

**RESOLUTION NO. 1047 - AMENDED**

**CITY OF LYNDEN RESOLUTION TO APPROVE THE INTERLOCAL AGREEMENT  
BETWEEN THE CITIES OF BLAINE, EVERSON, FERNDAL, LYNDEN,  
NOOKSACK, AND SUMAS REGARDING BUILDING CODE ADMINISTRATION,  
PLANS EXAMINATION AND BUILDING INSPECTION**

**WHEREAS**, the Parties of the proposed interlocal agreement regularly enforce and administer building code requirement, review permit plans, and conduction building inspections; and

**WHEREAS**, the Parties each desire to utilize the resources of each other to assist in performing building code administration, review of building permit plans, and conduction building inspections; and

**WHEREAS**, the Parties agree to compensate each other for performing the above services; and

**WHEREAS**, the previous interlocal agreement regarding Building Code Administration, Plans Examination, and Building Inspection expired on January 1, 2022; and

**WHEREAS**, the Community Development Committee reviewed and showed support for the proposed changes to the interlocal agreement on December 15, 2021; and

**WHEREAS**, the Parties of the agreement have mutually agreed to move the document to secure approval from their City Councils; and

**WHEREAS**, it is beneficial for the City of Lynden to have access to resources available from nearby Cities; and

**WHEREAS**, the City Council initially approved Resolution1047 on March 21, 2022; and

**WHEREAS**, additional revisions were proposed by parties of the agreement which

clarified the indemnification portion of the agreement and modified to create more succinct text throughout; and

**WHEREAS**, the City’s legal counsel can support the amended agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lynden to approve the updated Interlocal Agreement between the Cities of Blaine, Everson, Ferndale, Lynden, Nooksack and Sumas regarding Building Code Administration, Plans Examination, and Building Inspection as amended on April 20, 2022 and presented in Exhibit A.

**PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR  
\_\_\_\_\_ AGAINST AND SIGNED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
2022**

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MAYOR, Scott Korthuis

ATTEST:

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CITY CLERK, Pamela Brown,

APPROVED AS TO FORM:

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CITY ATTORNEY, Robert Carmichael

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF BLAINE – CITY OF EVERSON – CITY OF FERNDALE – CITY OF  
LYNDEN – CITY OF NOOKSACK – CITY OF SUMAS RELATING TO BUILDING CODE  
ADMINISTRATION, PLANS EXAMINATION, AND  
BUILDING INSPECTION**

This Agreement is made and entered into by the City of Lynden, a Washington municipal corporation, hereinafter referred to as "Lynden," the City of Blaine, a Washington municipal corporation, hereinafter referred to as "Blaine," the City of Everson, a Washington municipal corporation, hereinafter referred to as "Everson," the City of Ferndale, a Washington municipal corporation, hereinafter referred to as "Ferndale," the City of Nooksack, a Washington municipal corporation, hereinafter referred to as "Nooksack," the City of Sumas, a Washington municipal corporation, hereinafter referred to as "Sumas," each of which shall be individually referred to as a Party and collectively referred to as "Parties," to establish an agreement pursuant to RCW Chapter 39.34.

**WHEREAS**, the Parties each regularly enforce and administer building code requirements, review building permit plans, and conduct building inspections; and

**WHEREAS**, the Parties each desire to utilize the resources of each other to assist in performing building code administration, review of building permit plans, and conducting building inspections; and

**WHEREAS**, the Parties agree to compensate each other for performing the above services; and

**WHEREAS**, it is in the best interest of the Parties to enter into this Agreement; and

**WHEREAS**, the recitals herein are a material part of this Agreement.

**NOW THEREFORE**, in consideration of the terms and provisions contained herein, the Cities of Lynden, Blaine, Everson, Ferndale, Nooksack, and Sumas agree as follows:

- I. *Purpose*: The purpose of this Agreement is to set the terms whereby the Parties will assist each other in performing building code administration, review of building permit plans, and conducting building inspections.
- II. *Administration*: No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
- III. *Party Responsibilities*: For the purposes of this Agreement, any Party that provides services shall be referred to as the "Providing Party" and any Party that receives services shall be referred to as the "Receiving Party." Each Providing Party agrees to provide building code staff services including building code

administration, review of building permit plans, and conducting building inspections to each other Party on request by a Receiving Party, subject to the terms and conditions set forth in this Agreement. In the case of emergencies where transportation systems are effectively cut off, the inspector residing in or nearest to other jurisdictions may be called upon to assist with building code inspections, review building permit plans, conduct building inspections, conduct an inventory of destroyed or damaged buildings, or other building code related duties, as necessary. As to any specific request for services, each Party reserves the right to refuse to provide services if, in the judgment of such Party, the provision of services would cause a hardship based on available resources.

