 2, 2018</b>	City Council approved Supplement #1 for \$150,000
	<b>SEPTEMBER 17, 2019</b>	Staff negotiated a Task Order in the amount of \$28,609 for 2019 Storm Repairs design in support of overlays
	<b>OCTOBER 3, 2019</b>	City Manager approved Supplement #2 for a time extension

In February 2017, the City Council approved an on-call engineering services contract with Perteet in support of the pavement preservation efforts in 2017 and 2018. Perteet was chosen out of the 8 consultants that responded to the City’s advertised Request for Proposals as the most qualified and best fit for this project.

City Council approved Supplement #1 in October 2018. This supplement extended the Professional Services Agreement with Perteet for 1 year to complete the design of the 2019 asphalt roadway overlay project and associated work.

Staff negotiated a Task Order for the 2019 Storm Repairs Project. Design for the project began in September 2019 and was completed in January 2020. For the construction phase of this project, a competitive bidding procedure was followed, consistent with state law and the City’s procurement policy. The

construction contract was advertised for bids on January 30th and February 6th. The bid opening was held on February 20, 2020, and 5 bids were received.

The City Manager approved Supplement #2 for a time extension to allow time to complete the design of the Storm Repair Project in October 2019.

**DISCUSSION:** The 2019 Storm Repairs Project proposes to repair and replace storm drainage pipe and structures along Juanita-Woodinville Way NE, NE 160<sup>th</sup> St and 228<sup>th</sup> St SW. Work items include catch basin removal and replacement, frame and grate replacement, curb and gutter replacement, temporary and permanent pavement markings and traffic control.

The 2019 Storm Repairs project will complete necessary repairs and replacement of storm drainage pipe and structures in these roads prior to the pavement overlay.

The bid opening was held on February 20, 2020, and 5 bids were received. The lowest responsive and responsible bid was \$219,391.10 submitted by A & M Contractors. The engineer's estimate was \$298,890. After evaluating the bids, staff recommends Council award the construction contract to A & M Contractors. The contract amount is accounted for within the current Capital Facilities Budget for this project.

Construction is anticipated to begin in April 2020, and is to be completed within 40 working days. Actual work may take longer if there are inclement weather days.

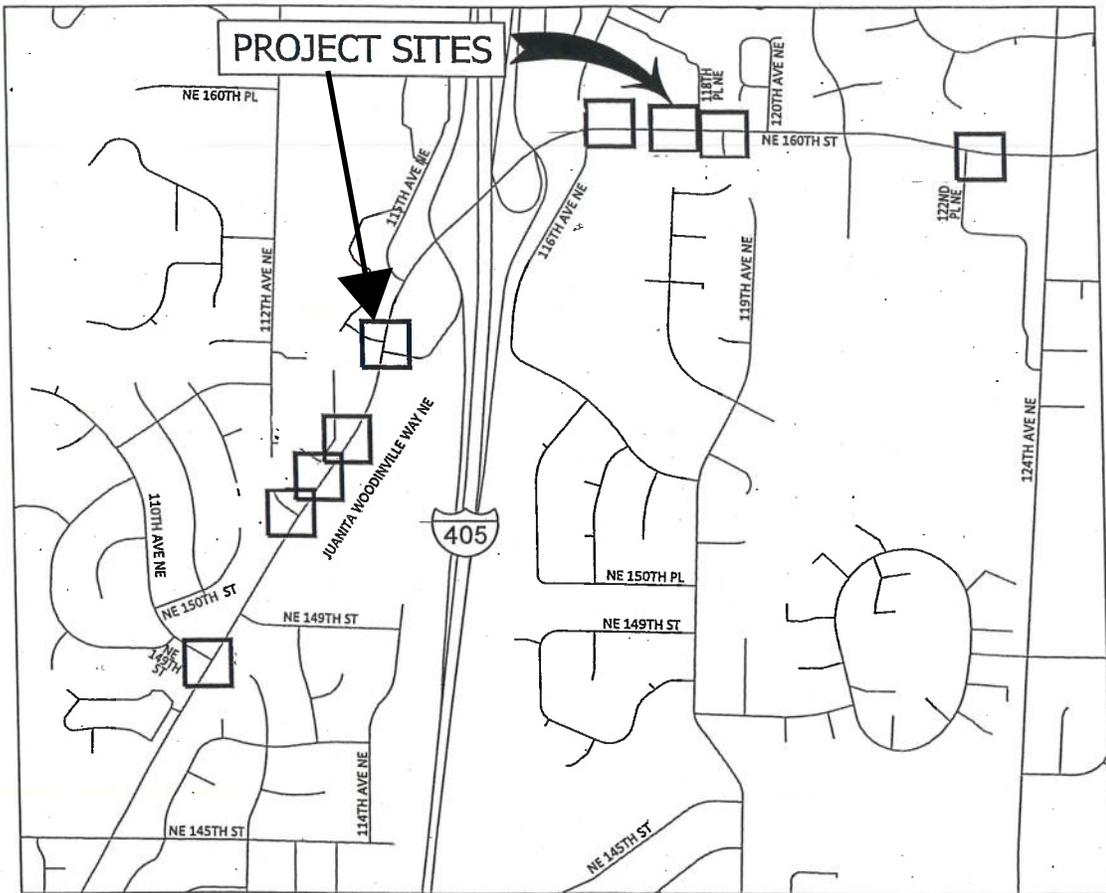
**FISCAL IMPACTS:** The item is included in the Adopted CFP and 2019-2020 Budget under SW1 – Annual Storm & Surface Water Capital Improvements. The budgeted value of \$219,391.10 is sufficient to fund this item.

**ATTACHMENTS:**

- Att-1. Vicinity Map
- Att-2. Bid Tabulation

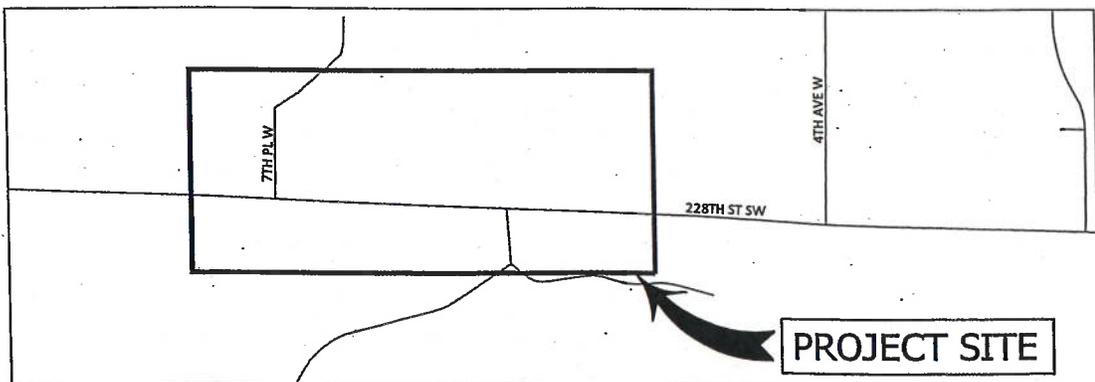
**RECOMMENDED ACTION:** Authorize the City Manager to enter into a Construction Contract with A & M Contractors for the 2019 Storm Repair Project in the amount of \$219,391.10.

