

After Recording Return to:

Assistant Clerk
Snohomish County Council
3000 Rockefeller, M/S 609
Everett, WA 98201

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07/08/2011 9:41am \$0.00 PGS
SNOHOMISH COUNTY, WASHINGTON

Agencies: Snohomish County and City of Bothell
Tax Account No.: N/A
Legal Description: N/A
Reference No. of Documents Affected: Interlocal Recorded at AF# _____
Filed with the Auditor pursuant to RCW 39.34.040
Documents Title:

AGREEMENT BETWEEN THE CITY OF BOTHELL AND SNOHOMISH COUNTY CONCERNING SOLID WASTE MANAGEMENT

PARTIES

This Agreement ("Agreement") is made by and between the City of Bothell ("City"), a Washington municipal corporation, and Snohomish County ("County"), a political subdivision of the State of Washington, collectively referred to as the "Parties," pursuant to RCW 35.21.152.

RECITALS.

RCW 35.21.152 provides, in part, that cities may designate disposal sites for Solid Waste collected within their boundaries:

A city or town may enter into agreements with public or private parties to: (1) Construct, lease, purchase, acquire, manage, maintain, utilize, or operate publicly or privately owned or operated solid waste handling systems, plants, sites, or other facilities; (2) establish rates and charges for those systems, plants, sites, or other facilities; (3) designate particular publicly or privately owned or operated systems, plants, sites, or other facilities as disposal sites Any agreement entered into shall be for such term and under such conditions as may be determined by the legislative authority of the city or town.

This Agreement is undertaken pursuant to the authority of RCW 35.21.152.

1. PURPOSE/ APPLICABILITY

1.1 Purpose. The purpose of this Agreement is to establish and designate the Solid Waste authority for Solid Waste generated in the City.

1.2 Applicability.

1.2.1 The Solid Waste authority for those portions of the City located in both King and Snohomish Counties as the City's boundaries exist on January 1, 2011, and all areas of King County later annexed to the City, shall remain King County in accordance with the "Solid Waste Interlocal Agreement" between King County and the City of Bothell effective January 1, 1988.

1.2.2 The Solid Waste authority for all portions of the City located in Snohomish County that are annexed into the City after January 1, 2011 shall be Snohomish County.

2. DEFINITIONS

For the purposes of this Agreement, the following definitions apply:

2.1 "Comprehensive Solid Waste Management Plan" or "Comprehensive Plan" means the Snohomish County Comprehensive Solid Waste Management Plan issued in January 2004, and as amended from time to time.

2.2 "Person" means an individual, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

2.3 "Solid Waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials, with the exception of wastes listed in WAC 173-304-015 as may be amended from time to time.

2.4 "Solid Waste Handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of Solid Wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof, and as such term may be modified by amendments to RCW 70.95.030 (23).

2.5 "System" means all facilities for Solid Waste Handling owned or operated, or contracted for, by the County, and all administrative activities related thereto.

3. SOLID WASTE MANAGEMENT

3.1 Planning Authority. The County agrees to provide Solid Waste management services for solid waste generated and/or collected within the portion of the City described in Section 1.2.2. The provision of such services would commence at the time the first annexation to the City after January 1, 2011 has been approved. The County shall serve as the planning authority within such areas for Solid Waste including moderate risk waste but shall not be responsible for the planning of hazardous or

dangerous waste or any other planning responsibility that is specifically designated by State or Federal statute. The County shall develop waste stream forecasts as part of the comprehensive planning process and assumes all risks related to facility sizing based upon such forecasts. For the duration of this Agreement, the City shall participate in the Comprehensive Solid Waste Management Plan prepared and periodically reviewed and revised pursuant to chapter 70.95 RCW as may be amended from time to time. For the duration of this Agreement the City, in conformity with RCW 70.95.080 (3), as may be amended from time to time, authorizes the County to include in the Comprehensive Solid Waste Management Plan provisions for the management of Solid Waste generated within the portion of its corporate limits described in Section 1.2.2.

