1. Call to Order, Roll Call, Pledge of Allegiance

2. Meeting Agenda Approval

3. Review Public Engagement Opportunities

4. Proclamations

   a. Pride Month

5. Staff Briefings

   a. Introduction of New Police Department Hires

6. City Manager/Council Committee Reports

7. Visitor Comment

   During this portion of the meeting, the Mayor will invite visitor comment. Each speaker will be granted 3 minutes

8. Consent

   a. Minutes – May 21, 2019 Meeting Minutes

      Recommended Action: Approve the meeting minutes of May 21, 2019 as presented.

   b. AB # 19-091 – Memorandum of Understanding with Woodinville Fire and Rescue and Duvall Fire Supporting a Combined Assistance Grant for Blue Card Incident Command Training

      Recommended Action: Authorize the City Manager to execute the MOU in substantially the same form as presented.
c. **AB # 19-092 – Interagency Renewal with Department of Natural Resources for Wildland Deployment and Reimbursement**  
   Recommended Action: Approve the renewal of the Interagency Agreement with the Department of Natural Resources and direct the City Manager to execute the agreement as presented.

Pgs. 31-40  

d. **AB # 19-093 – Ordinance Regarding Gender Neutral Language**  
   Recommended Action: Adopt the proposed ordinance to render the Bothell Municipal Code gender neutral.

Pgs. 41-44  

e. **AB # 19-094 – Supplemental Agreement with Foster Pepper, PLLC, for Legal Services**  
   Recommended Action: Approve Supplemental Agreement #2 to allow the City Manager to further engage the services of Foster Pepper regarding Lot P-South.

9. **Public Hearing**

Pgs. 45-90  

a. **AB # 19-095 – Public Hearing – 2019 Shoreline Master Program Update**  
   Recommended Action: Preliminary Approval of the 2019 SMP Update

10. **New Business**

Pgs. 91-104  

a. **AB # 19-096 - Motorized Foot Scooter Pilot Program**  
   Recommended Action: Agree to a 90-day motorized foot scooter pilot program. This item will return to Council for action within 90 days.

11. **Council Conversations**

12. **Closed Session/Executive Session**

   a. Executive Session: Litigation pursuant to RCW 42.30.110(1)(i)

13. **Adjourn**

---

**SPECIAL ACCOMMODATIONS:** 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. **PRELIMINARY AGENDA:** The preceding is a preliminary agenda; other items may be added and action taken on matters which do not appear above. Bothell City Council meetings are aired live on Bothell Community Television (BCTV) Channel 21/26 (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)
PROCLAMATION

Pride Month

LGBTQIA people are our family, friends, neighbors, and co-workers and provide meaningful contributions to our community each and every day; and

Whereas, Pride events are held in June to commemorate the June 28, 1969 Stonewall riots that were sparked in response to ongoing harassment of New York’s gay community and were also the catalyst for establishing safe places for gays and lesbians to be open about their sexual orientation without fear; and

Whereas, equal protection of all people continues to be debated and discussed in legislative bodies and courts at the state and national level and progress continues to be made toward protecting the rights of all people regardless of sexual orientation; and

Whereas, the City of Bothell rejects discrimination based upon sexual orientation through its values, policies, and practices; and

Whereas, the Bothell City Council has made diversity and inclusion a priority within its annual scorecard and supports the continued work of the City’s Diversity and Inclusion (DiveIn) Committee to raise awareness and promote an inclusive work environment and community free from discrimination.

Now, therefore, I, Andrew J. Rheume, Mayor of the City of Bothell, do hereby proclaim June 2019 as “PRIDE MONTH” in the City of Bothell. The City makes this proclamation to celebrate the LGBTQIA community and as an affirmation of the City’s commitment to protect and serve everyone who resides in, works in, or visits Bothell without discrimination and of its belief in the dignity, equality, and civil rights of all people.

Signed this 4th day of June, 2019.

___________________________
Andrew J. Rheume, Mayor
(This page intentionally left blank)
City Council Regular Meeting Minutes
Tuesday, May 21, 2019
6:00 PM

Members of the City Council: Mayor Andy Rheaume, Deputy Mayor Davina Duerr, Councilmember Tom Agnew, Councilmember Rosemary McAuliffe, Councilmember James McNeal, Councilmember Liam Olsen, Councilmember Jeanne Zornes

1. Call to Order, Roll Call, Pledge of Allegiance

Mayor Rheaume called the meeting to order at 6:00 PM and led the Pledge of Allegiance.

All Councilmembers were present.

2. Meeting Agenda Approval

The meeting agenda was approved as presented.

3. Review Public Engagement Opportunities

There were no public engagement announcements

4. Proclamations

a. Public Works Week

Mayor Rheaume presented the proclamation regarding Public Works Week to Public Works Director Erin Leonhart

b. Safe Boating Week

Mayor Rheaume presented the proclamation regarding Safe Boating Week to representatives of Coast Guard Division II/District 13 Auxiliary

5. Special Presentations

a. AB #19-085 - 2019 Legislative Session Report

Recommended Action: No action expected.

Lobbyist Shelley Helder of Gordon Thomas Honeywell Governmental Affairs presented the 2019 Legislative Report and entertained Council questions.

6. Staff Briefings

a. Introduction of New Fire Department Hires

Deputy Fire Chief Butch Noble introduced 4 new firefighters hired as part of the approved Public Safety Levy.
7. **City Manager/Council Committee Reports**

City Manager Jennifer Phillips introduced Finance Director Chris Bothwell and Assistant City Manager Kellye Mazzoli.

Councilmembers gave brief updates regarding internal and regional committee activities.

8. **Visitor Comment**

Aditi Jain – spoke regarding an upcoming sustainability summit.

9. **Consent**

   a. **Minutes – May 7 and May 14, 2019 Meeting Minutes**
      Recommended Action: Approve the meeting minutes of May 7 and May 14, 2019 as presented.

   b. **AB # 19-086 – April 1-30, 2019 Vouchers**
      Recommended Action: Approve the following April 1 - 30, 2019 vouchers totaling $2,776,172.36 that were approved and paid by the City Auditor.
      - Wire No.389,391, and 583
      - Check No. 206756-207408

   c. **AB # 19-087 – April 1-30, 2019 Payroll & Benefit Transactions**
      Recommended Action: Approve payroll direct deposit transactions #2000122952 - #2000123651 in the amount of $1,925,943.34; payroll and benefit checks #38505 - #38563 plus wire benefit payments #592 - #600 in the amount of $2,077,934.64 for April 1, 2019 – April 30, 2019 payroll that were approved and paid by the City Auditor.

   d. **AB # 19-088 – Interlocal Agreement with Community Transit for Commute Trip Reduction Program Services**
      Recommended Action: Authorize the City Manager to execute the Interlocal Agreement with Community Transit for Administering Commute Trip Reduction (CTR) Plans and Programs.

   e. **AB # 19-089 – 2019 Crack Seal and Patching Construction Contract**
      Recommended Action: Authorize the City Manager to reject the bid submitted for the 2019 Crack Sealing and Patching contract from Northshore Paving Inc. in the amount of $1,085,922.

      **MOTION:** Deputy Mayor Duerr moved approval of the Consent Agenda as presented. Councilmember Agnew second. The motion carried 7-0.
10. **New Business**

   a. **AB # 19-090 – Quarterly Update on Progress toward Council’s Goals – 1st Quarter of the 2019-2020 Biennium**

      Recommended Action: No action requested at this time.

      City Manager Jennifer Phillips reviewed the 1st quarter update/progress report and entertained Council questions.

      Ms. Phillips asked for direction from Council regarding fireworks which came up during council conversations at a previous meeting. Council consensus was to leave fireworks as is; and directed staff to look into the what would need to be done and be prepared to issue an emergency fireworks ban if needed. Council also directed staff to promote safe fireworks education.

11. **Council Conversations**

    There were no Council Conversations.

12. **Closed Session/Executive Session**

    Council adjourned to Closed Session/Executive Session to discuss the following at 7:16 PM:

    a. Closed Session: Labor Negotiations pursuant to RCW 42.30.140(4)(a) (30 minutes)
    b. Executive Session: Litigation pursuant to RCW 42.30.110(1)(i) (15 minutes)

    No action expected; expected to last approximately 45 minutes with adjournment at approximately 8:00 PM.

13. **Adjourn**

    Mayor Rheaueme adjourned the meeting at 7:58 PM.

---

Submitted for approval on 6/4/2019
Meeting Date: June 4, 2019   Action ☑ No Action ☐   AB #: 19-091

Subject: Memorandum of Understanding between the City of Bothell, Woodinville Fire and Rescue, and Duvall Fire Department to support a combined Assistance to Firefighter Grant for Blue Card Incident Command System

Budget Impact/Source of Funds: Grant matching funds are included in the adopted budget and do not require a budget amendment.

Staff Presenter/Department: Doug McDonald, Deputy Fire Chief

Policy Consideration and Connection to Council Goals:

This request supports the City Council’s 2019-2020 goals of developing and implementing programs associated with a public safety strategy and training and development of employees.

Background:

The City of Bothell Fire Department, Woodinville Fire and Rescue and Duvall Fire Department have partnered to submit a grant application to FEMA Assistance to Firefighters Grant (AFG) to fund the implementation of the Blue Card Incident Command System. A successful award would provide essential training, professional certification, and state-of-the-art technology along with personnel costs for training. Through this program, fire officers become certified to supervise and manage emergency and hazard zone operations for everyday incidents using the "National Incident Management System" Type 4 and Type 5 events, which account for more than 99 percent of all fire department response activity. This program teaches officers how to command everyday incidents so when a major event happens they know how to react effectively. The total amount of Blue Card certifications will reach 48 between the three departments by 2020 if this AFG award is successful.

Funding for this type of program implementation is not currently available by other means and is beneficial as agencies in both King and Snohomish Counties have started using the Blue Card System. Currently, Bothell and the other two agencies utilize a different communication and emergency scene deployment model. The desired goal is to standardize emergency scenes with enhanced interoperability across our region.

Whenever multiple agencies apply for an AFG it requires them to also submit a Memorandum of Understanding (MOU) as part of the application process. This MOU is in effect until the grant is awarded and agencies receive the equipment and complete the necessary training to meet the Blue Card certification. The MOU is terminated if the grant is not approved.
Previous City Actions:

- In 2004, the City of Bothell, Northshore and Shoreline Fire Departments received an AFG award for the purchase of self-contained breathing apparatus.
- In 2017, the City of Bothell, Northshore and Shoreline Fire Departments and Woodinville Fire and Rescue received an AFG award for the purchase of self-contained breathing apparatus.

Discussion:

The City of Bothell is the designated “lead agency” for managing the funds and facilitating the training/certification of the Blue Card System and the purchasing of associated equipment for all three agencies. Woodinville Fire & Rescue and Duvall Fire Department will reimburse Bothell for any expenses incurred outside of the grant funding.

If the grant is awarded, the partnering agencies are responsible for contributions in an amount equal to 10% of the total grant. Each agency’s contribution is based on the number of people participating in the training. The grant amount is $190,066.00, so the agencies would contribute $19,006.00. Based on the percentage of each department’s request, the following is a breakdown of each department’s responsibility.

- City of Bothell (39.9%) total: $7,583.40
- Woodinville Fire and Rescue (43.2%) total: $8,210.59
- Duvall Fire Department total (16.9%): $3,212.01

This amount will be tendered to the City of Bothell within 30 days upon award of the grant. The total budget for the proposed AFG is $209,072.00. As the fiscal agent for the coalition, the City of Bothell will account for the revenue and expenditures associated with this agreement in a separate fiduciary fund within the City’s accounting system. The coalition members will establish a budget for the coalition once the grant funding has been awarded.

Category: Consent

Attachments:

1. MOU between the City of Bothell, Woodinville Fire & Rescue and Duvall Fire Department for Blue Card Incident Command System.

Recommended Action:

Authorize the City Manager to execute the MOU in substantially the same form as presented.

City Manager Approval: ______________________ Date: 05/30/2019
MEMORANDUM OF UNDERSTANDING
Between
City of Bothell,
Woodinville Fire & Rescue (King County Fire District #36),
Duvall Fire Department (King County Fire District #45)

Blue Card - Command Training and Certification System
Through The Assistance to Firefighters Grant

INTERAGENCY PARTICIPATION PROCESS

WHEREAS, the City of Bothell, Woodinville and Duvall Fire Agencies are committed to working together in providing the best emergency services across northeast King County, and

WHEREAS, all the agencies recognize and agree that improved interoperability will help achieve better services, and

WHEREAS, the City of Bothell shall be known as the “Lead Agency” for the purpose of applying for an Assistance to Firefighters Grant (AFG) and managing the funds for facilitating the training and certification of the Blue Card system and purchase of associated equipment for all three agencies, with Woodinville Fire & Rescue and Duvall Fire Department being known as the “Partner Agencies”, now therefore

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into by and between the City of Bothell, Woodinville Fire & Rescue (King County Fire District #36), Duvall Fire Department (King County Fire District #45) for the purposes set forth below.

I. OBJECTIVE OF AGREEMENT

The primary objective of this MOU is to establish a group for the purpose of Blue Card Incident Command training and certification to increase interoperability among our neighboring and regional partners. The group will also be purchasing equipment needed to perform the Blue Card Incident Command system. See the next page for specific allocations of equipment and cost estimates including agency matching requirements:
The total budget for proposed grant is $209,072.00. Once the grant is accepted the coalition is responsible for 10% of the total grant. The Federal portion of this grant is $190,066, which leaves a coalition contribution equal to $19,006.00. Based on the percentage of each department’s request, the following is a breakdown of each department’s responsibility. This amount will be tendered to the City of Bothell within 30 days upon award of the grant.

- City of Bothell total: $7,583.40
- Woodinville Fire and Rescue total: $8,210.59
- Duvall Fire Department total: $3,212.01

By forming this group a few critical benefits will be achieved; improved interoperability, enhanced scene safety and communication and nationally recognized certification will be awarded to our members. Another benefit over the long-term will be the succession planning for future Fire Lieutenants and Fire Battalion Chiefs and the process that they begin now as Blue Card Incident Commanders will carry over and become the norm for future leaders.

II. RESPONSIBILITIES OF THE PARTIES

The Lead Agency agrees to apply for the AFG, to manage the funds from the grant, ensure that a competitive and fair purchasing process is followed, and to initiate the Professional Services agreement with the vendor.

The Partner Agencies agree to collaboratively represent the agencies, along with the Lead Agency, Bothell Fire Department.