Att - 1  
Vicinity Map



VICINITY MAP

N.T.S.



VICINITY MAP

N.T.S.

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City of Bothell™

**PUBLIC WORKS DEPARTMENT  
CAPITAL IMPROVEMENT PROJECT**

**BIDDING RESULTS  
FOR  
2019 Storm Repair**

ENGINEER'S ESTIMATE				A & M Contractors LLC		Iron Creek Construction LLC		Laser Underground & Earthworks Inc.		Rodarte Construction, Inc.		R.W. Scott Construction Co.		
<b>Total Cost Estimate: \$ 298,890</b>				<b>Total \$ 219,391.10</b>		<b>Total \$ 279,300.00</b>		<b>Total \$ 332,230.00</b>		<b>Total \$ 339,125.00</b>		<b>Total \$ 399,894.00</b>		
No.	Bid Item Description	Qty.	Unit Meas	Engineer's Cost Estimate										
				Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	
1	Unexpected Site Changes	1	EST	\$10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	
2	Record Drawings	1	LS	\$500.00	\$ 500.00	\$ 3,312.00	\$ 3,312.00	\$ 1,000.00	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	
3	SPCC Plan	1	LS	\$500.00	\$ 500.00	\$ 1,325.00	\$ 1,325.00	\$ 500.00	\$ 500.00	\$ 5,500.00	\$ 5,500.00	\$ 100.00	\$ 1,000.00	
4	Exploratory Utility Potholing	2	EA	\$1,000.00	\$ 2,000.00	\$ 662.00	\$ 1,324.00	\$ 500.00	\$ 1,000.00	\$ 500.00	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	
5	Mobilization	1	LS	\$9,000.00	\$ 9,000.00	\$ 10,194.00	\$ 10,194.00	\$ 25,000.00	\$ 25,000.00	\$ 19,000.00	\$ 19,000.00	\$ 19,000.00	\$ 19,000.00	
6	Project Temporary Traffic Control	1	LS	\$37,000.00	\$ 37,000.00	\$ 20,131.00	\$ 20,131.00	\$ 25,000.00	\$ 25,000.00	\$ 57,000.00	\$ 57,000.00	\$ 60,000.00	\$ 104,849.00	
7	Remove Drainage Structure	1	EA	\$500.00	\$ 500.00	\$ 440.00	\$ 440.00	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	
8	Gravel Borrow for Extra Excavation	6	CY	\$60.00	\$ 360.00	\$ 116.00	\$ 696.00	\$ 50.00	\$ 300.00	\$ 30.00	\$ 180.00	\$ 50.00	\$ 300.00	
9	Controlled Density Fill	5	CY	\$250.00	\$ 1,250.00	\$ 166.00	\$ 830.00	\$ 300.00	\$ 1,500.00	\$ 130.00	\$ 650.00	\$ 500.00	\$ 2,500.00	
10	Extra Excavation Incl. Haul	6	CY	\$100.00	\$ 600.00	\$ 47.00	\$ 282.00	\$ 50.00	\$ 300.00	\$ 50.00	\$ 300.00	\$ 75.00	\$ 450.00	
11	Crushed Surfacing Top Course	20	TON	\$60.00	\$ 1,200.00	\$ 57.00	\$ 1,140.00	\$ 75.00	\$ 1,500.00	\$ 50.00	\$ 1,000.00	\$ 125.00	\$ 2,500.00	
12	HMA for Pavement Repair CL 1/2" PG 58H-22	30	TON	\$200.00	\$ 6,000.00	\$ 397.00	\$ 11,910.00	\$ 500.00	\$ 15,000.00	\$ 300.00	\$ 9,000.00	\$ 500.00	\$ 15,000.00	
13	Shoring or Extra Excavation Class B	350	SF	\$4.00	\$ 1,400.00	\$ 9.00	\$ 3,150.00	\$ 2.00	\$ 700.00	\$ 1.00	\$ 350.00	\$ 1.00	\$ 350.00	
14	Solid Wall PVC Storm Sewer Pipe 12 In. Diam.	50	LF	\$144.00	\$ 7,200.00	\$ 83.00	\$ 4,150.00	\$ 75.00	\$ 3,750.00	\$ 210.00	\$ 10,500.00	\$ 250.00	\$ 12,500.00	
15	Catch Basin Type 1	1	EA	\$1,600.00	\$ 1,600.00	\$ 2,342.00	\$ 2,342.00	\$ 2,000.00	\$ 2,000.00	\$ 3,500.00	\$ 3,500.00	\$ 3,000.00	\$ 3,000.00	
16	Catch Basin Type 2 48 In. Diam.	1	EA	\$4,000.00	\$ 4,000.00	\$ 2,342.00	\$ 2,342.00	\$ 3,500.00	\$ 3,500.00	\$ 6,000.00	\$ 6,000.00	\$ 7,500.00	\$ 7,500.00	
17	Connection to Drainage Structure	2	EA	\$1,200.00	\$ 2,400.00	\$ 366.00	\$ 732.00	\$ 750.00	\$ 1,500.00	\$ 2,000.00	\$ 4,000.00	\$ 1,500.00	\$ 3,000.00	
18	Circular Locking Frame and Cover for Type 2 Catch Basin	7	EA	\$700.00	\$ 4,900.00	\$ 723.00	\$ 5,061.00	\$ 800.00	\$ 5,600.00	\$ 2,500.00	\$ 17,500.00	\$ 1,800.00	\$ 12,600.00	
19	Curb Inlet Frame and Grate	1	EA	\$1,700.00	\$ 1,700.00	\$ 640.00	\$ 640.00	\$ 700.00	\$ 700.00	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	\$ 2,000.00	
20	Dewatering for Trench Excavation	1	LS	\$10,000.00	\$ 10,000.00	\$ 6,624.00	\$ 6,624.00	\$ 2,500.00	\$ 2,500.00	\$ 250.00	\$ 250.00	\$ 1,200.00	\$ 1,200.00	
21	Pipe Band Repair	3	EA	\$700.00	\$ 2,100.00	\$ 328.00	\$ 984.00	\$ 2,500.00	\$ 7,500.00	\$ 5,500.00	\$ 16,500.00	\$ 4,500.00	\$ 13,500.00	
22	Erosion/Water Pollution Control	1	LS	\$3,000.00	\$ 3,000.00	\$ 1,325.00	\$ 1,325.00	\$ 500.00	\$ 500.00	\$ 5,500.00	\$ 5,500.00	\$ 7,500.00	\$ 7,500.00	
23	Cement Conc. Traffic Curb and Gutter	30	LF	\$45.00	\$ 1,350.00	\$ 37.00	\$ 1,110.00	\$ 75.00	\$ 2,250.00	\$ 100.00	\$ 3,000.00	\$ 215.00	\$ 6,450.00	
24	Cement Conc. Sidewalk	10	SY	\$90.00	\$ 900.00	\$ 65.00	\$ 650.00	\$ 250.00	\$ 2,500.00	\$ 250.00	\$ 2,500.00	\$ 325.00	\$ 3,250.00	
25	Loop Replacement Type 2	2	EA	\$4,000.00	\$ 8,000.00	\$ 1,325.00	\$ 2,650.00	\$ 2,500.00	\$ 5,000.00	\$ 3,000.00	\$ 6,000.00	\$ 1,700.00	\$ 3,400.00	
26	Loop Replacement Type 3	2	EA	\$2,500.00	\$ 5,000.00	\$ 2,649.00	\$ 5,298.00	\$ 2,500.00	\$ 5,000.00	\$ 3,000.00	\$ 6,000.00	\$ 1,700.00	\$ 3,400.00	