3.2 Disposal of Solid Waste. The County shall continue to provide for the efficient disposal of all Solid Waste generated within unincorporated areas of the County and within the portion of the City described in Section 1.2.2 of this Agreement, in the manner, and by facilities as described in the Comprehensive Solid Waste Management Plan. The County shall not be responsible for disposal of nor claim that this Agreement extends to Solid Waste that has been eliminated through waste recycling activities in conformity with the Comprehensive Solid Waste Management Plan.

3.3 Rates and Operations. The County shall be the operating authority for transfer, processing and disposal facilities for Solid Waste generated and/or collected within the portion of the City described in Section 1.2.2. The County shall provide support and technical assistance to the City in regards to educational materials related to waste reduction and recycling strategies. The City, an entity designated by the City or such other entity as is authorized by state law, shall serve as the operation authority for Solid Waste collection services provided within the City's corporate limits. In establishing or amending disposal rates for System users, the County may adopt, by motion, rates necessary to recover all costs of operation including the costs of handling, processing, disposal, defense and payment of claims, capital improvements, operational improvements and the closure of landfills which are or were operated by the County. The County shall establish classes of service for basic Solid Waste management services and by motion, establish rates for users of each class.

3.4 Flow Control. The City shall by ordinance designate the County System for the disposal of all Solid Waste including moderate risk waste generated and/or collected within the portion of the City described in Section 1.2.2. The City shall authorize the County to designate disposal sites for the disposal of all Solid Waste including moderate risk waste generated and/or collected within the portion of the City described in Section 1.2.2, except for Solid Waste which is eliminated through waste reduction or waste recycling activities consistent with the Comprehensive Solid Waste Management Plan. No Solid Waste generated or collected within the portion of the City described in Section 1.2.2 shall be diverted from the designated disposal sites without County approval. The designation of the County in this section shall not reduce or otherwise affect the City's control over Solid Waste collection as permitted by applicable state law.

3.5 Household Hazardous Waste. The County shall provide for the disposal of household hazardous wastes generated by residential households located in the portion of the City that is subject to this Agreement at the System's existing Moderate Risk Waste Facility, or in another reasonable and similarly convenient manner.

4. ENFORCEMENT

The County shall be primarily responsible for enforcement of laws and regulations requiring persons to dispose of Solid Waste at sites designated by the County. The City shall cooperate with the County in its enforcement efforts, and by ordinance shall provide that any person that disposes of Solid Waste generated within that portion of the City described in Section 1.2.2, at a site other than a site designated by the County, will be guilty of a misdemeanor, except where such disposal may be otherwise permitted by state law. To the extent legally possible, the County shall be responsible for bringing enforcement actions against persons violating state statutes or County ordinances relating to the disposal of Solid Waste at sites designated by the County. However, in instances in which the County lacks legal authority to bring an enforcement action, and the City possesses that authority, the County may request that the City bring such enforcement action. The City shall comply with any such request, or through the exercise of its authority under Chapter 35.21 RCW as may be amended from time to time, ensure that Solid Waste generated within that portion of the City described in Section 1.2.2, is disposed of at those sites designated by the County. The County shall pay as System costs all reasonable costs incurred by the City in taking such enforcement or other actions that are requested in writing by the County.

5. INDEMNIFICATION

5.1 The County shall indemnify and hold harmless and defend the City against any and all claims by third parties arising out of the County's operations of the System, and shall have the right to settle those claims by third parties, recognizing that all costs incurred by the County thereby are System costs which must be satisfied from disposal rates. In providing a defense for the City, the County shall exercise good faith in that defense or settlement so as to protect the City's interests. The County's agreement to indemnify the City for any and all claims arising out of the County's operation of the System extends to all claims caused by the actions of officers or agents of the County, including but not limited to actions which constitute misfeasance, or intentional misconduct or wrongdoing, even if the cost of such claims is held by a court of competent jurisdiction to not be a proper cost to the System. For the purpose of this paragraph, "claims arising out of the County's operations" shall include claims arising out of the ownership, control or maintenance of the System, but shall not include claims arising out of the collection of solid waste within the City prior to its delivery to a disposal site designated by the County or other activities under the control of the City.

5.2 If the County acts to defend the City against a claim, the City shall cooperate with the County.

5.3 The County shall defend the City against any challenge, whether judicially or before an administrative hearings panel, to the Comprehensive Plan elements adopted pursuant to this Agreement.