- IV. *Payment:* Services performed pursuant to this Agreement shall be reimbursed to cover the actual cost of the service provided by the Providing Party. The actual cost shall include the hourly cost of the employee providing the service and mileage cost. The hourly cost for an employee shall include the employee's hourly pay and the cost of the employee's benefits to reach a composite hourly rate. The benefits component of the composite hourly rate shall include, to the extent applicable to the employee, the following items: payroll taxes, Workers' Compensation premiums, Unemployment Insurance tax, health insurance (such as medical and dental), employer contributions to retirement and pension benefits, life insurance, and disability insurance.
- V. *Mileage and Invoicing:* The mileage rate shall be the rate published by the Internal Revenue Service for the year during which services are performed. Each Providing Party shall submit itemized invoices monthly to the Receiving Party for the services performed during the month. The Parties understand that in some months no invoicing will occur if no services are performed. Each invoice shall detail work performed and supplies or materials purchased. Each Receiving Party agrees to pay invoices within forty-five (45) days from receipt of the invoice.
- VI. *Term:* The Term of the Agreement shall be from January 1, 2022 through December 31, 2027.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the City of Lynden Planning Department Director, the City of Blaine Community Development Services Director, the City of Everson Public Works Department Director, the City of Ferndale Community Development Director, the City of Nooksack Public Works Department Director, and the City of Sumas Public Works Department Director, or their respective designees.
- VIII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
- IX. *Relationship of the Parties:* The Parties are separate entities organized under the laws of the State of Washington, and this Agreement is not intended to create any

new legal or corporate entity. No agent, employee, servant, or representative of any Party shall be deemed to be an employee, agent, servant, or representative of any other Party for any purpose. Each Party will be solely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Agreement.

- X. *Responsibility for Municipal Code and Indemnification:* Each Party is responsible for the validity of its own municipal code. Each Party, as an indemnitor, agrees to protect, defend, hold harmless, and indemnify each other Party from and against all third-party claims, suits, and actions arising from the intentional, wrongful, or negligent acts or omissions of such indemnitor, its agents, or employees in the performance of this Agreement.

It is further specifically and expressly understood that the indemnification provided herein constitutes each Party's waiver of immunity under the Washington State Industrial Insurance Act, Title 51 RCW, solely for the purposes of the indemnification set forth in this Agreement. This waiver has been specifically and mutually negotiated and agreed upon by the Parties.

The provisions of this section shall survive the expiration of, termination of, and/or withdrawal from this Agreement.

- XI. *Insurance:* Each Party shall maintain general liability insurance in an amount not less than \$1,000,000 each occurrence and \$2,000,000 aggregate, auto liability insurance with a minimum combined single limit of \$1,000,000, and professional liability insurance in an amount not less than \$1,000,000 each occurrence. Membership in a self-insured municipal risk pool may satisfy the insurance requirements.
- XII. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- XIII. *Non-discrimination in Employment and Client Services:* No Party shall discriminate against any person on the grounds of race, creed, color, national origin, sex, marital status, age, religion, or on the presence of any sensory, mental, or physical handicap. No Party shall discriminate against any employee or applicant for employment because of disability; provided that, this provision shall not apply if the disability prevents proper performance of the work involved.
- XIV. *Withdrawal:* Any Party may individually withdraw from this Agreement without cause effective upon sixty (60) days' written notice to each other Party. The withdrawing Party shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of withdrawal. Any such withdrawal by an individual Party shall have no effect upon the Agreement as to the remaining Parties.
- XV. *Notice:* Any notice or communication required or permitted under this Agreement shall

be deemed to have been duly given: (i) on the date of delivery if delivered by courier; (ii) three business days after posting and depositing in the U.S. mail a postage pre-paid first class letter addressed to the mailing address of the Party to the attention of the Party's Responsible Person; or (iii) upon confirmation of the receipt of e-mail addressed to the Party's Responsible Person directed to the relevant Responsible Person identified in Section VII of this Agreement.

- XVI. *Survival:* All covenants, promises and performance which are not fully performed as of the date of expiration, termination, or withdrawal shall survive expiration, termination, or withdrawal as binding obligations.
- XVII. *Modifications:* This Agreement may be changed, modified, amended, or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- XVIII. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising from the terms herein shall be in the Superior Court of the State of Washington in and for Whatcom County.
- XIX. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- XX. *Entire Agreement:* This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.
- XXI. *Counterparts:* This Agreement may be executed in multiple counterparts, and each shall be deemed an original, but all of which together constitute a single instrument.
- XXII. *Effective Date:* This Agreement shall be in full force and effect upon full execution by the Parties and filing with the Whatcom County Auditor or posting on each Party's website, whichever method of filing is chosen.

**IN WITNESS WHEREOF,**

the Parties have signed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 2022