27	Paint Line	10	LF	\$1.00	\$ 10.00	\$ 66.00	\$ 660.00	\$ 10.00	\$ 100.00	\$ 15.00	\$ 150.00	\$ 30.00	\$ 300.00	
28	Plastic Crosswalk Line	260	SF	\$15.00	\$ 3,900.00	\$ 3.81	\$ 990.60	\$ 10.00	\$ 2,600.00	\$ 15.00	\$ 3,900.00	\$ 5.50	\$ 1,430.00	
29	Plastic Stop Line	30	LF	\$10.00	\$ 300.00	\$ 33.00	\$ 990.00	\$ 15.00	\$ 450.00	\$ 25.00	\$ 750.00	\$ 25.00	\$ 750.00	
30	Temporary Pavement Marking - Short Duration	1	LS	\$5,000.00	\$ 5,000.00	\$ 662.00	\$ 662.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 1,200.00	\$ 1,200.00	
<b>Schedule A Subtotal:</b>				<b>\$ 131,670.00</b>		<b>\$ 101,944.60</b>		<b>\$ 128,750.00</b>		<b>\$ 194,030.00</b>		<b>\$ 197,680.00</b>		<b>\$ 256,879.00</b>
<b>Washington State Sales Tax</b>					N/A	\$ -		\$ -		\$ -		\$ -		\$ -
<b>SubTotal Construction Cost Estimate:</b>				<b>\$ 131,670.00</b>		<b>\$ 101,944.60</b>		<b>\$ 128,750.00</b>		<b>\$ 194,030.00</b>		<b>\$ 197,680.00</b>		<b>\$ 256,879.00</b>
1	Unexpected Site Changes	1	EST	\$10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
2	Record Drawings	1	LS	\$500.00	\$ 500.00	\$ 3,182.00	\$ 3,182.00	\$ 1,000.00	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
3	SPCC Plan	1	LS	\$500.00	\$ 500.00	\$ 1,273.00	\$ 1,273.00	\$ 500.00	\$ 500.00	\$ 1,000.00	\$ 1,000.00	\$ 100.00	\$ 100.00	\$ 500.00
4	Mobilization	1	LS	\$13,000.00	\$ 13,000.00	\$ 11,745.00	\$ 11,745.00	\$ 25,000.00	\$ 25,000.00	\$ 13,000.00	\$ 13,000.00	\$ 10,000.00	\$ 10,000.00	\$ 13,500.00
5	Project Temporary Traffic Control	1	LS	\$30,000.00	\$ 30,000.00	\$ 19,358.00	\$ 19,358.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 10,000.00	\$ 10,000.00	\$ 27,500.00
6	Gravel Borrow for Extra Excavation	18	CY	\$60.00	\$ 1,080.00	\$ 84.00	\$ 1,512.00	\$ 50.00	\$ 900.00	\$ 30.00	\$ 540.00	\$ 50.00	\$ 900.00	\$ 80.00
7	Controlled Density Fill	2	CY	\$250.00	\$ 500.00	\$ 160.00	\$ 320.00	\$ 300.00	\$ 600.00	\$ 130.00	\$ 260.00	\$ 500.00	\$ 1,000.00	\$ 500.00
8	Extra Excavation Incl. Haul	18	CY	\$100.00	\$ 1,800.00	\$ 56.00	\$ 1,008.00	\$ 50.00	\$ 900.00	\$ 50.00	\$ 900.00	\$ 75.00	\$ 1,350.00	\$ 110.00
9	Crushed Surfacing Top Course	60	TON	\$60.00	\$ 3,600.00	\$ 55.00	\$ 3,300.00	\$ 75.00	\$ 4,500.00	\$ 50.00	\$ 3,000.00	\$ 110.00	\$ 6,600.00	\$ 90.00
10	HMA for Pavement Repair CL 1/2" PG 58H-22	70	TON	\$200.00	\$ 14,000.00	\$ 382.00	\$ 26,740.00	\$ 400.00	\$ 28,000.00	\$ 200.00	\$ 14,000.00	\$ 460.00	\$ 32,200.00	\$ 280.00
11	Shoring or Extra Excavation Class B	1,100	SF	\$4.00	\$ 4,400.00	\$ 3.00	\$ 3,300.00	\$ 2.00	\$ 2,200.00	\$ 1.00	\$ 1,100.00	\$ 1.00	\$ 1,100.00	\$ 3.00
12	Ductile Iron Storm Sewer Pipe 12 In. Diam.	220	LF	\$124.00	\$ 27,280.00	\$ 87.00	\$ 19,140.00	\$ 100.00	\$ 22,000.00	\$ 150.00	\$ 33,000.00	\$ 175.00	\$ 38,500.00	\$ 159.00
13	Connection to Drainage Structure	3	EA	\$1,200.00	\$ 3,600.00	\$ 298.00	\$ 894.00	\$ 750.00	\$ 2,250.00	\$ 2,000.00	\$ 6,000.00	\$ 1,200.00	\$ 3,600.00	\$ 1,000.00
14	Dewatering for Trench Excavation	1	LS	\$40,000.00	\$ 40,000.00	\$ 3,182.00	\$ 3,182.00	\$ 1,500.00	\$ 1,500.00	\$ 250.00	\$ 250.00	\$ 500.00	\$ 500.00	\$ 1,500.00
15	Pipe Band Repair	1	EA	\$700.00	\$ 700.00	\$ 574.00	\$ 574.00	\$ 2,500.00	\$ 2,500.00	\$ 5,500.00	\$ 5,500.00	\$ 4,500.00	\$ 4,500.00	\$ 3,400.00
16	Erosion/Water Pollution Control	1	LS	\$2,000.00	\$ 2,000.00	\$ 3,182.00	\$ 3,182.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00
17	Cement Conc. Traffic Curb and Gutter	110	LF	\$45.00	\$ 4,950.00	\$ 31.00	\$ 3,410.00	\$ 40.00	\$ 4,400.00	\$ 100.00	\$ 11,000.00	\$ 65.00	\$ 7,150.00	\$ 48.00
18	Cement Conc. Sidewalk	90	SY	\$90.00	\$ 8,100.00	\$ 45.00	\$ 4,050.00	\$ 180.00	\$ 16,200.00	\$ 100.00	\$ 9,000.00	\$ 130.00	\$ 11,700.00	\$ 91.00
19	Paint Line	210	LF	\$1.00	\$ 210.00	\$ 3.05	\$ 640.50	\$ 10.00	\$ 2,100.00	\$ 15.00	\$ 3,150.00	\$ 4.50	\$ 945.00	\$ 4.50
20	Temporary Pavement Marking - Short Duration	1	LS	\$1,000.00	\$ 1,000.00	\$ 636.00	\$ 636.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 500.00	\$ 300.00	\$ 300.00	\$ 500.00
<b>Schedule B Subtotal:</b>				<b>\$ 167,220.00</b>		<b>\$ 117,446.50</b>		<b>\$ 150,550.00</b>		<b>\$ 138,200.00</b>		<b>\$ 141,445.00</b>		<b>\$ 143,015.00</b>
<b>Washington State Sales Tax</b>					N/A	\$ -		\$ -		\$ -		\$ -		\$ -
<b>SubTotal Construction Cost Estimate:</b>				<b>\$ 167,220.00</b>		<b>\$ 117,446.50</b>		<b>\$ 150,550.00</b>		<b>\$ 138,200.00</b>		<b>\$ 141,445.00</b>		<b>\$ 143,015.00</b>
<b>Total Construction Cost Estimate:</b>				<b>\$ 298,890.00</b>		<b>\$ 219,391.10</b>		<b>\$ 279,300.00</b>		<b>\$ 332,230.00</b>		<b>\$ 339,125.00</b>		<b>\$ 399,894.00</b>