Each agency is listed below with their associated Employer Identification Number (EIN):

<table>
<thead>
<tr>
<th>Department</th>
<th>EIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Bothell (lead)</td>
<td>91-6001403</td>
</tr>
<tr>
<td>Woodinville Fire and Rescue (partner)</td>
<td>91-0873317</td>
</tr>
<tr>
<td>Duvall Fire Department (partner)</td>
<td>91-0880438</td>
</tr>
</tbody>
</table>

There are “matching” funds for this grant. The agencies agree to contribute an amount equivalent to 10% of the total grant. Upon receiving the grant the matching funds will be contributed to the City of Bothell by each agency appropriate to cost of the training and equipment that is allocated for that agency. Those percentages are:

<table>
<thead>
<tr>
<th>Department</th>
<th>Percentage of Total%</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Bothell</td>
<td>39.9%</td>
</tr>
<tr>
<td>Woodinville Fire and Rescue</td>
<td>43.2%</td>
</tr>
<tr>
<td>Duvall Fire Department</td>
<td>16.9%</td>
</tr>
</tbody>
</table>
So, each agency will contribute their percentage of the total applicant obligation as defined in the grant prior to initiating the purchase. The City of Bothell will be responsible for the accounting of all funds to the other agencies, to Washington State during their annual audit, and to FEMA for their grant audit.

III. DURATION OF MOU

The MOU will be in effect from the date of signing until either the agencies receive notification that the grant was not successful, or when the grant was received and the training program and equipment has been received by each agency. It is expected that all the work can be completed within a year of the grant being approved.

IV. TERMINATION

A participating agency may terminate its participation in this MOU at any time. However, because federal grant funds will have been expended on each agency’s behalf, if an agency chooses to terminate, that agency will be responsible for reimbursing, and agrees to reimburse, expended grant monies back to FEMA. Any agency that withdraws from this MOU must give written notification to all agencies.

V. AMENDMENTS

This MOU may be amended at any time by written agreement of all agencies. Such requests will only be approved if the proposed change(s) is (are) consistent with and/or achieves the goals.

VI. HOLD HARMLESS AND INDEMNIFICATION

The Lead Agency and Partner Agencies shall protect, indemnify, and hold harmless its officers, agents, and employees from and against any and all claims, costs, and/or issues whatsoever occurring from actions by the Lead Agency and Partner Agencies and/or its subcontractors pursuant to this MOU. The Lead Agency and Partner Agencies shall defend at their own expense any and all claims, demands, suits, penalties, losses, damages, or costs of any kind whatsoever (hereinafter "claims") brought forth and arising out of or incident to the Lead Agency and Partner Agencies execution of, performance of or failure to perform this MOU.

VII. 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.
VIII.  NOTICE

Any notice required or permitted under this Agreement shall be deemed sufficiently given or served if sent to the City of Bothell Fire Department at the address provided below:

Doug McDonald  
Deputy Fire Chief  
City of Bothell Fire Department  
10726 Beardslee Blvd.  
Bothell, WA 98011

All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

Notice for participating agencies shall be sent to the addresses provided below:

Woodinville Fire & Rescue  
Erik Wallgren, Deputy Chief  
17718 Woodinville Snohomish Road NE  
Woodinville, WA 98072

Duvall Fire Department  
Kelly Gattone, Finance and Human Resources  
15600 1st Ave. NE, PO Box 338  
Duvall, WA 98019

IX.  ENTIRE AGREEMENT

This MOU constitutes the entire agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modifications or amendments of this MOU shall be valid or effective unless evidenced by an agreement in writing signed by all parties.

X.  COMPLIANCE WITH REGULATIONS AND LAWS

The parties shall comply with all applicable rules and regulations pertaining to them in connection with the matters covered herein. This MOU shall be deemed to be made and construed in accordance with the laws of the State of Washington. Jurisdiction and venue for any action arising out of this MOU shall be in King County, Washington.
IN WITNESS WHEREOF this Agreement has been executed by each party below:

**CITY OF BOTHELL**

______________________________
City of Bothell, City Manager Date

**WOODINVILLE FIRE & RESCUE**

______________________________
Woodinville Fire & Rescue, Fire Chief Date

**DUVALL FIRE DEPARTMENT**

______________________________
Duvall Fire Department, Fire Chief Date
Bothell City Council
AGENDA BILL

Meeting Date: June 4, 2019  Action ☒  No Action ☐  AB #: 19-092

Subject: Interagency Agreement with the Department of Natural Resources for Wildland Fire Deployment and Reimbursement

Budget Impact/Source of Funds: In the event that aid is provided pursuant to this agreement, a budget amendment would be required to recognize additional expenditures and the associated reimbursement revenue.

Staff Presenter/Department: Bruce Kroon, Fire Chief

Background:

Wildland fires occur every summer and can overwhelm a local fire department and its mutual aid agencies. A fire remaining within jurisdictional boundaries, that exceeds the agency’s capabilities, will have additional resources provided through the Washington State Patrol’s Fire Marshal’s Office under the guidelines of the Washington State Mobilization Plan. When wildland fires extend beyond jurisdictional boundaries to state land, the Washington State Department of Natural Resources (DNR) provides the needed resources. Once an agency submits a request for assistance, the State Fire Marshal and/or DNR requests personnel and equipment from fire departments. The City of Bothell has a current agreement with the Washington State Patrol, but our interagency agreement with DNR expires in June 2019. Approving this agreement allows the City to provide assistance to wildland fires on state land and to recover the associated personnel and equipment costs from DNR to maintain staffing levels for Bothell. This agreement expires on May 8, 2024, and is renewable through mutual consent.

Previous City Actions:

• June 2, 2015: City Council approved an Interagency Agreement with the Department of Natural Resources for wildland fire deployment and reimbursement. Expires June 15, 2019.
• April 25, 2014: City Council approved an Interagency Agreement with the Washington State Patrol for participation in state mobilizations. Up for renewal.

Discussion:

The City is reimbursed by the state for personnel and equipment deployed for wildland firefighting. The impacts are fire department specific and would include some administration time, record keeping and operational staffing adjustments. Additional resources are not required to staff these functions; there is no additional cost to city residents.
Category: Consent

Attachments:

1. Interagency Agreement with Washington State Department of Natural Resources.

Recommended Action:

Approve the renewal of the Interagency Agreement with the Department of Natural Resources and direct the City Manager to execute the agreement as presented.

City Manager Approval: ____________________________ Date: 05/30/2019
INTERAGENCY AGREEMENT
DEPARTMENT OF NATURAL RESOURCES (DNR)
NO. 93-098975

This Agreement is made and entered into between the Washington State Department of Natural Resources, hereinafter referred to as DNR, and the below named firm, hereinafter referred to as CONTRACTOR.

DNR and Bothell Fire & EMS enter into this agreement under Chapter 39.34, Interlocal Cooperation Act.

Bothell Fire & EMS
10726 Beardslee Blvd
Bothell, WA 98011
Phone: 425-806-6242
Fax: 425-806-6135
Email: bruce.kroon@bothellwa.gov

IT IS MUTUALLY AGREED THAT:

1.0 Purpose. The purpose of this Agreement is to provide a mechanism to enable the CONTRACTOR to provide wildland firefighters and staff listed in Attachment B, and engines/tenders for response to wildland fire incidents when requested by DNR South Puget Sound Region Dispatch Center through Resource Order. This agreement is limited to forestland incidents. The responsibility for protection and suppression of structure and non-wildland fires remain the responsibility of the local fire protection districts.

2.0 Scope of Work. The CONTRACTOR shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to performing work set forth in the Attachment A – Scope of Work.
3.0 **Period of Performance.** The period of performance of this Agreement shall begin on May 8, 2019, and end on May 8, 2024, unless terminated sooner as provided herein.

4.0 **Payment.** Pay for services shall be based on the rates and terms described in Attachment A – Scope of Work and Attachment B – District/Department Resource List, Overhead and Equipment Addendum.

5.0 **Billing Procedures.** The CONTRACTOR shall submit invoices (monthly, quarterly, etc.). Payment for approved goods and/or services will be made by check, warrant or account transfer within 30 days of receipt of the invoice. Upon expiration of the Agreement, invoices shall be paid, if received within 30 days after the expiration date. However, invoices for all work done within a fiscal year must be submitted within 30 days after the end of the fiscal year.

Each invoice submitted to DNR shall include information needed by DNR to determine the exact nature of all expenditures and completed work. At a minimum, each invoice shall specify the following:

A. Agreement number
B. The total number of hours worked for each employee
C. Any other relevant information.
D. The total invoice charge.

6.0 **Records Maintenance.** The CONTRACTOR shall maintain books, records, documents and other evidence, to sufficiently document all direct and indirect costs incurred by CONTRACTOR in providing the services. These records shall be available for inspection, review, or audit by personnel of the DNR, other personnel authorized by the DNR, the Office of the State Auditor, and federal officials as authorized by law. The CONTRACTOR shall keep all books, records, documents, and other material relevant to this Agreement for six years after agreement expiration. The Office of the State Auditor, federal auditors, and any persons authorized by the parties shall have full access to and the right to examine any of these materials during this period.

Records and other documents in any medium furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose this material to any third parties without first notifying the furnishing party and giving it a reasonable opportunity to respond. Each party will use reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

7.0 **Rights to Data.** Unless otherwise agreed, data originating from this Agreement shall be ‘works for hire’ as defined by as defined by Title 17 U.S.C., Section 101 and shall be owned by the DNR. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to use, copyright, patent, register and the ability to transfer these rights.
8.0 Independent Capacity. The employees or agents of each party who are engaged in
performing this Agreement shall continue to be employees or agents of that party and shall not be
considered for any purpose to be employees or agents of the other party.

9.0 Amendments. This Agreement may be amended by mutual agreement of the parties.
Amendments shall be in writing and signed by personnel authorized to bind each of the parties.

10.0 Termination for Convenience. Either party may terminate this Agreement upon 30
calendar days' prior written notice to the other party. If this Agreement is terminated, the parties
shall be liable only for performance rendered or costs incurred in accordance with the terms of
this Agreement prior to the effective date of termination.

11.0 Termination for Cause. If for any cause either party does not fulfill in a timely and
proper manner its obligations under this Agreement, or if either party violates any of the terms
and conditions, the aggrieved party will give the other party written notice of the failure or
violation. The aggrieved party will give the other party 15 working days to correct the violation
or failure. If the failure or violation is not corrected within 15 days, the aggrieved party may
immediately terminate this Agreement by notifying the other party in writing.

12.0 Disputes. If a dispute arises, each party will make a good faith effort to resolve issues at
the lowest possible level in their respective agencies. If they cannot resolve an issue, they will
elevate the issue within their respective chains of command to resolve it.

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board
in the following manner: Each party to this Agreement shall appoint one member to the Dispute
Board. The members so appointed shall jointly appoint an additional member to the Dispute
Board. The Dispute Board shall evaluate the facts, Agreement terms, applicable statutes and
rules, and make a determination of the dispute. The determination of the Dispute Board shall be
final and binding on both parties. The cost of resolution will be borne as allocated by the Dispute
Board. Alternatively, the parties may pursue a third party dispute resolution as the parties
mutually agree to in writing.

13.0 Governance. This contract is entered into the authority granted by the laws of the State
of Washington and any applicable federal laws. The provisions of this agreement shall be
construed to conform to those laws.

If there is an inconsistency in the terms of this Agreement, or between its terms and any
applicable statute or rule, the inconsistency shall be resolved by giving precedence in the
following order:

   (1) Applicable state and federal statutes and rules;
   (2) Scope of Work; and
   (3) Any other provisions of the agreement, including materials incorporated by
       reference.

14.0 Assignment. The work to be provided under this Agreement and any claim arising from
this Agreement cannot be assigned or delegated in whole or in part by either party, without the
express prior written consent of the other party. Neither party shall unreasonably withhold consent.

15.0 Waiver. A party that fails to exercise its rights under this agreement is not precluded from subsequently exercising its rights. A party’s rights may only be waived through a written amendment to this agreement.

16.0 Severability. The provisions of this agreement are severable. If any provision of this Agreement or any provision of any document incorporated by reference should be held invalid, the other provisions of this Agreement without the invalid provision remain valid.

17.0 Responsibilities of the Parties/Indemnification. To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend (with counsel acceptable to DNR), and hold harmless DNR, its officials, agents, and employees, from and against all claims arising out of or resulting from the performance of the Agreement. “Claim” as used in this Agreement means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys’ fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. The CONTRACTOR obligation to indemnify, defend, and hold harmless includes any claim by the CONTRACTOR’S agents, employees, representatives, any subcontractor or its employees, or any third party.

However, the CONTRACTOR shall not indemnify, defend, or hold harmless DNR, its officials, agents, and employees for claims caused by or resulting from the sole negligence of DNR, its officials, agents, and employees and in the event of concurrent negligence by (1) the CONTRACTOR its agents, employees, representatives, any subcontractor or its employees, or any third party and (2) DNR, its officials, agents, and employees, then the CONTRACTOR obligation to indemnify, defend, and hold harmless DNR, its officials, agents, and employees shall be valid and enforceable only to the extent of the CONTRACTOR its agents, employees, representatives, any subcontractor or its employees, or any third party’s share of any concurrent negligence.

The CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless DNR and its officials, agents or employees.

18.0 Insurance. Before using any of said rights granted herein and its own expense, the CONTRACTOR shall purchase and maintain, or require its agent(s)/subcontractor to purchase and maintain, the insurance described below for the entire duration of this Agreement. Failure to purchase and maintain the required insurance may result in the termination of the Agreement at DNR’s option.

All insurance provided in compliance with this Agreement shall be primary as to any other insurance or self-insurance programs afforded to, or maintained by, the State of Washington, Department of Natural Resources.

The CONTRACTOR shall provide DNR with certificates of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Agreement before using any of said rights granted herein. The description
section of the certificate shall contain the Contract Number and the name of the DNR Project Manager. CONTRACTOR shall also provide renewal certificates as appropriate during the term of this Agreement.

The CONTRACTOR shall include all subcontractors and agents as insured under all required insurance policies or shall provide separate certificates of insurance for each subcontractor or agent. Failure of the CONTRACTOR to have its subcontractors and agents comply with the insurance requirements contained herein does not limit the CONTRACTOR’s liability or responsibility.

**INSURANCE TYPES & LIMITS:** The limits of insurance, which may be increased by State, as deemed necessary, shall not be less than as follows:

**Commercial General Liability (CGL) Insurance:** The CONTRACTOR shall purchase and maintain commercial general liability insurance with a limit of at least $1,000,000 per occurrence. If such CGL insurance contains aggregate limits, the general aggregate limits shall be at least twice the "each occurrence" limit, and the products-completed operations aggregate limit shall be at least twice the "each occurrence" limit. All insurance must cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract) and contain separation of insured (cross-liability) condition.