5.4 For purposes of this section, reference to the City and to the County shall be deemed to include the officers, agents and employees of such party, acting within the scope of their authority.

6. DURATION

This Agreement shall continue to be in full force and effect until December 31, 2057, unless terminated as described in the following paragraph.

7. REVISION, AMENDMENT, SUPPLEMENTATION OR TERMINATION

This Agreement shall be reviewed by the parties in conjunction with any review of the Comprehensive Solid Waste Management Plan. The terms of the Agreement may be revised, amended or supplemented, or the Agreement as a whole may be terminated only upon the written agreement of the parties executed with the same formalities as the original. No revision, amendment, supplementation or termination shall be adopted or put into effect if it impairs any contractual obligation of the County.

8. PRIOR AGREEMENT SUPERCEDED This Agreement entirely supercedes and replaces the "Interlocal Agreement Between Snohomish County and the City of Bothell to Address Disposal of Bothell's Solid Waste" dated October 28, 1992.

9. NONDISCRIMINATION The City shall comply with the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this Interlocal Agreement constitutes a certification by the City of the City's compliance with the requirements of Chapter 2.460 SCC. If the City is found to have violated this provision, or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this Interlocal Agreement may be subject to a declaration of default and termination at Snohomish County's discretion. This provision shall not affect the City's obligations under other federal, state, or local laws against discrimination.

10. SEVERABILITY

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

11. EXERCISE OF RIGHTS OR REMEDIES

Failure of either party to exercise any rights or remedies under this Agreement shall not

be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

12. RECORDS

The Parties shall maintain adequate records to document obligations performed under this Agreement. The Parties shall have the right to review each other's records with regard to the subject matter of this Agreement, except for privileged documents, upon reasonable written notice. The parties shall retain and destroy all public records pursuant to this Agreement in a manner consistent with the applicable provisions of Chapter 40.14 RCW and the applicable rules and regulations of the Secretary of State, Division of Archives and Records Management.

13. NO THIRD PARTY BENEFICIARIES

This Agreement is not entered into with the intent that it shall benefit any person or entity not signing this Agreement, and no other person or entity shall be entitled to be treated as a third party beneficiary of this Agreement.

14. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the Parties. Any written or verbal agreements that are not set forth herein or incorporated herein by reference are expressly excluded.

15. GOVERNING LAW AND STIPULATION OF VENUE

This Agreement shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for Snohomish County.

16. FILING

A copy of this Agreement shall be filed with the Bothell City Clerk and recorded with the Snohomish County Auditor's Office.

17. ADMINISTRATORS AND CONTACTS FOR AGREEMENT

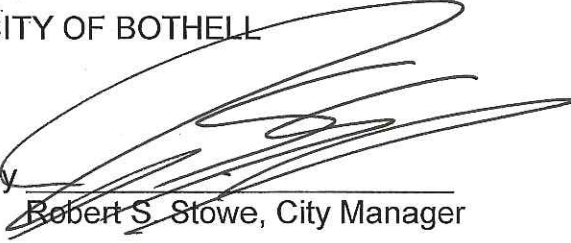
The Administrators and contact persons for this Agreement are:

Bill Wiselogle, Comm. Dev. Dir.
City of Bothell
9654 NE 182nd Street
Bothell, WA 98011

Matt Zybas, Solid Waste Dir.
Snohomish County
Dept. of Public Works
3000 Rockefeller Avenue
Everett, WA 98201

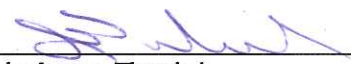
IN WITNESS WHEREOF, the parties have signed this Agreement, effective on the later date indicated below.