Project Engineer: Brenda O'Neill  
Consulting Engineer:

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# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Bruce Kroon, Fire Chief

**DATE:** April 7, 2020

**SUBJECT:** Approve an Interlocal Agreement for Deputy Fire Chief Services to King County Fire Protection District No. 16 (Northshore Fire Department)

**POLICY CONSIDERATION:** This item asks the City Council to approve the City of Bothell entering into an interlocal agreement (ILA) with the King County Fire Protection District No. 16 known as Northshore Fire Department (NFD) to provide deputy fire chief services. The City’s Deputy Fire Chief of Response Operations will provide operational oversight for both agencies for a limited time period.

**HISTORY:**

**DATE ACTION**

**MAY 7, 2013**

City Council approved Bothell Fire Department to provide Administrative Services to Woodinville Fire & Rescue

**JUNE 2, 2015**

City Council approved an extension for Administrative Services to Woodinville Fire & Rescue

City Council had previously approved an ILA with Woodinville Fire & Rescue (WFR) for a similar need. The City provided part-time administrative services to WFR. The City’s Fire Chief served as Fire Chief for both the City and WFR and the City’s Deputy Fire Chief of Response Operations provided operational oversight to both agencies while WFR researched consolidation models before making a decision to fill the vacant Fire Chief’s position.

**DISCUSSION:** COVID 19 has created pressure on our agencies and services. One of our partners, Northshore Fire Department is missing a key leadership position in this time of crisis. Staff believes it is in the best interest of public safety for all during this COVID-19 crisis that our neighboring partners are able to respond, fully staffed, to any challenges that confront them without requesting emergency assistance from its local partners. In addition to responding to the ever-growing challenges associated with COVID-19, Northshore Fire Department (NFD) is in need of deputy chief services while they research consolidation models. Under the proposed ILA, the City would provide part-time Deputy Chief of Response Operations services for operational oversight to both agencies. NFD’s need for

this service is based on their desire to explore their options before making a decision on whether NFD will fill the vacant deputy chief's position.

The City's Fire Chief believes capacity exists within the Fire Department to offer these services, with manageable impacts to the City's current or future operations and services. If the service demands ultimately have a negative impact on the Department, the City has the option of providing NFD with 30 days written notice to terminate the ILA. Conversely, if the services provided do not meet with NFD's expectations, NFD can provide the City with 30 days written notice to terminate the agreement.

**FISCAL IMPACTS:** Northshore Fire Department will pay Bothell \$8,912.13 per month (pro-rated for any partial months) for the duration of the ILA. The fee is based on the parties sharing Deputy Fire Chief services and using the Bothell Deputy Fire Chief's total cost of compensation. Bothell will issue a monthly invoice for the fee on the last day of each month.

**ATTACHMENTS:** Att-1. Interlocal Agreement between King County Fire Protection District No. 16 and the City of Bothell for Deputy Fire Chief Services

**RECOMMENDED ACTION:** Authorize the City Manager to execute the Interlocal Agreement for Deputy Fire Chief Services between King County Fire Protection District No. 16 and the City of Bothell in substantially the same form as presented.

**INTERLOCAL AGREEMENT  
BETWEEN  
KING COUNTY FIRE PROTECTION DISTRICT NO. 16  
AND  
THE CITY OF BOTHELL  
FOR  
DEPUTY FIRE CHIEF SERVICES**

**THIS INTERLOCAL AGREEMENT FOR DEPUTY FIRE CHIEF SERVICES** (the “Agreement”) is made and entered into by and between **KING COUNTY FIRE PROTECTION DISTRICT NO. 16**, a Washington municipal corporation (“Northshore”), and **THE CITY OF BOTHELL**, a Washington municipal corporation (“Bothell”). Northshore and Bothell are referred to collectively as the “Parties” and individually as “Party”.

**I. RECITALS**

**WHEREAS**, Northshore is without a full-time Deputy Fire Chief;

**WHEREAS**, Northshore requires support in its response operations and to support its administration beginning in April 2020;

**WHEREAS**, the Parties desire for Bothell’s Deputy Fire Chief to provide such services to Northshore on the terms and conditions herein; and

**WHEREAS**, the Parties are authorized, pursuant to Chapter 39.34 of the Revised Code of Washington, to enter into this Agreement to allow the Parties to cooperate with each other to provide high-quality services to the public in the most efficient manner possible.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, and terms hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**II. TERMS**

1. **Purpose.** The purpose of this Agreement is to establish a contractual arrangement under which Bothell shall provide the services, as defined herein, to Northshore.
2. **Headings.** The headings in this Agreement are for convenience only and do not in any way limit or amplify the provisions of this Agreement.
3. **Term.** This Agreement shall become effective on April 1, 2020 (the “Effective Date”) and shall remain in effect until July 31, 2020 (the “Termination Date”), unless otherwise terminated as provided below. The Parties may renew this Agreement for additional 30-day terms upon written approval of each Party’s legislative body.