**Employer’s liability ("Stop Gap") Insurance:** The CONTRACTOR shall purchase and maintain employer's liability insurance and if necessary, commercial umbrella liability insurance with limits not less than $1,000,000 each accident for bodily injury by accident and $1,000,000 each employee for bodily injury by disease.

**Business Auto Policy (BAP) Insurance:** The CONTRACTOR shall purchase and maintain business auto insurance and if necessary, commercial umbrella liability insurance with a limit of not less than $1,000,000 per accident, with such insurance covering liability arising out of "Any Auto”. The policy shall be endorsed to provide contractual liability coverage and cover a “covered pollution cost or expense.” The CONTRACTOR waives all rights of subrogation against State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

**Industrial Insurance (Workers Compensation):** The CONTRACTOR shall comply with Title 51 RCW by maintaining workers compensation insurance for its employees. The CONTRACTOR waives all rights of subrogation against State for recovery of damages to the extent they are covered by Industrial Insurance, employer’s liability, general liability, excess, or umbrella insurance. The CONTRACTOR waives its Title 51 RCW immunity to the extent it is required by its indemnity obligation under this Agreement.
ADDITIONAL PROVISIONS:

Additional Insured: The State of Washington, Department of Natural Resources, its officials, agents, and employees shall be named as additional insured by endorsement on all general liability, excess, and umbrella insurance policies.

Cancellation: DNR shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accordance with the following specifications.

1. Insurers subject to Chapter 48.18 RCW (Admitted and Regulated by the Insurance Commissioner): The insurer shall give the State 45 days advance notice of cancellation or nonrenewal. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.

2. Insurers subject to Chapter 48.15 RCW (Surplus Lines): The State shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given 10 days advance notice of cancellation.

Insurance Carrier Rating: All insurance shall be issued by companies admitted to do business in the State of Washington and have a rating of A-, Class VII, or better. Any exception must be reviewed and approved by the DNR Risk Manager or the DNR Contracts Manager, in the Risk Manager’s absence. If an insurer is not admitted to do business in the State of Washington, all insurance policies and procedures for issuing the insurance policies must comply with Chapters 48.15 RCW and 284-15 WAC.

Self-Insurance: If the CONTRACTOR of this Agreement to the satisfaction of State including the description of the funding mechanism and its financial condition. If the funding mechanism or financial condition of the self-insurance program of the CONTRACTOR is inadequate, then State may require the purchase of additional commercial insurance to comply with this Agreement.

Waiver: The CONTRACTOR waives all rights of subrogation against State for recovery of damages to the extent these damages are covered by general liability, excess, or umbrella insurance maintained pursuant to this Agreement.

19.0 Complete Agreement in Writing. This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

20.0 Contract Management. The Project Coordinator for each of the parties shall be the contact person for this agreement. All communications and billings will be sent to the Project Coordinator.
21.0 Project Coordinators.

(1) The Project Coordinator for the Agency is Bruce Kroon Telephone number is 425-806-6242
(2) The Project Manager for DNR is Jane Potter. Telephone Number 360-802-7030.

By signature below, the Parties certify that the individuals listed in this document, as representatives of the Parties, are authorized to act in their respective areas for matters related to this instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

<table>
<thead>
<tr>
<th>BOTHERELL FIRE AND EMS</th>
<th>STATE OF WASHINGTON</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>DEPARTMENT OF NATURAL</td>
</tr>
<tr>
<td></td>
<td>RESOURCES (DNR)</td>
</tr>
<tr>
<td>Signature</td>
<td>Signature</td>
</tr>
<tr>
<td>Date</td>
<td>Date</td>
</tr>
<tr>
<td>Name</td>
<td>Scott Sargent</td>
</tr>
<tr>
<td>Title</td>
<td>Name</td>
</tr>
<tr>
<td></td>
<td>South Puget Sound Region Manager</td>
</tr>
<tr>
<td>Address</td>
<td>950 Farman Ave No</td>
</tr>
<tr>
<td></td>
<td>Enumclaw, WA 98022</td>
</tr>
<tr>
<td>Telephone</td>
<td>360-825-1631</td>
</tr>
</tbody>
</table>
SCOPE OF WORK

Resources ordered through the DNR Region or Division for dispatch outside of District/Department jurisdictional boundaries

Department of Natural Resources (DNR) agrees to dispatch District/Department resources to incidents outside of the Districts/Department jurisdictional boundaries as needed to meet DNR responsibilities and as approved by the District/Department. Dispatches can include out of the state of Washington. Participation by a District/Department with incidents outside its jurisdiction is voluntary and separate from involvement in State Fire Mobilization.

This Agreement extends to all District/Department members:

- Washington Fire Service (WFS) paid members which District/Department allow to participate will be paid by the District/Department. DNR will reimburse district/department costs as outlined in this agreement.

- Members of Washington Fire Service who are volunteers will need to be hired by the DNR via the DNR casual hire process and paid directly by DNR. This may be completed pre-season or at the time of the incident. Your local DNR Region office will handle the casual hire process.

District/Department agrees:

1) All personnel dispatched outside of their jurisdictional boundaries will have a valid Incident Qualification Card (red card) stating current qualifications; and will adhere to qualifications and standards described in PMS 310-1;

2) To provide a copy of the Master IQS Record for each participating employee (needed to update status in the Resource Ordering Status System (ROSS);

3) To keep equipment and personnel status current in ROSS by selecting option a. or b. below as the preferred option. List available resources on the following resource list addendum. (Check one):

   a.  □ DNR Region will give Web-Status rights to ROSS for district employees. It is the employee’s responsibility to ensure that their status is accurate.

   b.  ☒ DNR Region will status your employees. For this option, you would need to provide your local DNR Region Dispatch with the status of your employees every Monday by 1200 hours. Dispatch would then update their status in ROSS for that week (0800 Tuesday to 0800 Tuesday).

For dispatches outside of the DNR region, approval from DNR host region fire staff is required. Host region fire staff will coordinate with Wildfire Division in order to ensure statewide readiness.
4) To notify your local DNR Region of any changes in status of personnel/equipment (i.e.; dispatched/demob under State Fire Mobilization, demob & ETA home from incidents dispatched thru DNR, etc.);

5) All personnel and equipment dispatched will be paid by the District/Department; (except volunteers will follow payment procedures outlined in their individual agreement and be paid directly by DNR);

6) All Equipment and Personnel dispatched under this agreement will arrive at each incident with a copy of their current Interagency Agreement.

7) Invoice for personnel and equipment costs billed to DNR will include:

   a. Original Emergency Fire Time Report (OF-288); hourly wage rate (regular and OT) for personnel hours on the OF-288. This applies to paid district/department staff. Volunteers will be paid directly by DNR.

   b. Original Emergency Equipment Use Invoice (OF-286) and original shift tickets documenting mileage to/from incident as well as mileage incurred on the incident signed by the incident supervisor.

   c. Copy of Resource Order card.

8) Invoices requesting payment for equipment (engines/tenders) will be submitted to DNR within sixty (60) business days of the last date of the incurred expense for the incident and shall include Original Emergency Equipment Use Invoice Form (OF-286) and shift tickets (OF-297); and

9) Invoices requesting payment for per diem and other travel costs (meals, lodging not provided by the incident) must be submitted to DNR within sixty (60) business days of the last date of the incurred expense for the incident.

   a. Travel time must be documented on a Crew Time Report (CTR) signed by the timekeeper at the fire.

   b. Per diem during travel will be paid when resource is in travel status for more than 6 hours and will be paid in accordance with the Washington State Office of Financial Management (OFM) rates.

   c. After arrival at the incident it is expected all meals and camp facilities will be provided. If the incident is not providing meals and lodging, this must be noted on the original CTR and signed by the incident supervisor.

      (1) If meals cannot be provided by the fire at the camp, actual per diem expenses may be submitted (receipts required). Expenses may not exceed OFM rates. Receipts must be itemized showing what was purchased, not just the total. If purchasing for a group, each individual must sign the receipt.

      (2) For travel home in excess of 6 hours, if sack lunches are provided, per diem claims will not be allowed.

   d. Personnel Accommodations
(1) Established camp accommodations for housing, feeding, and support of mobilized personnel shall be used when provided.

(2) Alternate accommodations may be utilized at the expense of the user. The costs for alternative accommodation are not reimbursable.

(3) Any exception to this must be approved and justified in writing by the Incident Commander.

e. Return travel and mileage

(1) Drivers will follow the driving policies set forth by their home agency.

(2) All reasonable efforts to return to home unit will be made taking the most direct route with shortest travel times.

(3) According to Wage and Equipment Rates, travel will be based on Google Maps mileage home, calculated at 45 miles per hour. Reimbursement for mileage and time will be based on these calculations.

(4) Deviation from this must include written approval and justification from the incident commander.

10) Only utilize agency owned vehicles or procured rental vehicles on the fire line or off-road.

DNR agrees to:

1) Assist the District/Department with updating status’ in ROSS;

2) Maintain IQS records for District/Department personnel with wildland fire qualifications, if red carded through the DNR;

3) Reimburse District/Department within 30 days of invoice receipt and documentation as required above;

4) Reimburse the Fire Service District/Department at the Total Cost of personnel. This includes, regular time, overtime, and District/Department backfill for that position as outlined in the State Mobilization Plan. The DNR will not pay for muster time, wildland premium pay, or other unspecified pay provisions.

**Rental vehicles must be procured consistent with the R6 USFS rental vehicle agreement. [https://sites.google.com/a/firenet.gov/nerv/](https://sites.google.com/a/firenet.gov/nerv/). Rental vehicle authorization must be documented on the resource order. Please speak with your local DNR Region for more specific information. In order to provide audit tracking for all rental vehicles, rentals ordered for overhead resources with ROSS O# Resource Orders, will have a support request ROSS order attached to that O# resource, with an E# assigned to the vehicle. The overhead resource and Dispatch will ensure that if that person is re-assigned or released, the supporting vehicle order will also be re-assigned or released.
ATTACHMENT B

DISTRICT/DEPARTMENT RESOURCE LIST
OVERHEAD AND EQUIPMENT ADDENDUM

DNR will dispatch and process invoices for the following fire district members and equipment when dispatched by DNR outside of their fire district.

Overhead Resources

<table>
<thead>
<tr>
<th>Name</th>
<th>Career or Volunteer</th>
<th>Backfill Required</th>
<th>Position/Qualifications</th>
<th>Team Affiliation or Single Resource</th>
</tr>
</thead>
<tbody>
<tr>
<td>See attached</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EQUIPMENT (Make, Model, Type, Year, License and VIN)</th>
<th>RATE/NEGOTIATED RATE *</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* The negotiated rate must be agreed upon between the signing parties prior to dispatch.

Agreement number 93-098975
### Bothell Fire Wildland Personnel and Equipment

<table>
<thead>
<tr>
<th>Equipment Make</th>
<th>Model</th>
<th>Type</th>
<th>Year</th>
<th>License</th>
<th>VIN #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spartan</td>
<td>Warrior</td>
<td>Type 1</td>
<td>2007</td>
<td>42509D</td>
<td>4S7AT2C996C056073</td>
</tr>
<tr>
<td>Spartan</td>
<td>Warrior</td>
<td>Type 1</td>
<td>2006</td>
<td>77651C</td>
<td>4S7AT2C957C056072</td>
</tr>
<tr>
<td>Ford</td>
<td>F-550</td>
<td>Type 6</td>
<td>2008</td>
<td>49732D</td>
<td>1FDAW5HR2AEA09057</td>
</tr>
<tr>
<td>Chevy</td>
<td>Silverado</td>
<td>Overhead</td>
<td>2005</td>
<td>4117D</td>
<td>1GCHK23U95F943628</td>
</tr>
<tr>
<td>Ford</td>
<td>F-150</td>
<td>Overhead</td>
<td>2017</td>
<td>64303D</td>
<td>1FTEX1EP3HKD96213</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Career?</th>
<th>Position / Qualification</th>
<th>Single Resource?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mike Groff</td>
<td>Career</td>
<td>STL-t / ENGB</td>
<td>Yes</td>
</tr>
<tr>
<td>Jim Vandertoorn</td>
<td>Career</td>
<td>STL-t / ENGB</td>
<td>Yes</td>
</tr>
<tr>
<td>Mark Peffer</td>
<td>Career</td>
<td>ENGB</td>
<td>No</td>
</tr>
<tr>
<td>Jeff Salatino</td>
<td>Career</td>
<td>ENGB</td>
<td>No</td>
</tr>
<tr>
<td>John Deaver</td>
<td>Career</td>
<td>ENGB</td>
<td>No</td>
</tr>
<tr>
<td>Derek Jones</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Cody Barwell</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Anthony Savino</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Tyler Griffith</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Hugh Moag</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Tom McKittrick</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Brandon Orr</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Kirk Robinson</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Shane Poston</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Geoff Olson</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Mark Notaras</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
<tr>
<td>Bryan Schulz</td>
<td>Career</td>
<td>FF1</td>
<td>No</td>
</tr>
</tbody>
</table>
Bothell City Council  
AGENDA BILL

Meeting Date: June 4, 2019      Action ☒ No Action ☐      AB #: 19-093

Subject: Ordinance Regarding Gender Neutral Language

Budget Impact/Source of Funds: Approximately $450 from Unbudgeted General Fund Reserves

Staff Presenter/Department: Laura Hathaway, City Clerk, and Paul Byrne, City Attorney

Background:

The discussion of a gender-neutral code was brought up after the Council adopted its 2018 updates to the Downtown Subarea Regulations. Currently, the Downtown Subarea Regulations, codified in Chapter 12.64 BMC, are organized in a different manner from the other zoning regulations. The original regulations, adopted in 2009, are presented in an 11-inch by 17-inch full-color format and, therefore, are bound separately from the other regulations in the Bothell Municipal Code. Updates adopted by Council since 2009 are summarized on the website in a separate document.

After the City completed its 2018 code amendments for the Downtown Subarea, the City’s codifier, Code Publishing, Inc., suggested that the Downtown Subarea Regulations code be reformatted to be consistent with the remainder of the Bothell Municipal Code at a cost of $20,000. Further, they inquired whether the City would be interested in migrating the entire Bothell Municipal Code to their more modern platform, which would make the Bothell Municipal Code more searchable, printable, and user-friendly. This update is estimated to cost $7,500. An up-to-date municipal code is important for many reasons. Most notably, it provides transparency to the public and reduces staff workload in providing additional information and clarification. Up-to-date and accessible municipal codes are also a best public administration practice. Therefore, the City plans to use General Fund Reserves to fund this long overdue update and upgrade.