CITY OF BOTHELL

By 
Robert S. Stowe, City Manager

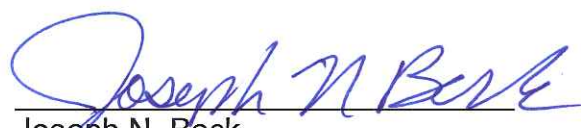
Date 6/28/11

ATTEST:


JoAnne Trudel
City Clerk

Approved as to form:

Office of the City Attorney

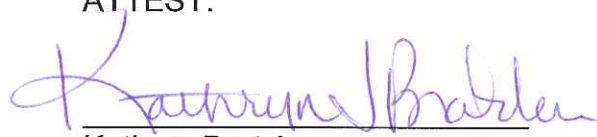

Joseph N. Beck
Attorney for the City of Bothell

SNOHOMISH COUNTY

By 
for: Aaron G. Reardon, County Executive

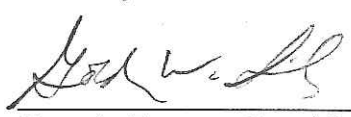
Date 6/28/11 **GARY HAAKENSEN**
Deputy County Executive

ATTEST:


Kathryn Bratcher
Clerk of the County Council

Approved as to form:

Snohomish County Prosecuting
Attorney

 5/13/11
Deputy Prosecuting Attorney for
Snohomish County

COUNCIL ONLY	
Approved:	<u>6-15-11</u>
Docfile:	<u>D-13</u>

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

ORDINANCE 11 - 035

RELATING TO SOLID WASTE MANAGEMENT;
APPROVING AND AUTHORIZING THE COUNTY EXECUTIVE
TO EXECUTE THE AGREEMENT BETWEEN SNOHOMISH COUNTY
AND THE CITY OF BOTHELL REGARDING DISPOSAL OF SOLID WASTE
GENERATED IN AREAS ANNEXED BY THE CITY OF BOTHELL
AFTER JANUARY 1, 2011

WHEREAS, the Snohomish County Solid Waste Division currently provides solid waste planning and management services to unincorporated portions of Bothell's Municipal Urban Growth Area (MUGA); and

WHEREAS, Snohomish County and The City of Bothell desire to maintain Snohomish County's authority for the planning and management of solid waste services for this geographic area; and

WHEREAS, The City of Bothell is a signatory to the King County Solid Waste Management Plan and has an interlocal agreement with King County for the planning and management of solid waste generated within the incorporated boundaries of Bothell; and

WHEREAS, King County has agreed that any future annexations by the City of Bothell of Snohomish County lands occurring after January 1, 2011 should fall within the jurisdiction of Snohomish County for purposes of solid waste planning and management, including designation of disposal sites for solid waste generated in these areas ; and

WHEREAS, the Council believes that health and safety and the best interests of the citizens of Snohomish County would be served by maintaining the current boundaries for solid waste management and disposal, as they currently exist, in Snohomish County;

ORDINANCE 11 - 035
RELATING TO SOLID WASTE MANAGEMENT;
APPROVING AND AUTHORIZING THE COUNTY EXECUTIVE
TO EXECUTE THE AGREEMENT BETWEEN SNOHOMISH COUNTY
AND THE CITY OF BOTHELL REGARDING DISPOSAL OF SOLID WASTE, ETC.

NOW, THEREFORE, BE IT ORDAINED:

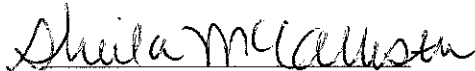
Section 1. The Snohomish County Council hereby approves and authorizes the County Executive to sign the interlocal agreement titled "Agreement Between The City of Bothell and Snohomish County Concerning Solid Waste Management" substantially in the form of Exhibit A attached hereto.

PASSED this 15th day of June, 2011

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

ATTEST:

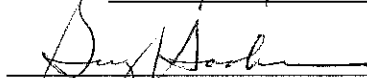

Clerk of the Council

☒ APPROVED

☐ EMERGENCY

☐ VETOED

DATE: 6/20/11


for: County Executive

GARY HAAKENSEN
Deputy County Executive

ATTEST:



Approved as to form only:

 5/19/11
Deputy Prosecuting Attorney

D-13

ORDINANCE 11-035
RELATING TO SOLID WASTE MANAGEMENT;
APPROVING AND AUTHORIZING THE COUNTY EXECUTIVE
TO EXECUTE THE AGREEMENT BETWEEN SNOHOMISH COUNTY
AND THE CITY OF BOTHELL REGARDING DISPOSAL OF SOLID WASTE, ETC.