3.1 This Agreement may be terminated: (1) without cause prior to the Termination Date upon 30 days’ advance written notice by either Party to the other; or (2) for cause based on a material breach of this Agreement prior to the Termination Date upon 15 days’ advance written notice to the breaching party and opportunity to cure. Upon termination, Bothell shall be relieved from any further obligation to provide services hereunder, and Northshore shall be

liable only for payment attributable to the services rendered prior to the effective date of termination.

4. **Services.** Bothell shall, upon request, provide the services generally outlined in **Exhibit A** (the “Services”) to Northshore, attached herewith and incorporated by this reference. It is recognized that Bothell’s Deputy Fire Chief will ordinarily perform the Services from Bothell’s administrative offices; provided, however, that Bothell’s Deputy Fire Chief shall make regular visits to the Northshore administrative offices, as appropriate, to carry out the intent of this Agreement.

5. **Compensation for Services.** Northshore shall pay Bothell \$8,912.13 per month (pro-rated for any partial months) (the “Fee”), which the Parties agree is full and true value for the Services.

5.1 The Fee is based on the Parties sharing Deputy Fire Chief services and using the Bothell Deputy Fire Chief’s total cost of compensation. Bothell shall provide not less than ten (10) calendar days’ notice of any increase in the Deputy Fire Chief’s total cost of compensation, and the Fee shall be adjusted thereafter to account for the increase in such total cost of compensation.

5.2 Bothell shall issue a monthly invoice for the Fee on the last day of the month; payment shall be due from Northshore within 30 days of receipt.

5.3 Any adjustments to the Fee, other than that set out in 5.1 above, shall be mutually agreed upon in a written addendum to this Agreement.

6. **Indemnification.** To the extent permitted by law, each Party shall defend, indemnify and hold the other Party, its officers, officials, employees and volunteers harmless from any and all claims, damages, losses and expenses, including, but not limited to attorneys’ and expert’s fees, (collectively a “claim”) arising out of or resulting from the acts, errors or omissions of that Party, its officers and employees under this Agreement. A Party’s indemnification duty shall not apply to liability for damages arising out of claims caused by or resulting in whole from the negligence of the other Party or its agents or employees. A Party’s indemnification duty for liability for damages arising out of claims caused by or resulting from the concurrent negligence of (a) the other Party, and its agents or employees, and (b) that Party, and its agents or employees, shall apply only to the extent of negligence of that Party, and its agents or employees.

**EACH PARTY SPECIFICALLY AND EXPRESSLY WAIVES ANY IMMUNITY THAT MAY BE GRANTED IT UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW. FURTHER, THE INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE TO OR FOR ANY THIRD PARTY UNDER WORKERS’ COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEE BENEFITS ACTS PROVIDED THE INDEMNIFYING PARTY’S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS PARAGRAPH EXTENDS ONLY TO CLAIMS BETWEEN THE PARTIES, AND DOES NOT INCLUDE, OR EXTEND TO, ANY CLAIMS BY A PARTY’S EMPLOYEES DIRECTLY AGAINST THAT PARTY.**

7. **Insurance.** The Parties shall procure and maintain without interruption during the term of this Agreement, in a company or companies lawfully authorized to do business in the State of Washington, an occurrence-based comprehensive general liability policy covering all claims for personal injury (including death) and/or property damage arising out of or related to this Agreement. The limits of liability shall be not less than One Million Dollars (\$1,000,000) for both bodily injury and property damage liability per occurrence and Two Million Dollars (\$2,000,000) general aggregate stop loss. The insurance provisions in this entire section (including subsections) may be satisfied by membership in the Washington Cities Insurance Authority risk pool.

7.1 The insurance policies required to be maintained under this Agreement shall (a) name the other Party as additional named insureds on use of the Property; (b) be written as a primary policy and non-contributory insurance with respect to the other Party; (c) not contain a "cross liability" or similar exclusion that would bar coverage for claims between or among insureds; (d) contain a severability of interest provision in favor of the other Party; and (e) contain an express waiver of any right of subrogation by the insurance company against the other Party.

7.2 Northshore shall purchase and maintain employment practices liability insurance in the amount of \$1,000,000 per claim. Bothell shall be named as an additional insured on Northshore's employment practices insurance provided that such insurance shall apply to Bothell only while its employees are engaged in rendering services to Northshore under this Agreement. Evidence of employment practices liability insurance shall be furnished and approved by Bothell prior to commencement of service performance by Bothell for Northshore.

8. **Compliance with Laws.** The Parties, in performance of this Agreement, shall comply with all applicable local, State and/or Federal laws and ordinances, including standards for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals and any other standards or criteria as described in this Agreement to assure quality of services.

9. **Non-Discrimination in Employment and Services.** The Parties are equal opportunity employers, and shall not discriminate against any employee or applicant on the grounds of race, color, religion, sex, sexual orientation, national origin, creed, marital status, age, veteran status, or the presence of any disability; provided that the prohibition against discrimination in employment because of disability shall not apply if the particular disability prevents the particular worker involved from performing the occupational requirements of the job. The Parties shall not, on the grounds of race, color, sex, sexual orientation, religion, national origin, creed, marital status, age, veteran status or the presence of any disability deny any individual any services or other benefits provided under this Agreement.

10. **Not Employees of Other Party.** Nothing in this Agreement shall be interpreted as Northshore becoming the employer of Bothell's Deputy Fire Chief or other personnel. Neither Party shall assume any liability for the direct payment of any salary, wages or other compensation of any type to any of the other Party's personnel performing services hereunder. No agent, employee or other representative of the Parties shall be deemed to be an employee of the other Party for any reason.

11. **Assignment.** The Parties shall not assign this Agreement or any interest, obligation or duty therein without the express written consent of the other Party.



19. **Counterparts.** This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

20. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties hereto with respect to the administrative services contained in this Agreement, and this Agreement supersedes all their previous understandings and agreements, written and oral, with respect thereto. This Agreement may be amended only by written instrument executed by the Parties subsequent to the date hereof.

21. **Severability.** If any section, subsection, sentence, clause or phrase of this Agreement is for any reason found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions so long as the ultimate purposes of this Agreement are not frustrated by such ruling.

**IN WITNESS WHEREOF**, this Agreement has been executed by each Party on the date set forth below:

**CITY OF BOTHELL**

**KING COUNTY FIRE PROTECTION  
DISTRICT NO. 16**

By: \_\_\_\_\_  
Jennifer Phillips, City Manager

By: \_\_\_\_\_  
David Maehren, Chair  
Board of Fire Commissioners

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Paul Byrne, City Attorney

Date: \_\_\_\_\_

## EXHIBIT A

### SCOPE OF WORK

Bothell and Northshore will continue to maintain separate policies and the two agencies' adopted level of service.