Previous City Actions:

- No previous action

Discussion:

When the City responded to Code Publishing, that it was interested in pursuing the suggested migration, Code Publishing then suggested updating the Bothell Municipal Code in other respects. One of its suggestions was to update the language of the Code to make it gender-neutral to promote equality and diversity. The City inquired about the cost of such an update. In response, Code Publishing estimated a cost of $450 to render the language of the Bothell Municipal Code gender neutral. Because these changes are actual changes in the code, an ordinance adopted by the City Council is required.
Category: Consent

Attachments:
1. Proposed Ordinance

Recommended Action:
Adopt the proposed ordinance to render the Bothell Municipal Code gender neutral.

City Manager Approval: ___________________________ Date: 05/30/2019
ORDINANCE NO. ___________ (2019)

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON AMENDING THE ENTIRE BOTHELL MUNICIPAL CODE TO MODIFY ANY AND ALL MASCUINE AND/OR FEMININE LANGUAGE TO GENDER NEUTRAL PRONOUNS; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Bothell Municipal Code, as amended ("Municipal Code"), currently contains mostly masculine pronouns; and

WHEREAS, all genders are created equal; and

WHEREAS, amending the municipal code to include gender-neutral pronouns by eliminating any gender preference language within the municipal code will promote equality;

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

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The pronouns throughout the municipal code are amended to promote gender-neutral pronouns.

Section 3. Subject to final approval by the City Attorney, the city's codifier, Code Publishing Company, has authority to degenderize the Bothell Municipal Code and update pronouns when appropriate and also includes the updating of future ordinances by making changes such as the following:

a. Gendered subject (he, she, etc.), object (him, her, etc.) and possessive (his, hers, etc.) pronouns shall be replaced by a gender-neutral description of the pronoun referent’s title of office, employment or descriptor. For example, where a code section refers to a "Director” all subsequent gendered pronouns shall be replaced by “the Director” in the subjective case, “that Director” in the objective case and “the Director’s” in the possessive case.

b. Table 1 lists commonly encountered titles of office, employment and descriptors. All gendered pronouns within the Bothell Municipal Code that refer back to a title of office, employment or descriptor found in Table 1 shall be replaced by the subjective, objective or possessive form of the
that title of office, employment or descriptor, as the case may be. Table 1 is non-exhaustive and may be amended from time to time.

Table 1

<table>
<thead>
<tr>
<th>Gendered Terms in Existing Code</th>
<th>Common Non-Gendered Titles of Office, Employment and Descriptors</th>
</tr>
</thead>
<tbody>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Agent</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Alternate member</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Applicant</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Architect</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Assessor</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Attorney</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Candidate</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Chief officer</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Clerk</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Complainant</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Consignee</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Councilmember</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Dancer</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Dealer</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Declarant</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Department director</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Deputy</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Designee</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Detainee</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Director</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Driver</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Employee</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Engineer</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Entertainer</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Examiner</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Executive</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Executor</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Felon</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Fire Marshall</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Franchisee</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Franchisor</td>
</tr>
<tr>
<td>He, She, Him, Her, Himself, Herself</td>
<td>The Guarantee</td>
</tr>
<tr>
<td>Role</td>
<td>Pronouns</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>The Guarantor</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Individual</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Inspector</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Investigator</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Leaver</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Lessee</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Lessor</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Licensee</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Lobbyist</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Manager</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Member</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Merchant</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Mortgagee</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Mortgagor</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Offender</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Officer</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Official</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Operator</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Owner</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Pawn broker</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Permit holder</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Permittee</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Person</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Physician</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Principal</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Prisoner</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Probationer</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Promoter</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Public records officer</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Purchaser</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Respondent</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Secondhand dealer</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Seller</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Servant</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Sheriff</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Solicitor</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Sponsor</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
<tr>
<td>The Station manager’s</td>
<td>He, She, Him, Her, Himself, Herself</td>
</tr>
</tbody>
</table>
c. Each specifically gendered term identified in column A of Table 2, and which is also found within the Bothell Municipal Code, shall be replaced by the corresponding non-gendered term identified in column B. Table 2 is non-exhaustive and may be amended from time to time.

Table 2

<table>
<thead>
<tr>
<th>Gendered Terms Commonly Found in Existing Code</th>
<th>Non-Gendered Term Replacement</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Bondsman”</td>
<td>“Bonds-person”</td>
</tr>
<tr>
<td>“Brother”</td>
<td>“Sibling”</td>
</tr>
<tr>
<td>“Chairman”</td>
<td>“Chair,” “chairperson”</td>
</tr>
<tr>
<td>“Craftsmen”</td>
<td>“Craftspeople,” “artisans”</td>
</tr>
<tr>
<td>“Fireman,” “Firemen,” “Firewoman,” “Firewomen”</td>
<td>“Firefighter,” “firefighters”</td>
</tr>
<tr>
<td>“Fraternals”</td>
<td>“Social”</td>
</tr>
<tr>
<td>“Heirs”</td>
<td>“Beneficiaries”</td>
</tr>
<tr>
<td>“Journeyman”</td>
<td>“Journey”</td>
</tr>
<tr>
<td>“Maiden”</td>
<td>“Family”</td>
</tr>
<tr>
<td>“Male” and “female”</td>
<td>“People of different genders”</td>
</tr>
<tr>
<td>“Manhole”</td>
<td>“Maintenance hole”</td>
</tr>
<tr>
<td>“Manmade”</td>
<td>“Human-made”</td>
</tr>
<tr>
<td>“Manpower”</td>
<td>“Human effort”</td>
</tr>
<tr>
<td>“Manpower”</td>
<td>“Workforce”</td>
</tr>
<tr>
<td>“Master”</td>
<td>“Captain,” “Skipper,” “Pilot,” “Safety Officer,” “Central”</td>
</tr>
<tr>
<td>“Men and women”</td>
<td>“People”</td>
</tr>
<tr>
<td>“Men or women”</td>
<td>“A single gender”</td>
</tr>
<tr>
<td>“Patrolmen”</td>
<td>“Patrol,” “Guards”</td>
</tr>
<tr>
<td>“Policeman,” “Policewoman,” “Policemen,” “Policewomen”</td>
<td>“Police Officer,” “Police Officers”</td>
</tr>
<tr>
<td>“Pregnant” (woman, women)</td>
<td>“Pregnant employees”</td>
</tr>
<tr>
<td>“Repairman”</td>
<td>“Repairs,” “Repairer”</td>
</tr>
<tr>
<td>-----------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>“Salesman”</td>
<td>“Salesperson,” “Salespeople”</td>
</tr>
<tr>
<td>“Sister”</td>
<td>“Sibling”</td>
</tr>
<tr>
<td>“Sorority,” “Fraternity”</td>
<td>“Collegiate Greek system residence”</td>
</tr>
<tr>
<td>“Sportsman”</td>
<td>“Hunters”</td>
</tr>
<tr>
<td>“Watchmen”</td>
<td>“Guards”</td>
</tr>
<tr>
<td>“The masculine pronoun includes the feminine”</td>
<td>“Words referring to a specific gender may be extended to any other gender”</td>
</tr>
</tbody>
</table>

Section 4. **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 5. **EFFECTIVE DATE.** This ordinance shall take effect thirty (30) days after passage and publication of an approved summary thereof consisting of the title.

Section 6. **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.
SUMMARY OF ORDINANCE NO. ____________ (2019)

City of Bothell, Washington

On the __________ day of ________________, 2019, the City Council of the City of Bothell passed Ordinance No. ________________ (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 AMENDING THE ENTIRE BOTHELL MUNICIPAL CODE TO MODIFY ANY AND ALL MASCUINE AND/OR FEMININE LANGUAGE TO GENDER NEUTRAL PRONOUNS; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR 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.: ______________________________ (2019)
(This page intentionally left blank)
Bothell City Council  
AGENDA BILL

Meeting Date: June 4, 2019  
Action ☒ No Action ☐  
AB #: 19-094

Subject:  Supplemental Agreement with Foster Pepper, PLLC for Legal Services

Budget Impact/Source of Funds:  Legal, Other Professional Services

Staff Presenter/Department:  Paul Byrne, City Attorney / Legal

Background:

The City engaged the services of Foster Pepper, PLLC to defend against an environmental lawsuit involving 18317 Bothell Investment Partners and Northshore School District No. 417 regarding the City-owned property commonly known as Lot P-South. The City has reached the maximum amount of the original contract ($29,900) and 1st Supplement ($70,000). Consistent with section 6.2 of the City’s procurement policies, the City now seeks Council approval to increase the amount of allowable services.

Previous City Actions:

- 18317 Bothell Investment Partners, LLC filed a complaint against Northshore School District No. 417 on April 18, 2018.
- Northshore School District answers Plaintiff’s complaint and includes the City as a Third-Party Defendant on May 8, 2018.
- City Engages the services of Foster Pepper, PLLC on May 18, 2018
- On January 19, 2109, Council approved supplement #1.

Discussion:

The City continues to moves towards completing environmental remediation on Lot P-South while contemporaneously working with Foster Pepper to address the ongoing litigation. Because of the current lawsuit, further details can be discussed in executive session, if requested.

Section 6.2 of the procurement policy states that the City Manager can approve an amendment to a professional services agreement if it provides for a cost increase that doesn’t exceed 10% of the original contract, or $50K (whichever is greater). The amount for Supplement #2 is for $35,000, which requires Council review.
Category: Consent

Attachments:

1. Supplemental Letter of Engagement #2

Recommended Action:

Approve Supplemental Agreement #2 to allow the City Manager to further engage the services of Foster Pepper regarding Lot P-South.

City Manager Approval: __________________________ Date: 05/30/2019
May 30, 2019

SENT VIA EMAIL

Ms. Jennifer Phillips  
Bothell City Manager  
18415 101st Ave NE  
Bothell, WA  98011  
(425) 806-6222  
jennifer.phillips@bothellwa.gov

Re:  Engagement for Legal Services (Updated) - Bothell Partners / NSSD Litigation  
King County Superior Court Cause No. 18-2-09464-0SEA

Dear Ms. Phillips:

Foster Pepper PLLC is very pleased for the opportunity to serve as counsel for the City of Bothell with regard to the above-captioned litigation involving 18317 Bothell Investment Partners LLC (Plaintiff) and North Shore School District No. 17 (NSSD). Based on the pleadings, the litigation involves environmental and contractual issues associated with contamination and remedial activities performed on property currently owned by the City of Bothell, which is adjacent to property owned by Plaintiff that may also be contaminated.

Our services will include strategic guidance and litigation defense services related to the above-captioned litigation. I will be the lead attorney for your matter. My hourly rate for this matter will be $500/hour. My colleague, Tacy Hass, will assist me and be the day-to-day “point” person – her rate is $350/hour. Where appropriate, we will utilize the services of associates, paralegals and legal assistants in our office who will work at a lower rate and who can help efficiently handle the work and meet applicable deadlines. We are dedicated to efficient and effective legal representation, with no double-billing or unnecessary effort.

As discussed, our work will be subject to an initial fee cap of $99,000 + an additional $35,000 needed to: (1) effectuate the settlement agreement terms that were negotiated on May 29, 2019; (2) help coordinate and supervise the remedial activities that will be performed on the City’s property in 2019; and (3) ensure that the settlement efforts and remedial activities are managed effectively. If we approach this cap during our representation, we will coordinate with you on a scope of work and budget for continuing legal representation.

In terms of potential conflicts, we have determined that there are no current conflicts with Third Party Plaintiff which would interfere or preclude our ability to represent you in this matter. Additionally, Foster Pepper already has existing waivers on file regarding our work by separate attorneys related to land use applications and other matters involving the City of Bothell.
Separately, a colleague at Foster Pepper has worked for the underlying members of the Plaintiff in the performance of general transactional counseling and corporate maintenance work. We have not done any environmental work for them, and we have not been engaged with them on the specific environmental issues presented in this case with regard to Parcel O or the neighboring parcel. Scott Osborne, the attorney with the relationship with the Plaintiff, would not be involved in this case in any way, and would be screened from involvement with any of our work on your behalf. We have already reached out to the members of the Plaintiff, and they have confirmed that they have no objection to our representation of the City of Bothell in this matter, and they are willing to provide a written waiver of the potential conflict.

Any time a lawyer represents a client in a matter where there could be an adversity to another client, that representation poses a potential conflict of interest for which both clients’ consent must be requested and obtained. Because there is no contractual relationship or privity between the Plaintiff and the City of Bothell, because the environmental cleanup claims (to the extent Bothell has any cleanup liability) would be allocated among all parties regardless of claims made, and because the City of Bothell does not (to our knowledge) have any unrecovered remedial action costs that it would expect to recover from Plaintiff, we are confident that the conflict can be waived without any impact to the City’s rights or interests. By signing this engagement letter, you are acknowledging our separate representation of Plaintiff and agreeing to have Foster Pepper provide litigation services as your counsel on this specific matter.

Information on our firm’s billing procedures is included in the enclosed Terms for Engagement of Services. We will work with you to ensure an efficient and consistent billing process. We would appreciate receiving payment for legal invoices within at least sixty (60) days of receipt. If you have any questions about our invoices or specific charges, please do not hesitate to let us know.

If you have any questions about these provisions, please do not hesitate to call. Otherwise, please sign this letter to confirm your agreement with these terms and conditions, and please return a signed copy to me.

Again, we appreciate the opportunity to represent you in this matter.

Sincerely,

Ken Lederman

Enclosure

Acknowledgement

Jennifer Phillips, Bothell City Manager
Meeting Date: June 4, 2019   Action ✗ No Action ☐   AB #: 19-095

Subject: Public Hearing - 2019 Shoreline Master Program Update

Budget Impact/Source of Funds: In addition to staff time, a $20K grant from the Washington Department of Ecology is being used for consultant services. Grant revenue, staff resources, and consultant services are all included in the adopted budget, no additional resource needs are anticipated.

Staff Presenter/Department: Dave Boyd, Community Development
Misty Blair, Washington State Department of Ecology

Policy Consideration and Connection to Council Goals:

This project furthers the Council goal of environmental stewardship and sustainability by updating designations and regulations of Bothell’s shorelines, pursuant to the State Shoreline Management Act. The Department of Ecology requires jurisdictions, including Bothell, to complete the following updates to the local Shoreline Master Programs (SMP) by June 30, 2019:

3. Changes in Shoreline Jurisdiction and Environment Designations to reflect changed conditions since the last SMP update in 2013.

These amendments were initiated by Council in the 2018 Planning Docket, along with a staff request to reduce redundancies and improve clarity.

Background:

The City of Bothell completed a major update of its SMP in 2013, as required by the Shoreline Management Act. Due to the June 2019 deadline and limited staff and financial resources available for this update, the scope of the project was limited to the minimum required by Ecology and minor clarifications identified by staff.

City Council appointed the Shorelines Board in 2018 to review these amendments and make recommendations. The Board met six times between November 5, 2018 and April 8, 2019, including a public open house in conjunction with its March 11, 2019 meeting. The Board completed their recommendations at the April 8, 2019 public hearing.
The June 4 public hearing is a joint public hearing with Ecology that coincides with the end of a joint 30-day comment period on the proposed amendments.

**Previous City Actions:**
- March 2013: Council adopts major SMP Update
- March 2018: Council approves 2018 Planning Docket, including limited updates to the SMP
- April 8, 2019: Shorelines Board makes recommendations on the 2019 SMP Update
- May 14, 2019: Council study session to review Shorelines Board recommendations

**Discussion:**

SMP updates include amendments to the City’s comprehensive plan and the Bothell Municipal Code (BMC). These recommended amendments are summarized in the following bullets, with the proposed code amendments described in more detail in the following discussion section.

**Comprehensive Plan Amendments:** The recommended changes to the SMP Element of the *Imagine Bothell* … Comprehensive Plan are minor:
- A process flow chart that is repeated in the Shoreline Management code is deleted to eliminate this redundancy and the need to make future changes in both places
- The map of the Shorelines Jurisdiction in the Bothell Planning Area is revised to reflect changes in environment designation and jurisdiction.

**Code Amendments to Title 13 BMC, Shoreline Management:** The recommendations reflect Ecology guidance as well as staff suggestions for improving clarity:
- Revised provisions for compensatory or off-site wetland mitigation
- Technical amendments including revised references and additional definitions,
- Minor map amendments and other technical corrections
- Amendments to shoreline jurisdiction and environment designations along the Sammamish River (i.e. mouth of Horse Creek, Sammamish River side channel, former Wayne Golf Course)

**Compensatory/Off-site mitigation**

Much of the Board’s discussion dealt with the provisions for compensatory or off-site wetland mitigation in BMC Section 13.13.020.G.4. This was not a required update in the Ecology guidance, but one suggested for jurisdictions to consider in order to allow utilization of existing and future off-site mitigation options, which Ecology and other agencies have established.

City staff suggested replacing the words “Bothell sponsored” with “Bothell approved” in provisions for fee-in-lieu programs. The proposed change was intended to reflect the fact Bothell does not currently have any “city-sponsored programs,” though cities can participate in other programs like one King County has established. Due to the resources required to establish, manage and maintain a wetland mitigation fee-in-lieu program like King County’s it is not likely that Bothell will sponsor a program. The Shoreline Board recommended strict limits on the use of any off-site mitigation in order to ensure that such mitigation provide a clear benefit to Bothell’s shoreline jurisdiction.
Many of the recommended amendments to Title 13 are related to similar amendments recommended by Planning Commission to BMC Chapter 14.04, Critical Area Regulations. Members of the Shorelines Board and Planning Commission were invited to participate in each other’s meetings on these topics. In the case of off-site mitigation, the Planning Commission chose to recommend including an option for in-lieu fee mitigation, given that outside the shorelines jurisdiction there were more marginal wetlands that may be candidates for off-site mitigation, and that mitigation might be more valuable if done through a fully vetted program like the one established by King County. In both sections of the code the allowable mitigation actions are in the same order of priority: 1) avoid impacts, 2) minimize impacts, 3) mitigate impacts on site, 4) mitigate on adjacent sites, and 5) mitigate on other sites. Only in the last option do the approaches vary, with shoreline mitigation limited to the same subbasin or Sammamish River reach as the impacted wetland. Also in both sections of the code, the applicant is required to demonstrate that all reasonable efforts to avoid or minimize impacts have been examined before pursuing the next level action.

Definitions and minor technical and map amendments
The recommended amendments include definitions that have been revised or added per Ecology guidance or for clarity. Throughout Title 13, references have been updated per Ecology guidance and minor amendments made for clarity. Technical mapping changes are reflected in Section 13.07.070 that correct minor errors and incorporate wetland delineations done since 2013.

Amendments to Shoreline Jurisdiction and Environment Designations
Staff and consultants identified three situations where changed conditions since 2013 required revisions to the Shoreline Jurisdiction and/or Environment Designations. These are described in more detail below and reflected in the maps in Section 13.07.070:

1) New Horse Creek channel and outlet into the Sammamish River in the west end of the Park at Bothell Landing;
2) New Sammamish River side channel across from the Park at Bothell Landing; and
3) Former Wayne Golf Course “back nine.”
1) The daylighting of Horse Creek in 2015 extended the Ordinary High Water Mark of the Sammamish River a short distance up the new stream channel, which extends the shoreline jurisdiction from the existing condition (right) to the proposed (below).
2) In 2017, the City constructed a new side channel in Sammamish River Park, across from the Park at Bothell Landing, which extends the Urban Conservancy designation further into the park, from the existing condition (right) to the proposed (below).
3) The back nine of the former Wayne Golf Course currently has a split designation (right) of Urban Conservancy within the 100' buffer and Shoreline Residential within the outer 100' of the shoreline jurisdiction. Now that the property is city-owned with passive recreation restrictions, the recommended designation is Urban Conservancy for the entire buffer along the south side of the river through the back nine, including an expanded wetland delineation along Waynita Creek and near Blyth Park (below).
Process: Under the joint review process with Ecology, Council adoption of the SMP Update will occur after Ecology’s determination of consistency. The estimated schedule for the remainder of the joint process is:

- June 4: Joint 30-day comment period is closed with the public hearing, and Council gives preliminary approval, with any amendments.
- Staff responds to comments received and transmits to Ecology with complete update, as preliminarily approved by Council.
- Determination of consistency from Ecology, with any requested changes.

Category: Public Hearing

- Mayor opens the public hearing
- Staff Presentation
- Public Comment
- Council Deliberations
- Motion to Preliminarily Approve Recommended Action
- Council Vote on Motion to Preliminarily Approve

Attachments:

1. Proposed Ordinance
2. Comments received to date during joint comment period

Recommended Action:

Preliminary approval of 2019 SMP Update.

City Manager Approval: _____________________________ Date: 05/29/2019
ORDINANCE NO. __________ (2019)

AN ORDINANCE OF THE CITY OF BOTHELL, WASHINGTON, AMENDING THE SHORELINE MASTER PROGRAM ELEMENT OF THE IMAGINE BOTHELL...COMPREHENSIVE PLAN AND TITLE 13, SHORELINE MANAGEMENT OF THE BOTHELL MUNICIPAL CODE.

WHEREAS, chapter 36.70A RCW, also known as the Growth Management Act ("the Act"), requires that cities subject to the Act adopt comprehensive plans and implementing development regulations consistent with the Act; and

WHEREAS, in accordance with the Act, the Bothell City Council, in 1994, adopted the Imagine Bothell... Comprehensive Plan and, in 1996, adopted implementing development regulations via amendments to the Bothell Municipal Code (BMC); and

WHEREAS, the Act provides that each jurisdiction’s comprehensive land use plan and development regulations shall be subject to continuing review and evaluation; and

WHEREAS, the City of Bothell has adopted numerous amendments to the Plan and Code since 1994 and 1996, respectively; and

WHEREAS, in 2013 the City Council adopted a major update to the Shoreline Master Program (SMP) Element of the Plan and Title 13, Shoreline Management, of the BMC, consistent with the Shoreline Management Act; and

WHEREAS, the City Council initiated the 2019 SMP Updates as part of the 2018 Planning Docket; and

WHEREAS, the Shorelines Board has conducted a study session and public hearing resulting in recommended 2019 SMP Updates; and

WHEREAS, upon due consideration, the City Council finds that adoption of the recommended 2019 SMP Updates are in the public interest and welfare.

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

Section 1. The Shoreline Master Program Element of the Imagine Bothell...Comprehensive Plan is hereby amended as follows, with new text shown by underline and deleted text and graphics shown in strikethrough; all other provisions of
these sections shall remain unchanged and in full force, including those portions that are omitted in the text here as indicated by three asterisks (* * *):
A. How to Use This Document

1. The Shoreline Master Program (SMP) is divided into five sections (see Figure SMP-2):

   - Is property in Shoreline Jurisdiction? See Chapter 13.05
     - Yes?
       - Locate property on Shorelines environment designation maps. See Chapter 13.07
       - Identify if the Use Matrix (13.07.080-1) assigns the proposed use as permitted, conditional or prohibited
         - If Permitted or Conditional
           - Apply the General Regulations and Performance Standards. See Chapter 18.09
             - When Consistent
               - Apply the Use-Specific and Modifications and Performance Standards. See Chapter 13.11
                 - When Consistent
                   - Apply the Critical Areas Regulations and Performance Standards. See Chapter 13.13
                     - When Consistent
                       - Apply criteria for approval. See Chapter 13.17
                         - When Consistent
                           - Prepare application documents and submit to City. See Chapter 13.17
                         - When Inconsistent
                           - Amend application or seek Variance
                             - Amend application or seek Variance
                               - Amend application or seek Variance
                                 - Amend application or seek Variance
                                   - Amend application or seek Variance
                                     - Amend application or seek Variance
                                       - Amend application or seek Variance
                                         - Amend application or seek Variance
                                           - Amend application or seek Variance
                                             - Amend application or seek Variance
                                               - Amend application or seek Variance
                                                 - Amend application or seek Variance
                                                   - Amend application or seek Variance
                                                     - Amend application or seek Variance
                                                       - Amend application or seek Variance
                                                         - Amend application or seek Variance
                                                           - Amend application or seek Variance
                                                             - Amend application or seek Variance
                                                               - Amend application or seek Variance
                                                                 - Amend application or seek Variance
                                                                   - Amend application or seek Variance
                                                                     - Amend application or seek Variance
                                                                       - Amend application or seek Variance
                                                                         - Amend application or seek Variance
                                                                           - Amend application or seek Variance
                                                                             - Amend application or seek Variance
                                                                               - Amend application or seek Variance
                                                                                 - Amend application or seek Variance
                                                                                   - Amend application or seek Variance
                                                                                     - Amend application or seek Variance
                                                                                       - Amend application or seek Variance
                                                                                         - Amend application or seek Variance
                                                                                           - Amend application or seek Variance
                                                                                             - Amend application or seek Variance
                                                                                               - Amend application or seek Variance
                                                                                                 - Amend application or seek Variance
                                                                                                   - Amend application or seek Variance
                                                                                                     - Amend application or seek Variance
                                                                                                       - Amend application or seek Variance
                                                                                                         - Amend application or seek Variance
                                                                                                          - Amend application or seek Variance
                                                                                                            - Amend application or seek Variance
                                                                                                               - Amend application or seek Variance
                                                                                                                 - Amend application or seek Variance
                                                                                                                   - Amend application or seek Variance
                                                                                                                    - Amend application or seek Variance
                                                                                                                     - Amend application or seek Variance
                                                                                                                      - Amend application or seek Variance
                                                                                                                       - Amend application or seek Variance
                                                                                                                        - Amend application or seek Variance
                                                                                                                         - Amend application or seek Variance
                                                                                                                             - Amend application or seek Variance
                                                                                                                                - Amend application or seek Variance
                                                                                                                                    - Amend application or seek Variance
                                                                                                                                     - Amend application or seek Variance
                                                                                                                                        - Amend application or seek Variance
                                                                                                                                             - Amend application or seek Variance
                                                                                                                                               - Amend application or seek Variance
                                                                                                                                                 - Amend application or seek Variance
                                                                                                                                                    - Amend application or seek Variance
                                                                                                                                                       - Amend application or seek Variance
                                                                                                                                                    - Amend application or seek Variance
                                                                                                                                                           - Amend application or seek Variance
                                                                                                                                                               - Amend application or seek Variance
                                                                                                                                                                  - Amend application or seek Variance
                                                                                                                                                                      - Amend application or seek Variance
                                                                                                                                                                          - Amend application or seek Variance
                                                                                                                                                                             - Amend application or seek Variance
                                                                                                                                                                                - Amend application or seek Variance
                                                                                                                                                                                    - Amend application or seek Variance
                                                                                                                                                                                       - Amend application or seek Variance
                                                                                                                                                                                          - Amend application or seek Variance
                                                                                                                                                                                             - Amend application or seek Variance
                                                                                                                              - When Inconsistent
                                                                                                                               - Seek a property outside shoreline jurisdiction
                                                                                                                                  - No?
                                                                                                                                     - Apply City-wide Regulations

---

Figure SMP-2. Flow-Chart
Section 2. Section 13.00.020 of the Bothell Municipal Code (BMC) is hereby amended as follows, with new text shown by underline and deleted text and graphics shown in strikethrough; all other provisions of these sections shall remain unchanged and in full force, including those portions that are omitted in the text here as indicated by three asterisks (* * *):

**Title 13**  
**SHORELINE MANAGEMENT**  
**Chapter 13.00**  
**READER’S GUIDE**  

13.00.020 Flow chart.

- Is property in Shoreline Jurisdiction? See Chapter 13.05
  - Yes?
    - Locate property on Shorelines environment designation maps. See Chapter 13.07
    - Identify if the Use Matrix (13.07.080-1) assigns the proposed use as permitted, conditional or prohibited
      - Prohibited? Seek a property outside shoreline jurisdiction
        - If Permitted or Conditional
          - Apply the General Regulations and Performance Standards. See Chapter 13.09
            - When Consistent
              - If Inconsistent Amend application or seek Variance
                - If Inconsistent Amend application or seek Variance
                  - If Inconsistent Amend application or seek Variance
                    - If Inconsistent Amend application or seek Variance
                      - If Inconsistent Amend application or seek Variance
                        - If Inconsistent Amend application or seek Variance
                          - If Inconsistent Amend application or seek Variance
                            - If Inconsistent Amend application or seek Variance
                              - Prepare application documents and submit to City. See Chapter 13.17
Figure 13-1. Flow Chart

- Is property in Shoreline Jurisdiction? See Chapter 13.05.
  - Yes?
    - Locate Property on Shorelines environment designation maps. See Chapter 13.07.
      - Prohibited?
        - Apply City-wide Regulations
      - If Inconsistent
        - Identify if the Use Matrix (13.07.080-1) assigns the proposed use as: permitted, conditional or prohibited.
          - If Permitted or Conditional
            - Apply the General Regulations and Performance Standards. See Chapter 13.09.
              - When Consistent
                - Apply the Use-Specific and Modifications and Performance Standards. See Chapter 13.11.
                  - When Consistent
                      - When Consistent
                        - Apply criteria for approval. See Chapter 13.17.
                          - When Consistent
                            - Prepare application documents and submit to City. See Chapter 13.17.
  - No?
    - Seek a property outside shoreline jurisdiction.
      - Amend application.
      - If Inconsistent
        - Amend application.
        - If Inconsistent
          - Amend application.
          - If Inconsistent
            - Amend application.
            - If Inconsistent
              - Amend application.