Bothell's Deputy Fire Chief shall administrate the response operations divisions separately with Northshore providing the following administrative support:

1. Northshore's current employees will provide Northshore-specific knowledge and support;
2. Northshore will provide administrative support staff to conduct Northshore business.

The performance of the duties of the parties provided hereby shall be done in accordance with standard operating procedures and customer practices of the Parties.

No provision of this Agreement shall relieve either Party of its public agency obligations and/or responsibilities imposed by law. Neither Party intends, by virtue of this Agreement, to effect or authorize any delegation of its authority to establish or amend policies, enter into agreements or take any other action as is within its authority and discretion under law.

The Bothell Deputy Fire Chief shall provide response operations oversight services and all provisions of the Deputy Chief of Operations job description to Northshore, while working closely with the current administrative support staff, including, without limitation, the following:

- A. Serving as the liaison between the response operations personnel and the Fire Chief;
- B. Planning, organizing and directing the response operations details of the District;
- C. Working on special projects assigned by the Fire Chief, which may include working on incremental progress toward regionalization efforts;
- D. Maintaining a working environment conducive to positive morale, appropriate discipline and productivity, quality, initiative and teamwork;
- E. Representing Northshore (in addition to Bothell) at regional meetings, such as King County Ops Chiefs, Zone 1 Ops Chiefs, North King County Training Consortium, etc.; and
- F. Attending, upon request of the Fire Chief, the meetings of the Northshore's Board of Fire Commissioners and necessary standing committee meetings. Additional Northshore-specific meetings may be scheduled, as necessary.

See Northshore's Deputy Chief job description.



# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Erin Leonhart, Public Works Director  
Jaclynn Brandenburg, Public Works

**DATE:** April 7, 2020

**SUBJECT:** Consideration of a Resolution Ratifying the City Manager’s COVID-19  
Emergency Utility Billing Process for Water/Sewer Utility Billing

**POLICY CONSIDERATION:** This item asks the City Council to support the actions taken by the City Manager as part of the COVID-19 Response Plan for Water/Sewer Utility Billing to temporarily waive utility late fees and postpone water shut-offs for non-payment. If approved, this resolution has the potential to provide some assistance to City utility customers adversely impacted by COVID-19.

<b>HISTORY:</b>	<b>DATE</b>	<b>ACTION</b>
	<b>MARCH 5, 2020</b>	Mayor signed an Emergency Declaration for COVID-19
	<b>MARCH 26, 2020</b>	City Manager signed a Temporary Emergency Process on Utility Billing

In late February, news of COVID-19 (Coronavirus) began to ramp up locally with the first U.S. deaths occurring in this area. On March 2, 2020, the City of Bothell activated the City’s Emergency Coordination Center (ECC) to address communications and policy matters related to this event and to begin developing response plans in preparation for any potential escalation. On March 5, 2020, Mayor Olsen signed an Emergency Declaration based on the COVID-19 outbreak. In addition, the Governor and King County imposed restrictions on large events and gatherings, closing schools statewide and closing restaurants, bars, and other non-essential businesses, and the Governor most recently issued the “Stay Home, Stay Health” proclamation, ordering residents to stay at home beginning March 24, 2020.

**DISCUSSION:** The actions taken across the state to prevent the spread of COVID-19 will undoubtedly have an adverse financial impact on residential and commercial customers of the City of Bothell Water and Sewer utilities. To assist impacted customers during this challenging time, the City Manager has approved temporarily waiving late fees and pausing service shut-offs related to non-payment. In addition, the City’s Water and Sewer Utilities are offering flexible

payment plans that may include deferred payments to those customers that are adversely impacted by COVID-19 and as a result find themselves financially unstable.

**FISCAL IMPACTS:** This item could cause a cash flow issue for the utilities, but staff believes that this is unlikely as the utilities have adequate fund balances that will allow them to fund operations, despite the expected slowdown of payments from utility customers. All utility accounts will continue to be billed for service and will eventually be collected, so these actions should not impact utility revenue or future rates. Staff will continue to monitor the situation and keep the Council informed regarding any changes.

**ATTACHMENTS:** Att-1. Resolution Ratifying the City Manager’s Emergency Actions Related to Utility Billing Procedures

**RECOMMENDED ACTION:** Approve the Resolution ratifying the City Manager’s emergency actions to temporarily waive utility late fees and postpone water shut-offs for non-payment.

RESOLUTION NO. \_\_\_\_\_ (2020)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BOTHELL, WASHINGTON RATIFYING THE CITY MANAGER'S EMERGENCY ACTIONS RELATED TO UTILITY BILLING PROCEDURES.

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WHEREAS, on March 5, 2020, Mayor Liam Olsen issued an emergency proclamation as a result of the coronavirus disease 2019 (COVID-19) outbreak in Washington State; and

WHEREAS, in the event of a proclamation of emergency, the City Manager has authority pursuant to Section 2.27.070 of the Bothell Municipal Code to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by the emergency; and

WHEREAS, the COVID-19 pandemic is expected to cause a local economic downturn and the available financial resources of many of our people and businesses are becoming limited, resulting in a significant likelihood of imposition of late payment fees or water service disconnection for non-payment of utility service charges; and

WHEREAS, on Thursday, March 26, 2020, City Manager Jennifer Phillips exercised her authority under BMC 2.27.070 to issue temporary regulations providing the City's water and sewer utility customers with relief from late fee charges and water service shut-offs in order to preserve and maintain utility services to vulnerable populations during this crisis.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BOTHELL, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The temporary regulations regarding utility billing procedures issued by the City Manager are hereby confirmed and ratified. The City Manager's temporary regulations are attached hereto and adopted by the City Council as its own by reference thereto.

Section 2. The City Clerk is authorized to make necessary corrections to this resolution including, but not limited to, the correction of scrivener's/clerical errors, references, resolution numbering, section/subsection numbers and any references thereto.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

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LIAM OLSEN  
MAYOR

ATTEST/AUTHENTICATED:

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LAURA HATHAWAY  
CITY CLERK

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
RESOLUTION NO.: \_\_\_\_\_ (2020)

**City of Bothell COVID-19 Response Plan**  
**Temporary Processes for Utility Billing**

WHEREAS, on February 29, 2020, Governor Jay Inslee proclaimed a State of Emergency as a result of the coronavirus disease 2019 (COVID-19) outbreak in Washington State; and

WHEREAS, City of Bothell Mayor Liam Olsen declared a local State of Emergency on March 5, 2020; and

WHEREAS, the COVID-19 pandemic is expected to cause a local economic downturn and the available financial resources of many of our people and businesses are becoming limited, resulting in a significant likelihood of imposition of late payment fees or water service disconnection for non-payment; and

WHEREAS, on March 18, 2020, Governor Inslee issued Proclamation 20-05 strongly encouraging municipal utility providers to take reasonable actions to mitigate the economic impacts of the COVID-19 pandemic on their utility customers; and