A variance can be applied for at any point in the process when no compliant solution is feasible.
Section 3. Section 13.03.010 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.03.010 Definitions.
Definitions established by WAC 173 and Chapter 90.58 RCW have been incorporated herein. Should definitions in the WAC or RCW be substantively amended, those amendments shall apply in Bothell’s shoreline jurisdiction.

*  *  *

“Boat launch” means a slab or set of pads, rails, planks, or graded slope which extends waterward of the OHWM, and is used for transferring watercraft between uplands and the water by means of a trailer, hand, or mechanical device.

*  *  *

“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any stage of water level. Development includes the storage or use of equipment or materials inconsistent with the existing use. Development also includes approvals issued by the city that binds land to specific patterns of use, including but not limited to subdivisions, short subdivisions, zone changes, conditional use permits, and binding site plans. Development does not include the following activities:

A. Interior building improvements;

B. Exterior structure maintenance activities, including painting and roofing;

C. Routine landscape maintenance of established, ornamental landscaping, such as lawn mowing, pruning, and weeding; and

D. Maintenance of the following existing facilities that does not expand the affected area: septic tanks (routine cleaning); wells; individual utility service connections; and individual cemetery plots in established and approved cemeteries; and
E. Dismantling or removing structures if there is no other associated development or re-
development.

* * *

“Floodway” means the area established in effective Federal Emergency Management Agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

* * *

“In-Lieu-Fee Program” means an agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public natural resource agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees’ required mitigation.

* * *


* * *

“Wetlands of High Conservation Value” (formerly called Natural Heritage Wetlands) means those wetlands identified by the Washington Natural Heritage Program at the Department of Natural Resources as either high quality undisturbed wetlands or wetlands that support rare or sensitive plant populations.

“WSDOT facility maintenance and safety improvements” means the following consistent with RCW 90.58.356:

A. Maintenance, repair, or replacement that occurs within the roadway prism of a state highway as defined in RCW 46.04.560:
B. The lease or ownership area of a transit facility, including ancillary transportation facilities such as pedestrian paths, bicycle paths, or both, and bike lanes;

C. Construction or installation of safety structures and equipment, including pavement marking, freeway surveillance and control systems, railroad protective devices not including grade separated crossings, grooving, glare screen, safety barriers, energy attenuators, and hazardous or dangerous tree removal;

D. Maintenance occurring within the right-of-way; or

E. Construction undertaken in response to unforeseen, extraordinary circumstances that is necessary to prevent a decline, lapse, or cessation of service from a lawfully established transportation facility.

**Section 4.** Section 13.07.070 of the Bothell Municipal Code (BMC) is hereby amended as follows:

**13.07.070 Use environment interpretation.**

A. The city has designated use environments in its city limits and predesignated use environments in its annexation areas consistent with the maps at the end of this section, listed as follows:

1. Figure 13.07.070-1: Shoreline Environment Designations Reach 1.

2. Figure 13.07.070-2: Shoreline Environment Designations Reach 2.

3. Figure 13.07.070-3: Shoreline Environment Designations Reach 3.

4. Figure 13.07.070-4: Shoreline Environment Designations Reach 4.

5. Figure 13.07.070-5: Shoreline Environment Designations Reach 5.

6. Figure 13.07.070-6: Shoreline Environment Designations Reaches 6 and 15.

7. Figure 13.07.070-7: Shoreline Environment Designations Reaches 9 and 10.

8. Figure 13.07.070-8: Shoreline Environment Designations Reaches 11 – 14.
9. Figure 13.07.070-9: Shoreline Environment Designations Reaches 7a and 8.

10. Figure 13.07.070-10: Shoreline Environment Designations Reach 7b.

---

Figure 13.07.070-1. Shoreline Environment Designations Reach 1
Figure 13.07.070-6. Shoreline Environment Designations Reaches 6 and 15
Section 5. Section 13.09.030 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.09.030 Shoreline vegetation conservation.

* * *

E. Significant trees located in shoreline jurisdiction outside of wetlands and wetland, stream or shoreline buffers shall be retained using the preferences specified in subsection D of this section as a guide and consistent with the percent of the total in diameter inches of the significant trees located within the net buildable area of the subject property by number provided in Table 13.09.030-1; significant trees shall mean existing trees over eight inches in caliper as measured four feet above grade.
Table 13.09.030-1. Significant Tree Retention Requirements outside of Wetlands and Wetland, Stream or Shoreline Buffers (Percent by Diameter Inches Number)

<table>
<thead>
<tr>
<th>Shoreline Water Body</th>
<th>Natural</th>
<th>Urban Conservancy</th>
<th>Shoreline Residential</th>
<th>High Intensity/High Intensity-Park or Marina</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sammamish River</td>
<td>NA</td>
<td>65</td>
<td>2040</td>
<td>2040</td>
</tr>
<tr>
<td>North Creek</td>
<td>90</td>
<td>65</td>
<td>35</td>
<td>35</td>
</tr>
<tr>
<td>Swamp Creek</td>
<td>NA</td>
<td>65</td>
<td>35</td>
<td>35</td>
</tr>
</tbody>
</table>

I. The shoreline administrator shall require a maintenance bond or other surety be submitted to the city of Bothell to ensure retention of existing trees and plant material during construction. In the event any trees designated by the city to be retained are removed, the city shall have the option of enforcing any bond posted. Each tree identified for retention shall be bonded pursuant to Table 13.09.030-2:

Table 13.09.030-2. Tree Diameter and Bonding Required

<table>
<thead>
<tr>
<th>Tree Diameter</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 – 12 inches</td>
<td>$4,000</td>
</tr>
<tr>
<td>Larger than 12 – 16 inches</td>
<td>$4,000</td>
</tr>
<tr>
<td>Larger than 16 – 20 inches</td>
<td>$4,580,000</td>
</tr>
<tr>
<td>Larger than 20 – 24 inches</td>
<td>$12,000</td>
</tr>
<tr>
<td>Larger than 24 – 28 inches</td>
<td>$16,000</td>
</tr>
<tr>
<td>Larger than 28 inches</td>
<td>$3,520,000</td>
</tr>
</tbody>
</table>

Section 6. Section 13.09.050 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.09.050 Public access.

C. Except for detached single-family residential dwellings and detached residential subdivisions, shoreline development proposals that have the potential to impact public views of the shoreline from public land or
substantial numbers of residences, shall demonstrate protection of shoreline views through implementation of
the following standards:

   * * *

E. In order to maintain public access, the city shall not vacate such public rights-of-way or easements as a
means of retaining public access. Public access provided by public street ends, public utilities and rights-of-way
shall not be diminished by a proposed use, activity or development.

Section 7. Section 13.09.060 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.09.060 Flood hazard reduction.

   * * *

B. The channel migration zone (CMZ) is considered to be that area of a stream channel which may erode as
a result of normal and naturally occurring hydrological and related processes or areas mapped by the
Department of Ecology [pending] prepared consistent with WAC 173-26-221(3)(b). Applicants for shoreline
development or modification may submit a site-specific channel migration zone special study if they believe
these conditions do not exist on the subject property or Ecology's mapping is in error. The CMZ special study
must be prepared consistent with WAC 173-26-221(3)(b), and may include, but is not limited to, historic aerial
photographs, topographic mapping, flooding records, and field verification.

   * * *

2 There are only four potential areas of channel migration have been identified on North Creek in the city. These
are identified in the city's shoreline analysis report: 1) in North Creek – Centennial Park (Reach 2), 2) the open
space/wetland area just north of 228th in North Creek – Canyon Park assessment unit (lower Reach 3), 3) south of
228th Street SE and north of 240th Street SE along the North Creek – Fitzgerald assessment unit (Reach 4), and 4)
west of Interstate-405 and north of the North Creek confluence with the Sammamish River within the North Creek –
Campus assessment unit (Reach 6).

Section 8. Section 13.11.080 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.11.080 Forest practices.

A. Forest practice applications shall meet all local BMC Title Chapter 12.12, state, and federal regulations
regarding forest practices and land clearing and ensure no net loss of ecological function. (Ord. 2112 § 3 (Exh.
C), 2013).
B. A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the SMA and may require a substantial development permit, as required by WAC 222-50-020.

Section 9. Section 13.11.140 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.11.140 Shoreline habitat and natural systems enhancement projects.

J. Relief from shoreline master program development standards and use regulations.

1. Purpose of section. This section incorporates statutory direction from RCW 90.58.580. In adopting RCW 90.58.580, the legislature found that restoration of degraded shoreline conditions is important to the ecological function of our waters. However, restoration projects that shift the location of the shoreline can inadvertently create hardships for property owners, particularly in urban areas. Hardship may occur when a shoreline restoration project shifts shoreline jurisdiction into areas that had not previously been regulated under the act or shifts the location of required shoreline buffers. The intent of this section is to provide relief to property owners in such cases, while protecting the viability of shoreline restoration projects.

2. Conditions and criteria for providing relief. The city may grant relief from standards and use regulations in this title when the following apply:

   a. A shoreline restoration project causes or would cause a landward shift in the ordinary high water mark, resulting in the following:
      i. Land that had not been regulated under this title prior to construction of the restoration project is brought under shoreline jurisdiction; or
      ii. Additional regulatory requirements apply due to a landward shift in required shoreline buffers or other regulations of the Bothell SMP and this title; and
iii. Application of this title would preclude or interfere with use of the property permitted by local development regulations, thus presenting a hardship to the project proponent.

b. The proposed relief meets the following criteria:

i. The proposed relief is the minimum necessary to relieve the hardship;

ii. After granting the proposed relief, there is net environmental benefit from the restoration project;

iii. Granting the proposed relief is consistent with the objectives of the shoreline restoration project and consistent with the Bothell SMP and this title; and

iv. Where a shoreline restoration project is created as mitigation to obtain a development permit, the project proponent required to perform the mitigation is not eligible for relief under this section.

c. The application for relief must be submitted to the Washington State Department of Ecology for written approval or disapproval. This review must occur during Ecology’s normal review of a shoreline substantial development permit, conditional use permit, or variance. If no such permit is required, then Ecology shall conduct its review when the city provides a copy of a complete application and all supporting information necessary to conduct the review.

i. Ecology shall provide at least twenty days notice to parties that have indicated interest to Ecology in reviewing applications for relief under this section, and post the notice on its website.

ii. Ecology shall act within thirty calendar days of the close of the public notice period, or within thirty days of receipt of the proposal from the city if additional public notice is not required.

4. A substantial development permit is not required on land that is brought under shoreline jurisdiction due to a shoreline restoration project creating a landward shift in the ordinary high water mark.
Section 10. Section 13.13.020 of the Bothell Municipal Code (BMC) is hereby amended as follows:


* * *

B. Wetland Ratings. Wetlands shall be rated according to the Washington State Department of Ecology wetland rating system found in the Washington State wetland rating system documents (Washington State Wetland Rating Manual for Western Washington (revised), Department of Ecology Document No. 14-06-02904-06-025) or as revised by Ecology. These documents contain the definitions and methods for determining if the criteria below are met.

1. Wetland Rating Categories.

a. Category I. Category I wetlands are those wetlands that (1) represent a unique or rare wetland type; or (2) are more sensitive to disturbance than most wetlands; or (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions. These include bogs, mature and old-growth forested wetlands, Wetlands of High Conservation Value, and wetlands that perform many functions very well (score 2370 points or more (out of 27100) on a completed rating form for the appropriate hydrogeomorphic class).

b. Category II. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a relatively high level of protection. There are no estuarine or inter-dunal wetlands in Bothell. Category II wetlands are those that score between 2051 and 2269 (out of 27100) points. These wetlands scoring 51 to 69 points were judged to perform most functions relatively well, or performed one group of functions very well, and the other two moderately well.

c. Category III. Category III wetlands are wetlands with a moderate level of functions (scores between 1630 and 1960 points out of 27100) and can often be adequately replaced with a well-planned mitigation project. These wetlands scoring between 30 and 50 points generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
d. Category IV. Category IV wetlands have the lowest levels of functions (scores less than 1630 points out of 27100) and are often heavily disturbed. These are wetlands that should be able to be replaced, and in some cases be able to be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and also need to be protected.

* * *

3. Wetland Analysis. In addition to the minimum required contents of BMC 13.13.010(O), Critical Area Reports – Requirements, a critical area report for wetlands shall contain an analysis of the wetlands including the following site- and proposal-related information at a minimum:

* * *


* * *

7. Wetland Buffers.

a. Standard Buffer Widths. Required standard wetland buffers, based on wetland category and habitat score, are as follows:

<table>
<thead>
<tr>
<th>Wetland Category</th>
<th>Standard (feet)</th>
<th>Buffer (in feet) if 6 21—25 habitat points*</th>
<th>Buffer (in feet) if 7 26—29 habitat points*</th>
<th>Buffer (in feet) if 8 — 30—36 habitat points*</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>75</td>
<td>105</td>
<td>165</td>
<td>225</td>
</tr>
<tr>
<td>II</td>
<td>75</td>
<td>105</td>
<td>165</td>
<td>225</td>
</tr>
<tr>
<td>III</td>
<td>60</td>
<td>105</td>
<td>165</td>
<td>Not applicable</td>
</tr>
<tr>
<td>IV</td>
<td>40</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

* The habitat points are derived from one of three scoring elements (habitat, hydrology and water quality) included in the Washington State Wetland Rating System for Western Washington (revised), Department of Ecology Publication No. 14-06-02904-06-025.
F. General Requirements.

5. Category IV Wetlands. Activities and uses that result in unavoidable and necessary adverse impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the acreage and lost functions will be provided under the terms established under subsection G.69) of this section.

G. Compensatory Mitigation Requirements. Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the state Department of Ecology Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised, as revised.

3. Preference of Mitigation Actions. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement. Mitigation actions that require compensation shall occur in the following order of preference:

a. Restoring wetlands on upland sites that were formerly wetlands. Wetland restoration refers to actions performed to reestablish wetland functional characteristics and processes that have been lost by alterations, activities, or catastrophic events within an area that no longer meets the definition of a wetland.

b. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. Wetlands creation refers to actions performed to intentionally establish a wetland at a site where it did not formerly exist. Creation should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.

c. Enhancing significantly degraded wetlands in combination with restoration or creation. Enhancement refers to actions performed to improve the condition of existing degraded wetlands.
so that the functions they provide are of a higher quality. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

d. Preserving/maintaining a wetland to remove threat or prevent decline, such as purchasing land. Preservation does not result in gain of wetland areas.

4. Type and Location of Mitigation. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions (“in kind”). The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except the City may allow out-of-kind replacement of wetland type of functions when either:

a. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or

b. Out-of-kind replacement of wetland type or functions will best meet watershed goals or restoration priorities in the Final Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan (WRIA 8 Salmon Plan) initially adopted by the City Council in 2005, and as updated or supplemented thereafter, or the Shoreline Restoration Plan adopted by the City Council in 2013, and as updated thereafter.

5. Location of Mitigation.

a. Compensatory mitigation actions shall be conducted on the site of the alteration except when the applicant can demonstrate that off-site mitigation is ecologically preferable and will provide equivalent or greater replacement of critical area functions and values when compared to on-site mitigation.

b. The City will review applications for off-site mitigation as a shoreline conditional use following the procedures for a Type III development application pursuant to BMC Title 11, Administration of Development Regulations.

c. The City may allow off-site mitigation only when an applicant can Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, such as a mitigation.
bank located within Watershed Resource Inventory Area (WRIA) 8, implementation of a project found in the city’s shoreline restoration plan, or a city of Bothell-sponsored fee-in-lieu program, compensatory mitigation for ecological functions shall be either in-kind and on site, or in-kind and within the same stream reach or subbasin. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except and when all of the following apply:

(1)a. There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the adverse impacts. Consideration shall include: anticipated wetland mitigation replacement ratios; buffer conditions and proposed widths; hydrogeomorphic classes of on-site wetlands when restored; proposed flood storage capacity; position in the landscape; and potential to mitigate riparian fish and wildlife impacts (such as connectivity);

(2)b. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and

(3)c. Off-site locations may include state-certified mitigation banks, federally certified fee in lieu programs, applicant-owned properties, or public property subject to agreement with the City shall be in the same subdrainage basin unless:

d. Off-site mitigation, when approved by the City, shall be required in the following order of preference, as illustrated in Figure 13.13.020.G.5.d below:

(1) On an adjacent property in Bothell within the same subdrainage basin on North Creek or Swamp Creek, or on the Sammamish River.

(2) In the same subdrainage basin in Bothell as the impacted wetland when the wetland is located in shoreline jurisdiction associated with North Creek or Swamp Creek, or on the Sammamish River in Bothell when the impacted wetland is located in shoreline jurisdiction associated with the Sammamish River.

(3) Within the shoreline jurisdiction of the City of Bothell or its municipal urban growth area.

(4) In adjacent jurisdictions within the same subdrainage basin on North Creek or Swamp Creek, or on the Sammamish River downstream of Bothell or upstream as far as the 145th Street NE
bridge in Woodinville, only when the applicant can demonstrate that the mitigation project will provide equal or greater ecological benefits to the shoreline jurisdiction of the City of Bothell or its municipal urban growth area.

**Figure 13.13.020.G.5.d:**

(1) Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or

(2) Credits from a state-certified wetland mitigation bank located within the Sammamish River, North Creek, or Swamp Creek drainage basin are used as mitigation and the use of credits is consistent with the terms of the bank’s certification;

(3) The mitigation occurs as part of a city of Bothell-sponsored fee-in-lieu program;
(4) Wetponds established and maintained for control of surface water shall not constitute replacement or enhancement for wetland alterations.

6c. Mitigation banks. The City may approve the use of credits from a certified wetland mitigation bank to compensate for impacts located within the service area specified in the mitigation bank instrument only after the applicant has demonstrated consistency with Subsection G.5. If the impacts occur in the service area of more than one bank, the City will give preference will be given to a bank that has implemented restoration actions included in the WRIA 8 Salmon Recovery Plan initially adopted by the City Council in 2005, and as updated or supplemented thereafter, or the Shoreline Restoration Plan adopted by the City Council in 2013, and as updated thereafter. The City may allow the use of credits from a wetland mitigation bank certified under Chapter 173-700 WAC is allowed if:

a. (1) The City determines that the proposed use of credits would provide appropriate compensation for the proposed impacts; and

b. (2) The City determines that the proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument; and

c. (3) The City determines that the replacement ratios for projects using bank credits are consistent with replacement ratios specified in the certified mitigation bank instrument.

7d. In-Lieu Fee Mitigation: Applicants may use credits from an federally certified approved in-lieu-fee program that implements restoration projects with collected funds only after the applicant has demonstrated consistency with Subsection G.5 may be used and when all of the following conditions apply:

a. (1) The City determines that it would provide environmentally appropriate compensation for the proposed impacts.

b. (2) The City determines that the proposed use of credits is consistent with the terms and conditions of the federally certified approved in-lieu-fee program instrument.

c. (3) The applicant’s qualified wetland professional Projects using in-lieu-fee credits shall calculate the have debits associated with the proposed impacts calculated by the applicant’s qualified wetland professional using the credit assessment method specified in the federally approved instrument for the in-lieu-fee program.
d. (4) The proposed impacts must be located within the service area specified in the federally approved in-lieu-fee instrument, and the fees collected by the in lieu fee program sponsor will be applied to a project within the impacted area's subdrainage basin or the same Sammamish River reach. If the program has more than one project available in the subdrainage basin or Sammamish River reach, the City will give preference to the project that will implement restoration actions included in the WRIA 8 Salmon Recovery Plan adopted by the City Council in 2005, as updated or supplemented thereafter, or the Shoreline Restoration Plan adopted by the City Council in 2013, as updated thereafter.

95. Mitigation Timing.

* * *

96. Mitigation Ratios.

Section 11. Section 13.17.040 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.17.040 Exemption from permit requirements.

* * *

E. Exempt Activities. WAC 174-27-040 lists activities which are exempted from the requirement to obtain a shoreline substantial development permit. This list is duplicated below with clarifications to reflect local circumstances. In all cases, should a conflict exist, the exemptions of WAC 173-27-040 shall control. The following developments shall not require substantial development permits but shall be required to comply with the applicable Bothell SMP standards and provisions:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed $5,748,047, if such development does not materially interfere with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection went into effect on September 2, 2017 and must be adjusted for inflation by the Office of Financial Management every five years—beginning July 1, 2007, based upon changes in the consumer price index per WAC 173-27-040(2)(a). For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in
RCW 90.58.030(2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

* * *

8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single-family and multiple-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if the fair market value of the dock does not exceed: (A) $20,000 for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or (B) $10,000 for all other docks constructed in fresh waters. However, if subsequent construction having a fair market value exceeding $2,500 occurs within five years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter;

* * *

17. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

* * *

Section 12. Section 13.17.045 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.17.045 Developments not required to obtain shoreline permits or local reviews.

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

A. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

B. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
C. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review. The department of transportation must provide written notification of projects and activities authorized under this section with a cost in excess of one million dollars before the design or plan is finalized to all agencies with jurisdiction, agencies with facilities or services that may be impacted, and adjacent property owners.

D. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

E. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

Section 13. Section 13.17.100 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.17.100 Procedures applicable to substantial development permits (SDP).

E. Decision. An appeal of a shoreline substantial development permit shall be to the Bothell hearing examiner and shall be filed pursuant to the procedures of BMC 11.14.005. Appeals of the Bothell hearing examiner shall be to the state Shorelines Hearings Board and shall be filed within 21 days of the receipt of the date of filing Department of Ecology's permit action letter as set forth in RCW 90.58.180. (Ord. 2112 § 3 (Exh. C), 2013).

Section 14. Section 13.17.110 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.17.110 Procedures applicable to shoreline conditional use permits (SCUP).

G. Decision Process.

1. Once the city has approved a conditional use permit it will be forwarded to the state Department of Ecology for its review and approval/disapproval jurisdiction under WAC 173-27-200.

2. The permit shall state that construction pursuant to a permit shall not begin or be authorized until 21 days from the date the permit decision was filed as provided in RCW 90.58.140(6); or until all
review proceedings are terminated if the proceedings were initiated within 21 days from the date of filing receipt as defined in RCW 90.58.140(5) and (6).

3. Appeals of a shoreline conditional use permit shall be to the state Shoreline Hearings Board and shall be filed within 21 days of the date the decision of the Department of Ecology is transmitted by the Department of Ecology to the city receipt of the Department of Ecology’s permit action letter, as set forth in RCW 90.58.180.

Section 15. Section 13.17.120 of the Bothell Municipal Code (BMC) is hereby amended as follows:

13.17.120 Procedures Applicable to Shoreline variances.

F. Decision Process.

1. Once the city has approved a variance permit it will be forwarded to the state Department of Ecology for its review and approval/disapproval jurisdiction under WAC 173-27-200.

2. The permit shall state that construction pursuant to a permit shall not begin or be authorized until 21 days from the date the permit decision was filed is received as provided in RCW 90.58.140(6); or until all review proceedings are terminated if the proceedings were initiated within 21 days from the date of filing receipt as defined in RCW 90.58.140(5) and (6).

3. Appeals of a shoreline variance shall be to the state Shoreline Hearings Board and shall be filed within 21 days of the date the decision of the Department of Ecology is transmitted by the Department of Ecology to the city receipt of the Department of Ecology’s permit action letter, as set forth in RCW 90.58.180.

* * *

Section 16. 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 17. EFFECTIVE DATE. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall
take effect fourteen (14) days after approval by the Washington State Department of Ecology.

Section 18. 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: __________________________
PASSED BY THE CITY COUNCIL: __________________________
PUBLISHED: __________________________
EFFECTIVE DATE: __________________________
ORDINANCE NO.: ____________ (2019)
SUMMARY OF ORDINANCE NO. ____________ (2019)

City of Bothell, Washington

On the 4th day of June, 2019, the City Council of the City of Bothell passed Ordinance No. _______(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, AMENDING THE SHORELINE MASTER PROGRAM ELEMENT OF THE IMAGINE BOTHELL...COMPREHENSIVE PLAN AND TITLE 13, SHORELINE MANAGEMENT OF THE BOTHELL MUNICIPAL CODE.

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.: __________________________ (2019)
Letter from Karen Walters, received via email 5/15/2019:

Misty and David,

We have reviewed Bothell's proposed changes to its Shoreline Master Program under the period review process. We would like to provide a couple of comments for your consideration:

With respect to the mitigation process/plans, etc. in the proposed revisions to the Shoreline regulations, there are couple of things to note:

1. The ability for applicants to use offsite areas such as mitigation banks and federally-approved in lieu programs does not negate the need for applicants to fully apply mitigation sequencing to their projects. As a person who reviews such proposals regularly, the proposed mitigation plans that have been approved are those where the applicant provided whatever mitigation could be done on site and the net difference is what led to a purchase of credits from a bank or in lieu program.

2. Currently MITFD is not favorable to any project that has impacts to fishbearing waters and their buffers being mitigated at these offsite locations. WDFW has expressed similar concerns as a IRT member on King County's ILF program. In fact with King County's ILF program instrument, non wetland impacts are only allowed case-by-case. Part of the concern is that it has to be demonstrated that projects can readily port their impacts to single mitigation sites and not result in a loss of salmon habitat functions and further impacts to salmon production and survival. These programs have little to no track record yet to demonstrate that there is no loss to wetland functions, let alone streams.

3. We have also noted that any mitigation site that was previously identified as a restoration site needed for the recovery of salmon via the salmon conservation plans completed for WRIAs 8, 9, and 10 must replace the former restoration project with a new restoration project. As shown in WDOE's restoration planning guidance, restoration projects, if successful, will provide an ecological lift increase above the "no net loss" standard applied to compensatory mitigation actions. Using restoration sites deemed necessary as areas for compensatory mitigation will not lead to the increase in functions and area necessary to restore salmon populations.

4. We appreciate the changes proposed to increase tree retention requirements. It should be noted that the future TMDL to be done for the Sammamish River will likely result in larger riparin buffers with trees to provide sufficient shade to cool the river and meet State water quality standards for temperature and dissolved oxygen. This is based on the results and implementation plan that was done for the Green River and Bear/Evans Creek for these pollutants. We expect similar outcomes for the Sammamish River.

We appreciate the opportunity to review this proposal. If you have any questions, please let me know.

Thank you,

Karen Walter
Watersheds and Land Use Team Leader

Muckleshoot Indian Tribe Fisheries Division Habitat Program
39015 172nd Ave SE
Auburn, WA 98092
253-876-3116
(This page intentionally left blank)
Meeting Date: June 4, 2019  Action ☒ No Action ☐  AB #: 19-096

Subject: Motorized Foot Scooter Pilot Program

Budget Impact/Source of Funds: N/A

Staff Presenter/Department: Jeanie L. Ashe, Economic Development Manager

Policy Consideration and Connection to Council Goals:

The policy consideration for the City Council to determine whether or not to implement a 90-day motorized foot scooter pilot program.

Background:

In late 2017, the company LimeBike (now referred to as Lime) a bicycle, scooter, and car sharing business, obtained a business license for a pilot dockless bicycle program. Upon issuance of the business license, LimeBike distributed manual bikes in key locations throughout the City of Bothell using both the public right of way and private property. At that time, the City had not had any requests for dockless bicycle programs and did not have a process in place for the administration of such a program. With the vision of the downtown subarea plan being a multi-modal downtown and two educational campuses in close proximity to the downtown, staff believed a pilot program would offer the community the opportunity to explore this new mode of non-motorized transportation.

Lime operated their pilot program in Bothell for about a year, then began to transition its business model from manual bicycle to electric bikes and electric scooters. All bikes were removed from Bothell at that time.

Previous City Actions:

The 2015 updated Imagine Bothell Comprehensive Plan vision statement reads that Bothell is a community that:

“Develops and maintains a transportation system which serves land use and conservation goals and offers a variety of motorized and non-motorized modes of travel, placing emphasis on each, so as to maximize individual choice.”

Discussion:

The City of Bothell has received interest from Lime, to deploy 100 Lime-S electric scooters within Bothell city limits. As a business operating on city streets and public right of ways, Lime must obtain a Public Area Use Permit under Chapter 17.20 of the Bothell Municipal Code. The Public
Works Director has authority to issue public area use permits under the code, but given the community interest in this subject and the more widespread area of proposed use compared with other such permit requests, staff is bringing this request to Council. Staff is proposing a temporary Public Area Use Permit, with added stipulations, to establish a temporary, regulatory framework for operation and licensing.