WHEREAS, in the event of an emergency proclamation, Section 2.27.070(A) of the Bothell Municipal Code authorizes the City Manager to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; and

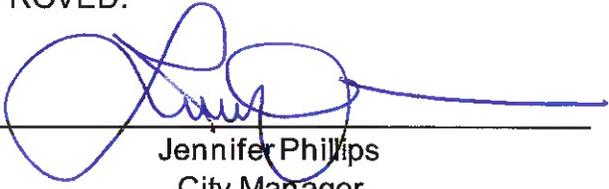
WHEREAS, the City of Bothell provides both water and sewer utility service to customers within its utility service areas; and

WHEREAS, preserving and maintaining utility services to vulnerable populations during this crisis by mitigating the economic impacts is an essential tool in sustaining and protecting the health and welfare of our customers; and

NOW, THEREFORE, I, Jennifer Phillips, City Manager of the City of Bothell, hereby issue the following temporary emergency regulations:

1. The City of Bothell will not disconnect water utility services due to non-payment during the term of the statewide emergency proclamation; and
2. The City of Bothell will waive late payment fees on unpaid utility bills for a period of ninety (90) days from the date of this temporary emergency regulation.
3. The City of Bothell will continue its current processes for establishing customer payment plans to address outstanding balances, and utility billing staff are further authorized to allow a customer to establish a payment plan without an initial, upfront payment during the term of the statewide emergency proclamation.
4. This temporary emergency regulation shall be presented to the City Council for confirmation at the earliest practicable time, consistent with BMC 2.27.070 (A).

APPROVED:



Jennifer Phillips  
City Manager



# City of Bothell™

**TO:** Mayor Olsen and Members of the Bothell City Council

**FROM:** Michael Kattermann, Community Development Director  
Darcey Eilers, Deputy City Attorney

**DATE:** April 7, 2020

**SUBJECT:** Consideration of an Interim Ordinance Temporarily Suspending Development Application and Permit Timelines

**POLICY  
CONSIDERATION:**

The Council is being asked to consider whether to suspend timelines related to development applications and permits as currently specified in several titles of the Bothell Municipal Code (BMC).

Development applications and projects are facing potential and actual delays due to the impacts of COVID-19. At this time, there is no certainty about which projects will be delayed or for what period of time. As a result, some projects will have applications and/or permits that lapse due to inactivity and they will either need to request individual extensions or submit new applications in the future.

In 2009, due to the great recession, Bothell and most other cities in this region extended the life of all projects through a single, local legislative action. There are parallels between the current COVID-19 pandemic and the great recession in terms of the impacts on construction and the local economy and in terms of the uncertainty about the duration of the crisis and its impacts.

**HISTORY:**

	<b>DATE</b>	<b>ACTION</b>
	<b>MARCH 5, 2020</b>	Mayor declared state of emergency due to COVID-19 Virus outbreak
	<b>MARCH 16, 2020</b>	City Manager directed as many city staff as possible to work remotely
	<b>MARCH 23, 2020</b>	Governor issued stay-at-home order, causing some development projects to stop operations

Bothell has been proactive in anticipating appropriate actions related to this pandemic and implementing them quickly. Although there are only a handful of permits expiring at this time, staff anticipates there will be many more over at least the next six months.

**DISCUSSION:** The BMC has numerous timelines regulating the processing of applications and determining whether the status is active, inactive, or expired. Examples include time limits on staff review and the amount of time for applicants to respond to review comments. Similarly, there are time limits on how long an applicant has after approval to pay fees and obtain the permit. Issued permits also have an expiration date by which the project must be completed or a renewal/extension is required. Many of these timelines are required or adopted pursuant to state law, chapter 36.70B RCW. Bothell has numerous active projects in various stages of review, approval and construction at this time. With the uncertainty about the duration and economic impacts of the COVID-19 virus and the Governor's recent order halting certain types of construction projects, there will be a number of applications and permits that will languish and/or expire due to inactivity by applicants and contractors.

In order to assist these sectors of the local economy by encouraging projects to resume as soon as possible and to minimize the number of individual extension requests, staff is recommending adoption of an interim ordinance (Attachment 1) that will temporarily suspend the expiration of applications and permits and that will also toll permit processing time periods to provide additional time for application processing by the City. The suspension and tolling will apply to all applications deemed complete and permits active as of January 1, 2020, and it will continue for six months from the effective date of the interim ordinance.

In addition, City staff expect that the Governor's office will soon issue a proclamation tolling or temporarily suspending permitting review and approval requirements contained in state law. To provide City staff with the flexibility to be compliant with such a proclamation and to react to changing circumstances, the interim ordinance provides the Community Development Director, Public Works Director, and Fire Marshal with the authority to make administrative interpretations consistent with the purpose of the ordinance.

Under the provisions of state law (RCW 36.70A.390), cities may enact interim ordinances for a period of six months. The City has 60 days from the adoption of the interim ordinance to conduct a public hearing. The six months will allow staff time to evaluate the need, potential duration, and proposed amendments to the BMC, if needed. Depending on the duration of the crisis, Council can extend the interim ordinance for an additional six months, subject to another public hearing. Council can also repeal the ordinance at any time by a simple motion and affirmative vote.

Given the uncertainty about the impacts and duration of this crisis staff believes this action is warranted and prudent.

**FISCAL  
IMPACTS:** | None

**ATTACHMENTS:** | Att-1. Proposed Interim Ordinance

**RECOMMENDED  
ACTION:** | Approve an Interim Ordinance temporarily suspending development and permit timelines.

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**ORDINANCE NO. \_\_\_\_ (2020)**

AN INTERIM ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, IN RESPONSE TO THE COVID-19 PANDEMIC TEMPORARILY POSTPONING EXPIRATION OF DEVELOPMENT APPLICATIONS AND APPROVED LAND USE ACTIONS AND CONSTRUCTION PERMITS AND TEMPORARILY TOLLING PROCEDURAL DEADLINES; AUTHORIZING ADMINISTRATIVE INTERPRETATIONS; DECLARING THIS A PUBLIC EMERGENCY ORDINANCE PURSUANT TO RCW 35A.13.190; ESTABLISHING AN EXPIRATION DATE CONSISTENT WITH RCW 36.70A.390; AND FIXING AN EFFECTIVE DATE.

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WHEREAS, the World Health Organization has determined that a pandemic exists due to the global spread of a highly contagious virus commonly known as COVID-19; and

WHEREAS, a state of emergency has been declared by the federal, state, county, and municipal governments in response to the pandemic; and

WHEREAS, on March 23, 2020, Governor Jay Inslee issued Emergency Proclamation 20-25 (“Stay Home, Stay Healthy order”) requiring all people in Washington State to immediately cease leaving their home or place of residence except to conduct or participate in essential activities and/or for employment in essential business services; and

WHEREAS, on March 25, 2020, Governor Inslee provided official guidance stating that construction activities are not considered essential under Proclamation 20-25, except in limited circumstances; and

WHEREAS, the pandemic and the emergency declarations and proclamations are causing delays for an indeterminate period of time in the construction, inspection, and review of development projects with an active application or permit with the City of Bothell and will cause delays with any project or permit applications filed during the state of emergency; and

WHEREAS, a number of land use and permit review statutes and municipal code provisions, including chapter 36.70B RCW and Title 11 of the Bothell Municipal Code, impose certain time limitations and process requirements, such as public hearings, on development permit applications that are not achievable in the current emergency while complying with the Governor’s proclamations; and

WHEREAS, the City Council wishes to encourage a continuation of construction activity delayed by the emergency restrictions and by the economic impacts of the

pandemic through postponement of the deadlines and expiration dates for applications and permits; and

WHEREAS, the City Council further recognizes the necessity for staff telecommuting, for City compliance with the Governor's restrictions on non-essential activities, and for prioritizing work to address the emergency conditions; and

WHEREAS, this public health and economic crisis creates a time-sensitive emergency requiring the use of an interim zoning ordinance extending development application processing and permit expiration time periods to provide additional time; and

WHEREAS, this interim ordinance is intended to be temporary until public health and economic conditions improve and the provisions of this Ordinance are procedural in nature, in that they only modify the amount of time an application or an issued permit remains viable. Accordingly, this Ordinance is exempt from the requirements of a threshold determination under the State Environmental Policy Act pursuant to WAC 197-11-800(19) and does not require transmittal to the Washington State Department of Commerce for comment; and

WHEREAS, the City Council finds that it is in the public interest to adopt this interim Ordinance and that such Ordinance is necessary for the immediate protection of the public health, safety, property, or peace.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BOTHELL DOES ORDAIN AS FOLLOWS:

Section 1. FINDINGS OF FACT. The Recitals set forth above are adopted as the Findings of Fact required pursuant to RCW 36.70A.390.

Section 2. EXTENSIONS OF DEVELOPMENT APPLICATIONS AND PERMITS.

A. This section relates to all development project applications and permits, including those under Titles 11, 12, 13, 14, 15, 17, 18, and 20 of the Bothell Municipal Code.

B. A permit or development approval (for example, a preliminary subdivision plat or preliminary PUD) that was active and valid as of January 1, 2020, shall not lapse, terminate, or otherwise expire prior to the expiration of this interim Ordinance, and the expiration date of the permit or development approval or time period for meeting a deadline or for performance of a condition of the permit or development approval shall be either the time currently provided by code or the expiration of this interim Ordinance, whichever date is later, unless the specific time period is required by state law and cannot be waived.

C. Any application that is currently actively processing or that is determined to be complete while this interim Ordinance is effective, will not be

lapsed, cancelled, or expired prior to the expiration of this interim Ordinance, and the time period for meeting a deadline or for performance of a condition of the application (including deadlines for obtaining permits that are ready for issuance) shall be either the time currently provided by code or the expiration of this interim Ordinance, whichever date is later, unless the specific time period is required by state law and cannot be waived.

D. Application processing deadlines and timelines relating to project permit applications processed under Title 11 BMC, including but not limited to requirements for issuing a notice of decision, are suspended and will be tolled while the Governor's emergency proclamations are in effect.

Section 3. STATE LAW. The Council recognizes that in addition to the City's local ordinances and regulations there are associated state statutory deadlines and timelines in Chapters 36.70A, 36.70B, 43.21C, 58.17, and 90.58 RCW, among others, which the Council does not have the authority to waive or extend. If the Governor issues an emergency proclamation or other order providing relief from state statutory deadlines and other requirements for development projects, the Council authorizes the Community Development Director, Public Works Director, and/or Fire Marshal, as applicable, to implement or adopt any available measures or relief from those statutory deadlines and requirements provided such interpretations are temporary and consistent with the intent and purpose of this Ordinance.

Section 4. DIRECTOR INTERPRETATIONS. Council further authorizes the Community Development Director, the Public Works Director, and/or the Fire Marshal, as applicable, to issue temporary procedural interpretations to address deadlines or other requirements related to development activities that were not specifically addressed in this Ordinance, provided such interpretations are temporary and consistent with the intent and purpose of this Ordinance.

Section 5. PUBLIC HEARING. Pursuant to RCW 36.70A.390, a public hearing on the interim official controls established by this Ordinance shall be held within sixty (60) days of the adoption of this Ordinance to hear and consider public comment.

Section 6. EFFECTIVE DATE. This Ordinance, passed by at least a majority plus one of the whole membership of the City Council as a public emergency ordinance necessary for the immediate preservation of the public peace, health, property, or safety and for the immediate support of City government and its existing public institutions, shall be effective immediately upon its adoption as provided in RCW 35A.13.190.

Section 7. EXPIRATION. The City Council adopts this interim regulation under the authority of RCW 36.70A.390. Therefore, the interim controls adopted herein shall be in effect for a period of six (6) months from the effective date of this Ordinance and shall automatically expire after a period of six months, unless extended as provided by statute

or otherwise superseded by action of Council, whichever occurs first. Because this is an interim ordinance only, it shall not be codified.

Section 8. SEVERABILITY. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 9. CORRECTIONS. The City Clerk is authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

APPROVED:

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LIAM OLSEN  
MAYOR

ATTEST/AUTHENTICATED:

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LAURA HATHAWAY  
CITY CLERK

APPROVED AS TO FORM:

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PAUL BYRNE  
CITY ATTORNEY

FILED WITH THE CITY CLERK: March 31, 2020

PASSED BY THE CITY COUNCIL: April 7, 2020

PUBLISHED: April 10, 2020

EFFECTIVE DATE: April 7, 2020

ORDINANCE NO.: (2020)

**SUMMARY OF ORDINANCE NO. \_\_\_\_\_ (2020)**

City of Bothell, Washington

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On the \_\_\_\_\_ day of \_\_\_\_\_, 2020, the City Council of the City of Bothell passed Ordinance No. \_\_\_\_\_ (2020). A summary of the content of said Ordinance, consisting of the title, is provided as follows:

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, IN RESPONSE TO THE COVID-19 PANDEMIC TEMPORARILY POSTPONING EXPIRATION OF DEVELOPMENT APPLICATIONS AND APPROVED LAND USE ACTIONS AND CONSTRUCTION PERMITS AND TEMPORARILY TOLLING PROCEDURAL DEADLINES; AUTHORIZING ADMINISTRATIVE INTERPRETATIONS; DECLARING THIS A PUBLIC EMERGENCY ORDINANCE PURSUANT TO RCW 35A.13.190; ESTABLISHING AN EXPIRATION DATE CONSISTENT WITH RCW 36.70A.390; AND FIXING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

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LAURA HATHAWAY  
CITY CLERK

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO.: \_\_\_\_\_ (2020)

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