RCW 46.04.336 defines motorized foot scooters as a device with two or three wheels that has handlebars, a floorboard that can be stood upon while riding, and is powered by an internal combustion engine or electric motor that has a maximum speed of no greater than twenty miles per hour on level ground.

Bothell currently has no ordinances or policies to regulate free-floating active transportation, such as bicycles or motorized foot scooters. To explore multimodal transportation for the non-motorized community, a temporary Public Area Use Permit will be issued with terms and conditions drawn, in part, from Seattle and Tacoma’s shared active transportation ordinances. The permit will regulate the licensing and operation for the operation of motorized foot scooters in Bothell’s city limits for the term of the permit. The terms and conditions for approval of said permit include the following stipulations:

1. The duration of the temporary Public Area Use Permit will be 90 days. At the end of the 90-day pilot program, City council may, at its discretion, extend the pilot program for an additional 90 days;
2. The temporary Public Area Use Permit is for motorized foot scooters only, not any other type of free-floating transportation;
3. Initial fleet size is up to 100 motorized foot scooters. Upon written approval of the Public Works Director, Lime has the option to increase its fleet size. Conversely, if ridership falls to one (1) ride per day, per scooter, then fleet size should decrease.
4. Lime will pay $125 for the temporary Public Area Use Permit. Additionally, to promote fair and equitable treatment of Bothell businesses, a $0.15 per trip will be assessed.
5. Lime will use its best efforts to promote the use of bicycle helmets, particularly in accordance with RCW 46.37.530;
6. Lime will further provide information to users to ensure that users do not ride a scooter upon a sidewalk in a business district, which is prohibited under BMC 10.10.10 and WAC 308-330-555;
7. Lime will provide information to users to ensure users do not block business doorways or five-foot wide pedestrian accessible routes;
8. Lime will provide information to ensure users park a minimum of 15 feet from a bus loading area;
9. Lime will ensure equitable distribution of motorized foot scooters throughout the community and will provide the City a map showing the distribution of said scooters;
10. During the duration of the pilot program, Lime will provide the City with monthly data reports to include daily statistics on trips, where people are riding and parking, length of trips (distance and time), and unique users. Lime will also provide a summarized version of complaints/comments by type of comment/complaint;
11. At the end of the initial 90-day pilot, unless in the City’s sole discretion the pilot is extended, Lime will promptly collect and remove all scooters from rights-of-way. If the pilot program is not extended and Lime does not remove all scooters from rights-of-way within seven (7)
days of the end date of the pilot, Bothell may collect and impound all remaining scooters, and Lime will be responsible for all costs of collection and storage;

12. In order for the permit to be approved, Lime will execute an indemnity agreement in favor of the City of Bothell in the form of the indemnity agreement required by the City of Seattle;

13. Lime will provide a certificate of liability insurance in the amount and form described in the Seattle Department of Transportation Free-Floating Bike Share Permit Requirements for the 2018-2019 permit cycle and acceptable to Bothell’s Risk Manager.

At the end of 90 days, Council will have one of four options:

1. Decline to extend the motorized foot scooter pilot program with no consideration for future programs;
2. Extend the pilot program for an additional time period to obtain more data and information;
3. Assent to the Public Works Director exercising general public area use permit authority to grant a regular public area use permit to these types of program, letting the market drive the demand for motorized foot scooters and establish capacity, permits, and fees, or;
4. Incorporate shared active transportation into the City’s transportation, tourism, and/or parks and recreation planning, which would create goals and strategies for shared active transportation and clearly define the policies, terms, permitting, and programs of these types of uses.

Category: New Business

- Staff Presentation
- Council Questions/Discussion

Attachments:

1. Proposed temporary Public Area Use Permit with added stipulations (in substantially the same form as presented)
2. Copy of proposed Indemnity Agreement
3. Copy of proposed Certificate of Liability Insurance requirement
4. Lime’s proposed Motorized Foot Scooter Distribution Map

Recommended Action:

Agree to a 90-day motorized foot scooter pilot program. This item will return to Council for action within 90 days.

City Manager Approval: ___________________________  Date: 04/29/2019
Permit Number:

Applicant:
Neutron Holdings, Inc.
d/b/a Lime
2121 S. El Camino Real, Suite B100
San Mateo CA 94403-1861
c/o Gabriel Scheel
107 Spring St.
Seattle, WA (8104 (888) 546-3345
gabriel@li.me

Project Description:

Permit Timeline:
Ninety (90) days commencing Wednesday, May 18, 2019. At the Applicants request, and at the City’s sole discretion, the City may extend this pilot program permit for an additional ninety (90) days.

Permit Fees:
For the pilot period (90 days) Lime will pay $125 for a Public Area Use Permit: sidewalk only outdoor dining and/or general usage permit fee. Additionally, to promote fair and equitable treatment of Bothell businesses, a $0.15 per trip fee will be assessed per scooter.

Permit Decision:
The subject Public Area Use Permit is hereby approved, subject to the following terms and conditions of approval:

1. The temporary Public Area Use Permit is for motorized foot scooters only, not any other type of free-floating transportation;
2. Initial fleet size is up to 100 motorized foot scooters. Upon written approval of the Public Works Director, Lime has the option to increase its fleet size. Conversely, if ridership falls to one (1) ride per day, per scooter, then fleet size should decrease.
3. Lime will use its best efforts to promote the use of bicycle helmets, particularly in accordance to RCW.46.37.530;
4. Lime will further provide information to users to ensure that users do not ride a scooter upon a sidewalk in a business district, which is prohibited under BMC 10.10.10 and WAC 308-330-555;
5. Lime will provide information to users to ensure users do not block business doorways or five-foot wide pedestrian accessible routes;
6. Lime will provide information to ensure users park a minimum of 15 feet from a bus loading area;
7. Lime will ensure equitable distribution of motorized foot scooters throughout the community and will provide the City of a map showing the distribution of said scooters;

8. During the duration of the pilot program, Lime will provide the City with monthly data reports to include daily statistics on trips, where people are riding and parking, length of trips (distance and time), and unique users. Lime will also provide a summarized version of complaints/comments by type of comment/complaint;

9. At the end of the initial 90-day pilot, unless in the City’s sole discretion the pilot is extended, Lime will promptly collect and remove all scooters from Bothell rights-of-way. If the pilot program is not extended and Lime does not remove all scooters from Bothell rights of way within seven (7) days of the end of the pilot, Bothell may collect and impound all remaining scooters and Lime will be responsible for all costs of collection and storage;

10. In order for the Permit to be effective, Lime will execute an indemnity agreement in favor of the City of Bothell in the form of the indemnity agreement required by the City of Seattle;

11. Lime will provide a certificate of liability insurance in the amount and form described in the Seattle Department of Transportation Free-Floating Bike Share Permit Requirements for the 2018-2019 permit cycle and acceptable to Bothell’s Risk Manager.
Appendix A: Indemnity Agreement

PUBLIC PLACE INDEMNITY AGREEMENT

Grantor (Entity Applying for Permit):

Grantee:

City of Seattle

CITY OF SEATTLE
FREE-FLOATING BIKE SHARE
STREET USE AND OCCUPATION PERMIT
INDEMNITY AGREEMENT

This Indemnity Agreement ("Agreement") is made and granted by ______________, and its successors, heirs, and assigns (collectively the "Grantor") in favor of the City of Seattle ("City").

RECITALS

The Grantor has applied to the City for permission to use or occupy public right-of-way for the Grantor’s benefit.

The City’s permission for allowing the use or occupancy is conditioned on the Grantor and its successors, heirs, and assigns complying with all permit requirements; and all applicable federal, state, and City law, including but not limited to, Seattle Municipal Code Section 15.04.060 that requires this Agreement.

AGREEMENT

In consideration for the City’s permission to use or occupy the public right-of-way that permits [INSERT PROJECT DESCRIPTION] according to the submitted Street Use and Occupancy Permit application and approved plan [INSERT STREET USE PERMIT NUMBER] the Grantor agrees as follows:

1. The Grantor, and its successors, heirs, and assigns shall forever defend, indemnify, and hold harmless; the City of Seattle, its officials, officers, employees, and agents; from and against all liabilities, claims, causes of action, suits, loss, costs, expenses, judgments, attorney fees and necessary litigation expenses, and damages of every kind and description including but not
limited to actual or alleged bodily injury including death, or actual and alleged damage to property; resulting directly or indirectly from any act or omission of the permiitee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable for; arising out of or in connection with the permiitee using or occupying the public right-of-way or any person operating the permiitee’s bicycle or other device without wearing a helmet.

2. The Grantor’s, successors’, heirs’, and assigns’ indemnification obligations under this Agreement do not apply to any liabilities, claims, causes of action, judgments, or expenses resulting from bodily injury or property damage caused by the sole negligence of the City, its officers, employees, elected officials, agents, or subcontractors.

3. The Grantor, successors, heirs, and assigns acknowledge that permission to use or occupy the public right-of-way is of a temporary nature and vests no permanent rights in the Grantor or the Grantor’s successors, heirs, or assigns to use or occupy the public right-of-way. Upon 30-days’ notice mailed to the Grantor by first-class mail or published in the City’s official newspaper, the City may revoke the permission to use or occupy the public right-of-way. If the use or occupation becomes dangerous, or if the use or occupation is not being maintained or used according to Title 15 of the Seattle Municipal Code, the City may revoke permission to use the public right-of-way without providing the 30-day notice.

4. The Grantor, on behalf of the Grantor and Grantor’s successors, heirs, and assigns, specifically and expressly agrees to waive Grantor’s and Grantor’s successors’, heirs’, and assigns’ immunity under industrial insurance, Title 51 of the Revised Code of Washington, to the extent necessary to provide the City with a full and complete indemnity from claims for which the City is entitled to indemnity under this Indemnity Agreement. Grantor, on behalf of Grantor and Grantor’s successors, heirs, and assigns, specifically and expressly agrees this provision was mutually negotiated by the parties.

5. The Grantor and its successors, heirs, and assigns acknowledge that if the City revokes the permission to use or occupy the public right-of-way; the Grantor and its successors, heirs, and assigns shall at its sole expense, remove the use or occupancy and restore the public place to at least as good a condition as required by current applicable standards.

6. The Grantor makes this Agreement on behalf of the Grantor and Grantor’s heirs, successors, and assigns for the benefit of the City and its successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this Agreement on the day and year indicated below.

______________________________
Grantor’s Signature

______________________________
Print Name and Title

Appendix A: Indemnity Agreement
State of Washington  

________________________) s.s.  

County of King  

This is to certify that on this _____ day of ___________ 20____, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared __________________________ to me known to be the 

____________________________ (title) of the corporation or limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be their free and voluntary act and deed of said corporation or limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal, the day and year first above written.

____________________________
Notary Public in and for the State of Washington
**CERTIFICATE OF LIABILITY INSURANCE**

**INSURED:** Neutron Holdings, Inc.

85 Second Street, 1st Floor
San Francisco CA 94105 USA

**PRODUCER:** Aon Risk Insurance Services west, Inc.
San Francisco CA Office
425 Market Street
Suite 2800
San Francisco CA 94105 USA

**INSURER/S AFFORDING COVERAGE**
- **INSURER A:** Transportation Insurance Co.
  - **NAIC #:** 20494
- **INSURER B:** Lloyd's Syndicate No. 2001
  - **NAIC #:** AA1128001
- **INSURER C:** Ohio Security Ins Co
  - **NAIC #:** 24082
- **INSURER D:** AXIS Surplus Insurance Company
  - **NAIC #:** 26620
- **INSURER E:** Houston Casualty Company
  - **NAIC #:** 42374

**COVERAGES**

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE</th>
<th>ADDL SUB...</th>
<th>POLICY NUMBER</th>
<th>POLICY EFF</th>
<th>POLICY EXP</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>COMMERCIAL GENERAL LIABILITY</strong></td>
<td></td>
<td>PD0100002791401</td>
<td>05/01/2018</td>
<td>05/01/2019</td>
<td>EACH OCCURRENCE</td>
</tr>
<tr>
<td>CLAIMS-MADE</td>
<td>Occur</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GENERAL AGGREGATE LIMIT APPLIES PER:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHER</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **AUTOMOBILE LIABILITY** | | BAS (19) 58 14 88 51 | 05/01/2018 | 05/01/2019 | COMBINED SINGLE LIMIT |
| ANY AUTO OWNED | | | | | (Ea accident) |
| SCHEDULED AUTOS ONLY | | | | | |
| HIRED AUTOS ONLY | | | | | |
| NON-OWNED AUTOS | | | | | |

| **UMBRELLA LIABILITY** | | H18PX5003100 | 05/01/2018 | 05/01/2019 | EACH OCCURRENCE |
| EXCESS LIABILITY | Occur | | | | |
| CLAIMS-MADE | | | | | |

| **WORKERS COMPENSATION AND EMPLOYERS’ LIABILITY** | | 01/01/2019 | 05/01/2019 | 01/01/2019 05/01/2019 | |
| ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? | Y | | | | |
| (Mandatory in NH) | | | | | |
| IF yes, describe under DESCRIPTION OF OPERATIONS below | | | | | |

**Cyber Liability**

| OPERATOR'S LIABILITY | | CR162389 | 12/21/2017 | 05/01/2019 | Aggregate |
| SIR applies per policy terms & conditions | | | | | SIR/Deductible (1) |

**CERTIFICATE HOLDER**

Neutron Holdings, Inc.
db a Lime
85 Second Street, 1st Floor
San Francisco CA 94105 USA

**CERTIFICATE OF LIABILITY INSURANCE**

**DATE(MM/DD/YYYY):** 03/20/2019

**REVISION NUMBER:**

**LIMITS SHOWN ARE AS REQUESTED:**

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required):**

Evidence of Insurance.

**CANCELLATION**

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS:**

**AUTHORIZED REPRESENTATIVE**

**Aon Risk Insurance Services West Inc.**

©1988-2015 ACORD CORPORATION. All rights reserved.
Bothell Hotspots

Bothell Distribution Map

- 101 & 183rd - 8 max
- 183rd & Bothell Way - 8 max
- 186th & Bothell Way - 8 max
- Anderson School - 8 max
- City Hall 183rd Side - 8 max
- City Hall 185th Side - 8 max
- Library - 8 max
- Main & 104th - 8 max
- Main & Bothell Way - 8 max
- Menchie's - 8 max
- Steve's Cafe - 8 max
- Suzuki Bus Stop - 8 Max
- The 104 - 8 max
(This page intentionally left blank)